

CITY COUNCIL MONTHLY MEETING CALENDAR

March-16							
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	
		1	Municipal Court	2	3	4	
				EDC Noon	S&CC 1st Friday	5	
		CCI 5:30pm		National League or Cities (NLC) Congressional Conference, Washington, DC			
6	7	8	9	10	11	12	
Planning Comm 7pm	Red Cross Blood Drive 1pm - 6pm - Comm Aud Library 6:30pm	MPAC 5pm		PAC 5pm Ford Leadership	WC Mayors Ford Leadership	Chamber Auction 5:30pm Ford Leadership	
National League or Cities (NLC) Congressional Conference, Washington, DC							
13	14	15	16	17	18	19	
	CITY COUNCIL 5:30 PM - WORK SESSION (Council Goals) 6:00 PM - WORK SESSION (Retirement Plan) 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	Fernhill Wetlands 5:30pm	Municipal Court P&R 7am CFC 5:15pm CAO 5pm CWAC 5:30pm	Food Film 7:30pm			
20	21	22	23	24	25	26	
Chamber Luncheon FGS&CC Bd Mtg 6:30pm Planning Comm 7pm	HLB 7:15pm	PSAC 7:30am MPAC 5pm		WEA Breakfast Sustainability 6pm			
27	28	29	30	31			
	CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM			CEP Deadline			
Apr-16							
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	
					Steve Huffman's Party 1pm - 6pm Comm Aud S&CC 1st Friday	1	
	Sister Cities Plant Sale Student Fundraiser through April 28th					Meet The Artist Dinner 6pm	2
3	4	5	6	7	8	9	
Planning Comm 7pm	CCI 5:30pm	Water Providers EC 5:30pm	Municipal Court	EDC Noon	WC Mayors		
10	11	12	13	14	15	16	
	CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	Red Cross Blood Drive 1pm - 6pm - Comm Aud Library 6:30pm	CEPC SPECIAL MEETING CEP PRESENTATIONS 7pm - Community Auditorium	TBA Budget Comm Info Meeting 6pm - Community Auditorium			
			MPAC 5pm	PAC 5pm	If I Were Mayor Deadline		
17	18	19	20	21	22	23	
Chamber Luncheon FGS&CC Bd Mtg 6:30pm Planning Comm 7pm	JOINT WORK SESSION FG CITY COUNCIL CORNELIUS COUNCIL & FG SCHOOL BOARD TBA ?PM - COMMUNITY AUDITORIUM	Fernhill Wetlands 5:30pm	Municipal Court P&R 7am CFC 5:15pm CAO 5pm CWAC 5:30pm	Food Film 7:30pm	Ford Leadership	Ford Leadership	
24	25	26	27	28	29	30	
	CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	HLB 7:15pm	PSAC 7:30am WC Managers' Mtg 1:30pm Comm Aud WCCLS Bd Mtg 1:30pm Comm Aud MPAC 5pm	WEA Breakfast Sustainability 6pm			
May-16							
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	
1	2	3	4	5	6	7	
Planning Comm 7pm	CCI 5:30pm		Municipal Court	EDC Noon	S&CC 1st Friday	ORCC Run Hagg Lake	
8	9	10	11	12	13	14	
	CITY COUNCIL TBA ?PM - CEPC SPECIAL MEETING 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	Red Cross Blood Drive 1pm - 6pm - Comm Aud Library 6:30pm	MPAC 5pm	Budget Comm 1st Meeting 5pm - Community Auditorium	LOC Mtg WC Mayors		
				PAC 5pm			
15	16	17	18	19	20	21	
Chamber Luncheon FGS&CC Bd Mtg 6:30pm Planning Comm 7pm	Fernhill Wetlands 5:30pm	Municipal Court P&R 7am CFC 5:15pm CAO 5pm CWAC 5:30pm		Budget Comm 2nd Meeting 5pm - Community Auditorium			
				Food Film 7:30pm			
22	23	24	25	26	27	28	
	CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	HLB 7:15pm	PSAC 7:30am MPAC 5pm	WEA Breakfast Sustainability 6pm			
29	30	31					
	CITY HALL CLOSED HOLIDAY Memorial Day Flag Ceremony 12:30pm						

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CITY COUNCIL MEETING AGENDA

MONDAY, MARCH 14, 2016

**5:30 PM – Work Session (Council Goal-Setting)
6:00 PM – Work Session (Defined Benefit Retirement Plan)
7:00 PM – Regular Meeting**

**Community Auditorium
1915 Main Street
Forest Grove, OR 97116**

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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, aruggles@forestgrove-or.gov, 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, aruggles@forestgrove-or.gov, 503-992-3235, at least 48 hours prior to the meeting.

Mayor Peter Truax
Jesse VanderZanden, City Manager

5:30

WORK SESSION: CITY COUNCIL GOAL-SETTING

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).

Paul Downey, Administrative
Services Director
Jesse VanderZanden, City Manager

6:00

WORK SESSION: DEFINED BENEFIT RETIREMENT

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).

7:00

1. **REGULAR MEETING:** Roll Call and Pledge of Allegiance

1. A. **PROCLAMATION:**

- *National Community Development Week*

2. **CITIZEN COMMUNICATIONS:** Anyone wishing to speak to Council on an item not on the agenda may be heard at this time. *Please sign-in before the meeting on the Citizen Communications form posted in the foyer.* In the interest of time, please limit comments to two minutes. Thank you.

3. **CONSENT AGENDA:** See Page 5

4. **ADDITIONS/DELETIONS:**

5. **PRESENTATIONS:**

Paul Downey, Administrative
Services Director

7:05

5. A. • *Audit Report Period Ending June 30, 2015*

7:20

5. B. • *Metro Quarterly Exchange Update, Kathryn Harrington, Metro Councilor District 4*

Tom Gamble, Parks and Recreation
Director

7:40

5. C. • *Parks, Recreation and Open Space Master Plan Update and Community Center Feasibility Study*

Derek Robbins, Project Engineer
Rob Foster, Public Works Director
Jesse VanderZanden, City Manager

7:55

6. **PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2016-02 AMENDING FOREST GROVE TRANSPORTATION SYSTEM PLAN (TSP) FOR INCLUSION OF COUNCIL CREEK REGIONAL TRAIL PREFERRED ALIGNMENT THROUGH THE CITY OF FOREST GROVE; FILE NO. 311-15-00033-PLNG**

Dan Riordan, Senior Planner
James Reitz, Senior Planner
Jon Holan Community Development
Director
Jesse VanderZanden, City Manager

8:10

7. **PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2016-03 AMENDING FOREST GROVE DEVELOPMENT CODE ARTICLE 3, ARTICLE 4, ARTICLE 7 AND ARTICLE 12 AND DESIGN GUIDELINE HANDBOOK TO IMPLEMENT POLICIES OF THE FOREST GROVE COMPREHENSIVE PLAN; FILE NO. 311-15-00020-PLNG**

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- | | | |
|---|------|--|
| Dan Riordan, Senior Planner
James Reitz, Senior Planner
Jon Holan Community Development
Director
Jesse VanderZanden, City Manager | 8:25 | 8. <u>PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2016-04 AMENDING FOREST GROVE COMPREHENSIVE PLAN MAP FOR PROPERTIES DESIGNATED TOWN CENTER SUPPORT AND COMMUNITY COMMERCIAL IN THE TOWN CENTER EXPANSION AREA ON THE COMPREHENSIVE PLAN DATED JANUARY 27, 2014; FILE NO. 311-15-00020-PLNG</u> |
| Dan Riordan, Senior Planner
James Reitz, Senior Planner
Jon Holan Community Development
Director
Jesse VanderZanden, City Manager | 8:30 | 9. <u>PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2016-05 AMENDING OFFICIAL FOREST GROVE ZONING MAP FOR PROPERTIES DESIGNATED NEIGHBORHOOD MIXED USE AND TOWN CENTER EXPANSION ON THE COMPREHENSIVE PLAN MAP DATED JANUARY 27, 2014; FILE NO. 311-15-00020-PLNG</u> |
| Dan Riordan, Senior Planner
James Reitz, Senior Planner
Jon Holan Community Development
Director
Jesse VanderZanden, City Manager | 8:35 | 10. <u>PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2016-06 AMENDING FOREST GROVE DEVELOPMENT CODE ARTICLE 3 TO ESTABLISH THE BUSINESS INDUSTRIAL PARK ZONE; FILE NO. 311-15-00027-PLNG</u> |
| Jon Holan Community Development
Director
J. F. Schutz, Police Chief
Jesse VanderZanden, City Manager | 8:45 | 11. <u>PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2016-07 AMENDING FOREST GROVE DEVELOPMENT CODE ARTICLE 3, ARTICLE 7 AND ARTICLE 8 TO ADDRESS MARIJUANA FACILITIES; FILE NO. 311-15-00028-PLNG</u> |
| Jon Holan Community Development
Director
J. F. Schutz, Police Chief
Jesse VanderZanden, City Manager | 8:55 | 12. <u>PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2016-08 AMENDING FOREST GROVE CITY CODE CHAPTER 7 BY RENAMING CODE SECTIONS 7.850 THROUGH 7.865 FROM "MEDICAL MARIJUANA DISPENSARIES" TO "MARIJUANA ACTIVITIES"; AMENDING CODE SECTIONS 7.850 THROUGH 7.860 TO ADDRESS MARIJUANA FACILITIES; AND REPEALING PORTIONS OF ORDINANCE NO. 2015-03; FILE NO. 311-15-00028-PLNG</u> |
| Paul Downey, Administrative
Services Director
Jesse VanderZanden, City Manager | 9:05 | 13. <u>RESOLUTION NO. 2016-20 AUTHORIZING THE EXPENDITURE OF MACC PCN GRANT FUNDS IN THE INFORMATION SYSTEMS FUND FOR FIREWALL REPLACEMENT FOR THE CITY'S COMPUTER NETWORK SYSTEM</u> |

- | | | |
|----------------------------------|--------------------|--|
| City Councilors | 9:10 | 14. <u>CITY COUNCIL COMMUNICATIONS:</u> |
| Jesse VanderZanden, City Manager | 9:20 | 15. <u>CITY MANAGER'S REPORT:</u> |
| Peter Truax, Mayor | 9:25 | 16. <u>MAYOR'S REPORT:</u> |
| | <u>9:30</u> | 17. <u>ADJOURNMENT:</u> |

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 remaining Consent Agenda item(s).
- A. Approve City Council Work Session (Fire Services Study, Next Steps) Meeting Minutes of February 8, 2016.
 - B. Approve City Council Goal-Setting Retreat Meeting Minutes of February 20, 2016.
 - C. Approve City Council Regular Meeting Minutes of February 22, 2016.
 - D. Accept Community Forestry Commission Meeting Minutes of January 20, 2016.
 - E. Accept Historic Landmarks Board Meeting Minutes of January 26, 2016.
 - F. Accept Planning Commission Meeting Minutes of January 19, 2016.
 - G. Accept Public Arts Commission Meeting Minutes of January 14, 2016.
 - H. Accept Public Safety Advisory Commission Meeting Minutes of January 27, 2016.
 - I. Community Development Department Monthly Building Activity Informational Report for February 2016.
 - J. **ENDORSE NEW LIQUOR LICENSE APPLICATION (OFF-PREMISES SALES) FOR SMOKE 4 LESS, 3010 PACIFIC AVENUE (APPLICANT: WAE RAFEH).**
 - K. **ENDORSE LIQUOR LICENSE RENEWAL APPLICATIONS FOR YEAR 2016:**
 - 1. McMenamins Grand Lodge (Full On-Premises Sales)

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<i>CITY RECORDER USE ONLY:</i>	
AGENDA ITEM #:	_____
FINAL ACTION:	_____

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CITY COUNCIL STAFF REPORT

WORK SESSION

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

MEETING DATE: *March 14, 2016*

PROJECT TEAM: *Jesse VanderZanden, City Manager, and Anna Ruggles, CMC, City Recorder*

SUBJECT TITLE: *Continue Council Goal-Setting for FY2016-2017*

ACTION REQUESTED:

	Ordinance		Order		Resolution		Motion	X	Informational
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X all that apply

BACKGROUND:

Pursuant to City Council Rules of Procedure, Section 16, the City Council must set its goals annually. The goals shall include *Short-Term Goals and Objectives* that the Council plans on completing within the next 12 months and *Long-Term Goals and Objectives* that the Council plans to work on during their term of office and/or future goals and objectives that may take longer to complete. The *Goals and Objectives* that Council sets annually help guide City administration and departments as they plan for the upcoming budget year.

DISCUSSION:

At the City Council Goal-Setting Retreat held February 20, 2016, Council identified the following three key goals for Fiscal Year 2016-17 (no proposed changes were made to the three existing key goals):

COUNCIL GOALS PROPOSED FOR FISCAL YEAR 2016-17:

- GOAL 1 PROMOTE SAFE, LIVABLE AND SUSTAINABLE NEIGHBORHOODS AND A PROSPEROUS DYNAMIC, GREEN CITY**

- GOAL 2 PROMOTE A PRUDENT FINANCIAL PLAN TO MAINTAIN EFFECTIVE SERVICE LEVELS OF A FULL-SERVICE CITY**

- GOAL 3 PROMOTE THE INTERESTS AND NEEDS OF FOREST GROVE IN LOCAL, STATE, AND NATIONAL AFFAIRS**

COUNCIL GOAL-SETTING WORK SESSION:

The purpose of the Goal-Setting Work Session is so Council can review their proposed Objectives for FY2016-17 (Attachment A) and identify next steps for the Council Team Agreement (Attachment B).

Council has proposed 12 new Objectives and carried over 13 Objectives from the previous year that were identified as ongoing for a total of 25 Objectives for Fiscal Year 2016-17 (Attachment A). Council did not rank or prioritize the proposed Objectives and may do so if needed.

Pursuant to City Council Rules of Procedure, Section 16, the City Council shall adopt its Goals and Objectives no later than second regular meeting in March of each year. Once Council adopts its Goals and Objectives, the City Manager shall assign the Goals and Objectives to departments and departments shall provide funding source information, if required, and incorporate any significant Council Goals and Objectives into their work plans and work plans are presented to Council at a later date.

Team Agreement: A draft copy of the Council Team Agreement (Attachment B) contains the proposed amendments that Council collectively concurred to include at the Council Retreat:

- **Council one-on-one meetings with the Mayor;**
- **Allow Councilmembers to use personal electronic devices to send quick text messages if an urgency arises, such as letting a family member know the meeting is running late; and**
- **Calling for Council recess if meeting continues later than 9:30 p.m.**

In addition, Council collectively concurred to look at other council team agreements that were applicable or perhaps contained improvements that could be made to their team agreement as part of their decision-making process. Management staff will provide an update on its findings.

STAFF RECOMMENDATION:

Staff recommends Council finalizes its Council Objectives for FY2016-17 (Attachment A) and identifies next steps for the Council Team Agreement (Attachment B). Once Council has completed its goal-setting process and team agreement decision-making process, proposed resolutions will be presented for Council consideration at the next regular meeting on March 28, 2016.



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FOREST GROVE CITY COUNCIL

GOALS AND OBJECTIVES

City Council has proposed a set of goals and priority objectives for Fiscal Year 2016-17. Once Council adopts the Goals and Objectives, the City Manager shall assign to departments and the objectives become part of the departments' work plans. For Fiscal Year 2016-17, the Council is proposing to carry over 13 objectives and identified 12 new proposed objectives (# shown in **Bold**) for a total of 25 objectives.

GOAL 1: PROMOTE SAFE, LIVABLE AND SUSTAINABLE NEIGHBORHOODS AND A PROSPEROUS DYNAMIC, GREEN CITY

	Actions:	Budget:	Time Frame:		Depts:	COUNCIL DIRECTION <i>Proposed</i>	STATUS <i>Proposed Next Steps</i>
			Needs Direction	Council Action			
1.1 Acquisition Process for Land Parcels in Watershed Drainage Areas	◆	\$	■		PW; Admin	Reserve a portion of timber sales for acquisition of land parcels in watershed drainage areas	Develop land acquisition process. Determine percentage of reserves as part of budget process FY2016-17.
1.2 Energy Reduction Programs	◆	\$	■		L&P; PW	1) Residential rebate programs for high efficiency toilets and solar; 2) Continue LED replacement project; and 3) Conduct a wind analysis in watershed	Continue energy conservation efforts and LED replacement project. Conduct analysis's for residential rebate programs for high efficiency toilets and solar. Conduct a wind analysis in watershed.
1.3 Industrial Area Planning	◆	\$	■		CD; ECD; L&E; L&P	Complete feasibility study for industrial area site planning	Continue work to certify readiness of industrial sites and complete area planning
1.4 Multiplex Ballfields		\$	■		P&R; L&E	Determine economic feasibility for multiplex ballfields	Conduct economic feasibility analysis and/or incorporate concept analysis as part of Parks Recreation and Open Space Master Plan

GOAL 1 (continued)		Actions:		Budget:	Time Frame:		Depts:	COUNCIL DIRECTION	STATUS Next Steps
		Needs Direction	Council Action	Fiscal Impact	1-3 Years	4+ Years	Assigned		
1.5	Neighborhood Watch Program			\$	■		PD	Draft a map showing established neighborhoods and Annual Report	Prepare a map showing established neighborhoods. Draft 1-2 page annual executive summary report.
1.6	Parks Recreation and Open Space Master Plan		◆	\$	■		P&R	Continue efforts and draft brochure listing parks/open spaces by location	Continue efforts. Prepare brochure listing parks/open spaces by location. Submit final master plan recommendation to Council.
1.7	Planned Residential Developments		◆		■		CD	Draft simple flow chart for PRD process	Draft a simple flow chart showing the steps of the process in sequential order for PRD.
1.8	Plaza Downtown		◆	\$		■	CD; L&E	Identify concept location	Incorporate concept analysis into URA downtown storefront revitalization program.
1.9	Rogers Park Upgrades		◆	\$	■		P&R	Complete renovation efforts in FY16-17	Issue an RFP for renovations including, but not limited to, new restroom facilities and playground equipment.
1.10	Staff Succession Planning				■		Admin; L&E	Draft succession planning guidelines for staff	Draft 1-2 page executive summary report outlining procedural guidelines for staff succession planning efforts.
1.11	Urban Renewal Agency Downtown Storefront Revitalization Program		◆	\$	■		CD; ECD; Eng	Draft downtown storefront revitalization program	Draft downtown storefront revitalization program. Hold URA work session.

GOAL 2: PROMOTE A PRUDENT FINANCIAL PLAN TO MAINTAIN EFFECTIVE SERVICE LEVELS OF A FULL-SERVICE CITY

		Actions:		Budget:	Time Frame:		Dept	COUNCIL DIRECTION	STATUS Next Steps
		Needs Direction	Council Action	Fiscal Impact	1-3 Years	4+ Years	Assigned		
2.12	Capital Improvement Projects		◆	\$	■		PW; L&E; Admin	Develop a list and financial plan/policy for CIP Projects	<i>Draft 1-2 page executive summary report listing long-term CIP projects. Draft a financial plan/policy.</i>
2.13	City Full-Service Definition		◆		■		L&E; Admin; CD	Annual Town Meeting (ATM) topic and format	<i>Schedule joint work session with Committee for Citizen Involvement regarding ATM format and topic.</i>
2.14	Community Services Local Option Levy Renewal		◆	\$	■		Admin; L&E; FD; PD; Lib; P&R	Preparation for local option levy renewal	<i>Draft 1-2 page executive summary report outlining process and potential election dates for submitting local option levy to voters and schedule Council work session discussion.</i>
2.15	Fire Authority IGA		◆	\$	■		FD; Admin; L&E	Draft Fire Authority IGA. Compare costs to TVF&R.	<i>Draft Fire Authority IGA. Compare costs to TVF&R. Continue work session discussions with Council.</i>
2.16	Forest Grove Senior and Community Center		◆	\$	■		Admin; L&E	Review Senior Center financial request as part of budget process FY2016-17	<i>Review Senior Center financial request as part of budget process FY2016-17.</i>
2.17	Police Department Facility		◆	\$	■		Admin; L&E; PD	Continue request for proposal (RFP) for planning and design	<i>Release RFP. Continue work session discussions with Council.</i>

GOAL 3: PROMOTE THE INTERESTS AND NEEDS OF FOREST GROVE IN LOCAL, STATE, AND NATIONAL AFFAIRS

		Actions:		Budget:	Time Frame:		Dept	COUNCIL DIRECTION	STATUS Next Steps
		Needs Direction	Council Action	Fiscal Impact	1-3 Years	4+ Years	Assigned		
3.18	Affordable Housing				■		CD	1) Participate in local and regional efforts; 2) draft white paper; and 3) review code for tiny houses	<i>Draft white paper for Council review that outlines city's efforts.</i>
3.19	City Charter Review	◆	◆	\$	■		Admin; L&E	Conduct Charter review	<i>Hold work session for the purpose of seeking direction from Council.</i>
3.20	City Success Stories				■		Admin; L&E	Boast City success stories	<i>Review and revamp City website.</i>
3.21	Council Academy	◆	◆	\$	■		L&E	Discuss viability of a Council Academy	<i>Hold work session for the purpose of seeking content and concept from Council.</i>
3.22	Fernhill Wetlands Research & Education Center		◆	\$	■		Admin; L&E	City anticipated funding participation	<i>Initiate joint meeting with Clean Water Services to discuss feasibility and next steps.</i>
3.23	Legislative Priorities; Local, State, Regional & National			\$	■		L&E	Continue supporting legislative-related efforts	<i>Continue supporting legislative-related efforts.</i>
3.24	Tourism			\$	■		ECD; L&E	Enhance collaboration efforts with FG/Cornelius Chamber	<i>Establish a private-public work group for tourism collaboration efforts with FG/Cornelius Chamber.</i>
3.25	Transportation		◆	\$	■		CD; Eng	1) List of strategically important transportation projects; and 2) Economic feasibility of transferring county roads to city jurisdiction	<i>Draft list of strategically important transportation projects. Conduct economic feasibility analysis for transferring county roads to city jurisdiction.</i>

CITY COUNCIL TEAM AGREEMENT

Agreements for Conducting Council Meetings and Business

1. Attendance at Council meetings is first priority; if unable to attend, please contact the City Recorder.
2. Be on time to meetings and read the packet prior to the meeting - be prepared to work.
3. Mayor will take the lead in keeping the meeting and discussion focused.
4. Distribute information in advance of Council discussion.
5. Mayor will recognize Councilors when indicating they wish to speak.
6. Put a time limit on audience testimony and ask them not to repeat previous speakers.
7. Use formal procedure (point of order, call for question, etc.) to focus the meeting. Formal procedure may be used when necessary for effective discussion in lieu of Council's usual, more informal, process. Individuals should use procedure appropriately and courteously.
8. Council meetings are televised live; this requires Council to act professionally by:
 - Treating the public and each other with courtesy;
 - Speaking in turn and on the issue;
 - **Not** interrupting; **and**
 - No engaging in side conversations; and
 - No use of personal electronic devices while conducting business at the dais, except to send a text message if an urgency arises.
9. Refrain from personal attacks, including to presenters, staff, and Council.
10. Agree to be diplomatic about disagreement; leave disagreement at the dais and do not try to polarize other Councilors.
11. Call the City Manager or designee with questions and requests prior to the meeting.
12. Information available to one council member will be available to all, in a timely manner.
13. Make every effort will be made to adjourn meetings by 9:30 p.m., and if meeting must extend past 9:30 p.m., call for a Council Recess.
14. Councilors may request on their own accordance one-on-one meetingS with the Mayor.

Individual Council Member Conduct Agreements

Council Members agree to:

- Be straightforward about goals and issues.
- Cultivate exchange of views with other councilors.
- Avoid saying or doing anything that would discredit or harm the City.

Commitments as a Council

Council strives to:

- Continue to improve citizen involvement, awareness and participation.
- Improve follow-up and resolution of citizen concerns or complaints.
- Act as an advocate for the City.

Attachment B



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<i>CITY RECORDER USE ONLY:</i>	
AGENDA ITEM #:	_____
FINAL ACTION:	_____

CITY COUNCIL MEMORANDUM

WORK SESSION

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

PROJECT TEAM: *Paul Downey, Director of Administrative Services*

DATE: *March 14, 2016*

SUBJECT: *Defined Benefit Retirement Plan Work Session*

This work session is intended to discuss the ongoing long-term health of the City's Defined Benefit Retirement Plan (Plan). This discussion will include recommended changes to the actuarial assumptions proposed by Milliman, Inc., the City's actuarial firm. A similar work session was held on January 26, 2015, discussing the Plan. Some of the actuarial assumptions were changed as a result of that work session but no action was taken on other recommendations. Tonight's work session will address those recommendations that were not implemented and discuss adding two other recommended changes.

The recommended actuarial changes center around three areas:

- 1) Mortality Tables changes – these changes will increase costs to the Plan
- 2) Change Valuation Interest Rate Assumption – this change will increase costs to the Plan
- 3) Change Salary Scale Assumption – this change will decrease costs to the Plan

A PowerPoint Presentation will be provided at the work session to discuss the recommended changes and their effect on the City's funding of the defined benefit retirement plan. City staff and the actuaries are finalizing the presentation including options to implement the recommendations over time. The cost of implementing all of the recommendations immediately would be additional contributions to the Plan in FY 2016-17 of \$1,223,000 or a 54% increase in contributions. The City cannot afford to make all of those changes at once so a strategy to phase-in the changes over a period of time needs to be developed. Delaying the implementation of the changes for too long will increase the costs of making the changes when they are ultimately implemented.

The City faces similar challenges with its defined benefit retirement plan that many other government agencies are experiencing. Cost pressures from keeping these types of plans adequately funded will challenge some agencies' abilities to maintain services.

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PROCLAMATION

National Community Development Week March 28 – April 2, 2016

WHEREAS, the week of March 28 – April 2, 2016, has been designated as National Community Development Week by the National Community Development Association to celebrate the Community Development Block Grant (CDBG) Program and the HOME Investment Partnerships (HOME) Program; and

WHEREAS, the CDBG program provides annual funding and flexibility to local communities to provide decent, safe and sanitary housing, a suitable living environment and economic opportunities to low-and-moderate-income people;

WHEREAS, the HOME Investment Partnerships (HOME) Program provides funding to local communities to create decent, safe and affordable housing opportunities for low-income persons. Nationally, over one million units of affordable housing have been completed using HOME funds; and

WHEREAS, over the programs' history, our community has received a total of \$4,350,312 in CDBG funds.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FOREST GROVE DOES HEREBY PROCLAIM THE WEEK OF MARCH 28 – APRIL 2, 2016, AS

NATIONAL COMMUNITY DEVELOPMENT WEEK

in Forest Grove, Oregon, Washington County, in support of these two valuable programs that have made tremendous contributions to the viability of the housing stock, infrastructure, public services, and economic vitality of our community.

BE IT FURTHER PROCLAIMED, that this community urges Congress and the Administration to recognize the outstanding work being done locally and nationally by the Community Development Block Grant Program and the HOME Investment Partnerships Program by supporting increased funding for both programs in FY 2017.



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 March, 2016.

Peter B. Truax, Mayor, City of Forest Grove

Project list by sponsor

04-Feb-16

SPONSOR: City of Forest Grove

PROJECT NAME: Forest Grove, 23rd Avenue Improvements

YEAR:

PROJECT DESCRIPTION: Widen and pave roadway, construct sidewalks, improve drainage, construct curbs, and landscape.

PROJECT NAME: Forest Grove, Cedar Street Improvements

YEAR:

PROJECT DESCRIPTION: Widen and pave roadway, construct sidewalks, and landscaping.

PROJECT NAME: Forest Grove, Cedar Street Improvements

YEAR:

PROJECT DESCRIPTION: Street improvements including: widening of roadway, construction of sidewalks, landscaping, construction of curbs, gutters, and storm water lines.

PROJECT NAME: Forest Grove, Architectural Barrier Removal

YEAR: 1979

PROJECT DESCRIPTION: Construct 44 curb cuts throughout the city.

PROJECT NAME: Forest Grove Senior Center

YEAR: 1981

PROJECT DESCRIPTION: Construction of a 1,200 sq.ft. addition to the Senior Center.

PROJECT NAME: Forest Grove, Economic Development Plan

YEAR: 1982

PROJECT DESCRIPTION: Develop a capacity building plan whereby the city could enhance economic development; and establish industrial and business recruitment strategies.

PROJECT NAME: Forest Grove, Elm Street Improvements

YEAR: 1982, 1983

PROJECT DESCRIPTION: Construction of sidewalks, storm drains, and landscaping.

PROJECT NAME: Forest Grove, "E" Street

YEAR: 1987

PROJECT DESCRIPTION: To provide improved pedestrian and traffic safety improvements by widening the street and constructing sidewalks and a bikeway.

PROJECT NAME: Forest Grove, Cedar Street Improvements

YEAR: 1988

PROJECT DESCRIPTION: Provide improvements to the service area. Improvements include: construction or installation of storm drains, curbs, sidewalks, street paving, and landscaping.

PROJECT NAME: Forest Grove, Bard Park

YEAR: 1991

PROJECT DESCRIPTION: Construction of a hard surface multipurpose activity pad and installation of new play equipment.

PROJECT NAME: Forest Grove, City Library Access Doors

YEAR: 1991

PROJECT DESCRIPTION: Removal of architectural barriers to a public facility through the installation of 2 sets of handicapped doors.

PROJECT NAME: Forest Grove, 21st & "C" Street Improvements

YEAR: 1992

PROJECT DESCRIPTION: Construct street to City standards, including: paving roadway, and constructing curbs, sidewalks and landscaping.

PROJECT NAME: Forest Grove, 22nd and Douglas

YEAR: 1992

PROJECT DESCRIPTION: Construct streets to City standards including paving, curbs, sidewalk, storm drainage and landscaping.

PROJECT NAME: Forest Grove, Popular Street Improvements

YEAR: 1993

PROJECT DESCRIPTION: Construct approximately 2,070 l.f. of storm sewers.

PROJECT NAME: Forest Grove, 17th Avenue Improvements

YEAR: 1993

PROJECT DESCRIPTION: Reconstruct roadway including asphalt paving of roadway, new storm drainage facilities, curbs, sidewalks and landscaping.

**PROJECT NAME: Forest Grove, 23rd Place & 24th Avenue
Improvements**

YEAR: 1995

PROJECT DESCRIPTION: Widen and resurface the road; construct curbs, gutters, sidewalks, storm drainage, and landscaping.

PROJECT NAME: Forest Grove, Renovation of Rogers Park

YEAR: 1995

PROJECT DESCRIPTION: Construct restroom and picnic shelter for persons with disabilities; develop new play areas; and install new pathway systems.

PROJECT NAME: Forest Grove, Cedar Street Improvements

YEAR: 1996

PROJECT DESCRIPTION: Widened, paved, and made other infrastructure improvements on Cedar Street between 13th and 15th Avenues.

PROJECT NAME: Forest Grove, "A" Street Improvements

YEAR: 1996

PROJECT DESCRIPTION: Widened, resurfaced, and made other infrastructure improvements on "A" Street between 16th Avenue and 18th Avenue

PROJECT NAME: Forest Grove, 21st Place

YEAR: 1997

PROJECT DESCRIPTION: Street improvements including widening roadway; paving the road; constructing curbs, gutters, sidewalks, and storm drainage; and landscaping both sides of the street.

PROJECT NAME: Forest Grove, 22nd Place

YEAR: 1998

PROJECT DESCRIPTION: Widen and improve roadway on 22nd Place between Laurel and Kingwood Streets. Improvements included paving, constructing curbs, gutters, sidewalks, storm drainage; and landscaping on both sides of street.

PROJECT NAME: Forest Grove, 19th Place

YEAR: 1999

PROJECT DESCRIPTION: Widened the roadway to standard width, construct curbs, gutters, sidewalks, storm drainage, and landscaping along 19th Place from Maple to the dead end.

PROJECT NAME: Forest Grove, 21st Avenue Project

YEAR: 1999

PROJECT DESCRIPTION: Widen the roadway to standard width, replace and repair curbs, gutters, sidewalks, storm drainage, and landscaping along 21st Avenue between B & C Streets.

PROJECT NAME: Forest Grove, "B" Street Improvements

YEAR: 2000

PROJECT DESCRIPTION: Widen B Street to 40'. Construct approximately 1,500 linear feet of street improvements including repaving and constructing curbs, gutters, sidewalks, storm drainage; and landscaping on both sides of the street.

PROJECT NAME: Forest Grove Senior Center Addition

YEAR: 2002

PROJECT DESCRIPTION: Constructed a 1,290 sq. ft. addition to the facility to be used as a multi-purpose room for social activities and meetings; and a 150 sq. ft. addition to the storage area in order to reallocate space for a health room. Other improvements included: building renovations to better accommodate computer classes and greater privacy for health related matters; kitchen remodeling to allow for replacement of old equipment and bringing area into compliance with current health codes; and improvements to the dining room and restrooms to provide more efficient fixtures.

PROJECT NAME: Forest Grove, 22nd Place Improvements

YEAR: 2002

PROJECT DESCRIPTION: Widen and pave 22nd Place, between "D" and "E" Streets, with a 28' Asphalt/Concrete (A/C) roadway surface; construct 250 linear feet of street improvements including paving the road gravel; construct curbs, gutters, sidewalks, storm drainage; and landscaping on both sides of the street.

PROJECT NAME: Forest Grove, "D" Street Improvements

YEAR: 2002

PROJECT DESCRIPTION: Widen and repave "D" Street, between 21st Ave. and 23rd Ave. with a 32' Asphalt/Concrete roadway surface; construct 900 linear feet of street improvements including curbs, gutters, sidewalks, storm drainage; and landscaping on both sides of the street.

PROJECT NAME: Forest Grove, Bard Park

YEAR: 2004

PROJECT DESCRIPTION: Design and reconstruct or upgrade pathways; construct picnic shelter; purchase and install benches; and resurface the basketball court.

PROJECT NAME: City of Forest Grove, 14th Avenue Public Improvements

YEAR: 2004

PROJECT DESCRIPTION: Upgrade both the storm drainage system and 400 linear feet of pavement; as well as install 900 linear feet of new curbing, sidewalks and wheel chair ramps.

PROJECT NAME: Forest Grove Senior Center Kitchen – Flooring Replacement and Equipment Upgrade

YEAR: 2005

PROJECT DESCRIPTION: Purchase and install a new commercial stove, three ovens, steamer and steam table, as well as new vinyl flooring for the kitchen.

PROJECT NAME: Forest Grove, Filbert Street Improvement Project

YEAR: 2006

PROJECT DESCRIPTION: Installed curb, sidewalk and street trees on both sides of Filbert Street. Improvements included: construction of 5-ft. concrete sidewalks and curbs on each side of the street for a total of 900 LF; 450 LF of street improvements including 3-inch asphalt overlay. Additional work included the construction of a new stormwater system and tie-in to the existing system. The new stormwater system consisted of a 12-inch storm drainpipe, 3-inch PVC rain drainpipe, manholes, catch basins, and the replacement of 2 water hydrants. New street signs were also installed.

PROJECT NAME: Forest Grove, 18th Ave. - Gale School Sidewalks

YEAR: 2007

PROJECT DESCRIPTION: In order to improve vehicular and pedestrian traffic along the 18th Avenue, the city constructed 6-ft.-wide concrete sidewalks and curbs on each side of the street for a total of 3,200 LF.

PROJECT NAME: Forest Grove, "A" Street Sidewalk and Street Improvements

YEAR: 2008

PROJECT DESCRIPTION: The City of Forest Grove Constructed 5'-wide sidewalks, curbs and accessibility ramps and the planting of trees on both sides of "A" Street in order to improve vehicular and pedestrian traffic along the street. In addition to the improvements to the sidewalks the project provided for the construction curbs on both sides of the street to current city standards; the construction of planter strips and the installation of 1,090 lineal feet of stormwater drains and pipes.

PROJECT NAME: Forest Grove Senior Center Facility Upgrade

YEAR: 2012

PROJECT DESCRIPTION: The project will replace flooring, install accessible doors to access the backyard area, and install a ventilation system for the freezer compressor at the Forest Grove Senior Center. Repair of these three building elements will improve the safety and effective use of the facility for seniors who access services at the senior center.

PROJECT NAME: Firwood Lane Neighborhood Sanitary Sewer Project

YEAR: 2015

PROJECT DESCRIPTION: The purpose of the project will be to install sanitary sewer main and lateral lines to properties in the defined service area, making them readily accessible for connection. Firwood Lane is in an area of Forest Grove that was recently incorporated into the city limits and lacks sanitary sewer availability. This is an older low-income neighborhood in which most of the homes were built in the 1940s and 1950s. These homes are currently being served by individual septic systems, with each reaching the end of their usable life. During winter months, the existing septic systems fail to perform adequately and present a potential public health concern. There have been reports that at least 5 residences have had sewage back up into their bathtubs, toilets, and homes. In addition, during the wet months, some of this sewage has leaked onto adjacent open space, which is slated to be the location of a future park. The low-income nature of the residents in the project area indicates that it would be an extreme hardship for these homes to fund the extension of the public sewer system to connect to City sewer services on their own. When complete, existing septic systems can be taken offline, eliminating the risk of sewage backing up into residents' homes and preventing sewage from leaking onto adjacent properties. CDBG funds will be used to pay for construction costs associated with the installation of main lines and laterals, septic tank decommissioning and connection of each home to new laterals.

A place where families and businesses thrive.

CITY COUNCIL WORK SESSION MINUTES
Cooperative Fire Services Study, Next Action

MONDAY, FEBRUARY 8, 2016
5:30 p.m., Conference Room

1. CALLED TO ORDER AND ROLL CALL:

Mayor Peter Truax called the Work Session to order at 5:32 p.m.

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: Jesse VanderZanden, City Manager; Paul Downey, Administrative Services Director; Michael Kinkade, Fire Chief; Brenda Camilli, Human Resources Manager (in the audience); and Anna Ruggles, City Recorder.

Tim Rippe and Anne Niven, Public Safety Advisory Commission (present in the audience).

2. WORK SESSION: COOPERATE FIRE SERVICES STUDY, NEXT ACTION

Fire Chief Kinkade, Downey and VanderZanden facilitated the work session, noting the purpose of the work session was to discuss and review the Cooperative Fire Services Study recommendations. Kinkade presented a PowerPoint presentation outlining the study's recommendations, noting the Emergency Services Consulting International (ESCI) was engaged by the City of Forest Grove, City of Cornelius, Forest Grove Rural Fire Protection District, Cornelius Rural Fire Protection District, Gaston Rural Fire Protection District and Banks Fire Protection District to conduct a Cooperative Fire Services Study involving the six agencies. Kinkade reported a visioning session, facilitated by ESCI, was conducted in October 2015, which included mayors of Forest Grove and Cornelius and presidents of the Forest Grove Rural, Cornelius Rural and Gaston Rural fire protection districts, noting the consensus was to immediately work with the five participating agencies to pursue a comprehensive IGA for a "Western Washington County Fire Authority" and if successful, establish a fire district. In conclusion of the above-noted staff report, Chief Kinkade advised staff is seeking guidance from Council, if Forest Grove should proceed with developing a draft IGA forming a "Western Washington County Fire Authority" for consideration by the five participating policy bodies to consider.

Council Discussion:

Mayor Truax opened the floor and roundtable discussion ensued pertaining to whether Forest Grove should proceed with developing a draft IGA forming a "Western Washington County Fire Authority" for consideration by all participating policy bodies, to which Chief Kinkade advised the proposed IGA would establish operational, administrative and financial framework for all participating agencies by integrating under

the same umbrella. Fire Chief Kinkade, Downey and VanderZanden addressed various Council concerns, inquiries, and scenarios posed by Council pertaining to loss of local control, independent authority versus consolidation, including operating budgets, losses/costs, assets, recordkeeping, levying taxes, purchasing agencies' responsibilities, equipment sharing, participating agencies' proportionate share calculations, emergency response standards, overall administrative-related responsibilities and the importance of Forest Grove remaining as a full-service City. Lowe voiced concern the study is not looking at other cost options, such as remaining as a standalone and cost comparison to Tualatin Valley Fire and Rescue (TVF&R). Chief Kinkade presented a map showing TVF&R service areas in comparison to western Washington County multi-agencies' service areas, noting that unlike TVF&R, which is a complete consolidation, each participating agency in western Washington County would maintain its autonomy. In addition, Chief Kinkade noted the policy bodies might decide in the future that consolidation of western Washington County agencies is a good idea, but for now, he is only asking Council to give the fire authority IGA a test and see how it works for the participating agencies. Mayor Truax indicated that if western Washington County does not do something, agencies might end up as islands to TVF&R, noting loss of local control is of important concern as well. In conclusion of the above-noted Council discussion, Council collectively concurred having staff prepare a "per-draft" of the fire authority IGA as well as provide cost comparison to TVF&R for a follow-up work session at a later date, to which staff concurred.

Council took no formal action nor made any formal decisions during the above-noted work session.

3. ADJOURNMENT:

Mayor Truax adjourned the regular meeting at 6:12 p.m.

Respectfully submitted,

Anna D. Ruggles, CMC, City Recorder

Minutes are unofficial until approved by Council.

1. CALLED TO ORDER AND ROLL CALL:

Mayor Peter Truax called the City Council Goal-Setting Retreat to order at 9:00 a.m.

ROLL CALL: COUNCIL PRESENT: Thomas Johnston, Council President; Richard Kidd; Victoria Lowe; Ronald Thompson; Elena Uhing; Malynda Wenzl; and Mayor Peter Truax.

STAFF PRESENT: Jesse VanderZanden, City Manager; Paul Downey, Administrative Services Director; and Anna Ruggles, City Recorder.

2. 2015 DEPARTMENT ACCOMPLISHMENTS AND FY2016-17 DEPARTMENT PRIORITIES:

VanderZanden presented a PowerPoint presentation highlighting the significant department accomplishments for 2015 as noted below. In addition, VanderZanden presented a PowerPoint presentation highlighting Department Priorities for FY2016-17, noting Department Directors were asked to identify at least three top department-related priorities to present to Council as part of Council's goal-setting exercise for FY2016-17 as follows:

- Administrative Services Department completed five-year General Fund financial projection for FY2015-16 through FY2019-20; completed FY2015-16 Budget and FY2015-20 Capital Improvements Program; and conducted other various departmental-related programs.
- FY2016-17 implementation of new accounting/human resources software system; continue implementation of geographic information system; complete process for replacement of current police facility; complete process for renewal of local option levy with potential election in November 2017; complete process for Tokola Development at Times Litho site; and conducted other various departmental-related programs. In addition, Downey announced Mike Nolop, IT Manager, was leaving his employment with the City.
- Community Development Department adopted new urban renewal and comprehensive plans; completed a majority of the Westside Planning Project process; filed 1,066 building permits and 114 new single-family building permits and filed 229 building permits for Cornelius pursuant to IGA; adopted

new Historic District Design Guidelines; provided staff support to Urban Renewal Agency, including receipt of first tax increment of \$27,702; achieved 25 years as Tree City USA; implemented new permit software; established new Medical Marijuana Dispensaries code; provided staff support to Committee for Citizen Involvement who held the Annual Town Meeting and three community forums; and conducted other various departmental-related programs.

- FY2016-17 complete action plans for Westside Planning Project, Planned Residential Development update, Town Center project and sustainability action plan white papers; area planning for Oak Street industrial area; continue participation on regional transportation plan update; participate in county/regional equity efforts and draft affordable housing white paper; residential multi-family high-density increase; transportation system plan study; and other various departmental-related programs. *There was discussion pertaining to industrial zoning and plan areas; Pacific University's Master Plan needing review, i.e., student parking is getting out of control, to which VanderZanden took note of the above-mentioned concerns.*
- Economic Development provided technical assistance and Business Incentive Program to enable eight new small businesses to open; Chaucer Foods sited a new manufacturing operation in Forest Grove and Lieb Foods expanded, to which both were provided enterprise zone and regulatory assistance; completed participation in the Washington County Industrial Site Assessment, to which five sites were assessed for readiness; updated Economic Development Strategic Plan; implemented comprehensive marketing efforts to promote growth of industrial, commercial and tourism sectors; facilitated a Small Business Training Assistance class; and other various departmental-related programs.
 - FY2016-17 consider renewing enterprise zone for another 10-year period as it expires June 30, 2016; development of larger commercial sites; increase market availability and industrial site readiness; retain and expand existing manufacturers; and other various departmental-related programs. *Council asked VanderZanden to submit a report with project-related costs and project benefits when submitting renewal of the enterprise zone application. There was discussion pertaining to the downtown storefront revitalization, i.e., Redmond's program and cost sharing with Metro, to which VanderZanden took note of the above-mentioned requests.*
- Fire Department completed Cooperative Fire Services Study; Cornelius successfully passed its fire levy; assumed leadership of Gaston Rural Fire Protection District pursuant to an IGA; acquired \$1.1 million of new fire apparatus, which included two identical tenders for Forest Grove and Cornelius, one heavy brush engine for Forest Grove and one staff vehicle for

Forest Grove; responded to four state conflagrations; and other various departmental-related programs.

- FY2016-17 implement fire authority IGA; create a new strategic plan for new fire authority; and replace ladder truck. *Council asked VanderZanden to provide a per-draft of the fire authority IGA and provide a cost comparable to TVF&R for the next work session. Council also asked VanderZanden to provide a report on the mileage and retrofit costs vs. replacement costs when the ladder truck is presented during the budget process, to which VanderZanden took note of the above-mentioned requests.*
- Human Resources negotiated bargaining agreements with police and fire unions to aid in future cost containment in areas of retirement and health insurance benefits; conducted comprehensive review and updated Employee Handbook; and developed and managed recruitment process for new City Manager position. *Council noted they would like to see more international college students who are studying specialized curriculum, filling city internships and summer positions, to which VanderZanden took note of the above-mentioned request.*
- Library Department completed Library Strategic Planning; set records for participation in Summer Reading and number of books read; began circulating e-readers to patrons; acquired new furniture with donations for Early Literacy and Teen areas; Washington County successfully passed its library levy; and other various departmental-related programs.
- Light and Power Department implemented the L&P Electric System Master Plan, purchasing three new substation transformers for Thatcher Junction and Forest Grove substations; installed 43 LED street lights as part of the pilot project; replaced 6,460' of underground cable; energized 95 residential subdivisions; adopted new electric rates; provided mutual aid assistance to neighboring consumer-owned utilities; and other various departmental-related programs.
 - FY2016-17 complete L&P Electric System Master Plan; provided services for Verboort/Purdin Hwy 47 roundabout project, redesign Quince/Hwy 8 intersection and David Hill Road; high voltage cable system replacement project; new housing services; continue LED lighting replacement project; and other various departmental-related programs. *VanderZanden noted staff is scheduling a Council presentation in April on the LED replacement project.*
- Parks and Recreation/Aquatics facilitated installation of sundial at Thatcher Park; continued development of Parks, Recreation and Open Space Master Plan; continued development of Recreation/Community Center Study; finalized process for Old Town Loop Trail and held two open houses; managed numerous volunteer efforts and awarded volunteer awards; participated in several water safety events at Hagg Lake; completed LED

lighting, HVAC upgrades and other facility improvements at the pool; partnered with Community Forest Commission on Urban Forest Master Plan; and other various departmental-related programs.

- FY2016-17 complete Parks, Recreation and Open Space Master Plan and Recreation/Community Center Study; complete Old Town Loop Trail; begin Rogers Park playground renovation; continue implementing energy conservation measures at the Aquatic Center; and other various departmental-related programs. *VanderZanden noted staff is scheduling a Council presentation in April on the Parks, Recreation and Open Space Master Plan and Recreation/Community Center Study results.*
- Police Department awarded various police-related grants; expanded outreach efforts to include adding National Night Out; ended the year with 5635 Facebook followers; held four Coffee with a Cop events; held Citizens' Academy; police records storage was revamped and new a property management system was implemented; streamlined recruitment and selection efficiency and successfully filled seven vacancies; held first department-wide meeting in many years and held first ever executive retreat for management team; and other various departmental-related programs.
 - FY2016-17 continue police facility project; implement Oregon Task Force on school safety objectives (HB4087); examine staff management within the department; and other various departmental-related programs.
- Public Works/Engineering Departments designed and contracted B Street Sidewalks/Safe Routes to School Project; transmission line at watershed and Water Treatment Plant filter repair, both projects were unanticipated expenditures; and currently awaiting funding decision on CDBG grant application for Firwood Lane sewer and water drainage issues that surfaced during the annexation process; and other various departmental-related programs.

FY2016-17 continue David Hill extension; development plan review and construction inspections; conduct ADA curb ramp study; Firwood Land sanitary sewer improvements; review list of capital improvement projects; and other various departmental-related programs. *There was concern that the budget policy for large projects has not been completed, to which VanderZanden took note of the above-noted concern.*

3. STATUS/UPDATE OF COUNCIL GOALS/OBJECTIVES FOR FY2015-16:

VanderZanden referenced a spreadsheet attached in the packet, noting the reformatted spreadsheet contains status updates and next steps for each of the Council objectives identified in FY2015-16, to which Council discussions ensued concurrently with Agenda Item 5 below so Council could take a break.

Council recessed at 10:15 a.m. for a break and reconvened at 10:29 a.m.

4. REVIEW EXISTING COUNCIL THREE GOALS FOR FY2016-17:

Mayor Truax and VanderZanden facilitated this exercise to review the Council's three existing key goals and to consider setting new goals. Mayor Truax opened the floor and roundtable discussions ensued as Councilmembers had an opportunity to review and discuss their key goals. In conclusion of the above-noted exercise, Council collectively concurred maintaining the three existing key goals for FY2016-17 as follows:

Goal 1:

- Promote Safe, Livable and Sustainable Neighborhoods and a Prosperous Dynamic, Green City;

Goal 2:

- Promote a Prudent Financial Plan to Maintain Effective Service Levels of a Full-Service City; and

Goal 3:

- Promote the Interests and Needs of Forest Grove in Local, State, and National Affairs.

A proposed resolution for the above-noted Council Key Goals for FY2016-17 will be presented for Council consideration at the Council Meeting scheduled on Monday, March 14, 2016.

5. SETTING COUNCIL OBJECTIVES FOR FY2016-17:

Mayor Truax and VanderZanden facilitated this exercise to review statuses, provide clarification and/or remove completed Council objectives from the list, noting Council adopted 10 objectives and carried over 18 objectives as ongoing and/or long-term for a total of 28 objectives for FY2015-16. Mayor Truax opened the floor and roundtable discussions ensued as Councilmembers had an opportunity to discuss and review the statuses of each objective. In conclusion of the above-noted exercise, Council collectively concurred that 14 of the 28 objectives could be considered completed in 2015 and/or removed from the list as follows.

FY2015-16 Objectives (completed/removed):

- 1) Business retention – ongoing/removed
- 2) Code Enforcement – completed/removed
- 3) Council Visibility – removed
- 4) Fire protection governance (regional vs. local) – removed
- 5) Grovelink Transit Bus Stops (benches) – completed/removed
- 6) Implement Sustainability Plan – completed/removed
- 7) Increase CEP community support – completed/removed

- 8) Increase travel/training budget – completed/removed
- 9) Local Improvement Districts – completed/removed
- 10) Poverty; homelessness and mental health – removed
- 11) Quality of life – removed
- 12) Water Treatment Plant upgrades – completed/removed
- 13) Workforce Center, local – removed
- 14) Youth representation on B&C – completed/removed

In addition, Council collectively concurred to carry over 13 pending objectives in FY2015-16 as follows.

FY2015-16 Objectives (carried over) to FY2016-17:

- 1) Affordable Housing – draft white paper and review code for tiny houses
- 2) Budget policy for larger projects – develop list of CIP programs and draft financial plan/policy for large projects
- 3) Complete Parks Master Plan – complete Parks Master Plan and create a brochure listing all park and open space locations
- 4) Energy Reduction city-wide – continue LED project and prepare estimates for retrofitting remaining streetlights
- 5) Fire Department strategic planning update – draft fire authority IGA and compare costs to TVF&R
- 6) Full-Service City definition – part of Council's vision planning to schedule a joint work session with CCI regarding ATM format and topic
- 7) Levy – schedule a work session with Council regarding levy process
- 8) Planned Residential Development Process – draft a simple flow chart
- 9) Police Department facility planning & design – continue RFP for planning and design
- 10) Staff Succession Planning – summary report of existing efforts
- 11) Support involvement in local, state, regional, national legislative agenda and priorities – continue as is
- 12) Town Center Revitalization – Urban Renewal Agency draft a downtown storefront revitalization program
- 13) Transportation – draft a list of strategically important transportation projects and economic feasibility of transferring county roads

Next, Mayor Truax and VanderZanden facilitated this exercise to consider identifying new Council objectives for FY2016-17. Mayor Truax advised each year the Council is asked to set broad objectives to help guide City administration and departments as they plan for the upcoming budget year. Mayor Truax opened the floor and roundtable discussions ensued as Councilmembers had an opportunity to discuss and submit their objectives for FY2016-17. In conclusion of the above-noted exercise, Council collectively concurred to carry over 13 pending objectives as noted

above and added 12 new proposed objectives for a total of **25 Objectives** for FY2016-17 as follows.

FY2016-17 Council Objectives (in no specific order):

- (1) Rogers Park upgrades, i.e., complete installation of new restroom facilities and playground equipment
- (2) Economic feasibility and concept locations for multiplex ballfields
- (3) Define acquisition process for parcels in watershed drainage areas, i.e., set aside one to three percent of timber harvest funds for acquisition land fund contingency
- (4) Establish rebate programs for residential high-efficiency toilets and solar and conduct wind analysis in the watershed
- (5) Fernhill Research & Education Center, i.e., anticipate city funding participation
- (6) Charter Review, i.e., City Manager residency requirement
- (7) Boast City Success Stories, i.e., informational news submitted to community about city's successes
- (8) Council Academy – consider holding a Council academy similar to police department's citizen academy
- (9) Senior Center, i.e., define budget process for not-for-profits, keeping in mind the Senior Center's community development block grant agreements have a 20-year commitment attached
- (10) Downtown plaza, i.e., identify concept locations
- (11) Tourism, i.e., collaborating tourism efforts with Chamber
- (12) Complete feasibility development study for industrial areas, i.e., zoning

A Council goal-setting work session will continue on Monday, March 14, 2016, at which time, Council will finalize their Objectives for FY2016-17 as part of their decision-making process.

Council recessed at 11:33 a.m. for a break and reconvened at 11:51 a.m.

6. COUNCIL DISCUSSION:

Hearing no further discussion from the Council, Mayor Truax moved on to Agenda Item 7.

7. COUNCIL TEAM AGREEMENT:

Mayor Truax facilitated this exercise to discuss, review, and/or amend the Council team agreement. In conclusion of the above-noted exercise, Council collectively concurred to add **Council one-on-one meetings with the Mayor**; consensus was not to install new microphones with on/off buttons at the dais; consensus was to **allow Councilmembers to use personal electronic devices to send quick text messages if an urgency arises, such as letting a family member know the**

meeting is running late; and calling for a Council recess if meeting continues past 9:30 p.m. In addition, roundtable discussions ensued pertaining to needing a **grievance process or dispute resolution process outlined in the Council team agreement.** Uhing voiced concern there is no grievance process or consequences when councilmembers are not following the terms of the team agreement. Wenzl voiced concern within the last month there have been issues that have caused her concern, pointing out the importance of needing to respect each other. Lowe voiced concern she has dealt with bullying techniques occurring for at least 10 years, noting she takes signing the team agreement very seriously and maintains a copy of the team agreement at her computer as a constant reminder. Lowe advised that she is not willing to sign the team agreement until a resolution of process is resolved. Council President Johnston suggested creating a form where concerns could be jotted down, noting as Council President he is agreeable to being a mediator. In conclusion of the above-noted Council discussion, Council collectively concurred to look at other council team agreements that were applicable or perhaps contained improvements that could be made to their Team Agreement, to which Mayor Truax concurred waiting to review other team agreements prior to councilmembers signing a new Council team agreement. Staff will research other team agreements and bring back findings for the Council goal-setting work session, which will continue on Monday, March 14, 2016, at which time, Council will review samples of other team agreements as part of their decision-making process.

ADJOURNMENT:

Hearing no further discussion from the Council, Mayor Truax adjourned the Council Retreat at 2:20 p.m.

Council took no formal action nor made any formal decisions during the Council Retreat.

Respectfully submitted,

Anna D. Ruggles, CMC, City Recorder

Minutes are unofficial until approved by Council.

1. CALLED TO ORDER AND ROLL CALL:

Mayor Peter Truax called the regular City Council meeting to order at 7:18 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: Jesse VanderZanden, City Manager; Paul Downey, Administrative Services Director; Jon Holan, Community Development Director; Dan Riordan, Senior Planner; George Cress, Light and Power Director (in the audience); J. F. Schutz, Police Chief (in the audience); Collen Winters, Library Director (in the audience) and Anna Ruggles, City Recorder.

2. CITIZEN COMMUNICATIONS: None.

3. CONSENT AGENDA:

Items under the Consent Agenda are considered routine and are 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 remaining Consent Agenda item(s).

- A. Approve City Council Regular Meeting Minutes of January 25, 2016.
- B. Approve City Council Work Session (B&C Interviews) Meeting Minutes of February 8, 2016.
- C. Approve City Council Regular Meeting Minutes of February 8, 2016.
- D. Accept Economic Development Commission (EDC) Meeting Minutes of October 1, November 5 and December 3, 2015, and January 7, 2016.
- E. Accept Parks and Recreation Commission Meeting Minutes of January 20, 2016.
- F. Accept Public Safety Advisory Commission Meeting Minutes of December 9, 2015.
- G. **RESOLUTION NO. 2016-18 MAKING APPOINTMENT TO LIBRARY COMMISSION (Appoint Elizabeth Beechwood, Term Expiring December 31, 2017).**
- H. **RESOLUTION NO. 2016-19 MAKING APPOINTMENT TO PARKS AND RECREATION COMMISSION (P&R) (Appointing Mackenzie Johnson-Carey,**

At-Large, Term Expiring December 31, 2019).

I. ENDORSE LIQUOR LICENSE RENEWAL APPLICATIONS FOR YEAR 2016:

1. 7-Eleven #2362-20715C, (Off-Premises Sales)
2. Aramark Educational Services (Limited On-Premises Sales)
3. Ballad Town Billiards (Full On-Premises Sales)
4. Bi-Mart (Off-Premises Sales)
5. Buffet Dynasty (Limited On-Premises Sales)
6. Circle Inn Tavern (Full On-Premises Sales)
7. Cornerstone (Limited On-Premises and Off-Premises Sales)
8. Diamond Palace Restaurant (Full On-Premises Sales)
9. Forest Grove Event Center (Full On-Premises Sales)
10. Forest Grove Senior and Community Center (Limited On-Premises Sales)
11. Forest Grove Sushi (Limited On-Premises Sales)
12. Forest Grove Theater (Limited On-Premises Sales)
13. Forest Grove Tobacco (Off-Premises Sales)
14. Godfather's Pizza/Players Pub (Full On-Premises Sales)
15. Grampy's Deli and Pub (Limited On-Premises Sales and Off-Premises Sales)
16. Half Moon Sports Bar & New Chinese Cuisine (Full On-Premises Sales)
17. Hello Market (Off-Premises Sales)
18. Jade Green Palace Restaurant (Full On-Premises Sales)
19. La Hacienda (Limited On-Premises Sales)
20. La Sierra Mexican Restaurant (Full On-Premises Sales)
21. Maggie's Buns (Limited On-Premises Sales)
22. Mama Jiah's Market (Off-Premises Sales)
23. Mandarin China Restaurant (Limited On-Premises Sales)
24. Mini Mart (Off-Premises Sales)
25. My Place Tavern (Limited On-Premises Sales)
26. Phil's 1500 Subs (Limited On-Premises Sales)
27. Pizza Schmizza (Limited On-Premises Sales)
28. Plaid Pantry #20 (Off-Premises Sales)
29. Plaid Pantry #99 (Off-Premises Sales)
30. Prime Time Restaurant and Sports Bar (Full On-Premises Sales)
31. Rainbow Lanes (Limited On-Premises Sales)
32. Safeway Store #0406 (Off-Premises Sales)
33. Shriji Food Mart / FG Arco (Off-Premises Sales)
34. Super Mercado La Montana (Off-Premises Sales)
35. The Kings Head (Full On-Premises Sales)
36. The Masonic Grand Lodge (Full On-Premises)
37. Waltz Brewing (Brewery Public House)

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. **Westside Planning Project Update**

Holan reported the purpose of the presentation was to inform Council of the status of the Westside Planning Project, noting staff and Planning Commission have been developing a planning approach for the Westside Planning Area, comprising of David Hill west of Thatcher Road and the new Urban Renewal Growth Boundary north of David Hill Road between Thatcher Road and Highway 47 (known as Purdin Road area). Holan presented a PowerPoint presentation outlining process to date, noting there have been two planning charrettes, two Technical Advisory Committee meetings, a work session with Planning Commission and public meetings with approximately 40 to 60 interested attendees. Holan pointed to some of the major issues discussed, including:

- Land use designation for Purdin Road area
- Appropriate land use designations and water service above the 440' contour on David Hill
- Road locations on steep terrain in David Hill Road between Forest Gale Drive and Antler Lane; and
- Thatcher Road being "single loaded" most of its distance between David Hill and Purdin Roads.

In addition, Holan referenced a PowerPoint map titled "Westside Planning Project – Planning Commission Direction" and spreadsheet titled "Westside Project Dwelling Unit Yield Estimate – Revised Purdin Road 10/26/15", noting the Planning Commission accepted the land use plan with development potential to allow the infrastructure analysis to proceed, but this plan should not be considered as a final plan as it will likely need refining. In conclusion of the above-noted staff presentation, Holan advised the next steps are to review the final infrastructure plan developed by consultants, prepare a financial program and proceed with final approval process.

6. **CITY COUNCIL COMMUNICATIONS:**

Council President Johnston reported on Parks and Recreation Commission-related activities. Johnston reported on Forest Grove Rural Fire Protection District-related activities, noting Gales Creek substation now has interns. In addition, Johnston reported on other matters of interest and upcoming meetings he was planning to attend.

Kidd reported on Public Arts Commission-related activities, noting they are working on

a Buy-A-Brick fundraiser. In addition, Kidd reported on other matters of interest and upcoming meetings he was planning to attend.

Lowe reported on upcoming meetings she was planning to attend.

Thompson reported on Community Forestry Commission-related meeting, noting this year's Arbor Day celebration will be held April 19, 2016, with a tree planting at the Community School. In addition, Thompson reported on other matters of interest and upcoming meetings he was planning to attend.

Uhing was absent.

Wenzl reported on upcoming meetings she was planning to attend.

7. CITY MANAGER'S REPORT:

VanderZanden reported on upcoming meetings and events as noted in the Council calendar and City Manager's Report. VanderZanden commended public works personnel for installing 10 new city limit signs, with new three leaves logo, noting four were installed at entrances that did not previously have signage and six were replacements. VanderZanden commended Police Chief Schutz, noting Chief Schutz for the second time has been asked to be a keynote speaker at the Basic Police Academy graduation ceremony. VanderZanden noted some of the downtown kiosks will need to be replaced/rehabilitated and updated. In addition, VanderZanden referenced the City Manager's Report, which was emailed to Council in advance and outlined various upcoming Council-related meetings; upcoming Council-related agenda; updates on department-related activities and projects, including Administrative Services, Parks and Aquatics, Police, Library, Light and Power, Economic Development, Community Development, and Engineering and Public Works; and other upcoming citywide calendar events.

8. MAYOR'S REPORT:

Mayor Truax announced dates of various upcoming activities, events and meetings as noted in the Council Calendar. Mayor Truax announced Verboort Road will be temporarily closed east of Highway 47 from March 7 through mid-July for construction of a roundabout at Highway 47 and Verboort-Purdin Roads intersection, noting these dates are subject to change. Mayor Truax projected a diagraph showing road closure, noting during the closure, vehicular traffic will be detoured to Martin Road. In addition, Mayor Truax reported on other various local, regional, Metro, and Washington County meetings he attended, upcoming community-related events, and upcoming meetings he was planning to attend.

Mayor Truax announced he is adjourning the regular Council meeting and the Urban Renewal Agency Board will convene in approximately five minutes to conduct an

Urban Renewal Agency meeting.

9. **ADJOURNMENT:**

Mayor Truax adjourned the regular meeting at 8:00 p.m.

Respectfully submitted,

Anna D. Ruggles, CMC, City Recorder

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APPROVED

**COMMUNITY FORESTRY COMMISSION
CITY AUDITORIUM
MAIN STREET, FOREST GROVE, OR
January 20, 2016**

Meeting called to order at 5:30:00. President Jen Warren in Chair.

Members Present – Jen Warren, Dale Wiley, David Hunter
Bruce Countryman, Mark Nakajima.

Members Absent – Lance Schamberger

Staff Present: Dan Riordan – Steve Huffman

Council Liaison: Ron Thompson

Meeting Minutes Approval: December minutes were approved.

Citizen Communication: None

OLD BUSINESS

URBAN FORESTRY MANAGEMENT PLAN

Bruce presented and reviewed some minor changes to the Urban Forestry Management Plan and some formatting and housekeeping type items. Discussions on hazard tree assessment on private property that may impact public rights of way, and how to handle these and potential conflicts. Bruce says the document is ready to go, with the minor formatting changes and to present it to the Parks and Recreation Commission.

The CFC members congratulated and thanked Bruce for a job very well done on the plan.

NEW BUSINESS

Election of Officers

The Annual election of officers was held. In what can only be described as a complete set up as is becoming customary, Chairperson Jen Warren no more that said the words " Election of Officers" than Bruce Countryman immediately moved to retain the same slate of officers, and it was quickly seconded by Mark Nakajima. This was clearly a forgone conclusion put forth by Bruce and Mark, and no doubt this plan was laid in the back nail aisle at Ace Hardware, likely in the early afternoon of the meeting date. We will be requesting the store video to confirm. There was a brief dissention discussion and the motion was passed with the slate of Officers accepting their pre -determined fate. It should be pointed out however, that despite their quickness in the motion and seconding, Bruce and Mark neglected to move for closing nominations, and this simple parliamentary procedure error may result in them being placed in nomination next year.

Boards and Commissions meeting is January 21st at 5:30 pm at the Forest Grove Senior Center.

NEW MEMBER UPDATE

2 outside the City and 1 inside the City. Council interviewed the subjects and is expected to make a selection at the next Council meeting.

Member Reports

David updated on the hazard risk assessment he did that was included with the agenda items. He reported that the subject property had been partitioned and that changed the scope of the project. With the changes responsibility falls back upon the property owners for any hazard assessment.

Staff Updates-

Liasion Updates – Ron Thompson - Brief update on the CFC member selection process.

NEXT MEETING

Next meeting will be February 17, 2016 at the Community Auditorium meeting room at 5:30 pm

MEETING ADJOURNMENT

David moved and Mark seconded to adjourn the meeting. Unanimous affirmative vote adjourned the meeting. Meeting was adjourned at 6:35:00 pm.

Respectfully submitted,

Dale Wiley
CFC Secretary

APPROVED

Forest Grove Historic Landmarks Board
Community Auditorium, 1915 Main Street
January 26, 2016 -- 7:15 P.M. Page 1 of 2

3E

Members Present: Jennifer Brent, George Cushing, MJ Guidetti-Clapshaw, Kaylene Toews, Holly Tsur (02 vacancies)
Staff Present: James Reitz
Council Liaison: Richard Kidd
Citizens Present: 05

1. **Call to Order:** Cushing opened the meeting at 7:15 p.m.

2. **Citizen Communication:** None.

3. **Action Items / Discussion:**

A. City Club of Forest Grove: Linda Lewis and Mary Jo Morelli shared their visions of a historic downtown. Ms. Lewis is the newly-elected president of the City Club. They commented that they have cross-pollination as a City Club chair person is also on the board of the Friends of Historic Forest Grove. The City Club's focus is the merchants of downtown, and Ms. Lewis will be creating a survey to determine their future needs and interests. She described the key points of their vision and approach as:

- Vibrancy is needed to add foot traffic, such as what the film crew did last summer, with more signage, sidewalk displays, flowers, etc. Kidd noted that the HLB could support that effort with renovation grants for building improvements.
- Ms. Lewis plans to create a survey to see if downtown businesses would like to become a historic district. Toews suggested they start with business owners, and then move to on to building owners. It was also noted that there is a helpful website about the National Trust's Main Street America program at www.preservationnation.org/main-street.
- They closed by noting that the Museum of Washington County highlights local communities on a rotating basis. Forest Grove is scheduled to be highlighted this February, and Forest Grove residents will be granted free entry to the museum on February 20th.

Tsur requested that they report back to the HLB in a couple of months.

B. Strategic Plan: Bernadette Niederer and Dave Pinyerd of HPNW were present to discuss their progress to date.

SURVEY RESULTS: Approximately 250 responses had been received. As the survey deadline was just a few days beforehand, results are preliminary. Among the highlights: 75% of the respondents think historic buildings are an important part of a city; nearly 50% think the downtown should be designated a historic district while 15% were opposed to this idea; 65% think the downtown should consider joining the Main Street program; 42% would like the HLB to continue the newsletter; 42% would like the HLB to sponsor more workshops; and 78% had never visited the HLB webpage.

After discussing the preliminary results, the drawing was held for the respondent's prize. Carrie Clark's name was selected. Staff will contact her and arrange delivery of her prize.

FOCUS GROUP: Staff will arrange for a venue and send invitations to those who expressed interest in participating on their returned surveys, and forward an invitation to the Friends for distribution on their email list.

- C. **Annual Website Review:** The annual website review was postponed in favor of waiting for results of the strategic plan.
- D. **Design Review Policy:** Reitz outlined the draft policy, and suggested that the Board not try to anticipate every possible application of it, but to keep the policy flexible to allow some latitude in how it would be applied. **The policy was adopted (4-0-1) with Toews abstaining since she is anticipating a project that would fall under the new policy.**
- E. **Election of Officers:** The existing slate was adopted by unanimous proclamation. Tsur will continue as chair, Toews as vice-chair, and Cushing as secretary.

4. Old Business/New Business:

- Approval of HLB Meeting Minutes. **The meeting minutes of December 15, 2015 were approved as submitted.**
- Council Liaison Report: Kidd updated the Board on various items of interest, including the City's new official logo. He also distributed umbrellas as a Thank You for the Board's service to the community.
- Reitz reported that the Anderson Building remodel project previously reviewed and approved by the Board was continuing.
- Toews' abstention resulted in the Board questioning what would happen if the voting members dropped below the number needed for a quorum. Reitz explained that a quorum is four or more, but only three or more are needed for a vote.
- Tsur suggested the Board consider a social media "face" as part of the strategic plan. If that is something the Board chooses to pursue, Toews has many ideas about how to move this idea forward.
- On the February 23 meeting agenda: Appoint a subcommittee to create this year's CEP grant application, and appoint another subcommittee to review the focus groups results.

5. Adjournment: The January 26, 2016 meeting adjourned at 9:15 p.m.

These minutes respectfully submitted by Jennifer Brent, Acting Secretary

3F

PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM

January 19, 2016-7:00 P.M. PAGE 1 of 8

1. CALL TO ORDER:

Chairman Beck called the meeting to order at 7:02 p.m. and stated that due to the number of people in the audience interested in the action item on the agenda regarding the bowling alley sign, this item would be discussed first.

Planning Commission Present: Tom Beck, Carolyn Hymes, Lisa Nakajima, Dale Smith, Phil Ruder and Hugo Rojas.

Absent: Sebastian B. Lawler

Staff Present: Jon Holan, Community Development Director; James Reitz, Senior Planner; Dan Riordan, Senior Planner; Marcia Phillips, Assistant Recorder.

2. PUBLIC MEETING:

2.1 PUBLIC COMMENT PERIOD FOR NON-AGENDA ITEMS: None.

2.2 PUBLIC HEARING:

A. Amendments to the text of the Development Code to prohibit marijuana activities regulated by the State in residential zone districts, prohibit certain marijuana consumption activities in commercial districts, and amend development requirements for certain marijuana activities (File # 311-15-00028-PLNG).

After the discussion of the Action Item was over, Chairman Beck opened the first public hearing, dispensed with the reading of the Hearing Procedures since there was no one in the audience, and called for the staff report.

Mr. Holan explained that in April, 2015, the City adopted code amendments for marijuana dispensaries which would be allowed in the Community Commercial (CC) zone outside the 1,000 ft. buffers from schools. He showed a map of the CC zone and buffers.

Mr. Holan explained that HB 3400 was adopted by the State Legislature on June 30, 2015, which allows medical marijuana dispensaries, commercial marijuana retail outlets (recreational), medical and commercial marijuana processors, medical and commercial marijuana producers (growers), and commercial marijuana wholesalers. He further explained that the State requires a 1,000 foot separation from schools for dispensaries and retail outlets for recreational marijuana, but the 1,000 foot separation between dispensaries does not apply to other activities. Holan said the State prohibits processors, dispensaries and outlets in areas *exclusively* zoned for residential use. Mr. Holan explained that medical marijuana is administered by the Oregon Health Authority and the rest is administered by OLCC.

Mr. Holan gave a brief background and stated that staff conducted a Development Code analysis: medical marijuana dispensaries allowed in the Community Commercial district, commercial marijuana retailers allowed in Neighborhood and Community Commercial districts, and all Town Center districts (also likely in all residential districts except suburban residential; medical and commercial marijuana processors allowed in the General Industrial district; commercial marijuana wholesalers allowed in the General and Light Industrial districts; grow operations allowed in all residential districts except RMH and General and Light Industrial districts.

**PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM**

January 19, 2016–7:00 P.M.

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Mr. Holan stated that the City Council held work sessions on September 14th and November 9th with the following outcomes: no ban on marijuana related activities, focus on allowed location, prohibit activities in residential districts, and dispensaries and retail outlets allowed in the Town Center districts and Community Commercial district (currently dispensaries are prohibited in the Town Center districts). Holan explained that the three schools in downtown make marijuana retail prohibited in the downtown area. He said staff is proposing eight amendments.

Amendment # 1

Mr. Holan explained that Amendment # 1 would prohibit marijuana retail sales in residential districts and clarify Footnote 10 to prohibit anything other than operation under Off-Premises Sales License in neighborhood stores. As an alternative, the Commission consider to prohibit the sale of marijuana or other products containing cannabinoid compounds.

The Commissioners were in agreement with Amendment # 1.

Amendment # 2

Mr. Holan explained that Amendment # 2 would amend the definition of “Neighborhood Stores” to explicitly exclude marijuana retail outlets in Residential districts.

Chairman Beck stated that he did not think Amendment # 2 was needed since we agreed to do Amendment # 1. The other Commissioners agreed.

Amendment # 3

Mr. Holan said Amendment # 3 would prohibit marijuana grow sites within residential zone districts.

Chairman Beck asked the difference between a truck farm and commercial in the existing Code. He said there seem to be no guidelines.

Commissioner Ruder suggested putting in a dollar amount such as a truck farm makes less than \$50,000 per year.

Chairman Beck said a truck farm is just an archaic way of saying growing and selling vegetables on a small scale.

Commissioner Ruder said he is agreeable to small produce grow/sales in the City.

Mr. Holan suggested using number of acres – perhaps three acres.

Chairman Beck suggested less than one cultivated acre. The Commissioners agreed.

Mr. Holan suggested that staff could write up an amendment and present it to the Commission. The Commissioners agreed to this. Beck commented that we just want something that is clear.

**PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM**

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Mr. Holan said under Amendment # 3 he may insert, “. . .as regulated by the State.” The Commissioners agreed.

Amendment # 4

Mr. Holan said Amendment # 4 would prohibit marijuana retail outlets in the Neighborhood Commercial District and prohibit taverns, lounges or other commercial uses intended for the on-site consumption of marijuana related products in both the Neighborhood Commercial and Community Commercial districts.

The Commissioners agreed with Amendment # 4.

Amendment # 5

Mr. Holan said Amendment # 5 would allow medical marijuana dispensaries and marijuana retail activities and prohibit taverns, lounges or other commercial uses intended for the on-site consumption of marijuana related products within the Town Center zone districts.

The Commissioners agreed with Amendment # 5. Chairman Beck suggested that we not use allow and prohibit in the same sentence, and asked staff to reword it.

Amendment # 6

Mr. Holan said Amendment # 6 would prohibit marijuana related activities as a home occupation.

The Commissioners agreed with Amendment # 6.

Amendment # 7

Commissioner Nakajima wanted to again make a plea to change the hours of operation to follow most Forest Grove retail operations and for safety reasons. She suggested 8 a.m. to 8 p.m.

The Commissioners agreed with Amendment # 7 and with the suggested change in operation hours.

Chairman Beck stated that we allow any number of chickens under six months of age in residential zones, but a person could raise a hundred chickens in six months. He directed staff to write up an amendment and present it to the Commission at a future meeting.

Amendment # 8

Mr. Holan said Amendment # 8 would add new development standards to apply to marijuana activities other than dispensaries and retailers which would include a new standard for odor control for grow and processor operations

The Commissioners agreed with Amendment # 8.

**PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM**

January 19, 2016-7:00 P.M.

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Mr. Holan read the findings and conclusions and stated that staff recommends approval of the proposed amendments. He asked for clarification of the revisions made by the Commission.

Chairman Beck instructed staff to change the following amendments:

- revise the wording on Amendment # 1 to avoid confusion. He suggested starting the sentence with, “No . . . etc.”
- remove Amendment # 2
- insert “as regulated by the State” to Amendment # 3
- change operational hours from 8 a.m. to 8 p.m.

The Commissioners were agreeable to these changes.

Commissioner Nakajima made a motion to approve amendments to the text of the Development Code to prohibit marijuana activities regulated by the State in residential zone districts, prohibit certain marijuana consumption activities in commercial districts, and amend development requirements for certain marijuana activities (File # 311-15-00028-PLNG). Commissioner Ruder seconded. Motion passed 6-0.

B. City initiated amendments to Article # 3 of the Forest Grove Development Code to establish the Business Industrial Park zone designation (File # 311-15-00027-PLNG).

Chairman Beck opened the public hearing, dispensed with the reading of the hearing procedures because there was no one in the audience, and called for the staff report.

Mr. Riordan said staff was recommending four amendments to Article # 3 of the Development Code to establish a Business Industrial Park Zone. He read the four amendments.

In response to a question from Chairman Beck regarding Amendment # 3, Mr. Riordan explained that in regulating maximum building coverage to 50% of the site leaves room for more landscaping, which is desirable for a campus feel.

Chairman Beck suggested allowing 70-75% of the lot for the building, because 50% seems low.

Mr. Holan said 50% seems high in his opinion because of parking lot considerations.

Commissioner Hymes commented that increasing the amount of ground covered by the building defeats the concept of having a campus feel.

The Commission agreed to leave the maximum building coverage at 50%.

Chairman Beck said on Page 5, # 3 needs to be at least 11 p.m. to accommodate college classes.

Commissioner Nakajima said it is more helpful to have one sign listing several businesses rather than a bunch of little signs, and it should be related to access points.

Chairman Beck commented that part of this depends on what the Fire department requires for addresses – do they require an address for each building.

Mr. Reitz said the Fire Department does require an address on each building, and they like directional signs.

Commissioner Nakajima said grouping of signs is encouraged.

The Commission agreed with these modifications.

Commissioner Ruder made a motion to approve City initiated amendments to Article # 3 of the Forest Grove Development Code to establish the Business Industrial Park zone designation as modified. (File # 311-15-00027-PLNG). Commissioner Smith seconded. Motion passed 6-0.

2.3 ACTION ITEMS:

A. Discussion of bowling alley sign on 19th Avenue.

Chairman Beck called for the staff report.

Mr. Reitz stated that ownership of the bowling alley has changed, and Mr. Clark is the new owner. Reitz explained that the existing sign was state of the art twenty years ago, but due to lack of maintenance and advances in technology, Mr. Clark would like to upgrade the sign as stated in his letter (Handout # 1). Reitz explained that the Development Code allows changeable copy signs and video signs. He said staff is seeking the Commission's guidance on whether or not these two types of signs should be allowed on pylons, and staff has laid out some other options to consider.

Mr. Reitz pulled up the website mentioned in Mr. Clark's letter, which showed examples of the type of sign Mr. Clark would like to install. Reitz explained that what is allowed at the bowling alley may in future be requested by a new business.

Mr. Holan gave the Fire Department sign and the Tidwell Dentist Office sign as examples of video signs. He explained that currently the Development Code only allows video signs on walls or monument signs. He said that staff considers what exists now on at the bowling alley is a changeable copy sign on a pylon. Holan said staff has no problem with a "like for like" LED changeable copy sign on a pylon. He explained that when the Code was written there was a concern about proliferation of video display signs, and the negative impact on the aesthetics in Forest Grove.

Chairman Beck explained that this was an informal discussion, and asked if anyone in the audience would like to speak.

Allyn Clark, 1405 Sill Ct., Forest Grove, OR. Mr. Clark showed a video of the existing sign and what it currently does, and stated that he understands it is non-conforming. He read the definition of both kinds of signs. He stated that the current sign meets the definition of a video

**PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM**

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display board, so because it is “grandfathered in” he should be allowed to replace it “like for like”. Clark explained that estimates to repair the old sign are more than to cost of a new sign (similar to the Fire Department sign). He said the sign could be smaller because LED is clearer and easier to read.

Chairman Beck said his concern is the time it takes to read a sign and the distraction to drivers. He said the definition of what we already have in the Development Code allows Mr. Clark to replace what he has, without affecting the rest of the City. Beck said it would be a smoother, clearer decision to agree with Mr. Clark.

Commissioner Hymes agreed, and stated that we do not want a proliferation of video signs.

Mr. Holan stated that it gets back to the definition of signs. Holan said staff would have to disagree with Mr. Clark, but in reading the definition of a video sign it could be interpreted that way. He stated that the whole idea of changeable copy is like a banner.

Commissioner Ruder said the existing sign shows a rolling ball and a strike – which is distracting to some extent. He stated that it is one thing if it is like the Fire Department sign, but something else if it is big, flashy and distracting.

Mr. Clark asked the Commission how it could be decided what kind of sign he could put up that is tasteful and agreeable.

Mr. Holan suggested that one possibility would be a number of seconds per frame proviso.

Mr. Clark agreed that would be a good solution. He agreed that the number of seconds per frame would prevent a flashy sign.

Commissioner Ruder agreed that seemed reasonable.

Mr. Holan stated that current Code states the sign shall not display less than seven seconds per frame.

Chairman Beck suggested that Mr. Clark could put anything behind the words – like the flames the Fire Department uses.

Chairman Beck said this could be interpreted as being a “grandfathered in” twenty-four square foot sign showing one frame every seven seconds. The Commission agreed.

There were no further comments from the audience.

Chairman Beck stated that he is opposed to all video type signs, and recommended changeable copy signs not be allowed on pylons also.

Commissioner Nakajima made the comment that moving signs are distracting.

**PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM**

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Mr. Holan explained that in discussions with Mr. Clark and staff, the consensus was that moving signs on pylons are more distracting than on a monument.

Chairman Beck polled the Commissioners, and it was decided to have staff write up an amendment stating that no video or changeable copy signs should be allowed. Beck added that it is all about the look of the City.

Commissioner Hymes agreed that we are trying to maintain a small town look.

Mr. Holan asked for clarification that staff is to write up a Code amendment prohibiting any electronic signs on pylons, monuments and walls.

Chairman Beck confirmed this was correct, and instructed staff to write it up and the Commission would vote on it at a meeting in the near future.

2.4 WORK SESSION ITEMS: None.

3.0 BUSINESS MEETING:

3.1 APPROVAL OF MINUTES: Chairman Beck wanted staff to change the minutes from the January 5, 2016 meeting to include the fact that there was a discussion about whether or not to change the net acreage calculation and when the Commissioners were polled the vote was 2-2 which changed nothing, and staff was instructed to make sure this issue was covered in the staff report to the City Council. Commissioner Nakajima made a motion to approve the minutes from the January 5, 2016 meeting with this correction. Commissioner Smith seconded, and motion passed 6-0.

3.2 ELECTION OF VICE-CHAIR: Commissioner Nakajima nominated Commissioner Ruder to serve as Vice-Chair, and the vote was 5-0 in favor.

3.3 REPORTS FROM COMMISSIONERS/SUBCOMMITTEES: None.

3.4 DIRECTOR'S REPORT:

Mr. Holan asked the Commission if they were willing to postpone the discussion on Council Creek as part of the trail system until the February 15th meeting since this topic would take such a short amount of time. The Commissioners agreed. Mr. Holan announced that since there is nothing else on the docket for the first meeting in February, the next meeting will be held on February 15th. He said at that meeting the agenda will include the Transportation System Plan and Comprehensive Plan amendments and the discussion about Council Creek as part of the trail system.

Mr. Holan said he was reluctant to set a date for the Westside Planning work session until staff has seen the consultant's report.

Mr. Holan said staff will probably be putting together more amendments for marijuana activities, but felt we needed to address these right away since staff is receiving inquiries from the public.

**PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM**

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Mr. Holan stated that the second reading before the City Council of the Tokola development agreement, design and site reviews will take place on January 25th.

Chairman Beck reminded staff that the Commission wants a work session with the Sustainability Commission. Beck also announced that he will not be able to attend the February 15th meeting.

Chairman Beck said he talked to the City Manager about getting iPads for the Commissioners. Mr. Holan polled the Commissioners and all wanted the iPads.

3.5 **ANNOUNCEMENT OF NEXT MEETING:** Next meeting will be held on February 15, 2016 at 7 p.m. in the public auditorium

3.6 **ADJOURNMENT:** The meeting was adjourned at 9:02 p.m.

Respectfully submitted by:
Marcia Phillips
Assistant Recorder

APPROVED

MINUTES APPROVED BY THE PAC ON FEBRUARY 11, 2016

Present: Emily Lux, Pat Truax, Dana Zurcher, Kathleen Leatham, Dana Lommen, Laura Frye, Staff Liaisons Colleen Winters, Tom Gamble

Guest(s): Travis Loose-Forest Grove News Times

Absent: Linda Taylor, Richard Kidd, Helvi Smith, Kathy Broom

1. **CALL TO ORDER:** By Kathleen Leatham at 5:05pm.
2. **CITIZEN COMMUNICATION:** N/A
3. **APPROVAL OF PAC MEETING MINUTES:** Motion to approve last month’s minutes as written made by Pat, seconded by Dana Z. Motion approved.
4. **ADDITIONS/DELETIONS:**
Additions: Discussion of Portland Opera Resident Artists in Concert added as Item 6D.
Retreat discussion added as Item 6E.
5. **DISCUSSION/DECISION ITEMS:**
 - A. Election of Chair and Secretary: Dana L. nominated Emily Lux as Secretary, and Pat nominated Dana Z. as Chair. Motion made to accept nominations by Laura, seconded by Dana L. Motion accepted. Thank you, Kathleen, for your excellent leadership and many years of service as commission chair. Congratulations Dana!
 - B. Art in the Park: Selection of Art-Extensive discussion of four finalist submissions. Pros and cons were weighed in detail for all four sculptures. “Tres Novum” by Ben Dye was voted on unanimously. The City Council meeting will be held on February 8th. The sculpture will be presented by PAC representatives, describing the process and recommendation. Location discussion: Lincoln Park vs. Rogers Park. Pros-Lincoln Park has expansive space; artwork can be visible from a busier street. Cons-Rogers Park has very tall trees and will soon house Anna and Abigail’s Yard. The sculpture’s visibility and impact may be lost. Laura-moved to install sculpture at Lincoln Park, seconded by Kathleen. Motion carried unanimously.
 - C. Name-A-Brick Campaign-Order forms are out physically and online. An announcement went into the utility bill. A City ad is being explored. Forms will be available at the library and Chamber of Commerce. Bricks can be ordered up until the time of installation. The News-Times will feature an article about the sculpture, which will be published after City Council is aware of the final sculpture nomination recommendation.
6. **INFORMATION ITEMS:**
 - A. Boards & Commissions Appreciation dinner: January 21, 2016. Dana Z. will give a 3-5 presentation on the top 3-5 items the Public Arts Commission has accomplished this year.

- B. Art Walk: A subcommittee walked the initial route and found it to be too long- approximately one hour of walking without including the speaking portion. Scaling back the Pacific University portion, and stopping outside only at TITG as opposed to an inside tour will help cut down on time. The tour could be held three months in a row, one Saturday per month during the summer. Discussion of perhaps having the tour available on an "as requested" basis, attracting groups at specific tourist times. PAC members involved in the tour are responsible for creating the script for their own portion.
- C. Finance Report: No new items of note.
- D. Portland Opera Resident Artists in Concert: Pat met with an opera representative earlier in the week. This will remain a free concert, but is ticketed. The PAC was given 200 tickets to distribute. Taylor-Meade seats 400 people. The concert will likely be a compilation of operas to be performed this year, and will be held on Thursday, February 25, at 7 pm. Public Arts Commissioners should consider ushering.
- E. PAC Retreat: February 20 was agreed upon as the best date, and Laura volunteered to host at her house-3247 Forest Gale Drive. The retreat will be from 9-12, and will be a potluck.

7. COMMISSIONER COMMUNICATIONS:

Dana L.-It's been a wonderful year for TITG, with excellent earnings and financial support. The new roof is excellent. TITG very much appreciates the support from PAC. Now that the roof is complete, other endeavors can commence, such as backstage projects.

8. STAFF COMMUNICATIONS:

Colleen: It's BEAR month at the library. Ann Dondero is retiring as the Youth Services director and will be honored for her years of service at multiple events. On Saturday, there will be a Star Wars event from 2-3:30, and a large crowd is anticipated.
 Tom: Steve Huffman is retiring April 1st. Steve has performed multiple duties for the City and will be greatly missed.

9. COUNCIL LIAISON COMMUNICATIONS: NONE

10. ADJOURNMENT: Dana Zurcher adjourned the meeting at 6:37 pm. The next meeting will be February 11, 2016, in the Rogers Room of the Forest Grove Library.

Respectfully Submitted by Emily Lux

APPROVED

Minutes approved by Public Safety Advisory Commission on February 24, 2016

1. ROLL CALL

Meeting called to order by Vice Chairman Drue Garrison at 7:31 am

Members Present:

Tim Rippe, Glenn VanBlarcom, Drue Garrison & Nathan Seable via telephone conference call @ 7:32 am.

Members Absent: Robert Mills, Anne Niven

Liaisons Non-Voting Representatives Present:

Guy Storms, Nick Chan & Connie Potter (arrived @ 7:53 am)

Liaisons Non-Voting Representatives Excused:

Councilor Ron Thompson

Others Present:

Police Chief Janie Schutz, Fire Chief Michael Kinkade, Lauren Quinsland, Newstimes reporter Travis Loose and Sharon Cox.

2. INTRODUCTIONS

Self-Introductions were made.

3. CITIZEN COMMUNICATIONS

None at this time

4. APPROVAL OF MINUTES

There was a motion by Tim Rippe and a second by Glenn VanBlarcom to approve the minutes from December 9, 2015 as emailed.

Motion Carried 4-0 Mills & Niven absent

5. ADDITIONS/DELETIONS

None

6. STAFF REPORTS

Police Department – Chief Schutz introduced Lauren Quinsland as their new Community Outreach Coordinator. Lauren said her position is to be a face in the community. She will help plan major events such as Coffee with a Cop, National Night Out and tours of the PD. She will be taking over the

Neighborhood Watch Program and the new online version called Nextdoor and coupling that with Business Watch. She has been meeting with business owners in the downtown area trying to get cooperation established so these owners will communicate and look out for each other.

Another project that is taking a lot of her time is phone scams. They are receiving many calls a day from folks reporting phone scams. She will be speaking at several of the Assisted Living Facilities to talk to them about how they should answer the phone and when to hang up on these types of calls. She has also produced the Grove Watch newsletter which will be a quarterly publication.

Lauren said she will be helping with Parking Enforcement. She has not been trained in other Code Enforcement. They currently do not have a full time Code Enforcement Officer so several folks are sharing the duties at this time. Lauren will fill in for Captain Herb helping with Facebook responses and the Police Log.

Chief Schutz said they are somewhat challenged again with personnel shortages. One officer resigned on December 30th and one officer has left for Hillsboro PD. They have brought on a lateral transfer from Hubbard PD and hopefully bring on another lateral this coming Friday. They have a conditional offer of employment to Shawna Arns who will be their new Code Enforcement Officer.

The Citizen's Academy will be shortened this year and has been offered to FGHS seniors to complete their senior projects.

The next Coffee with a Cop will be on April 6th at McDonalds.

Chief Schutz and two Captains attended the Executive Leadership Training Seminar on January 12 – 14, 2016.

Fire Department – Chief Kinkade said his report covers the period from December 12, 2015 thru January 8, 2016. There have been several fires recently – one on Brittany Drive, one in Cornelius and one in Gaston.

Our toy drive served over 300 families helping over 1200 children.

Cooperative Work Efforts presentation to Forest Grove City Council will be on February 8th. All other participating agencies are in favor of moving forward with an IGA and to form a Fire Authority.

The Department has received 32 applications for our Spring Volunteer Academy.

There will be a presentation on February 8th to the City Council for a Washington County GO Bond measure to replace/upgrade 911 Emergency equipment and facilities. It would replace 3000 radios, install and upgrade/retrofit radio towers, upgrades to fire station tap out systems and upgrade or replace the existing 911 operations center. They will be asking the voters to approve \$77 million in bonds. They are asking for all 19 user agencies to support this measure and will be presenting information to fire boards, city councils, etc. in the next few weeks.

Chief has met with Forest Grove SD and Gaston SD to help improve and understand each of their emergency operations plans. FGSD will be holding a reunification drill on Friday, January 29th that we will be observing.

City Council – Councilor Thompson was not able to attend due to another meeting conflict.

7. **NEW BUSINESS**

Chair & Vice Chair Election – There was a motion by Glenn VanBlarcom to nominate Nathan Seable for Chair and Drue Garrison for Vice Chair. Tim Rippe seconded the nomination. Discussion followed – Nathan asked if a non-voting member could be nominated to Chair or Vice Chair? Chief Kinkade read the Bylaws and said they do not specify whether you have to be a voting member. Nathan suggested those members should consider the positions. There was further discussion and it was determined that only voting members should hold these positions.

Both Nathan and Drue accepted the nomination to remain Chair and Vice-Chair for another term.

Motion Carried 4-0 Mills & Niven absent
Nathan ended the conference call @ 7:39 am

8. **OLD BUSINESS**

Update on FD & PD Budget Preparation – Chief Schutz said the City has had training with Department Heads in regards to preparation of this years' budget. She said they will be putting in a request for Body Worn Cameras. They will be presenting to City Council on March 28th the results from their 6 month pilot program. Tim Rippe asked if PSAC would be able to see the presentation and Chief Schutz said yes.

Update on PD building subcommittee – Chief Schutz said she spoke with Paul Downey and he is working on getting an RFP out in regards to the next step in the building. As soon as she has any other information she will let them know.

Follow up on City/School District communication regarding school safety and emergency response – Connie Potter said they have continued training of staff and students in the standard response protocol as well as reaching out to their parent groups. The drill they have planned for Friday is for reunification. The site for this drill will be the Pacific University Stoller Center. They have staff and students participating and she explained the purpose of the drill and how it will run. They will start at 9 am and plan to be finished by 11 am. They will have observers from each of the schools, law enforcement agencies, other school districts and the fire department.

Chief Schutz said she wants to ensure the relationship between the School District and PD is as good as it possibly can be. House bill 4087 established the Oregon Task Force on School Safety.

The Task Force will be working on 4 aspects of school safety:

1. Develop a statewide school floor plan database
2. Standardize the terminology for school emergency management drills
3. Establish a statewide Tip line
4. Create a statewide threat assessment system

Chief Schutz said is looking forward to working with the School District on this project.

Connie said the School District is attending trainings and taking advantage of all resources available. She said the School District has a mobile app that has a Tip line in it. They have received several Tips and they check them all.

They also have a threat assessment team. This team deals with bullying and troubled behavior with students.

Nick Chan asked if they have a cost for the emergency kits needed in a lockdown situation for each classroom. Connie said they are working on getting the pricing and have talked to some of the parent groups for funding. He suggested the Firefighter Association as a possible funding source.

Nick also asked about the private schools in our area being notified of threats. Chief Schutz said that absolutely the private schools will be included in notifications.

Glenn VanBlarcom asked what mode of transportation will be used to move the students to the reunification site. Connie said they will use their own bus system.

Tim Rippe asked about driver availability. Connie said their drivers are on call and the bus company assures them they will be able to support them. She said traffic/parking will be one of the major issues they will have to deal with.

Glenn asked about using Tri Met. Connie said they have not talked to Tri Met but they have discussed having dialog with them and Grove Link.

Tim Rippe asked if the PD is planning to do something similar with Pacific University. Chief Schutz said they have a good relationship with Pacific University Public Safety and invite them to train with them.

Tim Rippe said there is a student liaison position available for the PSAC. They should try to fill this as well as the vacant Pacific University admin position.

COPS Grant – Chief Schutz said they applied for a COPS Grant late last spring with permission from the Interim City Manager. The grant was written to provide 2 officer positions for building a trust coalition within the Latino community and the Inter Agency Gang Enforcement Team. They received notification that they received the grant in September. She has not accepted the grant due to budget issues. Nothing was budgeted for the City's share of the grant during this fiscal year. The grant is for 2 positions, \$250,000.00 for both, for a period of 4 years and the City's share would be over \$600,000.00. She has received an extension until February 15th and will be talking to the grant folks today to see if she can work out something with them. She may have to decline the grant.

There was discussion regarding meeting with the City Manager. It was suggested contacting Congresswoman Bonamici or asking our federal representatives to help.

Nick Chan left @ 9:09 am

There was more discussion about reaching out to the Latino community.

Glenn VanBlarcom asked Chief Schutz to let Drue Garrison and Nathan Seable know the results of her phone call with the grant folks so if they need to have a discussion with the City Manager they could schedule it.

Lauren suggested if they are looking to get a person to fill the student vacancy on PSAC they could possibly go through the Pacific Index (their student newspaper).

9. **ANNOUNCEMENT OF NEXT MEETING** – February 24, 2016 at Fire Department
10. **ADJOURN**
The meeting was adjourned at 9:24 am.

Recorded & submitted by Sharon Cox, Administrative Assistant

Monthly Building Activity Report

February-16

2015-2016

Category	Period: February-15		Period: February-16	
	# of Permits	Value	# of Permits	Value
Man. Home Setup			1	0
Sing-Family New	3	\$822,159	9	\$2,401,268
SFR Addition & Alt/Repair	7	\$70,682	2	\$34,639
Mult. Fam. New/Alt			2	\$18,150
Group Care Facility				
Commercial New	1	\$2,974		
Commerical Addition				
Commercial Alt/Repair	3	\$47,365	4	\$52,900
Industrial New				
Industrial Addition				
Industrial Alt/Repair				
Gov/Pub/Inst (new/add)				
Signs				
Grading				
Demolitions	2	\$0		
Total	16	\$943,180	18	\$2,506,957

Fiscal Year-to-Date

2014-2015		2015-2016	
Permits	Value	Permits	Value
174	\$22,920,287	198	\$27,342,001

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A place where businesses and families thrive

CITY RECORDER USE ONLY:

AGENDA ITEM #: 35

FINAL ACTION: _____

LIQUOR LICENSE RECOMMENDATION

BUSINESS NAME / INDIVIDUAL: Smoke 4Less (Wae Rafeh)

BUSINESS LOCATION ADDRESS: 3010 Pacific Avenue

LIQUOR LICENSE TYPE: Off-Premises Sales

CITY BUSINESS LICENSE: BL- 001465

TYPE OF LICENSE REQUESTED:
Liquor License Application is for the following:

<p>1. LICENSE TYPE:</p> <p><input type="checkbox"/> F-COM – Full On-Premises Sales, Commercial</p> <p><input type="checkbox"/> F-CAT – Full On-Premises Sales, Caterer</p> <p><input type="checkbox"/> F-FPC/F-CLU – Full On-Premises Private Club</p> <p><input type="checkbox"/> F-PL – Full On-Premises Public Location</p> <p><input type="checkbox"/> TSL – Temporary Sales License</p> <p><input type="checkbox"/> Other _____</p>	<p><input type="checkbox"/> L – Limited On-Premises</p> <p><input checked="" type="checkbox"/> O – Off-Premises Sales</p> <p><input type="checkbox"/> BP – Brewery Public House</p> <p><input type="checkbox"/> SEW – Special Event Winery</p> <p><input type="checkbox"/> SEG – Special Event Grower</p> <p><input type="checkbox"/> SED – Special Event Distillery</p>	<p>2. LICENSE-FEE:</p> <p><input checked="" type="checkbox"/> New Application \$100</p> <p><input type="checkbox"/> Temporary \$35</p> <p><input type="checkbox"/> Change \$75</p> <p><input type="checkbox"/> Annual Renewal \$35</p> <p><input type="checkbox"/> Event \$22.60</p> <p><input type="checkbox"/> Other _____</p>
<p><input type="checkbox"/> FULL ON-PREMISES SALES:</p> <p>F-COM – Allows sale and service of distilled spirits, malt beverages, wine and cider for consumption on licensed premises and required to have dining seating. Allows sale of malt beverages, wine and cider in securely covered container (growler) for consumption off licensed premises. Also allows applying for temporary use of annual license for special events off-premises.</p>	<p><input type="checkbox"/> BREWERY - PUBLIC</p> <p>BP – Allows manufacturing malt beverages and to sell and distribute to patrons and wholesalers. Allows sale of malt beverages, wine and cider in securely covered container (growler) for consumption off licensed premises.</p>	<p><input type="checkbox"/> LIMITED ON-PREMISES SALES:</p> <p>L – Allows sale and service of malt beverages, wine and cider for consumption on licensed premises. Allows sale of malt beverages, wine and cider in securely covered container (growler) for consumption off licensed premises. Also allows applying for temporary use of annual license for special events off-premises.</p> <p><input checked="" type="checkbox"/> OFF-PREMISES SALES:</p> <p>O – Allows the sale of malt beverages, wine and cider in factory sealed containers for consumption off licensed premises. Also allows applying for sample tasting on premises.</p>

APPLICABLE CRIMINAL RECORDS CHECK:

NONE SUPPORTING DOCUMENTATION ATTACHED

RECOMMENDED ACTION:

FORWARD WITH APPROVAL REJECT APPLICATION (Memorandum Required)

J. F. Schutz
J. F. Schutz, Chief of Police/Designee

2/29/16
Date



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 _____

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: KJ

Date: 2-17-16

90-day authority: Yes No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

- ① RANADI RAfeh ③ TJ #1 Trade LLC
- ② Wael A RAfeh. ④ _____

2. Trade Name (dba): SMOKE 4 LESS

3. Business Location: 3010 Pacific Ave #A Forest Grove (Washington) OR 97116
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 3010 Pacific Ave Sct #A Forest Grove, OR 97116
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503-747-5879
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? Yes No

7. If yes to whom: _____ Type of License: _____

8. Former Business Name: _____

9. Will you have a manager? Yes No Name: _____
(manager must fill out an Individual History form)

10. What is the local governing body where your business is located? Washington
(name of city or county)

11. Contact person for this application: Wael A RAfeh. _____
(name) (phone number(s))

(address) (fax number) (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] Date 2-15-2016 Date _____
- ② [Signature] Date 2-15-2016 Date _____



OREGON LIQUOR CONTROL COMMISSION BUSINESS INFORMATION

Please Print or Type

Applicant Name: TJ TRADE LLC Phone: 503-747-5879

Trade Name (dba): SMOKE 4 LESS

Business Location Address: 3010 PACIFIC AVE A FOREST GROVE OR 97116

City: FOREST GROVE ZIP Code: 97116

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday 8 AM to 8 PM
 Monday 8 AM to 8 PM
 Tuesday 8 AM to 8 PM
 Wednesday 8 AM to 8 PM
 Thursday 8 AM to 8 PM
 Friday 8 AM to 8 PM
 Saturday 8 AM to 8 PM

Outdoor Area Hours:

Sunday _____ to _____
 Monday _____ to _____
 Tuesday _____ to _____
 Wednesday _____ to _____
 Thursday _____ to _____
 Friday _____ to _____
 Saturday _____ to _____

The outdoor area is used for:

- Food service Hours: _____ to _____
 Alcohol service Hours: _____ to _____
 Enclosed, how _____

The exterior area is adequately viewed and/or supervised by Service Permittees.

(Investigator's Initials)

Seasonal Variations: Yes No If yes, explain: _____

ENTERTAINMENT

Check all that apply:

- Live Music Karaoke
 Recorded Music Coin-operated Games
 DJ Music Video Lottery Machines
 Dancing Social Gaming
 Nude Entertainers Pool Tables
 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: _____ Outdoor: _____
 Lounge: _____ Other (explain): _____
 Banquet: _____ Total Seating: _____

OLCC USE ONLY

Investigator Verified Seating: ____ (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] Date: 02-17-2016

OREGON LIQUOR CONTROL COMMISSION
LIMITED LIABILITY COMPANY QUESTIONNAIRE



Please Print or Type

LLC Name: TJ trade LLC Year Filed: 2014
Trade Name (dba): Smoke 4 Less
Business Location Address: 3010 Pacific Ave suit A
City: Forest Grove ZIP Code: 97116

List Members of LLC:

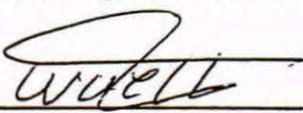
Percentage of Membership Interest:

- | | |
|--|-----------|
| 1. <u>Wael Rafeh</u>
<small>(managing member)</small> | <u>25</u> |
| 2. <u>Randi Rafeh</u>
<small>(members)</small> | <u>75</u> |
| 3. _____ | _____ |
| 4. _____ | _____ |
| 5. _____ | _____ |
| 6. _____ | _____ |

(Note: If any LLC member is another legal entity, that entity must also complete an LLC, Limited Partnership or Corporation Questionnaire. If the LLC has officers, please list them on a separate sheet of paper with their titles.)

Server Education Designee: _____ DOB: _____

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Signature:  Date: _____
(name) (title)

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<i>CITY RECORDER USE ONLY:</i>	
AGENDA ITEM #:	<u>5A</u>
FINAL ACTION:	_____

STAFF REPORT

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

MEETING DATE: *March 14, 2016*

PROJECT TEAM: *Paul Downey, Director of Administrative Services*

SUBJECT TITLE: *Audit Report Presentation for Period Ending June 30, 2015*

ACTION REQUESTED: Ordinance Order Resolution Motion Informational

X all that apply

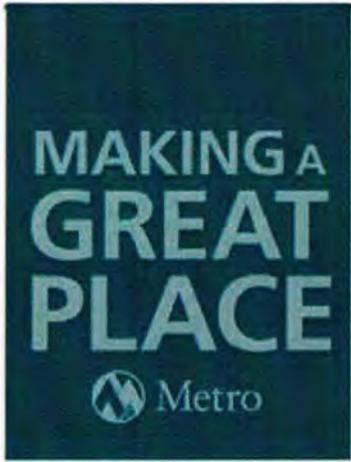
BACKGROUND:

Boldt, Carisle & Smith, LLC, City Auditor, will be attending the Council meeting and make a presentation on the City's Financial Audit Report for period ending June 30, 2015.

STAFF RECOMMENDATION:

This is an informational presentation.

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District 4 Metro update

Forest Grove City Council

Councilor Kathryn Harrington
March 14, 2016

Overview

- Our Region's future:
 - Equity
 - Housing
 - Jobs
 - Transportation
- Corridors
- Flexible Funds
- Parks and Natural Areas
- Solid Waste Roadmap
- Other regional happenings



Equity Strategy

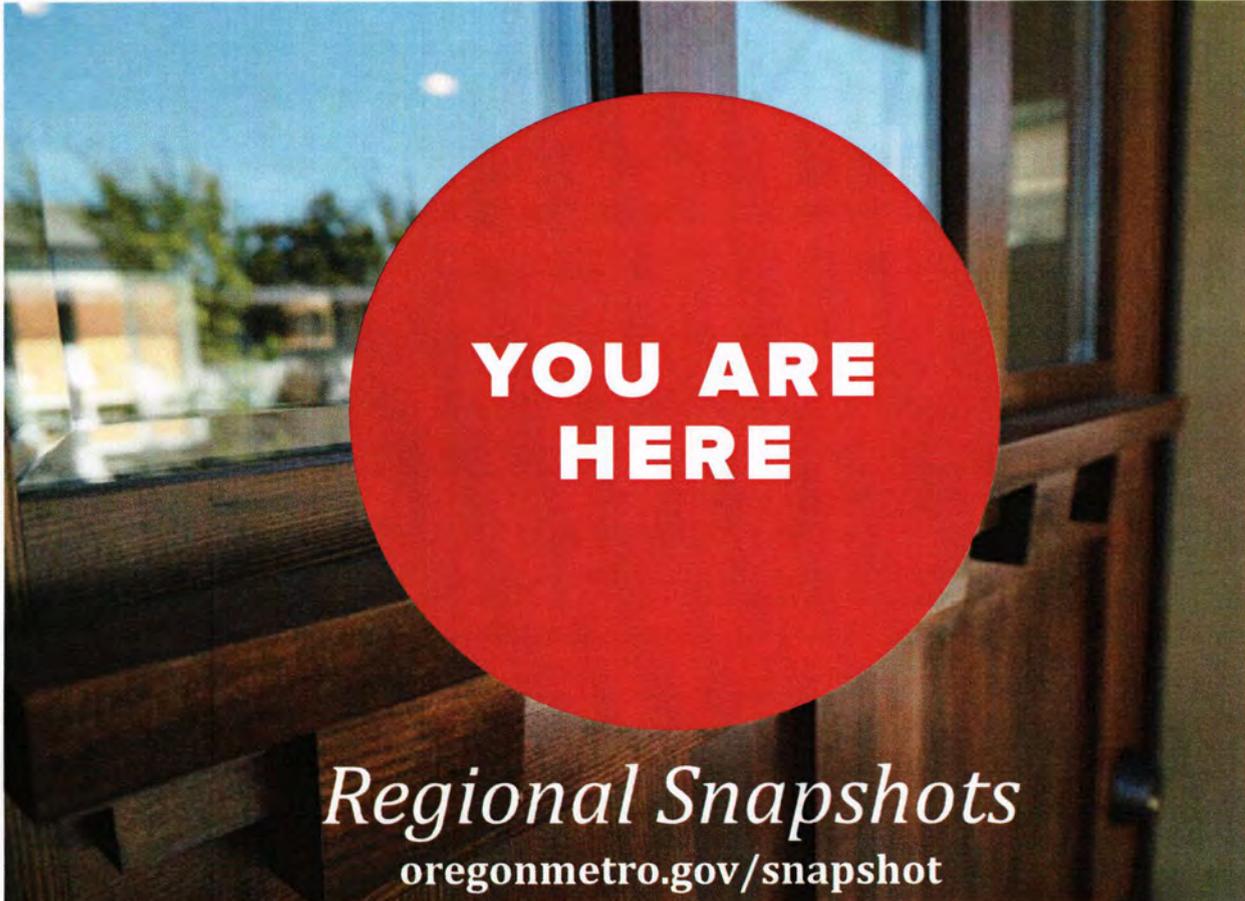


Metro is in the final phase of developing a Strategic Plan to Advance Equity, Diversity and Inclusion to achieve more equitable outcomes across its programs, policies and services.

oregonmetro.gov/equity

Feedback now **➡** Adoption summer 2016

Regional Jobs Snapshot



**YOU ARE
HERE**

Regional Snapshots

oregonmetro.gov/snapshot

- An in-depth look at jobs in our region
- Part of our quarterly “Regional Snapshot” series
- Good news: Our economy is booming!
- Need to do more for the middle class
- Find it all at oregonmetro.gov/snapshot

Equitable Housing



- Working together to address our region's affordability crisis
- Equitable housing supports our economic competitiveness

Moving Our Region



- An economy that moves, a transportation system that connects.
- Safe, reliable and affordable travel throughout the region.
- Meeting our shared clean air goals.

Southwest Corridor

FYI



- Steering committee recommended a terminus at Bridgeport Village
- Still evaluating service to Sylvania
- Decision coming soon on light rail or bus rapid transit
- Enter Draft Environmental Impact Statement process late 2016

Powell-Division Transit and Development Project



Decisions made:

- Bus rapid transit
- Tilikum Crossing to Powell Blvd transitioning to Division St to Mt Hood Community College

Portland route options:

- Downtown Portland
- 50th/52nd Ave
- 82nd Ave

Gresham route options:

- Main Ave/223rd Ave
- Cleveland Ave
- Hogan Rd

- Locally-preferred alternative including route, mode and station locations this spring

Flexible Transportation Funds



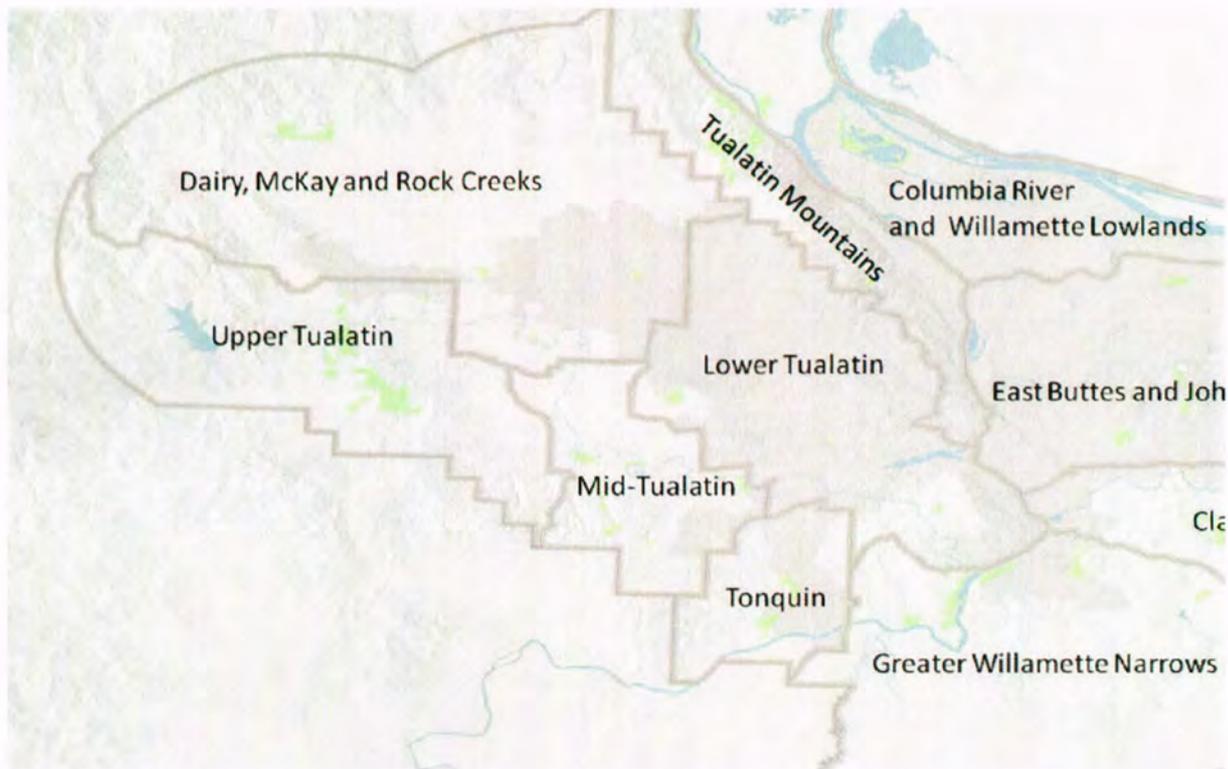
- \$125 million in federal money to help our communities keep moving.
- \$38 million yet to be allocated.

Parks and Natural Areas Updates



- Nature in Neighborhoods Capital Grants available
- Trails grants and Conservation Education grants
- Levy annual report available
- Chehalem Ridge Master Planning underway
- Orenco Woods Nature Park

Natural Areas System Plan



- Strategies for stewardship of 17,000 acres region-wide
- 11 Naturehoods that link habitat and recreational opportunities
- All of this work in partnership with local parks providers

Killin Wetlands



- Master plan adopted by Metro Council on Dec. 10
- Includes amenities to improve safety for visitors and area residents
- Construction → Opening

Solid Waste Roadmap



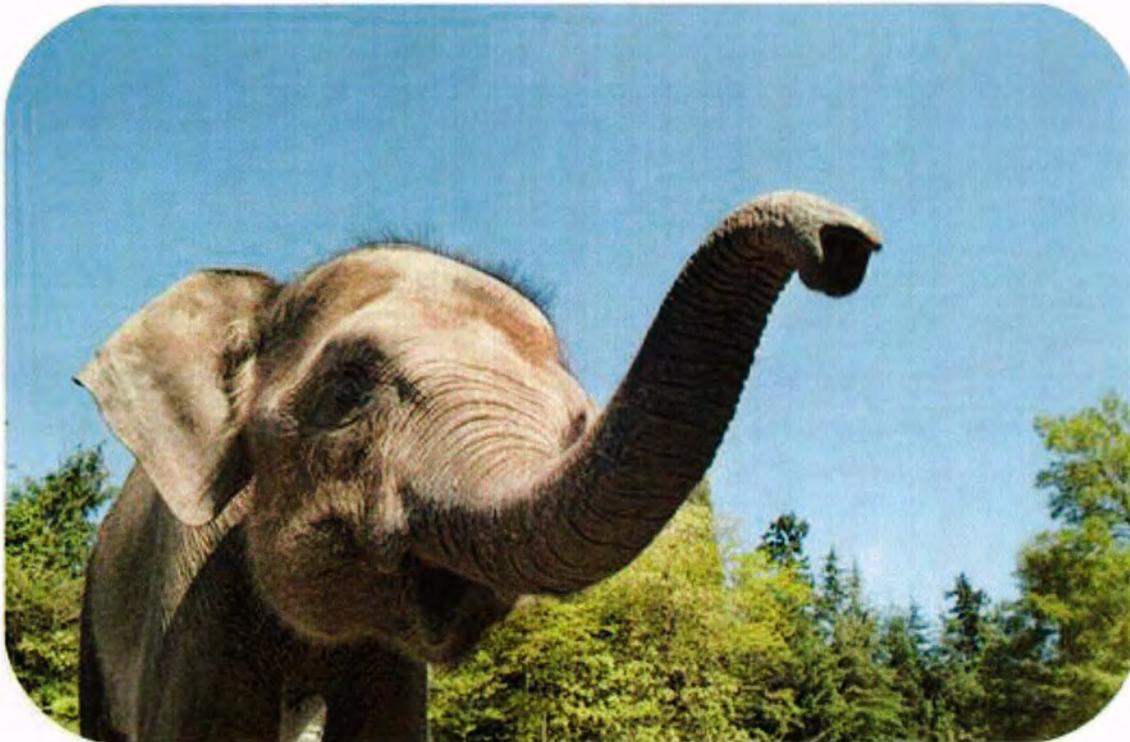
- Discussions with Covanta to create energy from waste
- Looking at ways to get more recyclables out of garbage
- Choosing our landfills wisely
- Engaging businesses to keep food scraps out of garbage

Convention Center Hotel



- Agreement reached to end years of litigation
- Project ready to proceed
- Will bring thousands of new visitors to our region

Oregon Zoo



- Elephant Lands opened in December
 - \$57 million from 2008 zoo improvement bond
 - 33,000-square-feet of indoor space, 6 acres total
 - Meets our herd's long-term needs
- Conservation Education Center under Construction
- Polar Bear Habitat next

Fun at Regional Venues

FYI



- Star Trek: The Ultimate Voyage at the Schnitz April 6
- Shen Yun at the Keller April 12-14
- Portland Swap Meet at Expo April 1-3
- Hardy Plant Society of Oregon at Expo April 9-10
- oregonmetro.gov/venues

Your questions...

Kathryn Harrington

Metro Councilor, District 4

503-797-1553

kathryn.harrington@oregonmetro.gov

optin

PORTLAND-VANCOUVER AREA ONLINE PANEL



www.oregonmetro.gov/connect

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CITY COUNCIL STAFF REPORT

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

MEETING DATE: *March 14, 2016*

PROJECT TEAM: *Tom Gamble, Parks and Recreation Director*

SUBJECT TITLE: *Parks and Recreation Master Plan Update*

ACTION REQUESTED: Ordinance Order Resolution Motion Informational

X all that apply

BACKGROUND: In 2002, the City Council adopted the current Master Plan. This plan has guided the planning and development of the parks and open spaces since that time. Additionally, the plan established the current Capital Improvement Plan (CIP) and System Development Charges (SDC) and methodologies.

The City has contracted with M.I.G. to conduct an update and visioning process, for a new Parks, Recreation and Open Space Master Plan and to conduct a feasibility study of a Recreation Center complex.

Tonight's presentation will provide the City Council with a brief update of the progress of the study and what the next steps will include.

STAFF RECOMMENDATION: No recommendations or actions are proposed as a result of tonight's presentation.



Parks, Recreation and Open Space Master Plan Update
+ Community Center Feasibility Study

City Council Update
March 14, 2016

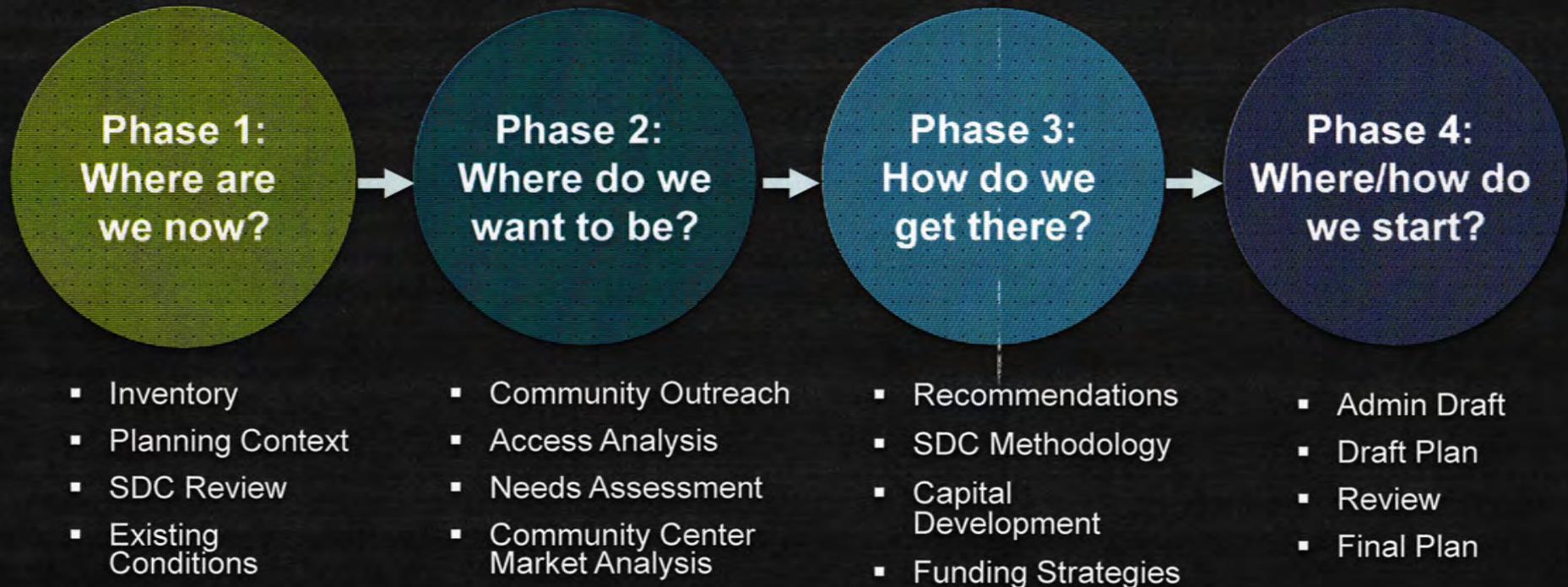
Purpose of the Plan

- Identify **community needs** for parks, recreation facilities, open space, trails, programs and events in Forest Grove;
- Investigate opportunities and needs for **community center** development;
- Recommend capital projects, programs and services to enhance the park and recreation system;
- Develop **coordinated funding and implementation** strategies for short and long term.

4-Phased Planning Effort

Spring 2015

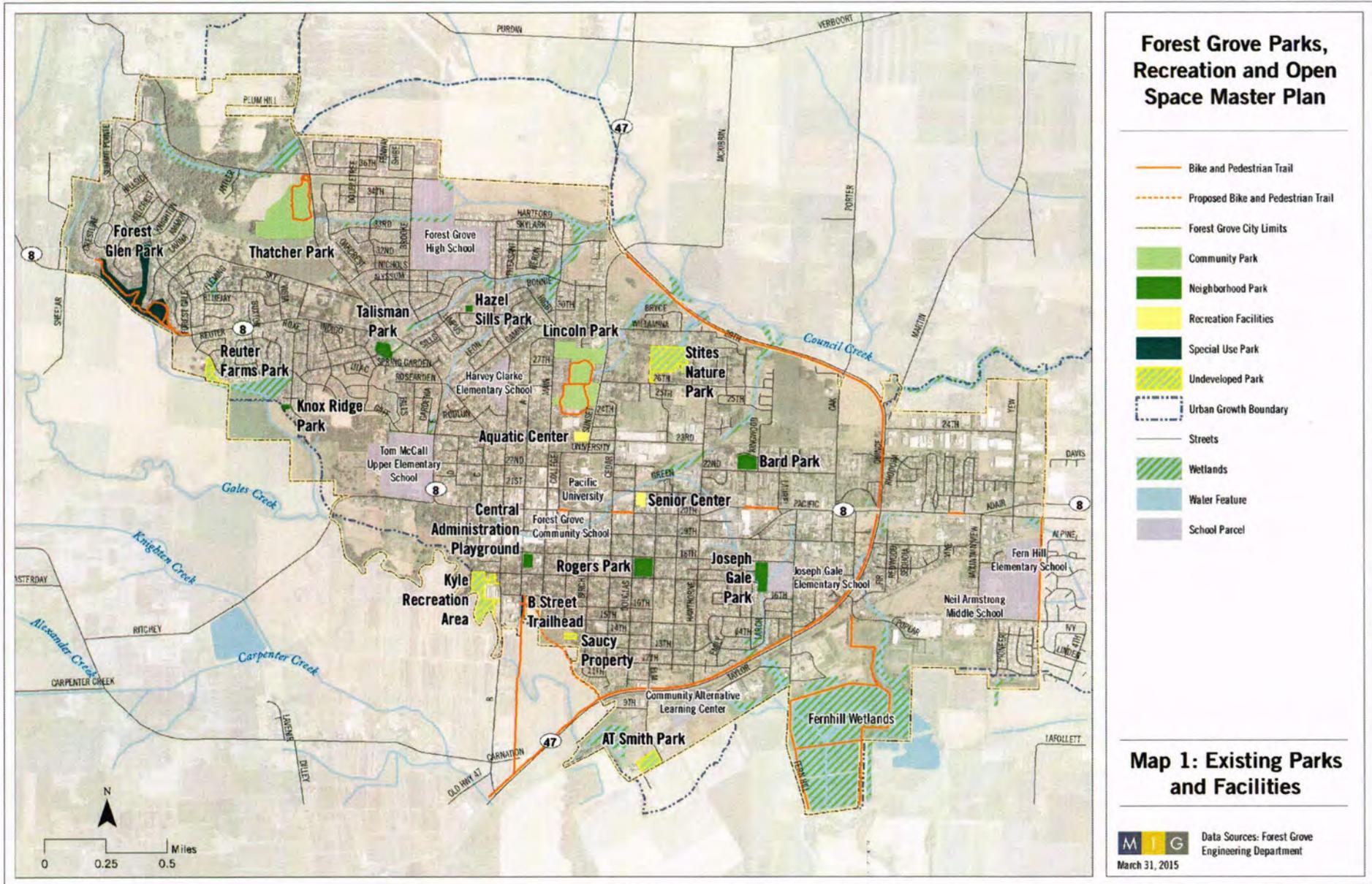
Summer 2016



Existing Conditions Report

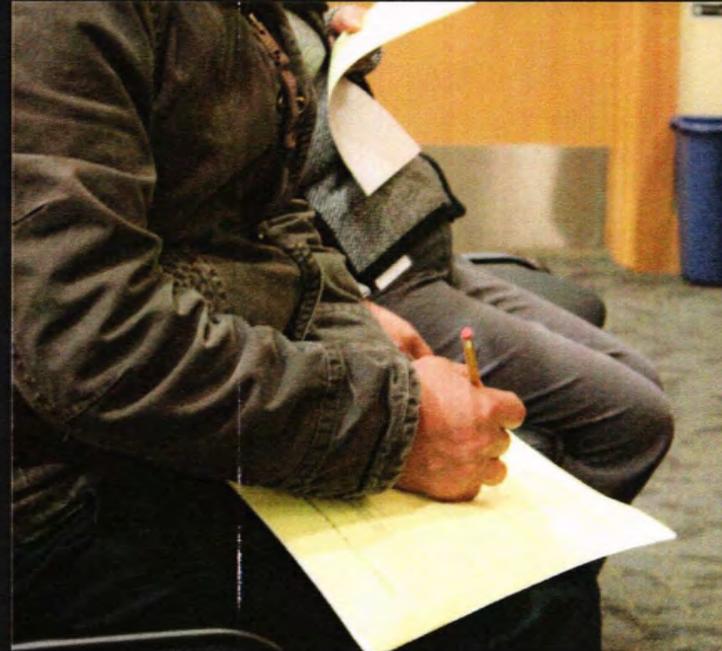
- Completed in June 2015
- Examined the local community context
- Identified resources, assets, services and partnerships related to the existing parks and recreation system





Phase 2 Community Engagement

- CAC Meetings
- Focus Groups
- Online Questionnaire
- Public Information Updates



Focus Groups

- Recreation/Sports Providers, August 2015
 - Identified recreation opportunities and needs from perspective of sports program providers
- Hispanic/Latino Community Group, January 2016
 - Introduced the project and discussed the Latino community's unique needs for parks and recreation



Community Recreation Questionnaire

- Administered July 30 to September 18, 2015
- A total of 488 responses
- Collected feedback on resident recreation preferences and desired improvements and services



Needs Assessment

- Identified community needs for parks, recreation facilities, trails and programs
- Analysis included:
 - Community and CAC input
 - Evaluation and update of park and facility standards and guidelines
 - Analysis of park distribution and access
 - Inclusion of City's Draft Community Forest Management Plan



Community Center Feasibility Study

- Site Analysis
- Partnership Analysis
- Market Analysis
- Summary of Preliminary Alternatives
- Evaluation of Programming Options



Park & Recreation Survey

- Random sample phone survey
- Representative feedback from voters
- Results anticipated in April

Purpose:

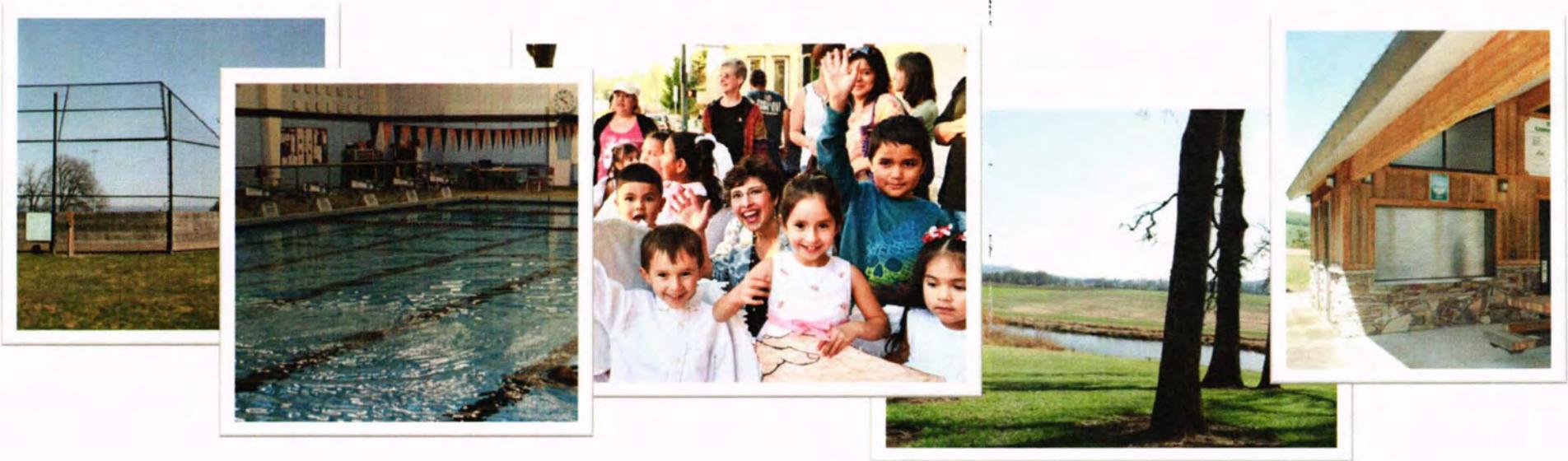
- (1) To identify the importance of different park and program enhancements
- (2) To test community support for funding different projects and services



Next Steps

- CAC and Parks Commission Updates (March)
- Recommendations (April)
- Capital Project List (May)
- SDC Methodology Update (May)
- Community Prioritization Workshops (June)





Parks, Recreation and Open Space Master Plan Update
+ Community Center Feasibility Study

City Council Update
March 14, 2016



A place where families and businesses thrive.

February 23, 2016

NewsTimes

Legal Ads/Public Notice:

To be published: Wednesday, March 9, 2016

NOTICE OF PUBLIC HEARING FOR THE CITY OF FOREST GROVE

NOTICE IS HEREBY GIVEN that the Forest Gove City Council will hold a public hearing **on Monday, March 14, 2016**, at 7:00 PM or thereafter, at the Forest Grove Community Auditorium, 1915 Main Street, to consider the Planning Commission's recommendation to approve the following proposal:

Proposal: Amend the text of the Forest Grove Transportation System Plan describing and showing the preferred route of the Council Creek Regional Trail.

Applicant: City of Forest Grove

File Number: 311-15-000033-PLNG

Criteria:

1. Consistency with Applicable Comprehensive Plan Policies;
2. Consistency with Oregon Statewide Land Use Planning Goals;
3. Consistency with Metro Regional Framework Plan; and
4. Consistency with Metro Urban Growth Management Functional Plan or Regional Transportation Functional Plan, as applicable.

All persons will be given a reasonable opportunity to give testimony about this proposal responding to the review criteria. If an issue is not raised in the hearing (by person or letter) or if the issue is not explained in sufficient detail to allow the City Council to respond to the issue, then that issue cannot be used for an appeal to the Land Use Board of Appeals. If additional documents or evidence are provided in support of the application, any party shall be entitled to a continuance of the hearing. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. A copy of the report is 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: March 9, 2016

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CITY COUNCIL STAFF REPORT

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

MEETING DATE: *March 14, 2016*

PROJECT TEAM: *Jon Holan, Community Development Director; Rob Foster, Public Works Director; Dan Riordan, Senior Planner; Derek Robbins, Project Engineer*

SUBJECT TITLE: *Public Hearing and First Reading of Ordinance Amending Forest Grove Transportation System Plan for Inclusion of Forest Grove Segment 3 of the Council Creek Regional Trail*

ACTION REQUESTED:

<input checked="" type="checkbox"/>	Ordinance	<input type="checkbox"/>	Order	<input type="checkbox"/>	Resolution	<input checked="" type="checkbox"/>	Motion	<input type="checkbox"/>	Informational
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X all that apply

ISSUE STATEMENT: Consider acceptance of Planning Commission recommendation on February 15, 2016, to amend the text of the Forest Grove Transportation System Plan describing and showing the preferred route of the Council Creek Regional Trail (CCRT) through City of Forest Grove.

BACKGROUND: In 2008, the City Council adopted a resolution in support of implementing the CCRT. In 2009, the City was awarded federal funds for the CCRT Master Plan. The Council Creek Regional Trail Master Plan was completed in August of 2015. On February 15th, the Planning Commission proposed amendments to Chapter 5 and Chapter 6 of the Forest Grove Transportation System Plan to reflect the preferred route of the CCRT through Forest Grove as described in the master plan.

The Council Creek Regional Trail Master Plan was a two year trail alignment study that investigated existing conditions, analyzed the options, and then narrowed down to a preferred alignment. The CCRT master plan was a coordinated effort between local, regional and state governments, local advisory committees, and a robust public involvement process. The public involvement included three open house events and a month long public review period.

The CCRT will be a multiuse pathway for pedestrians, bicyclists, and other non-motorized travelers for both recreational and transportation purposes. The trail, when completed, will extend from the Banks-Vernonia Trail to the TriMet Max Blue Line station in downtown Hillsboro. This trail will connect the cities of Banks, Forest Grove, Cornelius and Hillsboro.

The preferred CCRT Master Plan alignment is divided into two main routes east/west and north/south. A majority of the north/south route is less refined and will require more preliminary

design and review with the public for specific segment alignments (i.e. which side of road, needed ROW or Easements, etc.). The short term focus will be the east/west corridor as its preferred alignment is more defined as it follows the existing ODOT-owned Portland and Western railroad corridor through central Forest Grove.

The preferred trail alignment through Forest Grove is shown below. The alignment uses the Portland and Western Railroad corridor. Two north/south alignment options in Forest Grove segment 3 were studied. One generally follows the Highway 47 right-of-way. The other follows the Oak Street right-of-way. These options are shown below. The Planning Commission adoption of the Forest Grove Segment 3 alignment included a preference for the Oak Street route. The trail is designed to be a multiuse trail and to be 10-feet to 12-feet in width. The portion of the trail that is inside of the existing railroad right-of-way will be a width that is compatible with future rail or transit service. The length of the Forest Grove trail segment 3 is approximately 1.05 miles to 2.0 miles depending on the ultimate north/south option selected. The estimated cost of trail through Forest Grove is \$4,565,000.

Council Creek Regional Trail - Forest Grove Segment 3



Council Creek Regional Trail Master Plan
Preferred Alternative
Segment 3
Forest Grove August 2015

Trail Type	
	Multiuse Trail
	Street-adjacent Multiuse
	On-Street
	Multiuse Rail-with-Trail
	Multiuse Boardwalk
	Bridge or Undercrossing
	Conceptual Trailhead Location

Crossing Type	
	Collector/Arterial Road Crossing
	Major Stream Crossing
	Minor Stream Crossing
	New Railroad Crossing
	Trail Segment Boundary
	Railroad
	Taxlot Boundary

	Park
	Natural Area
	Private Recreation Area
	Cemetery
	Public Land
	Streams
	Waterbody
	Wetland Area
	FEMA 100 Yr. Flood Plain

Staff has prepared a presentation to give more background on the CCRT Master Plan and identify specific Transportation System Plan text amendments to reflect the CCRT preferred alignment through City of Forest Grove.

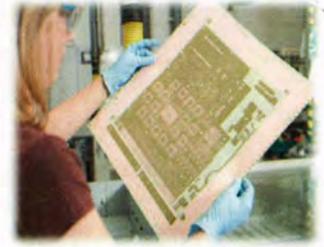
FISCAL IMPACT: None

STAFF RECOMMENDATION: Staff recommends the City Council accept the Planning Commission recommendation dated February 15, 2016, and adopt the proposed ordinance amending the text of the Forest Grove Transportation System Plan describing and showing the preferred route of the CCRT through Forest Grove.

ATTACHMENT(s):

- February 15th, 2016 Planning Commission Meeting Minutes
- February 15th, 2016 Planning Commission Staff Report and Recommendations with TSP Text Amendments
- Ordinance
- Staff Presentation

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Transportation System Plan Amendment

Council Creek Regional Trail – Forest Grove Segment 3

City Council Public Hearing
March 14, 2016

A place where businesses and families thrive.

Purpose of Tonight's Hearing

- Consider the Planning Commission recommendation to:
 - Amend the Forest Grove Transportation System Plan to incorporate the following changes as City Policy
 - Accept Forest Grove Segment 3 of the Council Creek Regional Trail (CCRT) Master Plan; and
 - Forest Grove Segment 3 project description and cost estimates from the CCRT Master Plan
- Provide opportunity for public comment prior to final City Council action on March 28, 2016.

Project Background

- Master Plan Study Purpose:
 - A collaborative review to identify a preferred route and guide development of the trail.
- Multi-Jurisdictional Partnership:
- Project Outcomes:
 - A vetted plan: Two Advisory Committees, Three Public Open Houses, and a public comment period July-Aug. 2015
 - Preferred trail alignment with cost estimates
- CCRT Final Master Plan Completed August 2015



Council Creek Regional Trail Master Plan

Prepared for
City of Banks, Oregon
City of Forest Grove, Oregon
City of Cornelius, Oregon
City of Hillsboro, Oregon
Washington County, Oregon
Oregon Department of Transportation
Metro

Prepared by
Parametrix

Date
August 2015

Web Site: www.oregonmetro.gov/CouncilCreek

Project Overview

- Regional Multi-Use Pathway for pedestrians and bicyclists.
- Will serve both recreational and transportation purposes.
- Forest Grove Segment 3 of the CCRT is approximately 1.5 miles as shown in the next slide. CCRT is almost 15 miles, extending from the Banks-Vernonia trailhead to the light rail station in downtown Hillsboro.

Project Overview

- Preferred Trail Alignment - Forest Grove Segment 3

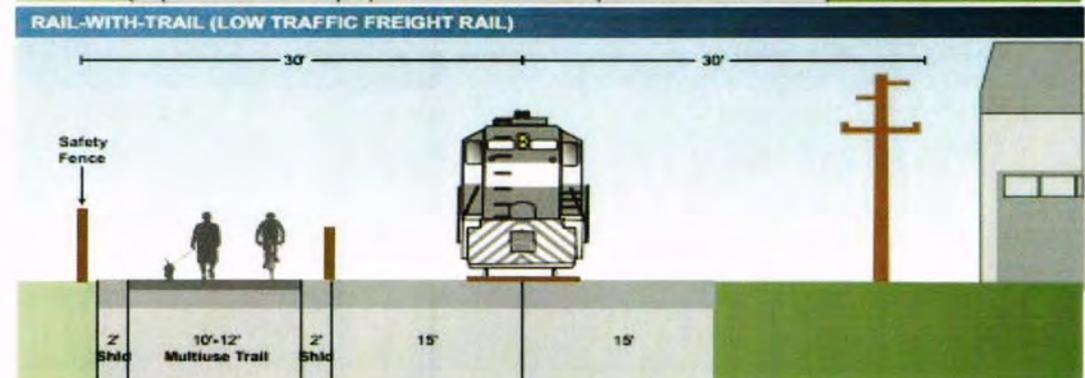
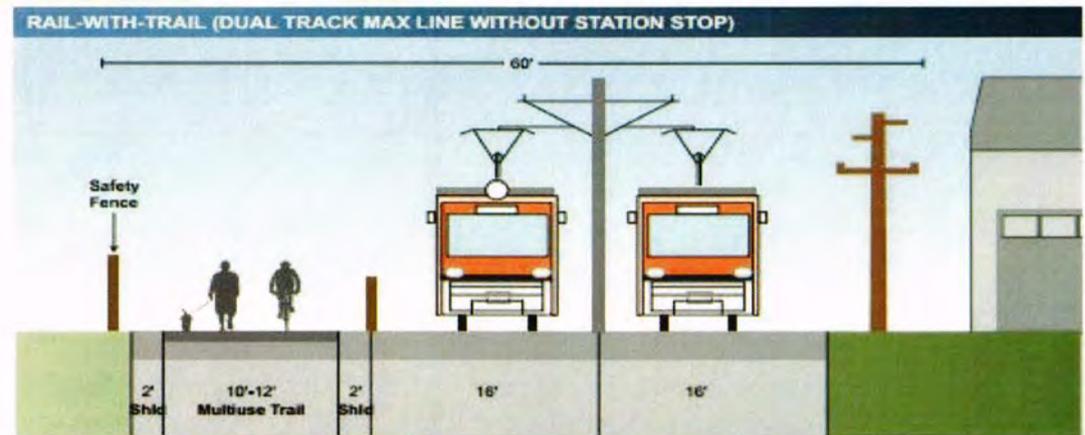
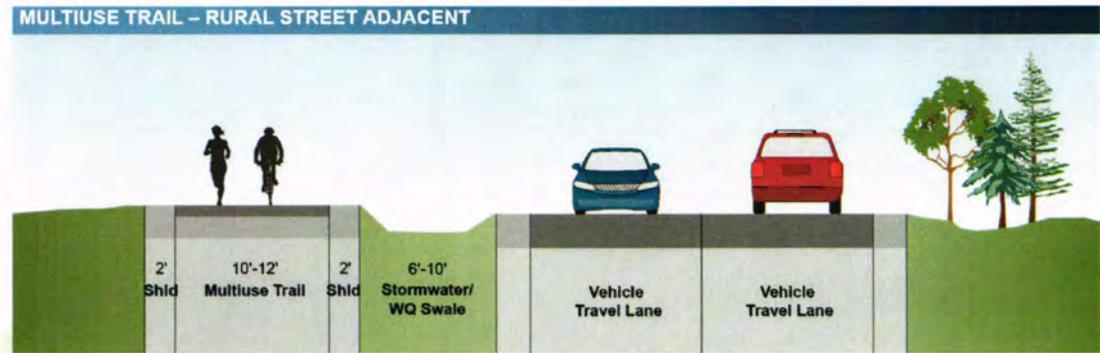


Project Overview

- Segment 3 through Forest Grove would use the ODOT-owned Portland and Western railroad corridor through central Forest Grove.
- North/South connection in Forest Grove follows Oak Street.
- **Planning Commission adopted motion (6-0) expressing preference for the Oak Street alignment.**
- Construction of Segment 3 is identified in the first of three phases.

Design Concept

- 10 to 12 foot asphalt multi-use path
- Sufficient right-of-way for trail and passenger or freight rail



Cost Estimates

3: FOREST GROVE

RAIL 1	5,565	N/A	0%	\$4,565,100	\$4,565,100
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- Includes engineering, permitting, contingencies, plus trailhead

CCRT Next Steps

- East-West segment of CCRT is the next overall focus. Other segments are long term (Washington County – “Refinement Area”)
- Work on incremental strategy to bring about an interim trail adjacent to the existing freight RR.
- Local agencies/staff need to lead the efforts.
- Work with other agencies on objective and strategies to move projects forward.
- Continue to seek funding for project including Right-of-way, design and construction.

Current TSP

Name	Description	Owner/Operator	RTP Financially Constrained	Total Cost	Non-City Funds	City Funds	Project Timing
Council Creek Regional Trail	16-mile multi-use trail from Hillsboro to Banks. Multi-use trail from the end of the Westside Max in Hillsboro thru Washington County & Cities of Cornelius, Forest Grove & Banks, connecting to Banks-Vernonia State Trail, with added short trail south to Tualatin River.	TBD	Yes	\$5.20 M	\$4.1 M	\$1.10 M	6-10 Years

The Amendments

Project	Segment	Description	Planning-Level Cost Estimate (thousands)
Council Creek Regional Trail Feasibility Study Improvements	N/A- <u>Three</u>	Conduct feasibility study evaluating potential alignments for the Council Creek Trail in Forest Grove Construct Council Creek Regional Trail through Forest Grove consistent with the Council Creek Regional Trail Master Plan	\$200 <u>\$5,200</u>

Required Approval Criteria & Findings

- TSP amendment is also consistent with:
 - Statewide Land Use Planning Goal 12 (Transportation)
 - Encourage safe, convenient and economic transportation system
 - Metro Regional Framework Plan
 - Increase travel choices
 - Reduce vehicle miles traveled per capita
 - Metro Regional Transportation Functional Plan
 - Interconnected pedestrian and bicycle network
 - Mode split targets for non-single-occupant vehicle trips
 - 45% to 55% in Town Center and along Pacific Ave. corridor

Alternatives

- Alternatives available to City Council include:
 - Accept the recommendation as proposed;
 - Modify the recommendation with supportive findings; or
 - Refer the proposal back to the Planning Commission for further evaluation

Staff Recommendation

Staff recommends City Council adopt the ordinance accepting the Planning Commission recommendation to amend the text of the Forest Grove Transportation System Plan to include:

- The preferred alignment for the Council Creek Regional Trail through Forest Grove, Segment 3(including Oak Street option); and
- Updated Segment 3 project description and cost estimates.

Alternatives

- Alternatives available to City Council include:
 - Accept the recommendation as proposed;
 - Modify the recommendation with supportive findings; or
 - Refer the proposal back to the Planning Commission for further evaluation

Staff Recommendation

Staff recommends City Council adopt the ordinance accepting the Planning Commission recommendation to amend the text of the Forest Grove Transportation System Plan to include:

- The preferred alignment for the Council Creek Regional Trail through Forest Grove, Segment 3(including Oak Street option); and
- Updated project description and cost estimates.

1. **CALL TO ORDER:**

Vice Chair Ruder called the meeting to order at 7:00 p.m.

Planning Commission Present: Carolyn Hymes, Sebastian B. Lawler, Lisa Nakajima, Dale Smith, Phil Ruder and Hugo Rojas.

Absent: Tom Beck

Staff Present: Jon Holan, Community Development Director; Dan Riordan, Senior Planner; Derek Robbins, City Engineer; Marcia Phillips, Assistant Recorder.

2. **PUBLIC MEETING:**

2.1 **PUBLIC COMMENT PERIOD FOR NON-AGENDA ITEMS:**

Dan Martin, 17900 SW Sioux Court, Tualatin, OR 97062. Mr. Martin said he represented a group that has a property on Hawthorne and 26th Avenue, and wanted to get an update on the proposed rezone for that area. He said the property is currently zone RMH at 20.28 units per net acre. The proposed zone change would increase the density to 30 plus units per net acre. He said the property is for sale, but builders want to wait for the higher density.

Mr. Riordan explained that the Planning Commission considered changes to the Development Code to increase density in the Town Center and along the Commercial Corridor that would increase the density from 20 units per net acre to 30 units per net acre. He said there are some property owners in the City who have property within the Residential Multi-family High Density (RMH) zone that are also interested in potentially higher density in that zone. Riordan said currently the RMH Zone is at 20.28 units per net acre, and there is interest in changing that to 30 or more units per acre, but that was outside the scope of the Code update project. Riordan said he believed the property owners were in the audience to make known this interest and to have the City address this.

Mr. Holan said this matter has been put on the next fiscal year's work program. He explained that there was some brief discussion with the Commission about it, but there was not enough exploration of the implication on this residential zone. Holan said this is certainly a matter worth considering for the same reasons the City looked into it in the Town Center and Community Commercial zones. In response to a question from Mr. Martin, Holan stated that no determination has been made to change the zone/density in the area around Hawthorne and 26th Avenue, and suggested that it would be good for the group to talk to staff about this matter.

Mr. Riordan explained that the next fiscal year begins in July.

In response to another question from Mr. Martin, Holan explained that we are looking at 10 to 20 years before light rail comes to Forest Grove.

Mr. Martin asked if there is a need for housing with Pacific University increasing the amount of student housing available.

Mr. Holan explained that staff has no information on housing needs, but staff knows there is a reasonable rationale for thirty units per net acre.

2.2 PUBLIC HEARING:

A. Recommendation to assign the Campus Employment Comprehensive Plan designation to approximately 38 acres of land located south of the BPA power line transmission easement and south of the Elm Street terminus.

Record # 311-15-00032-PLNG.

Vice Chair Ruder opened the public hearing, read the hearing procedures, and asked for disclosure of any conflicts of interest, ex-parte contacts, bias, or abstentions. There were none, and no challenges from the audience. Ruder called for the staff report.

Mr. Riordan stated that there was a lot of data in the Commission's packet, so he would keep the staff report brief. He said in 2014 the Oregon Legislature approved a House Bill 4078 known as the "Grand Bargain" which modified and then enacted urban and rural reserves for Washington County. He explained that this modified the Portland regional urban growth boundary including two locations adjacent to the Forest Grove planning area. Riordan said one UGB modification resulted in the addition of 235 acres of land north of David Hill Road and west of Highway 47. He said land use in the David Hill area is being considered as part of the Westside Planning Project. Riordan said the other modification to the UGB made by the House Bill was the addition of approximately 38 gross acres into the UGB south of the Taylor Industrial Park. It is the second modification that is the subject of the meeting tonight. He said now that the area is in the UGB, the city is required, under Title 11 of the Metro Urban Growth Regional Functional Plan, to assign a Comprehensive Plan (CP) designation to the property which shows how land may be developed in the future and guides the zoning of property when annexed by the City. He said the property is currently zoned Washington County FD-20 and is outside of the revised 100-year floodplain.

Mr. Riordan said the Commission has several alternatives to consider regarding a CP designation for this new UGB area which in general include applying the City's General Industrial, Light Industrial or the new Campus Employment designation created as part of the CP update in 2014. He said the Forest Grove Economic Opportunity Analysis (EOA) identifies a need for campus employment uses, and the UGB addition area provides an opportunity to fulfill this need.

Mr. Riordan explained that the proposed CP amendment will allow for development of the subject property when annexed and zoned by the City. He said future development will impact the Highway 47/Elm Street intersection. Riordan said the traffic analysis included in the Commission's packet assumes that all traffic flows through the Highway 47/Elm Street intersection. He said the Transportation System Plan includes a future extension of Taylor Way from its terminus to Elm Street, and when completed, some trips could be diverted to Fern Hill Road via Taylor Way from the proposed Campus Employment area. Riordan showed a chart and stated that current Hwy. 47 traffic volume is 11,400 vehicles and is projected to increase by about 58% by 2035.

Mr. Riordan said the proposed amendment is consistent with applicable CP policies, the Metro Regional Framework Plan, the Metro Regional Functional Plan and Regional Transportation Functional Plan and is consistent with the Oregon Statewide Land Use Planning goals. Riordan said staff recommends the Planning Commission recommend City Council approval of the proposed Comprehensive Plan Map amendment to designate the 38 acre urban growth boundary addition area Campus Employment.

PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM

February 15, 2016-7:00 P.M. PAGE 3 of 7

In response to a question from Commissioner Nakajima, Mr. Riordan explained that between putting a signal at Elm/Hwy 47 or at Elm St./Hwy 47, Elm would likely be ODOT's preferred location for a signal.

Mr. Holan explained that intersections must meet warrants to be approved by ODOT for a signal. Both intersections meet preliminary signal warrants.

In response to a question from Commissioner Lawler, Mr. Holan said with development 50 peak trips and the City would require a traffic analysis and there would be an ODOT review.

Commissioner Lawler made the comment that the area may not be developed in its entirety due to difficulties with supplying sanitary sewer.

Mr. Riordan said this may be viewed as a constraint since it is not known if there is sufficient depth to supply the entire 38 acres. He explained that the area nearest Elm St. would be the most easy to develop with the area to the east more difficult.

Mr. Holan explained that Clean Water Services does not support pump stations, but it would be possible to have a private pump station.

PROPONENTS:

Tom Vanderzanden, 15903 NW Logi Trail, Hillsboro, OR 97124. Mr. Vanderzanden explained that he was representing the Hayworths, who own property in the subject area. He said was in favor of the amendment to assign the Campus Employment designation to the area as are the Hayworths. Vanderzanden said this is a truly unique setting. He said this could help change the employment situation on Forest Grove, but more needs to be done to make the site more desirable than other areas in Washington County in order to attract business here. He stated that it takes more than a beautiful setting to attract business.

In response to a question from Vice Chair Ruder, Mr. Holan stated that the City's Economic Development Coordinator, Jeff King, has this property designated as "shovel ready". Holan explained that now we need to find funding opportunities such as using System Development Charge fees to help with the sanitary sewer. He encouraged the property owners to talk with Mr. King.

OPPONENTS:

John Malnirich, Owner of Westside Redi-Mix, 451 Elm St., Forest Grove, OR 97116. Mr. Malnirich explained that he has just started a new concrete business in this area and is in favor of nice greenways, but sees a problem with people sitting outside at picnic tables eating their lunch and

PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM

February 15, 2016-7:00 P.M.

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not liking what he is doing. He said he started his business away from the City (unlike VanDoren's), but would feel like the City is surrounding him if this is approved. Malnirich said traffic flow is a problem. He said the extension of Taylor Way would help ease the flow so Elm Street does not get overloaded, and the City may need to go both to Elm St. and Taylor Way.

In response to a question from Vice Chair Ruder, Mr. Malnirich said regarding the Campus Employment design, it would depend on where the greenways are located and which way the doors are facing. He said the buffer for the powerline is pretty good.

Mary Jo Morelli, 1320 Cedar St., Forest Grove, OR 97116. Ms. Morelli said the area should be designated Campus Employment. She said the zoning design does not sound wrong to her. Morelli explained that historically for the past 150 years this has been agricultural land with the A.T. Smith House nearby, so why now and is this the right time. She said if there is a need why cannot it come from the excess General Industrial land in Forest Grove.

Commissioner Lawler made the comment that the 100 year flood plain is a buffer to the agricultural land. He asked if staff had given any consideration to the proximity of the A.T. Smith House.

Mr. Riordan said due to landscape and buffer, staff feels the Campus Employment design would make less impact than the other designations.

OTHER:

Tom Carlson, 42366 SW Sandstrom Rd., Gaston, OR. Mr. Carlson stated that with traffic the way it is, the City is going to have to utilize Taylor Way. He said he likes the look of the business parks in Hillsboro along Brookwood Way, and can see a beautiful trail with a lunch area. He said he cares for the A.T. Smith House sometimes, and getting out of the area by car is difficult especially with the cement trucks coming out of there.

COMMISSION DISCUSSION:

Commissioner Lawler expressed his appreciation for the number of interested people in the audience and the testimony given. He said even the opponents do not sound opposed to the designation, but have brought up some good points to be considered. Lawler said we need to be conscience of what is surrounding this area.

In response to a question from Commissioner Hymes, Mr. Holan explained that the sanitary sewer would be a constraint no matter which designation was assigned to the area. He then showed the TSP map and pointed out the circled areas that need further traffic study, and said that the study could include the entire Highway 47 corridor. Holan stated that whatever designation is assigned, traffic will be an issue.

Commissioner Lawler stated that there are only two vacant developable sites for offices now, so there is a need.

Commissioner Nakajima said this was discussed at the November meeting, and it was felt that the Campus Employment was the most appropriate zone designation and she is in favor of this.

Vice Chair Ruder said he has not heard a push for General Industrial or Light Industrial and asked for a motion.

Commissioner Hymes made a motion to make a recommendation to the City Council to assign the Campus Employment Comprehensive Plan designation to approximately 38 acres of land located south of the BPA power line transmission easement and south of the Elm Street terminus. Record # 311-15-00032-PLNG. Commissioner Smith seconded. Motion passed 6-0.

B. Amend the Forest Grove Transportation System Plan to incorporate the preferred alignment of the Council Creek Regional Trail. Record # 311-15-00033-PLNG.

Vice Chair Ruder opened the public hearing at 7:59 p.m. read the hearing procedures and asked for disclosure of any conflicts of interest, ex-parte contacts, bias, or abstentions. There were none, and no challenges from the audience. Ruder called for the staff report.

Mr. Riordan explained that the Council Creek Regional Trail Master Plan (Master Plan) will recommend a comprehensive strategy for the completion of an uninterrupted 15-mile long regional trail from downtown Hillsboro Oregon through the cities of Cornelius and Forest Grove and then north through unincorporated Washington County to the City of Banks. He said the trail study corridor is divided into seven segments based on the differing attributes along the corridor, which include older neighborhoods, business and industrial areas, riparian stream corridors, and rural farmlands. He said public engagement has been ongoing throughout the entire master plan process. Riordan showed a map of the trail corridor, and a close-up of the trail corridor in Forest Grove showing two possible northern routes.

Mr. Robbins explained that the Master Plan was done over a period of two years with several alignments considered. He said some of the alignments are on street, street adjacent and along the railroad right-of-way with room for mass transit in future. Robbins explained that the next step is to look at the alignment in more detail, for instance which side of the street the trail should follow.

Mr. Riordan explained that since the City now has a Trail Master Plan, it is time to update tables and add maps to the Transportation System Plan (TSP). He said the amendments propose to update the wording and add current cost estimates. Mr. Riordan showed a chart of cost estimates. He said the total cost will be \$4.6 million based on the length of the improvement.

Mr. Riordan explained that the trail in Forest Grove primarily follows the Portland –Western Railroad right-of-way east to west terminating near the Senior Center. He said there are two possible routes going north with one route at Quince following the north side of Highway 47 and

PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM

February 15, 2016-7:00 P.M.

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the other route going north on Oak St. to Porter Rd. Riordan said more study and discussion with ODOT will follow.

Mr. Riordan stated that staff recommends that the Planning Commission recommend City Council accept the Council Creek Regional Trail Master Plan and approve the proposed TSP amendment to include the Council Creek Regional Trail and updated cost estimates.

Commissioner Nakajima referred to the Transit Oriented Plan discussed in previous meetings, and stated that the Oak St. alignment seems more appropriate. She asked if staff has expressed a preference.

Mr. Robbins explained that at this point staff wants to keep things flexible.

Commissioner Nakajima asked if the Transit Oriented Plan is still being kept current.

Mr. Riordan explained that it is in the CP as a place holder.

PUBLIC TESTAMONY:

David Morelli, 1320 Cedar St., Forest Grove, OR. Mr. Morelli agreed that the Oak St. alignment is more appropriate with Quince St. alignment being more problematic. He stated that he is in favor of the trail.

In response to a question from the Commission, Mr. Riordan explained that the Commission can state a preference when making the motion for recommendation.

In response to a question from Commissioner Rojas, Mr. Robbins said there can be more or fewer crossings on Hwy 47 depending on the alignment chosen. He said there will be a lot of work to determine how Martin Rd. will be improved – perhaps with a five leg roundabout. Robbins explained that the City will team with ODOT to design the crossings.

Vice Chair Ruder closed the public hearing at 8:19 p.m.

COMMISSION DISCUSSION:

Commissioner Lawler said he was all in favor of this project and there has been a lot of “buy in” from the public. He said it is a great option for people to come into Forest Grove, Roy and Banks.

Commissioner Rojas agreed.

Commissioner Smith stated that he was in favor of the Oak St. alignment.

Commissioner Lawler made a motion to amend the Forest Grove Transportation System Plan to incorporate the preferred alignment of the Council Creek Regional Trail. Record # 311-15-000033-PLNG with a preference for the Oak St. alignment. Commissioner Nakajima seconded. Motion passed 6-0.

2.3 **ACTION ITEMS:** None.

2.4 **WORK SESSION ITEMS:** None.

3.0 **BUSINESS MEETING:**

3.1 **APPROVAL OF MINUTES:** Commissioner Nakajima made a motion to approve the minutes of the January 5, 2016 meeting. Commissioner Lawler seconded. Motion passed 6-0.

3.2 **REPORTS FROM COMMISSIONERS/SUBCOMMITTEES:** Commissioner Lawler stated that on Tuesday, February 23rd there will be a meeting in the public auditorium to discuss the roundabout project.

3.3 **DIRECTOR'S REPORT:**

Mr. Holan informed the Commissioners that on February 22nd the City Council, as the Urban Renewal Agency, will consider the development agreement with Tokola.

Mr. Holan said staff held an "Urban Renewal 101" open house and will repeat this on Thursday February 18th at 6 p.m. in the public auditorium. He said there were only five or six people at the first open house.

Mr. Holan said on March 21st staff will present to the Commission buffers around marijuana facilities between retail-dispensaries and retail-retail, etc. He explained that the State allows local jurisdictions to address buffers. Holan also explained that the City currently has buffers around schools from retail and dispensaries, but not for other marijuana operations such as grow and whole sale.

Mr. Holan informed the Commission that staff has received the final report from the Westside Planning consultant, so a work session will need to be scheduled.

3.4 **ANNOUNCEMENT OF NEXT MEETING:** Next meeting will be held on March 21, 2016.

3.5 **ADJOURNMENT:** The meeting was adjourned at 8:29 p.m.

Respectfully submitted by:
Marcia Phillips
Assistant Recorder



**Transportation System Plan Text Amendment
Staff Report and Recommendation**
Community Development Department, Planning Division

Report Date:	February 8, 2016
Hearing Date:	February 15, 2016
Request:	Amend the Forest Grove Transportation System Plan to incorporate the preferred alignment of the Council Creek Regional Trail
File Number	311-15-000033-PLNG
Property Location:	ODOT Rail Corridor, Oak Street, Hwy. 47
Legal Description:	1S3070000100, 1S306D000700
Owner/Applicants:	Applicant: City of Forest Grove
Comprehensive Plan Map Designations	Not Applicable
Zoning Map Designations	Not Applicable
Review Process	Type IV (Legislative)
Applicable Standards and Criteria	Statewide Land Use Planning Goals Forest Grove Comprehensive Plan Policies Metro Framework Plan Metro Regional Transportation Functional Plan
Reviewing Staff	Daniel Riordan, Senior Planner Jon Holan, Community Development Director
Recommendation	Staff recommends Planning Commission recommend amendments to Chapter 5 and Chapter 6 of the Forest Grove Transportation System to reflect the Council Creek Regional Trail Master Plan published May 2015.
Report Contents	Section I (Background) Page 2 Section II (Project Overview) Page 2 Section III (Proposed Amendments) Page 6 Section IV (Review Criteria and Findings of Fact) Page 11 Section V (Recommendation) Page 13

I. BACKGROUND

The purpose of this report is to summarize a proposed amendment to the Forest Grove Transportation System Plan to incorporate the preferred alignment options for the Council Creek Regional Trail (CCRT). The CCRT is the result of a coordinated effort between local, regional and state governments and a local stakeholder advisory committee. The preferred alignment was developed through a robust public involvement process.

The CCRT will be a multiuse pathway for pedestrians, bicyclists, and other non-motorized travelers for both recreational and transportation purposes. The trail, when completed, will

extend from the Banks-Vernonia Trail to the TriMet Max Blue Line station in downtown Hillsboro. This trail will connect the cities of Banks, Forest Grove, Cornelius and Hillsboro.

Metro has requested that jurisdictions adopt the Council Creek Regional Trail Master Plan. This will be achieved by amending the Transportation System Plan to incorporate the preferred alignment and update specific tables and figures in the TSP. The proposed amendments are summarized in the next section of this report.

II. COUNCIL CREEK REGIONAL TRAIL PROJECT OVERVIEW

Segment 3, shown below, is the portion of the Council Creek Regional Trail that would go through Forest Grove. The preferred alignment uses the Portland and Western Railroad corridor generally south of 24th Avenue. Two north/south alignment options exist. One generally follows the Highway 47 right-of-way. The other follows the Oak Street right-of-way. These options are shown below.



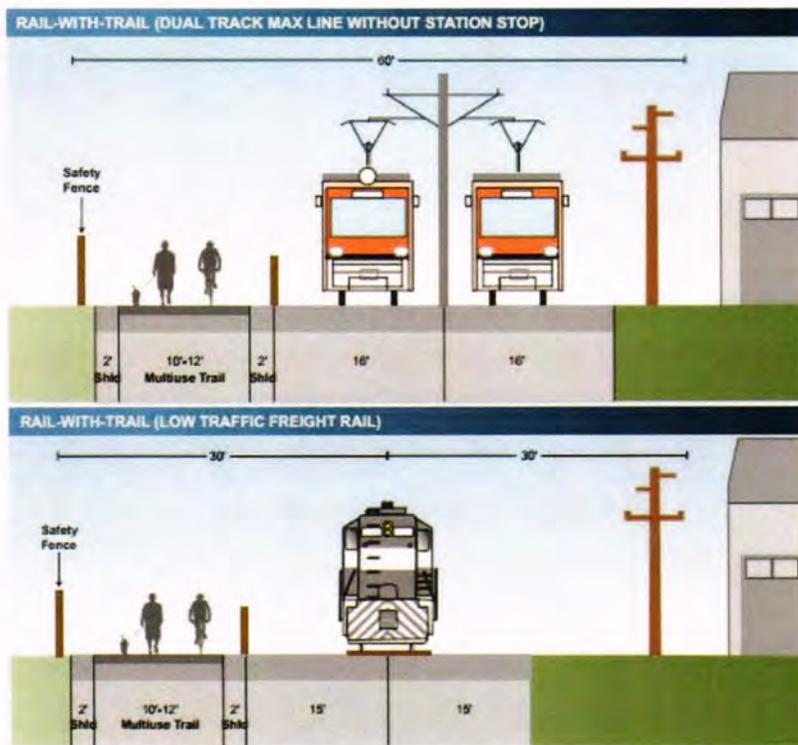
Council Creek Regional Trail – Segment 3

The design of the multiuse trail incorporates asphalt with a 10' to 12' improvement. The design is a rail-with trail design that may vary based on type of future rail or transit service. The length of the trail is approximately 1.05 miles to 2.0 miles depending on the north/south option selected. The estimated cost for Segment 3 through Forest Grove is \$4,565,000. The table on the next page shows the cost estimates by trail segment. Segment 3 is the portion of the project in Forest Grove. More information is available in the Master Plan (Attachment A).

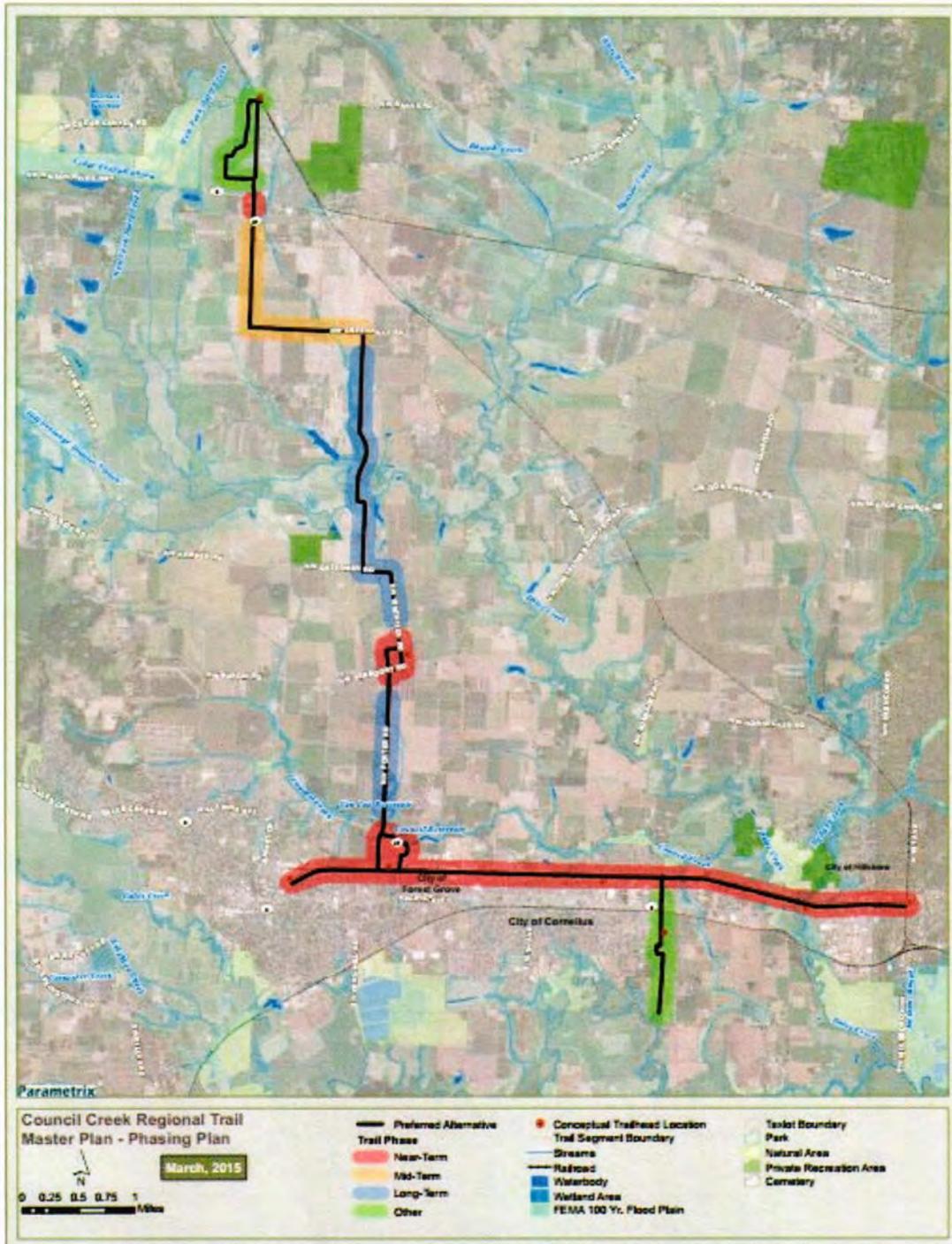
Section	Trail Length (Linear Feet)	Land Acquisition (Linear Feet)	Land Acquisition	Construction ^a	Total
1: BANKS					
WEST	7,629	1,398	\$48,000	\$4,425,200	\$4,473,200
2: WASHINGTON COUNTY NORTH					
EAST 1	39,416	32,171	\$309,000	\$22,367,200	\$22,676,200 ^b
3: FOREST GROVE					
RAIL 1	5,565	N/A	0 ^c	\$4,565,100	\$4,565,100
4: CORNELIUS					
RAIL 1	14,113	N/A	0 ^c	\$9,957,600	\$9,182,600
5: JOBES DITCH					
HOBBS	7,630	3,464	\$120,000	\$2,491,500	\$2,611,500
6: HILLSBORO – WASHINGTON COUNTY EAST					
RAIL 1	8,906	N/A	0 ^c	\$7,646,850	\$7,646,850

- a Includes engineering, permitting, contingencies, plus new trailheads in Segments 2, 3, 4, and 6.
- b Cost for Porter/Oak connection to Segment 4 (OR 47/Martin/Quince connection option is \$400,000 more expensive).
- c Lump-sum trailhead land acquisition cost estimate embedded in overall trailhead cost.

Given the extent and cost of the project the trail will be phased. The map on the following page shows the entire Council Creek Regional Trail including Segment 3 through Forest Grove. Segment 3 is identified as part of the initial phase of trail development. Segment 3 is likely to be staged from west to east identified in the Council Creek Regional Trail Master Plan. The diagram below shows the trail project could be designed with the presence of a dual rail line light rail or low volume freight traffic. In both cases the trail width remains 10' to 12' in width.



Design Options



Council Creek Regional Trail (Hillsboro to Banks)

In addition to local funds, potential funding sources for the project include Washington County MSTIP (Major Streets Transportation Improvement Program) opportunity funds, Metro Regional Flexible Funds, ODOT Statewide Transportation Improvement Program (STIP) and Connect Oregon.

Agency	Program	Funding Cycle	Local Match Percentage	Range of Funds Available
Washington County	MSTIP 3d - Opportunity Funds	5-year cycle	Undetermined	\$5M total
Metro	Metropolitan Transportation Improvement Program (MTIP) Regional Flexible Funds (2016-2018)	3-year cycle	10%	\$94.6M total
ODOT	Statewide Transportation Improvement Program (STIP) – Enhance and Fix-It (2015-2018)	3-year cycle	10% (Enhance)	\$1.3B total (\$720M Fix-It & \$227M Enhance)
ODOT	Oregon Connect (2015-2018)	Each biennium	20%	\$42M

Potential trail enhancement funding sources include programs administered by Metro, Oregon Parks and Recreation, Oregon Community Foundation, Bikes Belong and Cycle Oregon.

Agency	Program	Funding Cycle	Local Match Percentage	Range of Available Funds
Metro	Restoration and Enhancement Grants	Annual	100%	\$10,000 to \$30,000
	Nature in Neighborhoods Capital Grants	Annual	200%	Minimum of \$50,000
	Natural Areas Bond Acquisition Funds	Varies	Varies	Varies
	Regional Travel Options	Biannual	10%	Minimum of \$50,000
Oregon Parks and Recreation	Local Government Grant	Annual	20% to 50%	\$40,000 to \$1M
	Recreational Trails Grants	Annual	20%	Minimum of \$5,000
	Land and Water Conservation Fund (LWCF)	Annual	50%	Minimum of \$12,500
Oregon Community Foundation	Oregon Historic Trails Fund	Annual	N/A	Up to \$40,000
	Oregon Parks Foundation Fund	Annual	N/A	\$1,500 to \$5,000
Bikes Belong	Bikes Belong Grant	Quarterly	N/A	Up to \$10,000
Cycle Oregon	Cycle Oregon Signature Grant	Annual	N/A	\$50,000 to \$100,000

The Transportation System identifies the Council Creek Regional Trail as a project on the Financially Constrained Project List (Table 1-2 and Table 10-3). The project as listed in the TSP has an estimated total cost of \$5.2 million comprised of \$1.10 million in City funds and \$4.1 million in non-City funds. City funds include system development charge revenue from the county-wide Transportation Development Tax or local Parks SDC revenue for trail improvements. It should be noted the total estimated cost is of \$5.20 million somewhat higher than estimated in CCRT Master Plan of \$4.565 million (see table below). Staff recommends retaining the higher amount until costs are further refined. The project timing identified on the Table is contingent on funding availability and construction opportunities. Since the Council Creek Regional Trail is included on the financially constrained project list no amendment to the list is proposed.

Name	Description	Owner/ Operator	RTP Financially Constrained	Total Cost	Non-City Funds	City Funds	Project Timing
Council Creek Regional Trail	16-mile multi-use trail from Hillsboro to Banks. Multi-use trail from the end of the Westside Max in Hillsboro thru Washington County & Cities of Cornelius, Forest Grove & Banks, connecting to Banks-Vernonia State Trail, with added short trail south to Tualatin River.	TBD	Yes	\$5.20 M	\$4.1 M	\$1.10 M	6-10 Years

III. PROPOSED AMENDMENTS

The proposed TSP text amendments are summarized below. The amendments affect TSP Chapter 5 (Pedestrian System Plan) and Chapter 6 (Bicycle System Plan)

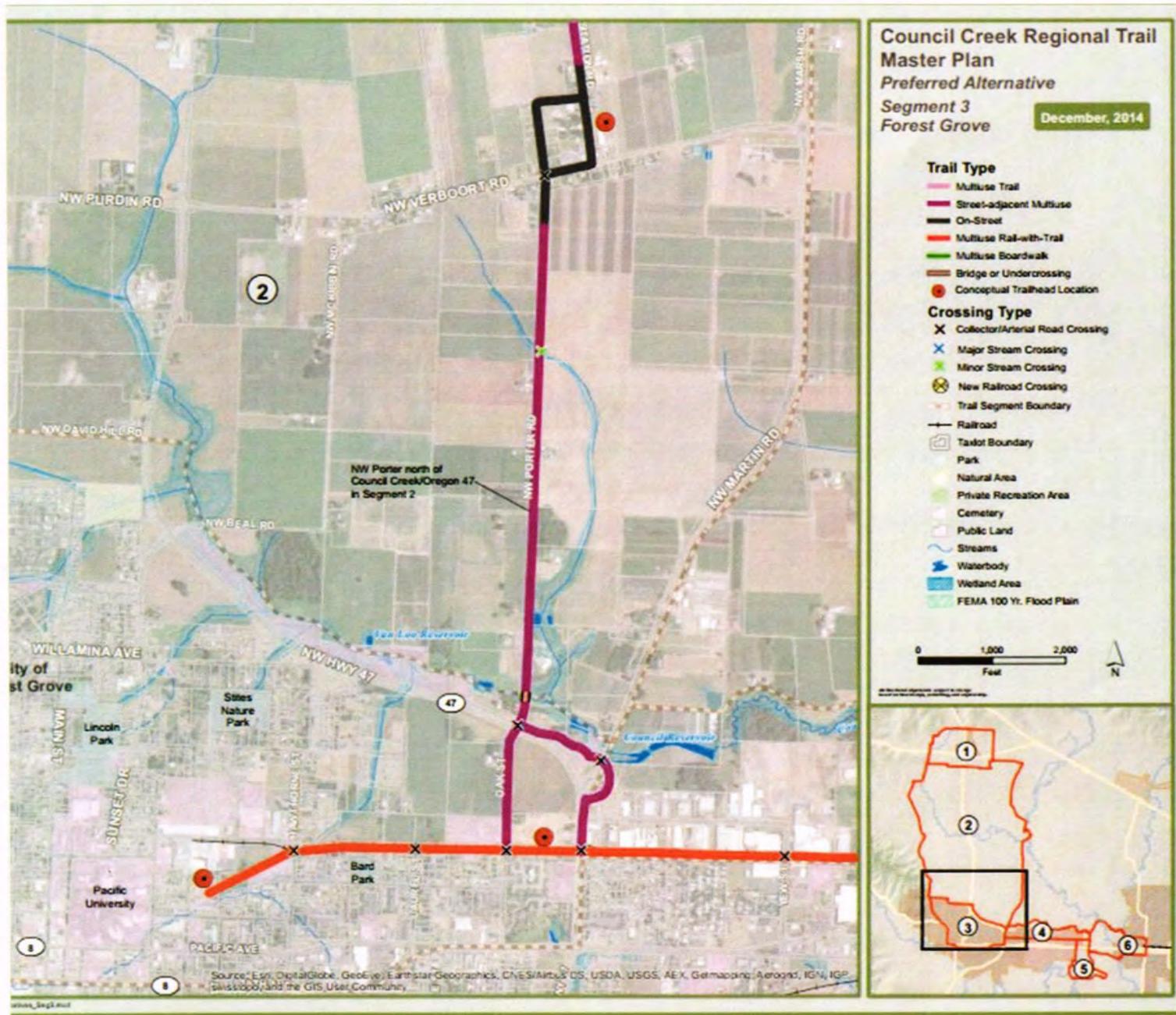
TSP Chapter 5: Pedestrian System Plan

Amend Table 5-1 (Pedestrian System Projects and Programs) to remove the Council Creek Trail Feasibility Study as this has been completed. Text for removal is shown with strikeout and text to add is shown with double underline.

Project	Segment	Description	Planning- Level Cost Estimate (thousands)
Council Creek Regional Trail Feasibility Study Improvements	N/A-Three	Conduct feasibility study evaluating potential alignments for the Council Creek Trail in Forest Grove Construct Council Creek Regional Trail through Forest Grove consistent with the Council Creek Regional Trail Master Plan (May 2015).	\$200 \$5,200
Accessway Improvements	Citywide	Conduct citywide inventory of existing neighborhood accessways, and implement improvements (e.g., paving, re-paving, etc.) as needed	\$500
Safe Routes to School improvements	N/A	Inventory bicycle/pedestrian facilities near Forest Grove schools, and identify specific deficiencies that complicate bicyclist and pedestrian travel. Design and construct infrastructure	\$1,000

		improvements, including shared use paths, neighborhood accessways, bike lanes, sidewalks, curb ramps, crosswalks, and other intersection improvements where necessary. Assign higher prioritization to projects along major bike- and walk-to-school routes	
Sidewalk Infill Program	Citywide	Fund an annual Sidewalk Infill Program to complete sidewalk gaps on existing streets	\$50 ⁴
ADA Transition Plan	Citywide	Develop an ADA Transition Plan identifying specific projects/strategies for bringing existing sidewalks and other pedestrian facilities into compliance with ADA standards	\$50
Spot Improvement Program	Citywide	Fund an annual Spot Improvement Program to address bicycle/pedestrian system needs	\$50 ⁴
Bikeway/Walkway Maintenance Program	Citywide	Develop and implement an annual Maintenance Program to provide regularly-scheduled maintenance activities for the on- and off-street bikeway and walkway system	\$20 ⁴
	Total		\$5,155 \$10,355

Add a new Figure 5-4 and Council Creek Regional Trail Preferred Alignment, shown on the next page, to the Pedestrian and Bicycle System Plan Chapters of the TSP.



TSP Chapter 6: Bicycle System Plan

Amend Table 6-2 (Bicycle System Projects and Program) to add the Council Creek Regional Trail:

Project	Segment	Description	Planning Level Cost Estimate (thousands)
Pacific Ave.	B St. to E St.	Re-stripe roadway to provide bike lanes	\$7
Maple St. / Fern Hill Rd.	Hwy. 47 to Taylor Way	Re-stripe roadway to provide bike lanes	\$15
B St. ¹	Gales Cr. bridge to 19 th Avenue	Re-stripe roadway to provide bike lanes	\$13
Hawthorne St.	26 th Ave. to Pacific Ave.	Re-stripe roadway to provide bike lanes	\$12
Thatcher Rd.	Gales Creek Rd. to David Hill Rd.	Re-stripe roadway to provide bike lanes	\$15
Willamina Ave.	Thatcher Rd. to Sunset Dr.	Re-stripe roadway to provide bike lanes	\$18
Gales Cr. Rd.	Western UGB to Forest Gale Dr.	Construct shoulder bikeway	\$388
Thatcher Rd.	David Hill Rd. to northern UGB	Construct shoulder bikeway	\$582
Fern Hill Rd.	Southern UGB to Taylor Way	Construct shoulder bikeway	\$394
18th Ave./17th Place	B St. to Hwy. 47 Path	Develop Bicycle Boulevard	\$77
Cedar St.	Hwy. 47 Path to 24th Ave.	Develop Bicycle Boulevard	\$65
B St.	19th Ave. to David Hill Road	Develop Bicycle Boulevard	\$70
Willamina Ave./Goff Rd./23rd Ave.	Gales Cr. Rd. to Main St.	Develop Bicycle Boulevard	\$83
Bicycle Wayfinding Signage Plan	N/A	Develop citywide bicycle Wayfinding Signage Plan identifying: appropriate locations for signs, destinations to be highlighted on each sign, and approximate distance and riding time to each destination	\$20
Zoning Ordinance	N/A	Update Zoning Ordinance to establish short-term bicycle	\$10

bicycle parking requirements update		parking requirements for additional individual land uses, and to establish long-term parking requirements	
<u>Council Creek Regional Trail Improvements</u>	<u>Three</u>	<u>Construct Council Creek Regional Trail through Forest Grove consistent with the Council Creek Regional Trail Master Plan (May 2015).</u>	<u>\$5,200</u>
Total			\$1,769 <u>6,979</u>

IV. REVIEW CRITERIA AND FINDINGS OF FACT

The proposed amendment to the TSP to add the preferred CCRT alignment is consistent with the policies contained in the Comprehensive Plan, Statewide Land Use Planning Goals, Metro Urban Regional Framework Plan, and Metro Regional Transportation Functional Plan.

Comprehensive Plan Policies

Park Policy 3: Connect neighborhoods, schools, parks, and greenways with a network of multi-purpose trails that are accessible to people with and without disabilities.

Finding: The Council Creek Regional Trail will connect to the existing Parks Trail System contained in the Parks Trail Master Plan. This includes the existing trail along Highway 47. The Council Creek Regional Trail will also connect to the Banks-Vernonia Trail. The Council Creek Regional Trail will be constructed in compliance with Americans with Disabilities Act requirements. Therefore, the trail will be accessible to people with and without disabilities.

Park Policy 4: Continue working with other recreation program and facility providers to increase recreational opportunities to Forest Grove residents through shared resources, partnerships, and joint use agreements.

Finding: As stated in the Council Creek Regional Trail Master Plan, the trail will be developed through a public partnership between multiple cities, Washington County and Metro. As such this project exemplifies a project based on a regional partnership using shared resources. As also stated in the Council Creek Regional Trail Master Plan, this project will meet recreational and general transportation needs. As such the trail will increase recreational opportunities to Forest Grove residents.

Transportation Policy 4.2: Increase the health and well-being of citizens through walking and bicycling.

Finding: As stated above, the Council Creek Regional Trail is intended to be a recreational amenity for Forest Grove and regional residents. Use of this recreational amenity through walking or bicycling will increase the health and well-being of citizens.

Transportation Policy 7.2: Increase the use of walking and bicycling for all travel purposes.

Finding: The Council Creek Regional Trail is intended to be used for recreation and general transportation needs including commuting by walking or bicycling. As such the trail will increase the use of walking and bicycling for all travel purposes (recreational and commuting).

Transportation Policy 7.3: Improve and enhance the livability of Forest Grove residents by decreasing reliance in the automobile and increasing other modes to minimize transportation system impacts on the environment.

Finding: The Council Creek Regional Trail will be designed to support walking and bicycling. As such the trail will decrease reliance on the automobile improving and enhancing the livability of Forest Grove residents.

Transportation Policy 9.1: Coordinate and cooperate with adjacent jurisdictions and other transportation agencies to develop transportation projects that benefit the City of Forest Grove and the region as a whole.

Finding: By its very nature this project requires coordination and cooperation with adjacent jurisdictions and other transportation agencies including the Oregon Department of Transportation as owner of the railroad corridor.

Statewide Land Use Planning Goals

Goal 12: Transportation – To provide and encourage a safe, convenient and economic transportation system.

Finding: The Council Creek Regional Trail enhances the transportation system. The preferred alignment through Forest Grove is generally within public right-of-way or publicly owned land including the ODOT owned Portland and Western railroad corridor.

Metro Regional Framework Plan

Objective 3.1: Travel Choices – Achieve modal targets for increased walking, bicycling, use of transit and shared ride and reduced reliance on the automobile and drive alone trips.

Finding: The Regional Transportation System Plan and Forest Grove Transportation System Plan both contain targets for mode split including walking and bicycling. As a pedestrian and bicycle facility the Council Creek Regional Travel will help the City achieve modal targets for increased walking and bicycling and reduced reliance on the automobile and drive alone trips.

Objective 3.2: Vehicle Miles of Travel – Reduce vehicle miles traveled per capita.

Finding: As stated above the Council Creek Regional Trail will be a pedestrian and bicycle facility for recreational and commuting purposes. As such it will help the City reduce automobile vehicle miles traveled per capita.

Metro Urban Growth Management Functional Plan

Finding: The Metro Urban Growth Management Functional Plan is not applicable to this amendment.

Regional Transportation Functional Plan

The Regional Transportation Plan establishes an outcomes-based framework that is performance-driven and includes policies, objectives and actions that direct future planning and transportation investment decisions. The Regional Transportation Functional Plan implements the RTP's outcome based approach.

The RTFP requires that City TSPs include a pedestrian plan for an interconnected network of pedestrian routes within the City.

Finding: Chapter 5 of the TSP includes a pedestrian plan including an interconnected network of pedestrian routes within the City. Table 5-1 of the TSP identifies the pedestrian system projects and programs. The Council Creek Regional Trail is included on Table 5-1 which will be updated with this amendment. Figure 5-3 depicts the pedestrian plan. A figure will be added to Chapter 5 to show the preferred Council Creek Regional Trail alignment.

The RTFP requires that City TSPs include a bicycle plan for an interconnected network of bicycle routes within the City.

Finding: Chapter 6 of the TSP includes a bicycle plan including an interconnected network of bicycle routes within the City. Table 6-2 of the TSP identifies the bicycle system projects and programs. This amendment will update Table 6-2 to include the Council Creek Regional Trail as a bicycle route. A figure will be added to Chapter 6 to show the preferred Council Creek Regional Trail alignment.

The RTFP requires that each City shall update its TSP to incorporate regional and state transportation needs identified in 2035 RTP and its own transportation needs.

Finding: This amendment will incorporate a regional and local need into the Forest Grove Transportation System Plan. The need includes an interconnected system of pedestrian and bicycle routes and need to comply with modal split targets for walking and bicycling contained in the TSP. For the Forest Grove Town Center and Pacific Avenue corridor the mode target is 45% to 55% non-single occupant vehicle trips. For the City's employment areas the mode target is 40% to 45% non-single occupant vehicle trips.

V. RECOMMENDATION

Staff recommends Planning Commission recommend amendments to Chapter 5 and Chapter 6 of the Forest Grove Transportation System to reflect the Council Creek Regional Trail Master Plan published May 2015.

ATTACHMENTS

- A. Council Creek Regional Trail Master Plan

This page is intentionally blank.

ORDINANCE NO. 2016-02**ORDINANCE AMENDING CITY OF FOREST GROVE TRANSPORTATION SYSTEM PLAN FOR INCLUSION OF THE COUNCIL CREEK REGIONAL TRAIL PREFERRED ALIGNMENT THROUGH CITY OF FOREST GROVE; FILE NO. 311-15-00033-PLNG**

WHEREAS, in 2002, the Council Creek Trail was designated a regional trail by Metro and furthermore, Washington County, City of Cornelius, City of Banks, City of Hillsboro, and City of Forest Grove had existing plans that identified the Council Creek Regional Trail concept; and

WHEREAS, the City of Forest Grove solicited input on the Council Creek Regional Trail concept and partnered with other Agencies, including Metro, State Parks, Washington County, City of Hillsboro, City of Cornelius, and City of Banks; and

WHEREAS, in 2008, the City of Forest Grove Council and the Partner Agencies adopted resolutions and provided letters of support for implementing the Council Creek Regional Trail; and

WHEREAS, in 2009, the Oregon Department of Transportation (ODOT) accepted a City of Forest Grove application submitted in 2009, for funding the Council Creek Regional Trail Master Plan; and

WHEREAS, in 2012, the City entered into a Local Agency Agreement with ODOT for the purposes of receiving the Council Creek Regional Trail Master Plan funding; and

WHEREAS, the Council Creek Regional Trail Master Plan was a coordinated effort between local, regional and state governments, local advisory committees, and included an extensive public involvement process with three open house events and a month long public review period; and

WHEREAS, in August 2015, the Council Creek Regional Trail Master Plan was completed and Published; and

WHEREAS, the Planning Commission recommendation on February 15, 2016, to amend the text of the Forest Grove Transportation System Plan describing and showing the preferred route of the Council Creek Regional Trail through Forest Grove; and

WHEREAS, the City Council held a duly-noticed Public Hearing on the proposed recommendation on March 14 and continued the hearing on March 28, 2016.

NOW THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1: The City Council of the City of Forest Grove hereby amends the Forest Grove Transportation System to reflect the Council Creek Regional Trail Master Plan preferred alignment through Forest Grove as summarized in Exhibit A.

Section 2. This ordinance shall be effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading this 14th day of March, 2016.

PASSED the second reading this 28th day of March, 2016.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 28th day of March, 2016.

Peter B. Truax, Mayor

Ordinance No. 2016-02
Exhibit A
TRANSPORTATION SYSTEM PLAN AMENDMENTS

The TSP text amendments are summarized below. The amendments affect TSP Chapter 5 (Pedestrian System Plan) and Chapter 6 (Bicycle System Plan)

TSP Chapter 5: Pedestrian System Plan

Amend Table 5-1 (Pedestrian System Projects and Programs) to remove the Council Creek Trail Feasibility Study as this has been completed. Text for removal is shown with strikeout and text to add is shown with double underline.

Project	Segment	Description	Planning-Level Cost Estimate (thousands)
Council Creek Regional Trail Feasibility Study <u>Improvements</u>	N/A <u>Three</u>	Conduct feasibility study evaluating potential alignments for the Council Creek Trail in Forest Grove <u>Construct Council Creek Regional Trail through Forest Grove consistent with the Council Creek Regional Trail Master Plan (August 2015).</u>	\$200 <u>\$5,200</u>
Accessway Improvements	Citywide	Conduct citywide inventory of existing neighborhood accessways, and implement improvements (e.g., paving, re-paving, etc.) as needed	\$500
Safe Routes to School improvements	N/A	Inventory bicycle/pedestrian facilities near Forest Grove schools, and identify specific deficiencies that complicate bicyclist and pedestrian travel. Design and construct infrastructure improvements, including shared use paths, neighborhood accessways, bike lanes, sidewalks, curb ramps, crosswalks, and other intersection improvements where necessary. Assign higher prioritization to projects along major bike- and walk-to-school routes	\$1,000
Sidewalk Infill Program	Citywide	Fund an annual Sidewalk Infill Program to complete sidewalk gaps on existing streets	\$50 ⁴
ADA Transition Plan	Citywide	Develop an ADA Transition Plan identifying specific projects/strategies for bringing existing sidewalks and other	\$50

		pedestrian facilities into compliance with ADA standards	
Spot Improvement Program	Citywide	Fund an annual Spot Improvement Program to address bicycle/pedestrian system needs	\$50 ⁴
Bikeway/Walkway Maintenance Program	Citywide	Develop and implement an annual Maintenance Program to provide regularly-scheduled maintenance activities for the on- and off-street bikeway and walkway system	\$20 ⁴
Total			\$5,155 \$10,355

Add a new Figure 5-4 and Council Creek Regional Trail Preferred Alignment through the Forest Grove Segment 3, shown below, to the Pedestrian and Bicycle System Plan Chapters of the TSP.

Council Creek Regional Trail - Forest Grove Segment 3



Council Creek Regional Trail Master Plan
Preferred Alternative
Segment 3
Forest Grove
August 2015

Trail Type

- Multiuse Trail
- Street-adjacent Multiuse
- On-Street
- Multiuse Rail-with-Trail
- Multiuse Boardwalk
- Bridge or Undercrossing
- Conceptual Trailhead Location

Crossing Type

- X Collector/Arterial Road Crossing
- X Major Stream Crossing
- X Minor Stream Crossing
- X New Railroad Crossing
- Trail Segment Boundary
- Railroad
- Taxlot Boundary

- Park
- Natural Area
- Private Recreation Area
- Cemetery
- Public Land
- Streams
- Waterbody
- Wetland Area
- FEMA 100 Yr. Flood Plain

TSP Chapter 6: Bicycle System Plan

Amend Table 6-2 (Bicycle System Projects and Program) to add the Council Creek Regional Trail:

Project	Segment	Description	Planning Level Cost Estimate (thousands)
Pacific Ave.	B St. to E St.	Re-stripe roadway to provide bike lanes	\$7
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Cedar St.	Hwy. 47 Path to 24th Ave.	Develop Bicycle Boulevard	\$65
B St.	19th Ave. to David Hill Road	Develop Bicycle Boulevard	\$70
Willamina Ave./Goff Rd./23rd Ave.	Gales Cr. Rd. to Main St.	Develop Bicycle Boulevard	\$83
Bicycle Wayfinding Signage Plan	N/A	Develop citywide bicycle Wayfinding Signage Plan identifying: appropriate locations for signs, destinations to be highlighted on each sign, and approximate distance and riding time to each destination	\$20

Zoning Ordinance bicycle parking requirements update	N/A	Update Zoning Ordinance to establish short-term bicycle parking requirements for additional individual land uses, and to establish long-term parking requirements	\$10
<u>Council Creek Regional Trail Improvements</u>	<u>Three</u>	<u>Construct Council Creek Regional Trail through Forest Grove consistent with the Council Creek Regional Trail Master Plan (May 2015).</u>	<u>\$5,200</u>
Total			<u>\$1,769,699</u>



A place where families and businesses thrive.

February 23, 2016

NewsTimes

Legal Ads/Public Notice:

To be published: Wednesday, March 9, 2016

NOTICE OF PUBLIC HEARING FOR THE CITY OF FOREST GROVE

NOTICE IS HEREBY GIVEN that the Forest Grove City Council will hold a Public Hearing on **Monday, March 14, 2016**, at 7:00 p.m. or thereafter, at the Forest Grove Community Auditorium, 1915 Main Street, to consider the Planning Commission's recommendation to approve the following proposal:

Proposal: City-initiated amendments to the Forest Grove Development Code to implement goals and policies contained in the Forest Grove Comprehensive Plan. The proposed amendments generally include the following:

1. Add a section to the Forest Grove Development Code for a new Neighborhood Mixed Use Zoning (NMU) District to:
 - a. Establish minimum and maximum commercial floor area for each NMU area described below.
 - b. Establish allowed residential development densities for each NMU area.
2. Add a section to the Forest Grove Development Code to require review of new development within the NMU District through a planned development process (Mixed Use Planned Development).
3. Amend the official Forest Grove Zoning Map to apply the new Neighborhood Mixed Use Area in the following locations:
 - a. Generally east of Sunset Drive, south of Hwy. 47 (approximately 25 gross acres);
 - b. North of Gales Creek Road and west of Thatcher Rd (approximately 6.5 gross acres);
 - c. North of David Hill Road, west of Thatcher Road and east of creek (approximately 8.5 gross acres).
4. Increase the allowed residential development density in the Forest Grove Town Center from 20.28 dwellings per net acre to 40.0 units per net acre by right and up to 100 units per net acre if specific project amenities are provided.
5. Add a section to the Forest Grove Development Code to identify specific project amenities qualifying for residential density increases in the Town Center.
6. Revise the definition of net acre for purposes of calculating density so that net acre does not include rights-of-way through or on the edge of the site, environmentally constrained areas, or land intended for public ownership such as park and open space areas.
7. Update the Forest Grove Design Handbook for consistency with the Forest Grove Development Code and update graphics.
8. Change the zoning of property from Town Center Support (TCS) to Town Center Transition (TCT).

9. Change zoning of property from Community Commercial (CC) to Town Center Transition (TCT) between Cedar Street and Elm Street and 21st Avenue and approx. ½ block south of the 19th Avenue.
10. Add wording to the Forest Grove Development Code to allow the continuation of uses in Neighborhood Mixed Use Areas and the Town Center Support area between Cedar Street and Elm Street and 21st Avenue and approximately ½ block south of 19th Avenue that would otherwise become non-conforming uses. These are primarily auto related uses.
11. Add wording to the Forest Grove Development Code to require a minimum amount of parking for new multifamily development in the Forest Grove Town Center where no residential parking minimums currently exist.
12. Increase the target residential density along the Pacific Avenue and 19th Avenue Community Commercial (CC) corridor from 20.28 dwellings per net acre to 30.0 dwellings per net acre.

Applicant: City of Forest Grove

File Number: 311-15-00020-PLNG

Criteria:

Development Code Text Amendments (DC 10.2.630)

- A. The text amendment is consistent with the relevant goals and policies of the Forest Grove Comprehensive Plan; and
- B. The text amendment is consistent with relevant statewide and regional planning goals, programs and rules.

Zone Change (DC 10.2.770)

- 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 will be determined on a case-by-case basis since the impacts of the 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; 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, storm water disposal and police and fire protection are capable of supporting the uses allowed by the zone. Adequacy of services is based in 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.

All persons will be given a reasonable opportunity to give testimony about this proposal responding to the review criteria. If an issue is not raised in the hearing (by person or letter) or if the issue is not explained in sufficient detail to allow the City Council to respond to the issue, then that issue cannot be used for an appeal to the Land Use Board of Appeals. If additional documents or evidence are provided in support of the application, any party shall be entitled to a continuance of the hearing. Unless there is a continuance,

if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. A copy of the report is 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: March 9, 2016

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<i>CITY RECORDER USE ONLY:</i>	
AGENDA ITEM #:	7.
FINAL ACTION:	<i>for reading</i>

A place where families and businesses thrive.

CITY COUNCIL STAFF REPORT

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

MEETING DATE: *March 14, 2016*

PROJECT TEAM: *Jon Holan, Community Development Director; Daniel Riordan, Senior Planner; and James Reitz, Senior Planner*

SUBJECT TITLE: *Public Hearing and First Reading of Ordinances Amending Forest Grove Development Code, Comprehensive Plan Map and Official Zoning Map to Implement Provisions of the Forest Grove Comprehensive Plan updated in 2014; File No. 311-15-00020-PLNG*

ACTION REQUESTED: Ordinance Order Resolution Motion Informational

X all that apply

ISSUE STATEMENT: The City of Forest Grove received grant funding through the Code Assistance program managed by the Oregon Department of Land Conservation and Development to fund consulting assistance for the preparation of amendments to the Forest Grove Development Code, Comprehensive Plan Map and Official Zoning Map. The proposed amendments are necessary to implement land use policies contained in the Forest Grove Comprehensive Plan updated in 2014. This memorandum summarizes the proposed amendments for Council consideration.

BACKGROUND: The Forest Grove Comprehensive Plan was updated by City Council on January 27, 2014. This Plan update was the first rewrite since initial adoption in 1980. The updated Plan includes new policies for:

- Increasing residential density in the Town Center to encourage new housing construction and efficient use of land;
- Establishing a density bonus option for new housing developments in the Town Center provided certain project amenities are provided;
- Establishing a new Neighborhood Mixed Use land use designation to promote "complete neighborhoods" with a variety of housing types and neighborhood-scale commercial uses in the City's planning area; and
- Expanding Town Center zoning from Cedar Street to Elm Street in the area of 21st Avenue and 19th Avenue.

The City applied for a received a grant through the Code Assistance program managed by the Oregon Department of Land Conservation and Development to implement new land use policies contained in the Comprehensive Plan. As explained in this memorandum, implementation of the land use policies provides an opportunity to increase residential density in the Town Center and near commercial areas thereby

expanding housing choice. Implementation of the land use policies also provides opportunity to promote “complete neighborhoods” with a variety of housing located near shopping and services.

A robust public involvement process was used to support this planning effort. This included stakeholder interviews conducted by the project consultant in January and June 2015. Two public community open houses were held in March and September 2015. Approximately 25 members of the public participated. In addition, four work sessions were held with the Planning Commission including one joint work session with the City Council in November 2015.

The next section of this memorandum outlines the proposed amendments to the Development Code, Comprehensive Plan Map and Official zoning map. This is followed by a summary of the Planning Commission’s deliberations pertaining to several of the proposed amendments.

Proposed Development Code Amendments

The proposed amendments include:

- **Amend Development Code Article 12 (Definitions)** related to net-acre and net-density. The current definition “nets out” street rights-of-way and land held in common including public and private open space and common driveways and parking areas. This amendment would result in excluding/netting-out only street rights-of-way, environmentally constrained areas and land intended for public ownership. The outcome would be an increase in dwelling-unit yield in the Town Center and in subdivisions depending on development design.

The Planning Commission engaged in considerable deliberation on this proposed amendment. A summary of the deliberation is provided below beginning on Page 8.

- **Amend Development Code Article 3 (Zoning Districts)** to increase the “target” residential development density from 20.28 units per net acre to 40 units per net acre. The current target density of 20.28 units per net acre is typical of two story apartment complexes with significant open space and off-street parking. The proposed target density of 40 units per net acre is typical of three story construction with on-site parking found in many smaller city downtowns or “main street” areas.
- **Amend Development Code Article 7 (Miscellaneous Provisions)** to establish project eligibility requirements for density bonuses in the Town Center. Qualifying projects must include certain amenities or design features. Amenities and design features include:
 - Bicycle Amenities
 - Energy Efficiency
 - “Green” Building Materials
 - Low Impact Design
 - Ground Floor Retail (at least 5,000 square feet)
 - Residential Gardening
 - Rooftop Garden or Eco-roof
 - Public plaza/outdoor patio/seating area
 - Structured parking
 - LEED certification
 - Affordable housing (at least 20% of units for 80% median income or lower)
 - Other amenity approved by the Planning Commission

Amenities and design features are assigned points ranging from 1 to 12. Projects would receive graduated increases in density based on the number of points achieved as shown on the table below. The maximum density allowed would be capped at 100 units per acre which is characteristic of four or five story construction depending on size of units. The current building height limit of four stories is proposed to remain so achieving the maximum density of 100 units per acre would be a challenge requiring a thoughtful approach to design. Under the Development Code, multiple family projects with more than six units require design review approval from the Planning Commission.

Density Bonus Point System

Minimum Points	Density Increase
11 points	10 units/acre
14 points	20 units/acre
19 points	30 units/acre
25 points	40 units/acre
30 points	60 units/acre
Affordable Housing (at least 20% of units for 80% median income or lower)	20 units/acre

- Amend Development Code Article 3 to delete the Town Center Support (TCS) zone. Development Code Article 3 identifies three Town Center zones: Town Center Core, Town Center Support and Town Center Transition. The difference between the Town Center Support and Town Center Transition zones is minor. For example, The TCS classifies “Major Event Entertainment” as a conditional use. Major Event Entertainment is defined to mean facilities such as auditoriums, stadiums, convention centers and race tracks which provide athletic, cultural or entertainment events and exhibits for large groups of spectators. Major Event Entertainment is not allowed in the TCT zone.

Another difference between the TCS and TCT zone is related to allowed commercial density. Commercial density is based on a floor area ratio. The minimum floor area ratio in the TCT zone is 0.75:1. This means a one story building must occupy 75% of the land. In contrast, a two story building must occupy about 38% of the land. The minimum floor area ratio in the TCS zone is 0.5:1.

Given the minor differences between the TCS and TCT the proposal is to eliminate the TCS and use the TCT zone its place. With this change Major Event Entertainment would become a conditional use rather than a prohibited use. The minimum floor area ratio in the TCT zone would change from 0.75:1 to 0.5:1 and the maximum would change from 3:1 to 4:1 consistent with the current maximum building height of 4 stories. Under this approach, a building could occupy the entire site and be four stories rather than only three stories.

- Amend Development Code Article 3 to establish a new Neighborhood Mixed Use zoning designation.

The Comprehensive Plan established a new neighborhood mixed use classification. Three sites were identified for neighborhood mixed use on the Comprehensive Plan Map when the Plan was revised in 2014. A zoning designation corresponding with the neighborhood mixed use Plan

designation must be added to the Development Code to establish permitted uses and development standards.

NMU Zoned Area	Minimum Square Footage	Maximum Square Footage
Area 1 - David Hill	None	15,000 SF Gross Floor Area
Area 2 - Gales Creek	None	25,000 SF Gross Floor Area
Area 3 – Davidson	25,000 SF Gross Floor Area	130,000 SF Gross Floor Area

Maximum building footprint in Area 3: 50,000 square feet of gross floor area

One tenant in Area 3 may occupy up to 50,000 square feet of gross floor area.

Multiple tenants in a single building are allowed.

NMU Zoned Area	Minimum Density	Target Density	Maximum Density
Area 1 - David Hill	9.6 units/net acre	12 units/net acre	13.8 units/net acre
Area 2 - Gales Creek	6.97 units/net acre	8.71 units/net acre	10.02 units/net acre
Area 3 - Davidson	9.6 units/net acre	12 units/net acre	13.8 units/net acre

Amend Development Code Article 4 to establish a development review process for the Neighborhood Mixed Use zone. The NMU zone is intended to provide opportunity for a variety of housing types within development located near limited commercial activities. A development review process is necessary to ensure that individual developments are integrated and form a cohesive whole. To achieve this it is recommended that proposed development in the NMU zone be reviewed under a planned development approach. This approach would require development review and approval by the Planning Commission.

- Amend Article 3 to increase target density in the Community Commercial zone

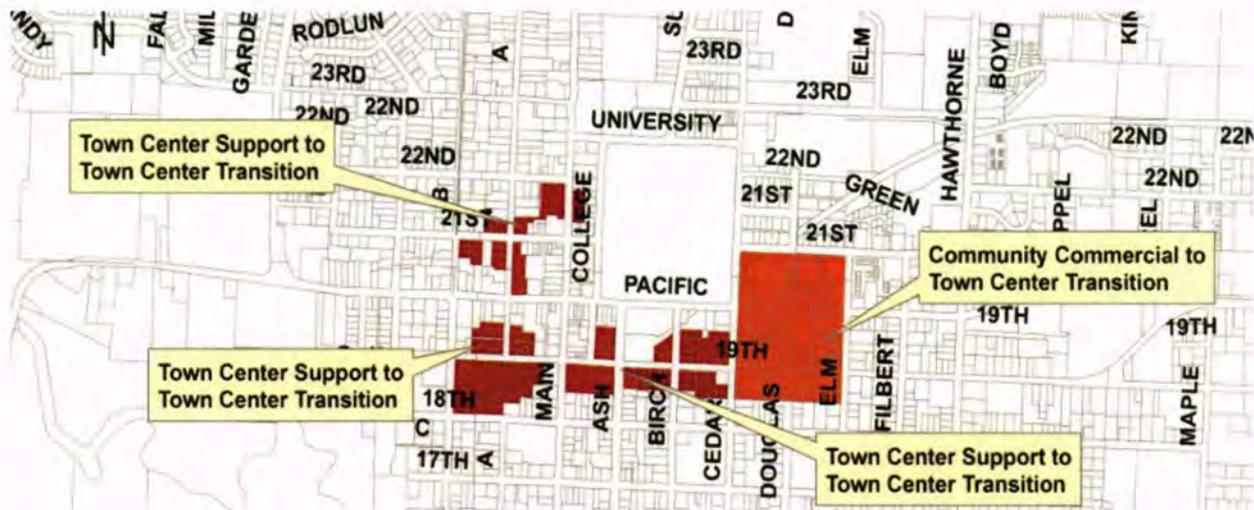
The Comprehensive Plan encourages the efficient use of land within the urban growth boundary. This is achieved, in part, by establishing minimum development densities for each zoning district that allows residential development. The CC zone allows multifamily housing anywhere in the zone. The current target residential density in the CC zone is 20.28 units per net acre. This density allows for the typical two-story apartment building. The recommendation is to increase the target density from 20.28 units per acre to 30 units per acre. This will allow for more contemporary apartment building design with three story buildings. Increasing the target density also improves the financial feasibility of multiple family housing, by allowing more units, along the Tri-Met bus line and near shopping and other commercial activities.

Zoning Designation	Minimum Density	Maximum Density
Community Commercial	16.22 units/net acre	30 units/net acre

- **Amend Design Guideline Handbook** The proposed amendments include adding graphics to the Design Guideline Handbook and ensuring consistency between the Handbook and Development Code.

Proposed Comprehensive Plan Map Amendments

The update to the Comprehensive Plan in 2014 identified an area as “Town Center Expansion” on the Comprehensive Plan Map. This area is located between Cedar and Elm Street and 21st Avenue and just south of 19th Avenue as shown on the map below. This area is intended to be a transition between the more auto-oriented commercial corridor and the Town Center core. The subject area is currently designated Community Commercial. The recommendation is to change the Comprehensive Plan designation to Town Center Transition.



The map above also shows the area proposed for a Comprehensive Plan Map change from Town Center Support to Town Center Transition. This change is necessary since the Town Center Support designation is proposed for elimination as part of the recommended Development Code amendments.

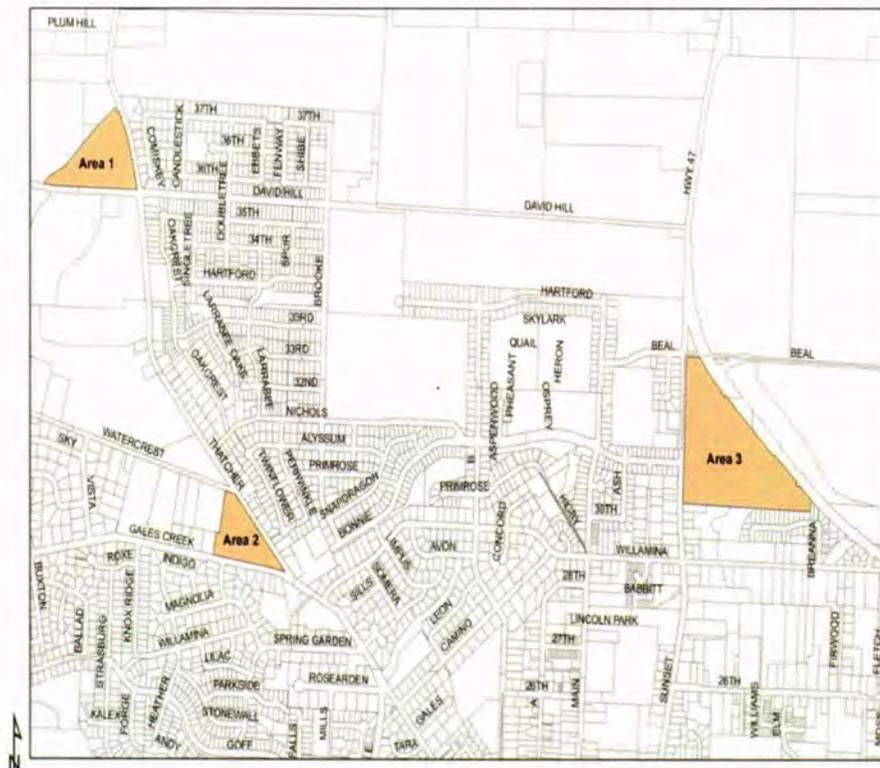
The table below shows the amount of land affected by the proposed Comprehensive Plan map changes. This information is provided for reference.

	Current Comp Plan Designation	Proposed Comp Plan Designation	Gross Proposed Redesignated	Acreage to be
Town Center Expansion Area (Cedar St. to Elm St. and south of 19th Avenue to 21st Avenue)	Community Commercial	Town Center Transition	24.2 acres	
Town Center Consolidation	Town Center Support	Town Center Transition	22.6 acres	

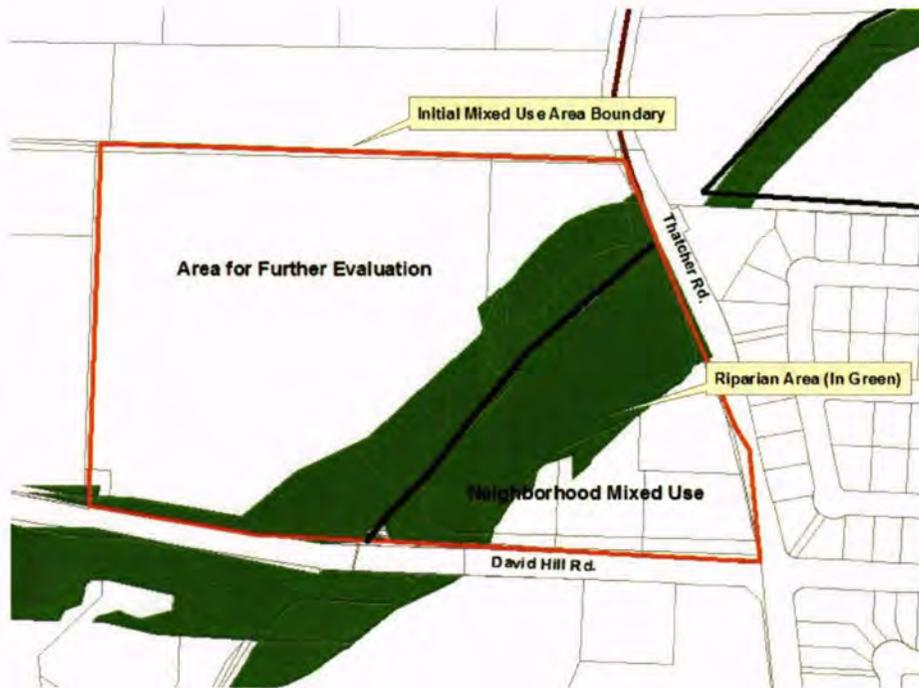
Proposed Zoning Map Amendments

As part of the update of the Forest Grove Comprehensive Plan in 2014 City Council adopted an ordinance designating three areas for Neighborhood Mixed Use development on the Comprehensive Plan map. The map below shows the three areas. Area 1 is located at the intersection of Thatcher Road and David Hill Road. Area 2 is located at the intersection of Thatcher Road and Gales Creek Road. Area 3 is located mostly east of Sunset Drive and west of Highway 47.

Mixed Use Areas



It should be noted Area 1 on the map above is smaller than the area designated for Neighborhood Mixed Use on the Comprehensive Plan map. The reason for this is the Area 1 is part of the Westside Planning Project. Public comment received during the Westside Planning Project supported further consideration of the zoning west of the area depicted as Area 1 above. The map below shows the boundary of Neighborhood Mixed Use shown on the Comprehensive Plan map and area identified for further evaluation. The area proposed for further evaluation is generally west of an existing creek and riparian area. A final zoning recommendation for the area west of the creek will be provided to City Council as part of Council's consideration of the Westside Planning Project.



The table below shows the current zoning and gross acreage recommended for rezoning.

	Current Zoning	Proposed Zoning	Gross Acreage Proposed to be Rezoned
Mixed Use Area 1 (David Hill)	R-10	NMU	8.5 acres
Mixed Use Area 2 (CPD Area)	CPD	NMU	6.4 acres
Mixed Use Area 3 (Davidson Site)	LI	NMU	23.5 acres
Town Center Consolidation	TCS	TCT	22.6 acres
Town Center Expansion Area (Cedar St. to Elm St. and south of 19th Avenue to 21st Avenue)	CC	TCT	24.2 acres

PLANNING COMMISSION DELIBERATIONS

The Planning Commission held a public hearing on the proposed amendments on January 5, 2016. The Planning Commission’s Findings and Decision are attached for reference (Attachment A).

The Planning Commission’s deliberations focused on three issues:

- Amendment to revise Net-Density/Net-Acre definition;
- Amount of permissible commercial space at the Neighborhood Mixed Use Area #3 (Sunset Drive and Hwy. 47); and
- Weighting project amenities eligible for the proposed Town Center residential density bonus.

Each of these issues is discussed more fully below:

Net-Density/Net-Acre Definition

As explained above, the current definition of net-acre “nets-out” all common areas including sidewalks, public rights-of-way, public and private streets, common driveways, public and private open space areas and other areas intended for common use such as parking areas. Netting-out these areas results in lowering the total number of allowed dwelling units on a site. This is especially true for projects in the Town Center with off-street parking and subdivisions providing significant amounts of private open space. The impact is much less in subdivisions providing modest amounts of open space.

During the Planning Commission’s deliberations several members expressed concern that revising the net-density/net-acre definition could change the character of Forest Grove’s neighborhoods. The Planning Commission discussed the possibility of applying the revised definition in the Town Center to encourage density downtown and keeping the current definition for the City’s residential zones.

The Planning Commission requested that staff provide several examples of how changing the net density could impact dwelling unit yield and overall project density. Several examples are provided below. Two examples are typical subdivision developments with varying levels of common open space. The third example illustrates an urban form of development in the Town Center.

Example 1

The site plan below shows a 204 lot subdivision on 49.1 gross acres of land. The property is assumed to be zoned Single Family Residential (R-5). The R-5 zoning designation has a target density of 8.71 dwellings per net acre.



Under the current definition of net density public rights-of-way and other tracts of land are “netted out” for purposes of calculating dwelling unit yield. The chart below shows the amount of land that could be netted out under the current definition.

Analysis Based on Current Definition of Net Density

Gross Acres	49.1 acres
Rights-of-Way (Public)	9.8 acres
Tract A (Private Open Space)	4.7 acres
Tract B (Private Open Space)	5.7 acres
Net Acres	28.9 acres
Dwelling Unit Yield	251 units

Analysis Based on Proposed Definition of Net Density

Gross Acres	49.1 acres
Rights-of-Way	9.8 acres
Environmentally Constrained Areas	3.5 acre
Net Acres	35.8 acres
Dwelling Unit Yield	311 dwellings

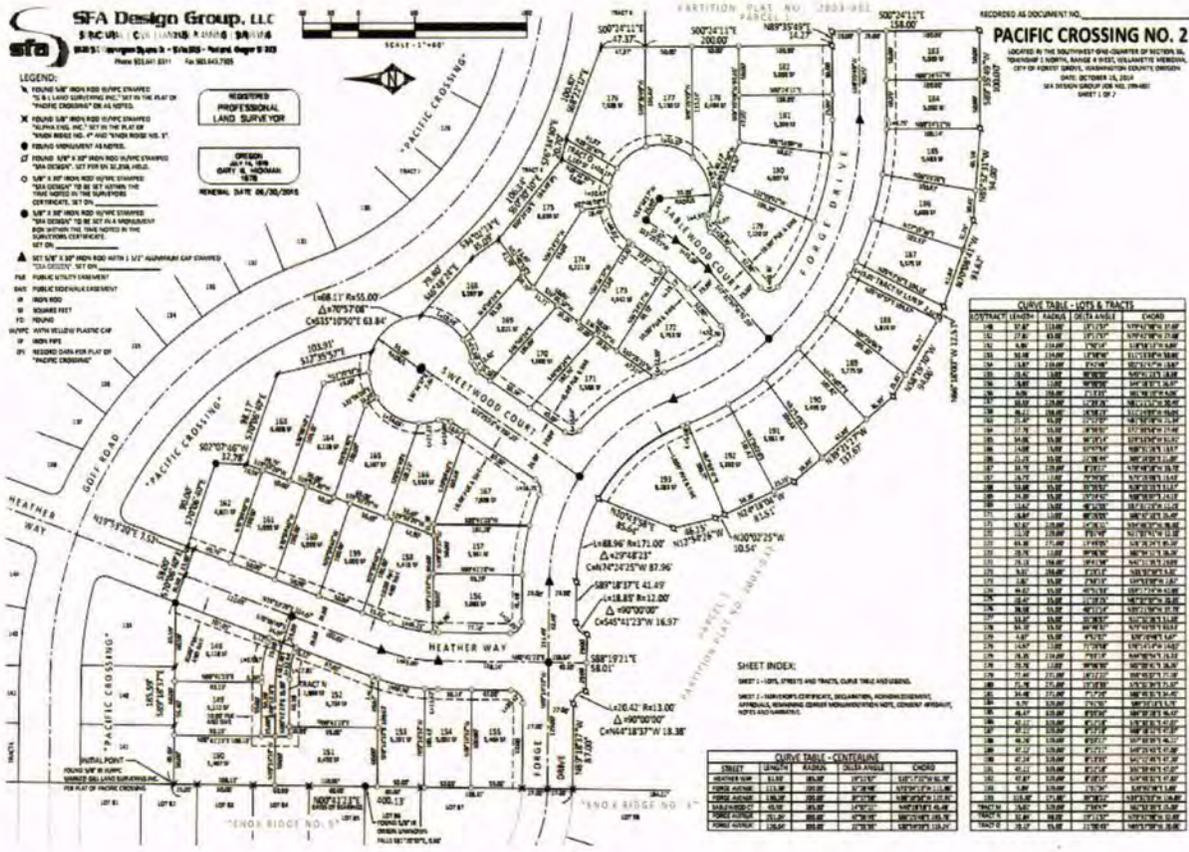
Under the proposed definition of “net density” public rights-of way would be “netted out”. In addition environmentally constrained would be netted out as would land intended for public ownership such as parkland, school sites, electrical substations and the like. Unlike with the current definition common areas held in private ownership would not be netted out. The implications of this are summarized below.

Under the current definition of net density the target dwelling unit yield is 251 units (28.9 acres x 8.71 dwelling units per net acre). Under the proposed net density definition the target dwelling unit yield is 311 units (35.8 acres x 8.71 acres). Using the revised definition of net density in this example could result in an additional 60 dwelling units. As a result there is a potential for land to be used more efficiently within the urban growth boundary with the revised definition.

The analysis above shows that revising the definition of net density could result in more efficient use of land. Revising the definition will also correct a disincentive for providing more privately owned common open space. Since under the current definition privately owned common open space is netted out, providing more private common space will result in fewer units.

Example 2

Example 2 is similar to Example 1 except there is little common space identified except for street rights-of-way. The implication of this, as shown on the tables below, is there would be little difference in potential dwelling unit yield. The site plan below shows a 46-lot subdivision on 9.2 gross acres. The subject property is zoned R-7 with a target density of 6.22 dwellings per net acre.



Analysis Based on Current Definition of Net Density

Gross Acres	9.2 acres
Rights-of-Way (Public)	1.4 acres
Private Open Space	0.3 acres
Net Acres	7.5 acres
Dwelling Unity Yield	46 units

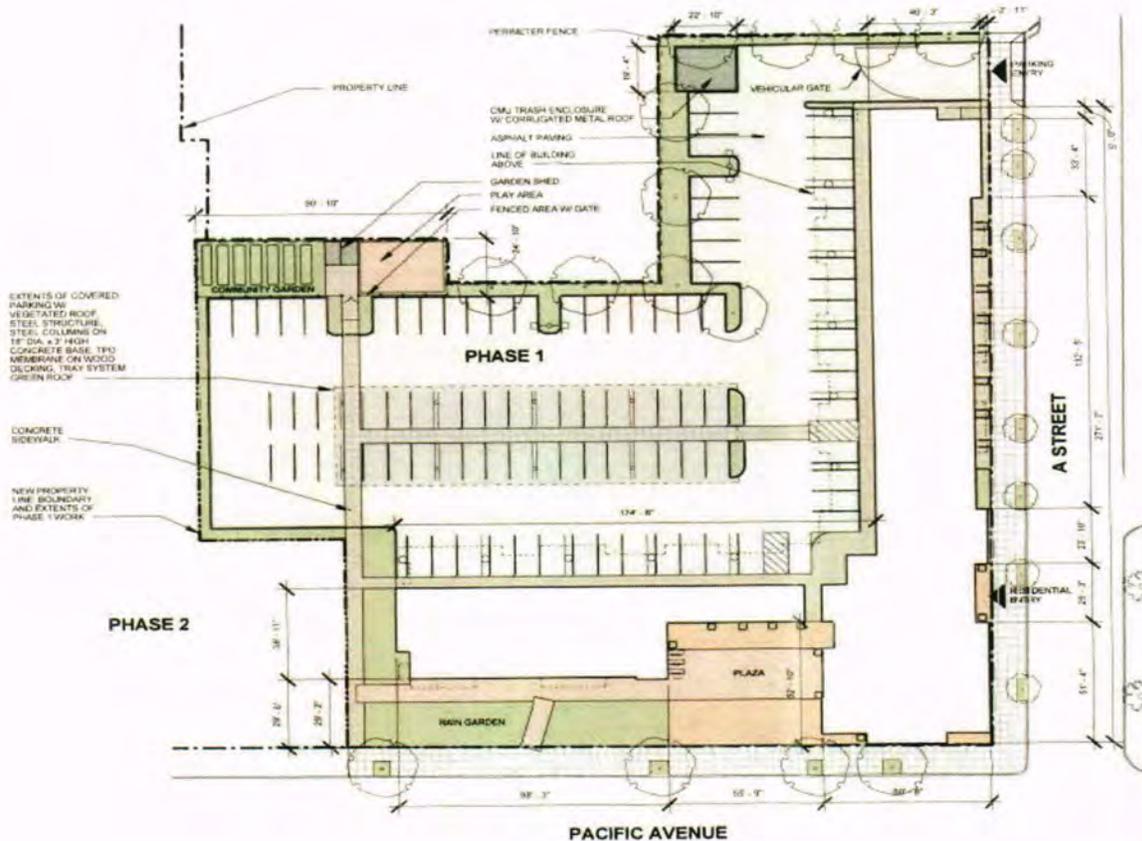
Analysis Based on Proposed Definition of Net Density

Gross Acres	9.2 acres
Rights-of-Way (Public)	1.4 acres
Net Acres	7.8 acres
Dwelling Unity Yield	48 units

Under the current definition of net density the dwelling unit yield is 46 units (7.5 acres x 6.22 dwellings per net acre). Under the proposed definition of net density the dwelling unit yield would increase by 2 units for a total of 48 dwellings (7.8 acres x 6.22 dwellings per net acre).

Example 3

Example 3, on the next page, represents an urban form of development where the entire site is used for development. The site area is approximately 1.53 acres. The property is zoned Town Center Support and Town Center Transition. The maximum density in these Town Center zones is 20.28 dwellings per net acre.



Under the current definition of net density, common areas are netted-out for purposes of calculating dwelling unit yield. This includes common open space, driveways, and parking areas. In essence, only the land used for the building footprint is used for purposes of the dwelling unit calculation. Under the revised definition of net density it would be clear that only common areas dedicated to the public are netted out for purposes of the dwelling calculation. The implication of this is shown on the tables below.

Analysis Based on Current Definition of Net Density

Gross Acres	1.53 acres
Common Space (Access Driveway, Parking Lot, Play Area, Garden)	0.74 acres
Net Acres	0.79 acres
Dwelling Unity Yield	15 units

Analysis Based on Proposed Definition of Net Density

Gross Acres	1.53 acres
Public Common Area (private common area not netted out)	0.00 acres
Net Acres	1.53 acres
Dwelling Unity Yield	31 units

The analysis above shows that revising the current definition of net density would essentially double the number of dwelling units allowed on the property. Based on the current density of 20.28 dwellings per net acre the number of units would increase from 15 dwellings to 31 dwelling. Not only does this represent a more efficient use of land, revising the net density definition could be the difference between a project being financially feasible or not. Further, it would bring the City in better compliance with the State of Oregon Metropolitan Housing Rule requirement of maintaining a City-wide average density of 8 units per net buildable acre.

After considerable discussion the Planning Commission's motion to retain the current net-density/net-acre definition failed on a 2-2 vote with three members absent. As a result the original proposal to apply the revised definition City-wide remains as the recommendation.

Amount of Commercial Space at Neighborhood Mixed Use Area 3 (Sunset Drive and Hwy. 47)

The Planning Commission discussed at length the recommended maximum commercial building area to allow at Neighborhood Mixed-Use Area 3. The recommended amount is 130,000 square feet with a maximum building footprint of 50,000 square feet which is large enough to accommodate a supermarket.

The Planning Commission considered an alternative maximum of 75,000 square feet suggested by the project technical advisory committee. The technical advisory committee included staff, the project consultant and a representative from the Oregon Department of Land Conservation and Development. The alternative maximum was suggested to reinforce a neighborhood scale. In the end, the Planning Commission retained the 130,000 square foot maximum recognizing it's only a maximum and demand for space will determine the ultimate amount of commercial space.

Weighting project amenities eligible for the proposed Town Center residential density bonus.

The Planning Commission also discussed the recommended project amenities and design features eligible for the Town Center density bonus. The recommended point system and amount of density bonus is shown below.

Tier 1: Density Incentives for Project Amenities		
<p>Tier 1 density incentives are earned when a developer provides the project amenities listed in Table 7-3 to earn the number of points required for the density increases shown in this table.</p> <p>In order to qualify for a density incentive the proposed improvements must provide an amenity which is not otherwise required by the Development Code. Where a qualifying amenity requires that a minimum amount of area be provided, the same square footage may not be counted towards other amenities. The property owner may be required to execute a covenant with the City ensuring continuation and maintenance of the qualifying amenity by the property owner. Projects cannot qualify for multiple point values in the same amenity category.</p>	Minimum Points Required	Density Increase
	11 points	10 units/acre
	14 points	20 units/acre
	19 points	30 units/acre
	25 points	40 units/acre
	30 points	60 units/acre
Tier 2: Density Incentives for Affordable Housing		
<p>Tier 2 density incentives are earned when 20% of units are set aside for renters or purchasers earning no more than 80% of median income and paying no more than 30% of total household income in rent or mortgage.</p> <p>Such units shall be developed by a developer with experience undertaking market and non-profit low-income housing developments. This density bonus does not apply to institutional housing</p>		20 units/acre

FINDINGS: Findings supporting the Planning Commission's recommendation is attached. The findings address the applicable review considerations and criteria contained in the Comprehensive Plan and Development Code.

FISCAL IMPACT: None

ALTERNATIVES: City Council has three alternatives with respect to the proposed amendments. Alternatives include:

1. Accept the Planning Commission recommendation as proposed;
2. Modify the Planning Commission recommendation with supportive findings of fact;
3. Refer the proposal back to the Planning Commission for further consideration.

STAFF RECOMMENDATION: Staff recommends City Council select Alternative 1 above and adopt the necessary Ordinances for first reading on March 14 and second reading on March 28, 2016, approving recommended amendments to the Development Code, Comprehensive Plan Map, and Zoning Map to implement Forest Grove Comprehensive Plan policies related to mixed-use areas, efficient use of land in the Town Center, and encourage housing within the Community Commercial zone.

ATTACHMENT:

- A. Planning Commission Findings and Decision Number 2016-01

**Planning Commission Findings and Decision Number 2016-01
Legislative Amendments to the Forest Grove Development Code, Comprehensive Plan
Map and Official Zoning Map
File Number: 311-15-00027-PLNG**

WHEREAS, The City of Forest Grove approved Ordinance 2014-01 and 2014-02 updating the Forest Grove Comprehensive Plan; and

WHEREAS, the updated Forest Grove Comprehensive Plan requires specific revisions to the Forest Grove Development Code, Comprehensive Plan Map and Official Zoning map; and

WHEREAS, the City desires to make other amendments to the Development Code to promote the efficient use of land within commercial areas; and

WHEREAS, the Planning Commission held a public hearing on the proposed amendments on January 5, 2016; and

WHEREAS, notice of the proposed amendments was mailed to property owners and residents within 300 feet of the subject site on December 16, 2015, as required by Development Code Section 10.1.610; and

WHEREAS, notice of this request and public hearing was published in the Forest Grove News-Times on December 30, 2015; and

WHEREAS, a staff report addressing the review criteria and applicant's submittal was published on December 28, 2015; and

WHEREAS, the Planning Commission recommends the following amendments to the Forest Grove Comprehensive Plan Map and Official Zoning Map; and

	Current Comp Plan Designation	Proposed Comp Plan Designation	Current Zoning	Proposed Zoning	Gross Acreage Proposed to be Rezoned
Mixed Use Area 1 (David Hill)	C-Low	Mixed Use	R-10	NMU	8.5 acres
Mixed Use Area 2 (CPD Area)	Commercial Planned Development	Mixed Use	CPD	NMU	6.4 acres
Mixed Use Area 3 (Davidson Site)	Light Industrial	Mixed Use	LI	NMU	23.5 acres
Town Center Consolidation	Town Center Support	Town Center Transition	TCS	TCT	22.6 acres
Town Center Expansion Area (Cedar St. to Elm St. and south of 19th Avenue to 21st Avenue)	Community Commercial	Town Center Transition	CC	TCT	24.2 acres

Planning Commission Findings and Decision Number 2016-01
Legislative Amendments to the Forest Grove Development Code, Comprehensive Plan
Map and Official Zoning Map
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WHEREAS, the Planning Commission recommends the following amendments to the Forest Grove Comprehensive Plan Map and Official Zoning Map; and

	Current Comp Plan Designation	Proposed Comp Plan Designation	Current Zoning	Proposed Zoning	Gross Acreage Proposed to be Rezoned
Mixed Use Area 1 (David Hill)	C-Low	Mixed Use	R-10	NMU	8.5 acres
Mixed Use Area 2 (CPD Area)	Commercial Planned Development	Mixed Use	CPD	NMU	6.4 acres
Mixed Use Area 3 (Davidson Site)	Light Industrial	Mixed Use	LI	NMU	23.5 acres
Town Center Consolidation	Town Center Support	Town Center Transition	TCS	TCT	22.6 acres
Town Center Expansion Area (Cedar St. to Elm St. and south of 19th Avenue to 21st Avenue)	Community Commercial	Town Center Transition	CC	TCT	24.2 acres

WHEREAS, the Planning Commission recommends the following density ranges for the Neighborhood Mixed Use areas shown on Exhibit A; and

NMU Zoned Area	Minimum Density	Target Density	Maximum Density
Area 1 - David Hill	9.6 units/net acre	12 units/net acre	13.8 units/net acre
Area 2 - Gales Creek	6.97 units/net acre	8.71 units/net acre	10.02 units/net acre
Area 3 - Davidson	9.6 units/net acre	12 units/net acre	13.8 units/net acre

WHEREAS, The Planning Commission recommends the following commercial floor area standards for the Neighborhood Mixed Use areas shown on Exhibit A; and

NMU Zoned Area	Minimum Square Footage	Maximum Square Footage
Area 1 - David Hill	None	15,000 SF Gross Floor Area
Area 2 - Gales Creek	None	25,000 SF Gross Floor Area
Area 3 – Davidson	25,000 SF Gross Floor Area	130,000 SF Gross Floor Area Maximum building footprint in Area 3: 50,000 square feet of gross floor area One tenant in Area 3 may occupy up to 50,000 square feet of gross floor area. Multiple tenants in a single building are allowed.

WHEREAS, the Planning Commission recommends the following increase to the maximum density in the Community Commercial zone shown on Exhibit B:

Zoning Designation	Minimum Density	Maximum Density
Community Commercial	16.22 units/net acre	30 units/net acre

WHEREAS, the Planning Commission recommends the following density incentives for project amenities:

<u>Tier 1: Density Incentives for Project Amenities</u>		
<p><u>Tier 1 density incentives are earned when a developer provides the project amenities listed in Table 7-3 to earn the number of points required for the density increases shown in this table.</u></p> <p><u>In order to qualify for a density incentive the proposed improvements must provide an amenity which is not otherwise required by the Development Code. Where a qualifying amenity requires that a minimum amount of area be provided, the same square footage may not be counted towards other amenities. The property owner may be required to execute a covenant with the City ensuring continuation and maintenance of the qualifying amenity by the property owner. Projects cannot qualify for multiple point values in the same amenity category.</u></p>	<u>Minimum Points Required</u>	<u>Density Increase</u>
	<u>11 points</u>	<u>10 units/acre</u>
	<u>14 points</u>	<u>20 units/acre</u>
	<u>19 points</u>	<u>30 units/acre</u>
	<u>25 points</u>	<u>40 units/acre</u>
	<u>30 points</u>	<u>60 units/acre</u>
<u>Tier 2: Density Incentives for Affordable Housing</u>		
<p><u>Tier 2 density incentives are earned when 20% of units are set aside for renters or purchasers earning no more than 80% of median income and paying no more than 30% of total household income in rent or mortgage.</u></p> <p><u>Such units shall be developed by a developer with experience undertaking market and non-profit low-income housing developments. This density bonus does not apply to institutional housing</u></p>		<u>20 units/acre</u>

<u>Amenity Category</u>	<u>Value</u>	<u>Description</u>
<u>Bicycle Amenities</u>	<u>1 point</u>	<u>Provide residents with enhanced bicycle amenities (parking and repair area). The area dedicated to long-term bicycle parking shall be sized to accommodate 0.5 bicycles per unit and must be covered and secure. The area dedicated to bicycle repair shall be a minimum of 50 square feet in area and designed and equipped to facilitate bicycle maintenance.</u>
<u>Energy Efficiency</u>	<u>2 points</u>	<u>Energy efficiency improvements compliant with Energy Trust of Oregon. Projects must enroll in the Energy Trust's Design Assistance program during schematic design or earlier and commit to exceeding Oregon code requirements by a minimum of five percent.</u>
	<u>2 points</u>	<u>Achieve an Energy Star score of 7 or better, as calculated by the EPA online tool.</u>
	<u>3 points</u>	<u>Project designed to Net Zero Energy Certification.</u>
<u>"Green" Materials</u>	<u>2 points</u>	<p><u>Use environmentally sensitive ("Green") materials on at least 50% of the building's interior surfaces including:</u></p> <ul style="list-style-type: none"> • <u>Wall and Ceiling Latex Paint: Low-VOC</u> • <u>Paint with recycled content: minimum 50% post-consumer</u> • <u>Countertop with recycled content: 25% Post-consumer content</u>

		<ul style="list-style-type: none"> • <u>Carpet with post-consumer recycled content (+50%)</u> • <u>Renewable flooring materials: Linoleum, Cork, Bamboo, or Wool</u> <ul style="list-style-type: none"> • <u>Forest Stewardship Council certified wood Reclaimed Wood</u>
	<u>3 points</u>	<u>Use of "Green Material" on at least 75% of the building's interior.</u>
<u>Low Impact Design</u>	<u>1 point</u>	<u>Manage all stormwater from the site using low impact design techniques from <i>Clean Water Services Low Impact Development Handbook for the Tualatin Basin</i></u>
<u>Ground Floor Retail</u>	<u>3 points</u>	<u>Provide at least 5,000 square feet of retail or space which is designed to be convertible to ground level retail. A density bonus for this amenity is available in the TCT zone only.</u>
<u>Residential Gardening</u>	<u>2 points</u>	<u>Provide a community garden for use by residents. The garden must include raised beds (minimum size 3' by 5') with improved soil and a water source for irrigation. The garden may be at grade or rooftop, but must be located in an area with adequate sunlight (minimum 6 hours/day). The area dedicated to the community garden shall be sized to accommodate 0.3 raised beds per unit plus walkways.</u>
<u>Rooftop Garden or Eco-Roof</u>	<u>2 points</u>	<u>Provide a rooftop garden or an eco-roof. The rooftop garden or eco-roof must cover at least 50 percent of the roof area of the building. Rooftop gardens must be accessible to residents and at least 30 percent of the garden area must contain plants. The remaining area must include seating areas and other amenities. Eco-roofs must be designed to reduce stormwater and be entirely covered with vegetation.</u>
<u>Public Plaza/Outdoor Patio/Seating Area</u>	<u>2 points</u>	<u>Where ground floor retail is planned, provide a patio area for outdoor seating between the retail and the primary public street frontage which is designed to activate the street frontage. The patio and seating area must extend along at least 20 feet of the frontage and be at least 10 feet deep.</u>
	<u>3 points</u>	<u>Provide a public plaza with a minimum area of 2,000 square feet. Seating areas and landscape plantings are required amenities. Water features are encouraged. To promote a sense of openness and safety, public plazas shall be completely visible from an adjacent street frontage.</u>
<u>Structured Parking</u>	<u>10 points</u>	<u>At least 80% of the required parking is provided in a parking structure. Structures may be at- or below grade.</u>
<u>LEED Certification</u>	<u>Silver: 8 points</u> <u>Gold: 10 points</u> <u>Platinum: 12 points</u>	<u>Project designed to achieve LEED Silver, Gold, or Platinum certification. Project features required to qualify for LEED certification cannot be used to qualify for points in other amenity categories.</u>
<u>Other</u>	<u>TBD</u>	<u>Other amenity approved by Planning Commission</u>

The City of Forest Grove Planning Commission does hereby recommend City Council approval of amendments to the Forest Grove Development Code, Comprehensive Plan Map, and Official Zoning map as described in the staff report and exhibits dated December 28, 2015 as modified above making the following specific findings in support of this decision:

FINDINGS - TEXT AMENDMENTS (SUBJECT TO 10.2.630)

The City of Forest Grove adopted a new Comprehensive Plan in 2014. This TGM Code Assistance project and the proposed text amendments are intended to implement some of its key elements including provisions for mixed use and Town Center zoning and increasing residential densities. Comprehensive Plan housing, economic development, urbanization, and transportation goals and policies are relevant to the proposed development code text amendments. Relevant goals and policies related to the proposed changes are addressed.

MIXED USE AREAS

Review Criteria 10.2.630.A: The text amendment is consistent with the relevant goals and policies of the Forest Grove Comprehensive Plan.

Finding: The relevant goals and policies are addressed below.

Community Sustainability Goals

Goal 7: Promote interconnected land uses that encourage diverse, accessible, and proximate land uses that promote active living and access to vital services including employment, education, and healthy food.

Goal 8: Create complete neighborhoods, through land use regulations, with housing, recreational opportunities, retail, services and employment nearby.

Goal 11: Encourage the clustering of residential development in the David Hill area to reduce impacts to the environments and minimize degradation of views from lower elevations especially the Town Center.

Finding: A new "Neighborhood Mixed Use (NMU)" zone is proposed to be added to Article 3, Commercial Zones, the purpose of which is to ensure sites are developed into pedestrian-friendly mixed use neighborhoods. The zone allows for a mix of housing types and commercial uses. A new Mixed Use Planned Development (MUPD) is proposed to be added to Article 4, Overlay Districts, which will work in conjunction with the NMU zone. The MUPD standards ensure that land uses are interconnected and pedestrian-oriented by establishing standards for densities, desired building mix, connectivity, building orientation, and open space requirements. A portion of the David Hill area is proposed to be rezoned to NMU. Clustering is allowed in a MUPD and the standards require that water features such as streams or ponds be left in a natural state unless altered to improve the natural values of the water feature.

Housing Goals and Policies

Goal 3: Promote mixed-use development opportunities throughout the community

Policy 3.1 Identify locations on the Comprehensive Plan and Zoning maps for mixed-use development opportunities. Establish standards for residential and commercial densities, desired building mix, and building design for mixed-use areas.

Finding: A new "Neighborhood Mixed Use (NMU)" zone is proposed to be added to Article 3, Commercial Zones, and would allow for a mix of housing types. The City is required to provide

clear and objective standards for “needed housing”. However, mixed use areas, while potentially providing opportunities for additional housing within the City of Forest Grove, were not identified in the City’s 2009 Economic Opportunity Analysis and Buildable Lands Inventory as necessary to provide “needed housing”. The NMU zone provides development standards for densities, desired building mix, and building design through a “Mixed Use Planned Development” overlay, proposed to be added to Article 4.

Goal 6: Promote neighborhoods complete with residences, open space, schools, parks, and shopping opportunities within close proximity to each other. Avoid stand-alone residential development lacking support activities.

Policy 6.1 Designate small-scale neighborhood-oriented commercial areas within walking distance of residential areas.

Finding: The purpose of Neighborhood Mixed Use zones would be to develop as a pedestrian friendly neighborhoods, with a diversity of housing types, be pedestrian oriented, include a minimum amount of open space, and provide opportunities for neighborhood-scale retail. In addition, the three mixed use areas are distributed throughout the City of Forest Grove and generally adjacent to areas zoned Single Family (R-5 or R-7), which would increase the opportunities for residents in these neighborhoods to access neighborhood amenities through non-automotive means of transportation. The amount of commercial development is capped within each of the mixed use areas in order to help ensure they remain neighborhood-oriented in scale.

The NMU zone with associated MUPD overlay will allow a variety of additional housing to be built to provide options for Forest Grove residents. All the areas with the proposed NMU designations will have the flexibility to develop a mix of housing types, including single-family housing, apartments, row houses, senior housing, etc. as long as the minimum residential density targets are met. In addition, developments in areas with NMU designations will be required to provide basic amenities such as open space, pedestrian facilities, and parking, to support housing development.

Land Use Goals and Policies

Commercial Land Use Objective 1: Distribute commercial activity throughout the city to serve existing and planned residential or employment areas.

Finding: The NMU zone will allow for commercial activity in areas of the community where no commercial land is currently designated. As such, the NMU zone provides the opportunity to distribute commercial activity throughout the City to serve existing and planned residential or employment areas as identified on the Comprehensive Plan Map.

Commercial Land Use Objective 12: The Comprehensive Plan Map and corresponding zoning standards shall provide for commercial development opportunities serving newly developing areas in the City.

Finding: The NMU zone and associated MUPD overlay will promote commercial uses in areas of the City where none currently exists. This includes the Sunset Drive/Hwy. 47 and David Hill Road/Thatcher Road areas.

Economic Development Goals & Policies

Goal 5: Promote Retail Activities

Policy 5.3 Promote opportunities for mixed-use development, including retail, near major transportation intersections (nodes) within the City including the Forest Grove Town Center.

Policy 5.4 Adopt development standards to encourage the creation of commercial areas at a scale proportionate for meeting the daily needs of nearby residents.

Finding: The MUPD Overlay, applied to NMU zones, would include review procedures and development standards for allowing commercial areas (defined as Village Centers) to be developed. The review procedures, Type III for preliminary plan and Type I for final plan, would provide greater flexibility in the development of commercial areas to meet the needs of nearby residents. In addition, development standards for Village Centers would regulate the maximum square footage and building footprint. The text amendments for the NMU zone addresses a need identified in the City's 2009 Economic Opportunity Analysis related to retail sales leakage. The EOA States "The City of Forest Grove's estimated retail sales are significantly below originating sales by a sizable margin, reflecting the City's position as a bedroom community, failing to capture a typical share of general retail spending, particularly Food Services. In other words, residents in Forest Grove spend a sizable share of their retail dollars outside Forest Grove." The NMU areas are located in areas of the community not located near shops or services. As such the NMU zone is intended to provide opportunities to capture retail dollars currently being spent outside the community.

Urbanization Goals & Policies

Goal 4: Implement policies to create complete neighborhoods in areas undergoing urbanization.

Finding: The NMU zone is proposed to encourage the creation of complete neighborhoods with a variety of housing choices and the opportunity to obtain goods and services nearby. The NMU zone text amendment establishes the framework necessary to implement the NMU comprehensive plan and zoning designation. Without the ability to implement the NMU zoning designation the opportunity to encourage the creation of complete neighborhoods is lost.

Transportation Goals & Policies

Goal 6: Establish and maintain a context sensitive set of transportation design and development regulations

Policy 6.3 Require developers to include pedestrian, bicycle, and transit-supportive improvements within proposed developments and to adjacent right-of-way in accordance with adopted policies and standards.

Finding: The MUPD Overlay's purpose, applied to NMU zones, is to create pedestrian-friendly mixed use neighborhoods which provide pedestrian and bicycle access to, and through, the site and provide connectivity to adjacent areas for motorized and non-motorized modes of transportation. Development plans for pedestrian and bicycle access are required to include a transportation system that emphasizes pedestrian mobility and accessibility that provides connections within the property and to adjacent properties. Proposed commercial and institutional uses that are located in the designated "Village Center" are required to be compact and pedestrian friendly and are encouraged to use Forest Grove's Town Center Design Guidelines as a basis for development. As described in Exhibit C (Transportation Analysis), the proposed intensities and densities allowed by the proposed NMU zone and associated MUPD overlay are consistent with the City's adopted Transportation System Plan.

Review Criteria 10.2.630.B: The text amendment is consistent with relevant statewide and regional planning goals, programs and rules.

Regional Planning Goals

Metro Regional Framework Plan

Introduction: It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

1. People live, work and play in vibrant communities where their everyday needs are easily accessible....

Finding: The proposed new NMU zone and associated MUPD overlay are intended to facilitate the development of complete neighborhoods that offer a mix of uses in a pedestrian friendly environment where residents can walk to the village center.

Policy 1.1 Compact Urban Form

1.1.1. Ensure and maintain a compact urban form within the UGB.

1.1.7. Promote excellence in community design.

Finding: The proposed new NMU zone and associated MUPD overlay establish minimum densities which are consistent with development within the UGB. The efficient use of land and building styles that establish a cohesive sense of place are stated purposes of the MUPD and required to be addressed as approval criteria.

Policy 1.3 Housing Choices and Opportunities

Finding: The proposed new NMU zone will increase housing choices and opportunities in Forest Grove through regulations that allow new housing to be developed. The associated MUPD overlay will ensure new development provides a range of diverse housing, including single family house, apartments, row houses, cottages, senior housing, etc. in a compact urban form. Standards require a mix of housing types for MUPDs over 3 acres.

1.10 Urban Design

Policy 1.10.1 Support the identity and functioning of communities in the region through:

c. Ensuring that incentives and regulations guiding the development and redevelopment of the urban area promote a settlement pattern that:

iv) Reinforces nodal, mixed-use, neighborhood-oriented community designs to provide walkable access to a mix of destinations to support meeting daily needs, such as jobs, education, shopping, services, transit and recreation, social and cultural activities.

Finding: The proposed new NMU zone and associated MUPD overlay are intended to facilitate the development of complete neighborhoods that offer a mix of uses in a pedestrian friendly environment where residents can walk to the village center. Standards emphasize compact urban forms with access to, and through the area.

Metro Urban Growth Management Functional Plan

Title 1: Housing Capacity

Finding: The proposed new NMU zone and associated MUPD overlay will allow the development of mixed use areas at urban densities and intensities, helping ensure that the City meets its regional housing target.

Statewide Planning Goals

Goal 1, Citizen Involvement – To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding: As described above, an extensive public outreach program was conducted as a part of this project including: community events, public hearings, and stakeholder interviews. These allowed for citizen involvement, throughout the course of developing the proposed amendments.

Goal 9, Economic Development – To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: The proposed amendments to add the NMU zone with associated MUPD overlay will help promote economic development by allowing a mix of neighborhood-scale and pedestrian-oriented quality residential and commercial development to occur. All of the areas with the proposed NMU designations will have the flexibility to develop a mix of housing types as long as the minimum residential density targets are met. In addition, the two smaller areas with the proposed NMU designation will have the available option to develop a mix of commercial and institutional uses within designated "Village Centers" up to a maximum square footage. The third and largest of the areas is proposed to have a minimum square footage requirement, ensuring a minimum amount of commercial or institutional uses are developed to support the surrounding areas.

Goal 10, Housing – To provide for the housing needs of citizens of the state.

Finding: NMU zoned lands, while potentially providing opportunities for additional housing within the City of Forest Grove, were not identified in the City's 2009 Economic Opportunity Analysis and Buildable Lands Inventory as necessary to provide "needed housing". While areas designated as Mixed Use in the Comprehensive Plan are not required to provide "needed housing", the proposed amendments to add the NMU zone with associated MUPD overlay will allow a variety of additional housing to be built. All the areas with the proposed NMU designations will have the flexibility to develop a mix of housing types, including single-family housing, apartments, row houses, senior housing, etc. as long as the minimum residential density targets are met. In addition, developments in areas with NMU designations will be required to provide basic amenities such as open space, pedestrian facilities, and parking, to support housing development.

Goal 12, Transportation – To provide and encourage a safe, convenient and economic transportation system.

Finding: As described in Exhibit C (Transportation Analysis), the proposed intensities and densities allowed by the proposed NMU zone and associated MUPD overlay are consistent with the City's adopted Transportation System Plan.

Goal 14, Urbanization – To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Finding: As noted above, the proposed NMU designations will allow for the development of new livable neighborhoods to be built within Forest Grove's Urban Growth Boundary (UGB). The additional opportunities are being provided within the UGB, where City services and amenities are best provided, will help decrease the demand for housing outside of the UGB in more rural areas, and help preserve valuable forest and agricultural land.

TOWN CENTER

Review Criteria 10.2.630.A: The text amendment is consistent with the relevant goals and policies of the Forest Grove Comprehensive Plan.

Community Sustainability Goals

Goal 6: Foster excellence in the design of public and private development projects to minimize environmental impacts, maximize financial efficiency, optimize social equity and benefits, and improve public health.

Goal 7: Promote interconnected land uses that encourage diverse, accessible, and proximate land uses that promote active living and access to vital services including employment, education, and healthy food.

Goal 8: Create complete neighborhoods, through land use regulations, with housing, recreational opportunities, retail, services and employment nearby.

Finding: Town Center zones in the Development Code allow for residential development to occur in an area generally considered to be an existing complete neighborhood, with access to retail, services, transit, etc. The proposed amendments to the Town Center zones would increase the maximum residential density from 20.23 to 40 dwelling units per acre allowed outright, and to 100 dwelling units per acre with density bonuses. The increase in residential capacity will allow for more residents to live in the Town Center where they will be able to access existing neighborhood amenities and transit. The proposed density incentives promote and reward excellence in design and maximize social equity by encouraging affordable housing.

Housing Goals and Policies

Goal 2: Provide incentives for increased residential development densities within the Forest Grove Town Center

Policy 2.1 Establish incentive programs to leverage local resources with private investments. Incentive may take the form of direct financial participation (grants or loans), or indirect participation such as land write-downs.

Policy 2.3 Amend Development Code standards to increase maximum development densities within the Forest Grove Town Center, identified high capacity transit station areas, and mixed-use target areas along the Pacific Avenue commercial corridor.

Finding: Town Center zones in the Development Code currently allow for residential development to occur as part of mixed use developments. Proposed amendments to the Development Code would increase the allowed maximum floor area ratio (FAR) and residential density in Town Center zones. FAR would increase from 3:1 to 4:1, while the outright allowed residential density would increase from 20.28 to 40 dwellings units per acre. In addition, the maximum residential density can be increased above the proposed outright allowed amount, up to 100 dwelling units per acre, through density incentives. The proposed residential density incentive is intended to allow significantly higher densities, while ensuring that livability is preserved and sustainability is encouraged, by allowing developments to include affordable housing and building amenities that exceed minimum design standards.

Goal 5: Develop and implement standards for sustainable neighborhood development.

Policy 5.1 Encourage the use of Leadership in Energy and Environmental Design (LEED) development practices in subdivisions and residential structures.

Policy 5.2 Encourage the use of energy efficient building materials and practices in the design, construction, and remodeling of housing.

Finding: As noted above, the proposed amendment to the Forest Grove Development Code includes incentives to increase the residential density beyond the maximum allowed outright amount. Density incentives are organized by amenity categories and are heavily focused on sustainable building designs including LEED certification. Notable amenities oriented toward sustainable building designs include: Energy Efficiency, “Green” Materials, Low Impact Design, Residential Gardening, Rooftop Garden or Eco-Roof, Public Plaza/Outdoor Patio/Seating Area, and LEED Certification.

Economic Development Goals & Policies

Goal 5: Promote Retail Activities

Policy 5.3 Promote opportunities for mixed-use development, including retail, near major transportation intersections (nodes) within the City including the Forest Grove Town Center.

Policy 5.4 Adopt development standards to encourage the creation of commercial areas at a scale proportionate for meeting the daily needs of nearby residents.

Finding: The Town Center designations currently allow mixed use developments to occur. The proposed amendments to the Town Center designations will continue to allow mixed use development to occur and encourage it by increasing the allowed outright minimum residential density and by adding residential density bonus incentives. All development within the Town Center will continue to be subject to the design review process provided in Article 2 and standards provided in Article 8 to ensure commercial and mixed use areas develop a scale proportionate to the residents’ needs. Proposed amendments to Article 8 are primarily focused on minor edits for consistency with proposed Town Center and NMU zone amendments. In addition, the City will have the capacity to limit residential density incentives based on the availability of public service, traffic impacts, and compatibility with adjacent single-family residential zoning districts.

Goal 7: Promote the Forest Grove Town Center as the Focal Point of the Community

Policy 7.10 Amend development standards to increase minimum development densities in the Town Center to improve the economic investment climate for residential construction and encourage a variety of housing types.

Finding: The proposed amendments will decrease the minimum floor area ratio (FAR) standard from 0.75:1 to 0.5:1 in limited areas of the Town Center by consolidating TCT and TCS designations. Minimum requirements for building height, residential densities, and setbacks will remain the same. However, the economic investment climate will be improved with the proposed amendments by increasing the maximum allowed residential density and allowing residential density to increase further through density bonus incentives in all Town Center zones.

Urbanization Goals & Policies

Goal 4: Implement policies to create complete neighborhoods in areas undergoing urbanization

Policy 10 The City of Forest Grove will continue to promote the efficient use of land within the Forest Grove Town Center and any areas designated as transit station communities on the Forest Grove Comprehensive Plan land use map.

Finding: The proposed amendments will increase the maximum allowed FAR and residential densities in the Town Center zones and the maximum allowed residential densities in the

Commercial Corridor. This will enable development to occur at higher densities, which can take advantage of existing public services and promote the use of transit.

Transportation Goals & Policies

Goal 6: Establish and maintain a context sensitive set of transportation design and development regulations

Policy 6.3 Require developers to include pedestrian, bicycle, and transit-supportive improvements within proposed developments and to adjacent right-of-way in accordance with adopted policies and standards.

Finding: As described in Exhibit C (Transportation Analysis), the proposed intensities and densities allowed by the proposed Town Center text amendments are consistent with the City's adopted Transportation System Plan. The proposed increase in density is intended to allow for transit-supportive densities within the Town Center. In addition, bicycle parking and public plazas are proposed as potential amenities that would qualify for a density incentive.

Review Criteria 10.2.630.B: The text amendment is consistent with relevant statewide and regional planning goals, programs and rules.

Regional Planning Goals

Metro Regional Framework Plan

Introduction: It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

1. People live, work and play in vibrant communities where their everyday needs are easily accessible....

Finding: The proposed amendments to expand the Town Center and increase the residential densities in the Town Center and Commercial Corridor will encourage higher-density, mixed use redevelopment to occur. Redevelopment in the Town Center and Commercial Corridor will provide walkable access to a mix of existing complete neighborhood amenities and reduce the need for single-occupancy automotive trips.

Policy 1.1 Compact Urban Form

1.1.3 Facilitate infill and re-development, particularly within Centers, Corridors, Station Communities, Main Streets and Employment Areas, to use land and urban services efficiently, to support public transit, to promote successful, walkable communities and to create equitable and vibrant communities.

1.1.7. Promote excellence in community design.

Finding: The proposed amendments to expand the Town Center and increase the residential densities in the Town Center and Commercial Corridor will encourage higher-density, mixed use redevelopment to occur within a center and a corridor. Redevelopment in the Town Center and Commercial Corridor will support access to public transit and locate additional residents within walking distance to a wide range of commercial, civic uses, and transit.

Policy 1.3 Housing Choices and Opportunities

Finding: The proposed amendments to expand the Town Center and increase the residential densities in the Town Center and Commercial Corridor will allow for a variety of multi-family development to occur. The residential density incentives will also encourage multi-family development to incorporate affordable housing and/or sustainable building design.

1.10 Urban Design

1.10.1 Support the identity and functioning of communities in the region through:

c. Ensuring that incentives and regulations guiding the development and redevelopment of the urban area promote a settlement pattern that:

v) Includes concentrated, high-density, mixed-use urban centers developed in relation to the region's transit system.

Finding: The proposed amendments to expand the Town Center and increase the residential densities in the Town Center and Commercial Corridor will encourage higher density development within the mixed use urban center in proximity to transit service.

Metro Urban Growth Management Functional Plan

Title 1: Housing Capacity

Title 6: Centers, Corridors, Station Communities, and Main Streets

Finding: The proposed increases in residential density will allow the development within the Town Center at appropriate transit-supportive densities, helping ensure that the City meets its regional housing target.

Statewide Planning Goals

Goal 1, Citizen Involvement – To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding: As described above, an extensive public outreach program was conducted as a part of this project including: community events, public hearings, and stakeholder interviews. These allowed for citizen involvement, throughout the course of developing the proposed amendments.

Goal 9, Economic Development – To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: The proposed amendments to consolidate the Town Center zones, increase outright residential density, and add residential density bonus incentives will promote economic development by reducing the complexity of Town Center zoning designations and increasing the residential capacity of areas with the most immediate access to existing services.

Current standards and regulations for Town Center Transition and Town Center Support designations are almost identical. Zoning boundaries for these designations are not uniformly distributed across individual blocks increasing the complexity of applying the development code. The proposed amendments to the development code will consolidate the Town Center Support with the Town Center Transition designation, allowing for the development code to be applied to developments more uniformly while still achieving Forest Grove Town Center goals.

The Town Center and Civic Corridor contains the majority of commercial services within Forest Grove. Increasing the maximum allowed residential density and adding residential density bonus incentives will contribute to the creation of complete neighborhoods in these areas by allowing Forest Grove's growing population to locate nearby existing commercial services. Allowing Forest Grove's growing population to locate in these areas will help existing and new businesses to grow.

Goal 10, Housing – To provide for the housing needs of citizens of the state.

Finding: The proposed amendments to increase the maximum allowed residential density in the Town Center and Civic Corridor and the addition of residential density bonus incentives to

the Town Center will create additional opportunities and incentives for multi-family housing to be developed.

The increase in the maximum allowed residential density will create additional opportunities for a variety of multi-family housing to be developed at a range of densities.

The residential density bonus provide two tiers of incentives which allow flexibility and incentives for new housing development beyond the base residential density to high quality design and sustainability and/or affordable housing. The first tier of incentives encourage the use project amenities, such as sustainable building design or public plazas. The second tier of incentives encourage the development of affordable housing, where 20% are set aside for qualified residents.

Goal 12, Transportation – To provide and encourage a safe, convenient and economic transportation system.

Finding: As described in Exhibit C (Transportation Analysis), the proposed intensities and densities allowed by the proposed Town Center text amendments are consistent with the City's adopted Transportation System Plan.

Goal 14, Urbanization – To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Finding: As noted above, the proposed amendments to the Town Center and Civic Corridor designations will allow a variety of additional housing to be built within Forest Grove's Urban Growth Boundary (UGB) to meet the City's housing needs as population growth occurs over the next 20 years. The additional capacity to supply housing within the UGB, where City services and amenities are best provided, will help decrease the demand for housing outside of the UGB in more rural areas, and help preserve valuable forest and agricultural land.

FINDINGS - MAP AMENDMENTS (SUBJECT TO 10.2.750 – 10.2.770)

MIXED USE AREAS

Review Criteria 10.2.770.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 Correspondence Table in Article 3, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.*

Finding: The recommended zoning designation for the three mixed use areas is consistent with the Comprehensive Plan Map, as amended in Ordinance No. 2014-02. However, only a portion of the David Hill site is proposed to be rezoned at this time. The area proposed to be rezoned consistent with the Comprehensive Plan Map is at the northwest corner of David Hill Road and Thatcher Road. This area has a gross size of approximately 8.5 acres with approximately one-third (2.9 acres) developable. The remaining area (approximately 20.6 gross acres) currently shown as Mixed Use on the Comprehensive Plan map north of David Hill Road will be addressed further as part of the Westside Planning Project. This area will likely be recommended for rezoning to Single Family Residential (R-10). Parallel amendments to include the NMU designation in the Forest Grove Development Code are currently proposed (see Text Amendments above), which would allow for a mix of housing types and commercial uses.

Review Criteria 10.2.770.B: *The zone change is consistent with relevant goals and policies of the Comprehensive Plan, as identified by the Director.*

Finding: The Comprehensive Plan describes the opportunity to create three mixed use areas as follows:

A potential opportunity site for commercial land is located west of Sunset Drive and south of Highway 47. This site, under single ownership is approximately 23.5 acres in gross land area. Other potential opportunity sites include the area near Watercrest Road and Thatcher Road and David Hill Road and Thatcher Road.

The proposed zone changes for the mixed use areas are consistent with the Comprehensive Plan since the zoning map amendments will affect only the areas identified above. Furthermore, the proposed zone changes for the mixed use areas are consistent with the location factor contained in the Comprehensive Plan which states:

Areas where a mixture of residential, office and retail uses are appropriate to create complete neighborhoods or provide needed services and housing.

The zoning map amendments are consistent with this location factor since all three mixed use areas are located outside of the Town Center and off the Pacific Avenue/19th Avenue commercial corridor in areas that are predominantly residential in character. For the reasons stated above, this criterion is met. In addition, the commercial development in the NMU zones will be limited to "Village Centers" which cannot comprise more than 50% of the buildable land within a mixed use planned development or three acres, whichever is greater. As a result of this standard, the largest "village center" would be at the Davidson Site (9.4 acres based on overall developable site area of 18.8 acres). This ensures the NMU zoning at Mixed Use Area 3 (Davidson Site) is consistent with the Comprehensive Plan location criteria that mixed use sites tend to be 10 acres in land area or less. The basis for this conclusion is the premise that mixed use commercial/residential area is the "village center", and the "village center" is capped at 9.4 acres.

The NMU areas are also consistent with the Comprehensive Plan location factor that the NMU designation apply to areas where a mixture of residential, office, and retail uses are appropriate to create complete neighborhoods or provide needed service. Mixed use areas are in locations previously zoned for single family residential development. The Gales Creek mixed use area was previously designated as Commercial Planned Development on the Forest Grove Comprehensive Plan Map which promoted commercial development near residential areas. Zoning these areas as NMU will promote the creation of complete neighborhoods where residents are able to find goods and services in close proximity.

As provided for in the findings in the Text Amendment section above, the proposed map amendment is consistent with the Forest Grove Comprehensive Plan's goals and policies for housing, economic development, urbanization, and transportation.

Review Criteria 10.2.770.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 will 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.

Finding: The Forest Grove Comprehensive Plan created a new Mixed Use plan designation to provide for a variety of retail and office uses near residential neighborhoods. The Comprehensive Plan states the Mixed Use plan designation is established to provide for a variety of retail and office uses near residential neighborhoods. Such limited commercial zones should be located on or bounded by arterial and collector streets to create nodes or concentrations of activity. The location of these new plan designations, as seen in the Forest Grove Comprehensive Plan Map, are located on or bounded by arterial and collector streets

and adjacent to residential areas, so as to create nodes or concentrations of activity. The proposed zoning map amendments implement the adopted Comprehensive Plan designation and are consistent with the requirement that the proposed zone change be considered based on parcel suitability and location. Therefore, this criterion is met.

Review Criteria 10.2.770.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 zone change if it may impact transportation facilities.

Finding: The proposed amendments to the Forest Grove Zoning Map are consistent with the Forest Grove Comprehensive Plan Map, which informed the Forest Grove Transportation System Plan's assessment of future transportation needs. The future transportation needs assessment was based on the Preferred Land Use Alternative, and reflects changes to the City's existing Comprehensive Land Use Plan to encourage more nodal mixed use development. A Transportation Analysis was prepared and is attached as Exhibit C. As noted in this analysis, the proposed map amendments are not expected to substantially impact transportation facilities below the minimum acceptable levels identified in the City's adopted Transportation System Plan. Based on the transportation analysis completed for the updated Comprehensive Plan Map which included mixed use areas the proposed zoning amendment this criterion is met.

Review Criteria 10.2.770.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.

Finding: The three mixed use areas range from vacant to partially developed with a related range of available facilities and services. Availability, need, and necessary improvements to facilities and services will be determined as new development occurs and is evaluated through the Mixed Use Planned Development process. The applicant will be responsible for providing all services necessary for the functionality of the MUPD. Facilities such as streets, water supply facilities, sanitary sewers, and storm water detention facilities must be dedicated to the public if they are to provide service to any property not included in the MUPD. Mixed Use Area 1 (David Hill) is primarily vacant and will require new facilities and services as development occurs. Mixed Use Area 2 (CPD Area) is currently a mix of residential and commercial uses in a developed area and will likely not need new facilities and services. Mixed Use Area 3 (Davidson Site) is developed as a residential use and has been historically utilized as a farm use.

Existing Services (Water): Water lines are present adjacent to all three mixed use areas. Development of the mixed use areas is subject to the requirements of Development Code Article 8: Public Improvements. Future improvements to the water system necessary to serve development are identified in the Forest Grove Water Master Plan. The City's Water System Plan shows the City has sufficient capacity to serve future development in the mixed use areas.

Existing Services (Sanitary Sewer):

Mixed Use Area 1 (David Hill): An existing 8" PVC sanitary sewer line is located within the David Hill Right of Way west of Thatcher Road. David Hill Road/Thatcher Road: The City's Waste Water Master Plan shows a proposed 12 inch sanitary sewer trunk line

within the David Hill Road right-of-way west of Thatcher Road. This line when installed will serve the David Hill Road/Thatcher Road mixed use area.

Mixed Use Area 2 (CPD Area): A 12 inch corrugated steel pipe is located adjacent to the mixed use area within the Thatcher Road right-of-way.

Mixed Use Area 3 (Davidson Site): A 10 inch PVC sanitary sewer line is adjacent to the Davidson Site within the Sunset Drive right-of-way. An 8 inch PVC line also exists across Hwy 47 to a manhole at the Davidson Site from the 36" Clean Water Services trunk line north/east of Hwy. 47. The City's Waste Water Master Plan shows a future extension of the 8" line into the Davidson site to serve future development.

Existing Services (Storm Sewer):

Mixed Use Area 1 (David Hill): This area is not currently served with storm water piping. The City's Storm Drainage Master Plan shows a capital improvement project for stream restoration within the mixed use area. The Master Plan also shows future piping improvements along Thatcher Road.

Mixed Use Area 2 (CPD Area): An existing 12 inch storm line is present along the north side of Gales Creek Road adjacent to the mixed use area. A storm line is also present along the east side of Thatcher Road This line runs for a distance of approximately 150 feet from the Gales Creek Road/Thatcher Road intersection.

Mixed use Area 3 (Davidson Site): A 30 inch corrugated steel pipe exists along the west side of Sunset Drive. There are five storm inlets along the west side of Sunset Drive adjacent to the Davidson Site. Storm water is conveyed from the inlet to the storm pipe west of Sunset Drive. In addition to the storm pipe, a storm water swale and storm pond exist south of the Davidson Site approximately 730 feet east of Sunset Drive providing additional opportunity to accommodate drainage.

With future improvements shown in the Storm Drainage Master Plan and improvements required for development approval the City will have the ability to serve the mixed use areas. The three mixed use areas are within the Forest Grove city limits. As such, the City will provide police and fire protection necessary to serve future development. Service needs are assessed though the annual budget process.

Review Criteria 10.2.770.A: The establishment of a zone district is not subject to the meeting of conditions.

Finding: No conditions are proposed.

TOWN CENTER/CIVIC CORRIDOR

Review Criteria 10.2.770. 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 Correspondence Table in Article 3, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.

Finding: As described above, the proposed amendments consolidate the Town Center Support (TCS) zone into the Town Center Transition (TCT) zone. This change requires that all land currently zoned TCS be rezoned to TCT. In addition, the Town Center Expansion area, which is currently zoned Community Commercial (CC), is proposed to be rezoned to TCT. The transition

from CC to TCT will encourage more urbanized development to occur by restricting new auto-oriented development, reducing landscape requirements, applying “urban” design standards, and allowing residential uses in mixed use or stand-alone development. Of the Town Center zones, TCT is the most appropriate for this area given its location adjacent to the Town Center Core and its function as a transition area between Core and adjacent residential areas.

Review Criteria 10.2.770. B: The zone change is consistent with relevant goals and policies of the Comprehensive Plan, as identified by the Director.

Finding: As provided for in the findings in the Text Amendment section above, the proposed map amendments are consistent with the Forest Grove Comprehensive Plan’s goals and policies for housing, economic development, urbanization, and transportation. This is reinforced by the fact that the proposed zone changes implement the 2014 Forest Grove Comprehensive Plan.

Review Criteria 10.2.770. 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 will 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.

Finding: The update to the Forest Grove Comprehensive Plan, completed in 2014, included consideration of site suitability for the proposed zoning classifications necessary to implement the Comprehensive Plan. Since the proposed zone changes simply implement the Comprehensive Plan the sites are determined to be suitable and consistent with this review criterion. Given that both TCS and TCT are Town Center zones and allow a very similar mix of uses, land which is currently suitable for TCS should be suitable for TCT. With the Town Center Expansion area, the transition from CC to TCT will encourage more urbanized development to occur by restricting new auto-oriented development, reducing landscape requirements, applying “urban” design standards, and allowing residential uses in mixed use or stand-alone development. In order to avoid making some existing uses non-conforming, exceptions are proposed within the TCT zone to allow for the continuation of those uses.

Review Criteria 10.2.770. 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 zone change if it may impact transportation facilities.

Finding: The proposed amendment to the Forest Grove Zoning Map would be consistent with the Forest Grove Comprehensive Plan Map, which informed the Forest Grove Transportation System Plan’s assessment of future transportation needs. The future transportation needs assessment was based on the Preferred Land Use Alternative and reflects changes to the City’s existing Comprehensive Land Use Plan to encourage more nodal mixed use development. A Transportation Analysis was prepared and is attached as Exhibit C. As noted in this analysis, the proposed map amendments are not expected to substantially impact transportation facilities below the minimum acceptable levels identified in the City’s adopted Transportation System Plan. The City’s minimum acceptable level of service is LOS D.

Review Criteria 10.2.770. 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.

Finding: The proposed amendments to consolidate the Town Center Support with Town Center Transition zones and to expand the Town Center boundary to the east will occur in a developed area, currently provided with public facilities and services. The distinction between Town Center Support and Town Center transition is minor. The proposed change will not affect demand for public services currently planned for as reflected in the Comprehensive Plan. Service demand related to changing the zoning in the Town Center Expansion area from Community Commercial to Town Center Transition was considered during the Comprehensive Plan update. The Forest Grove Water Master Plan Updated (2010) indicates Forest Grove has a sufficient water supply for meeting service needs for at least the next twenty years. The Forest Grove Sanitary Sewer Master Plan update (2007) identifies a capital improvement project in the Town Center and Town Center Expansion areas. This project will increase the 8-inch and 10-inch diameter lines along 19th Avenue from Birch Street to A Street to the B Street pump station. This improvement will improve the City's ability to serve development promoted by the proposed zone changes. The Forest Grove Storm Drainage Master Plan (2007) does not indicate a need for general storm drainage improvements in the areas affected by the zone changes. Necessary improvements meeting Clean Water Services and City standards resulting from individual development projects will be identified as part of the development review process. Projected service demands to Police and Fire resulting from the proposed zone changes, if any, will be addressed through the annual City budgeting process.

Review Criteria 10.2.770. F: The establishment of a zone district is not subject to the meeting of conditions.

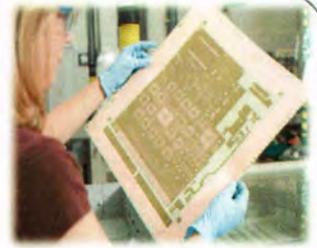
Finding: No conditions are proposed

Signature on file

Tom Beck, Chair

1/12/16

Date



Comprehensive Plan Implementation Development Code Amendments

City Council Public Hearing
March 14, 2016

A place where businesses and families thrive.

Purpose of Tonight's Hearing

- Council consideration of City-initiated amendments to Development Code, Comprehensive Plan Map and Zoning Map to implement Comprehensive Plan goals, objectives and policies for:
 - Development in Neighborhood Mixed-Use Areas;
 - Increasing Residential Density in the Town Center by offering density bonuses based on project design features/amenities;
 - Promoting efficient use of land within the UGB; and
 - Increasing opportunities for housing including affordable housing
- Council review of Planning Commission discussion and recommendation on proposed amendments.
- Opportunity for formal public comment before final City Council action on proposed amendments on March 28th.

Project Background

- Comprehensive Plan Updated in 2014
 - First overhaul since initial adoption in 1980.
- Updated Comp. Plan policies include:
 - Increasing residential density in the Town Center;
 - Establishing a new Neighborhood Mixed Use Zone to promote complete neighborhoods;
 - Expanding the Town Center zone from Cedar St to Elm St.;
 - Promoting the efficient use of land in the Town Center by allowing for increased density based on project design/amenities.
- This project addresses these new Comp. Plan policies.



Project Background

- Public Involvement Process:
 - Stakeholder interviews and one-on-one meetings:
 - January 2015
 - June 2015
 - Public community open houses:
 - March 2015
 - September 2015
 - Four work sessions held with Planning Commission:
 - June 2015
 - August 2015
 - September 2015
 - November 2015 (Joint Work Session with City Council)

Proposed Amendments Overview

- Revise the definition of “net acre” for calculating density
 - Remove disincentive for providing private common space
 - Promote efficient use of land for residential development
- Increase residential density in Town Center
 - Change “target” density from 20 units to 40 units per net acre
 - Set maximum density at 100 units per net acre (based on project design/amenities)
 - Weighted point system to award higher density
 - Retain four story height limit in Town Center
- Increase residential density in Community Commercial zone
 - From 20 units to 30 units per net acre to encourage housing near transit and shopping

Examples of Density

40 units/ac



55 units/ac

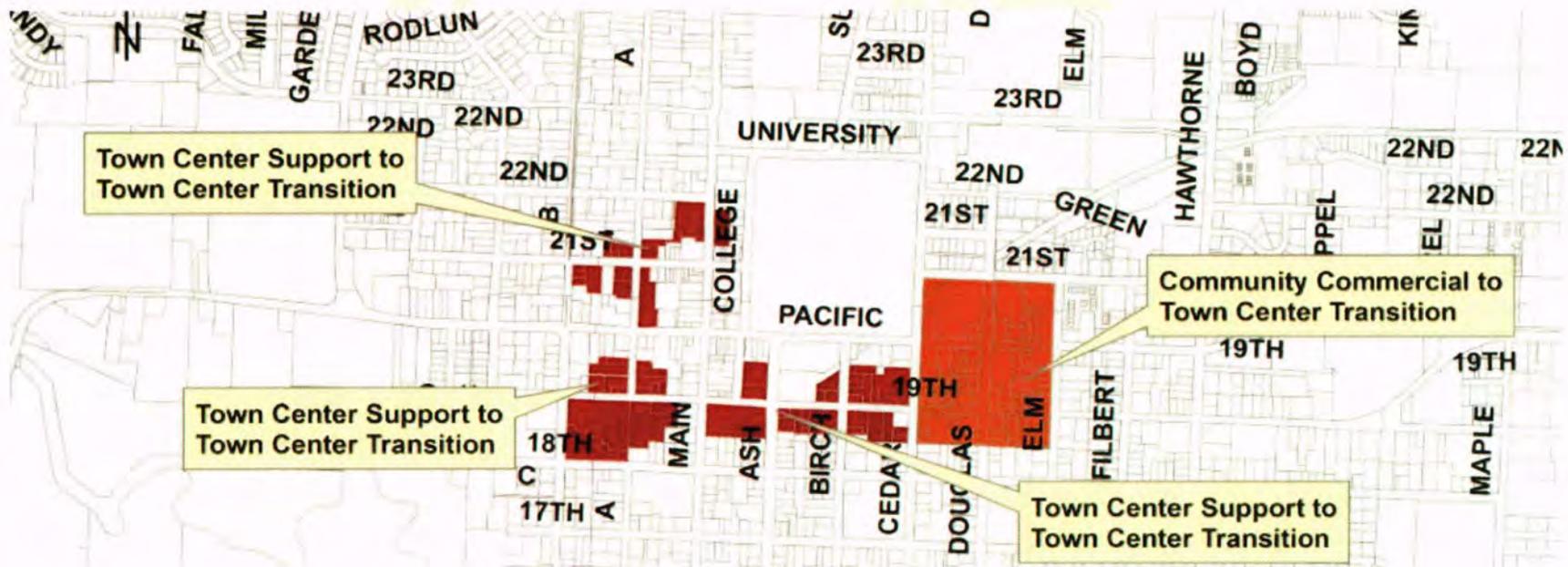


82 units/ac



Proposed Amendments Overview

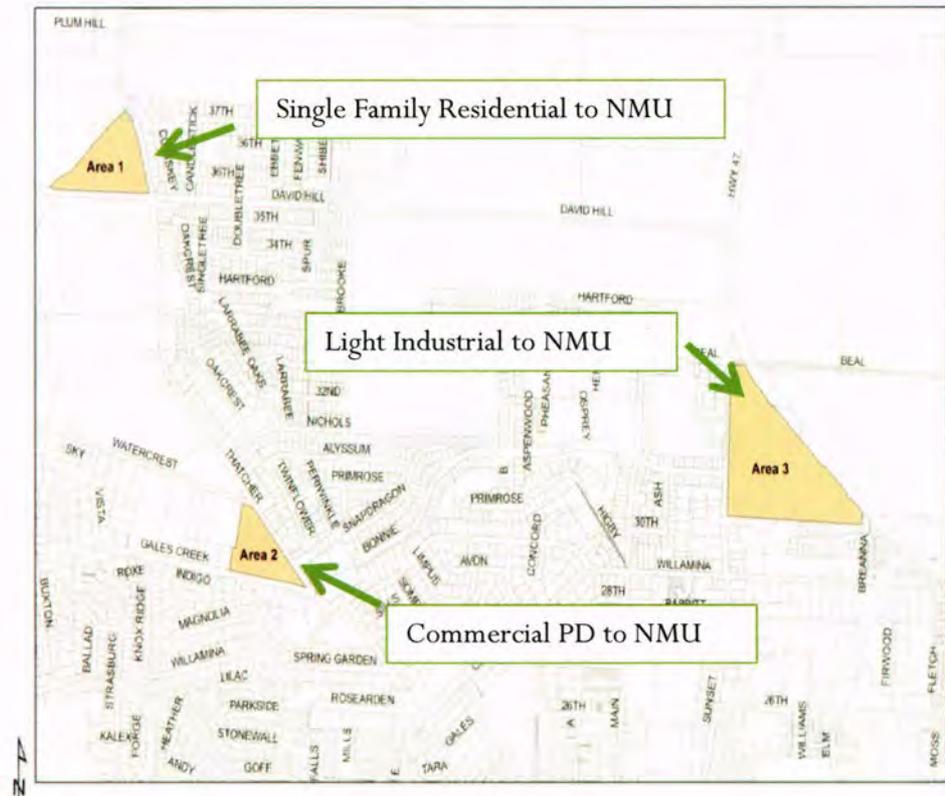
- Reduce Town Center zones from three to two
 - Eliminate Town Center Support (TCS) zone and rezone to Town Center Transition (TCT)
 - Both TCS and TCT are alike in terms of allowed uses and development density
 - Town Center Core zone along Main Street will remain
- Rezone Town Center Expansion Area Consistent with Comprehensive Plan
 - From Community Commercial to Town Center Transition



Proposed Amendments Overview

- Zone Neighborhood Mixed-Use Areas (NMU) consistent with Comprehensive Plan Map.
- Establish Mixed-Use Development Review Process to guide development in NMU zone.
 - Require Planning Commission review and approval through a planned development process.
- Miscellaneous Amendments/Housekeeping
 - Design Guideline Handbook.
 - Add and update graphics
 - Ensure consistency between Design Handbook and Development Code sections

Mixed Use Areas



Planning Commission Review

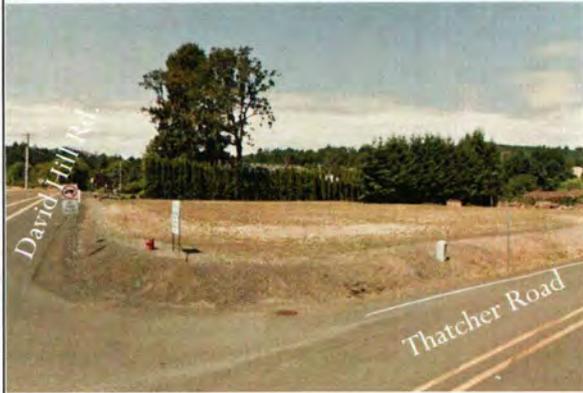
- The Planning Commission's discussion focused on three areas:
 - Proposal to revise "Net Density" definition/calculation.
 - Amount of permissible commercial space at the Sunset Drive/Hwy. 47 Neighborhood Mixed Use Area #3 (Davidson Site).
 - Weighting project amenities eligible for the proposed Town Center density bonus.

Planning Commission Review

- Net Density Definition/Calculation
 - Current definition “nets out” all areas held in common including certain driveways, parking areas, and private opens space.
 - This results in a less efficient use of land and provides a disincentive for providing private open space since total number of potential units on a site is diminished.
- Planning Commission Considered:
 - Revised definition could increase density and change the character of Forest Grove’s neighborhoods.
 - PC discussed possibility of applying a revised definition in the Town Center and keeping current definition in residential zones.
- After considerable discussion PC motion to retain definition failed on a 2-2 vote with three members absent.
 - As a result the original proposal to apply the revised definition City-wide remains the recommendation.

Planning Commission Review

- Neighborhood Mixed-Use (NMU) Areas
 - Three NMU Areas Identified on Comprehensive Plan Map



Area 1
David Hill Road/Thatcher



Area 2
Gales Creek Road/Thatcher Road



Mixed Use Areas



Area 3
Sunset Drive/Hwy. 47

Planning Commission Review

- Neighborhood Mixed-Use (NMU) Areas
 - Amount of Permitted Residential Density and Commercial Use Varies by Area:
 - David Hill Road/Thatcher Road (8.5 gross acres/Current Zoned: SF Res. (R-10))
 - Residential Minimum: 9.6 units per net acre/Maximum: 13.8 units/net ac.
 - Commercial Minimum: None Required/Maximum: 15,000 square feet
 - Gales Creek Road/Thatcher Road (6.4 gross acres/Currently Zoned: Commercial PD)
 - Residential Minimum: 6.97 units per net acre/Maximum: 10 units/net ac.
 - Commercial Minimum: None Required/Maximum: 25,000 square feet
 - Davidson Site (23.5 gross acres/Currently Zoned: Light Industrial)
 - Residential Minimum: 9.6 units per net acre/Maximum: 13.8 units/net ac.
 - Commercial Minimum: 25,000 square feet/Maximum 130,000 square feet
 - An alternative commercial maximum of 75,000 square feet was identified by the project technical committee (made-up of staff, consultant and DLCDC) as being neighborhood scale
 - This alternative was not supported by the PC as 130,000 square feet only sets an upper limit
 - Maximum Individual Building Footprint: 50,000 square feet
 - One “anchor” tenant may occupy up to: 50,000 square feet
 - Multiple tenants in single building is allowed

Planning Commission Review

- Weighting of Project Amenities Eligible for Town Center Density Bonus.
 - Points awarded based on type of amenity, cost and significance
 - More points = more density allowed
- Project Amenities Include:
 - Building Energy Efficiency Certified (Energy Trust, Energy Star, Net-Zero)
 - Sustainability features (“green materials”, eco-roof, LEED certification)
 - Ground floor retail (at least 5,000 square feet in Town Center Transition zone)
 - Features for project residents (ex. bicycle repair area, gardening area)
 - Affordable Housing (at least 20% of units targeted for 80% area median income or less)
 - Structured Parking (tuck-under, below-grade, or above-grade)
 - Public Plaza/outdoor open space area
 - Other amenity approved by Planning Commission

Review Criteria

- The applicable review criteria are contained in Development Code Article 2 (Land Use Reviews) and the Comprehensive Plan:
 - Development Code Text Amendments (DC Section 10.2.630)
 - Zone Change (DC Section 10.2.770)
 - Comprehensive Plan, Chapter 2 (Comprehensive Plan Amendments)
- The criteria include:
 - Compliance with applicable goals and policies of the Comprehensive Plan;
 - Consistency with the Comprehensive Plan Map for zoning changes; and
 - Consistency with relevant statewide and regional planning goals, program and policies;
- Detailed findings contained in written staff report and Planning Commission decision for reference.

Alternatives

- Alternatives available to City Council include:
 - Accept the Planning Commission recommendation as proposed;
 - Modify the Planning Commission recommendation with supportive findings of fact; or
 - Refer the proposal back to the Planning Commission for further consideration.

Staff recommendation

Staff recommends City Council adopt the necessary ordinances on March 28th approving the recommended amendments to the:

- The text of the Forest Grove Development Code;
- Forest Grove Comprehensive Plan; and
- Forest Grove Official Zoning Map

In order to implement the Forest Grove Comprehensive Plan related to mixed-use areas; efficient use of land in the Forest Grove Town Center; and encourage housing within the Community Commercial zone.

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<i>CITY RECORDER USE ONLY:</i>	
AGENDA ITEM #:	<u>7</u>
ACTION:	<u>FIRST READING</u>

ORDINANCE NO. 2016-03

**ORDINANCE AMENDING FOREST GROVE DEVELOPMENT CODE ARTICLE 3,
ARTICLE 4, ARTICLE 7 AND ARTICLE 12 AND DESIGN GUIDELINE HANDBOOK
TO IMPLEMENT POLICIES OF THE FOREST GROVE COMPREHENSIVE PLAN
FILE NO. 311-15-00020-PLNG**

WHEREAS, The City of Forest Grove approved Ordinance 2014-01 and 2014-02 updating the Forest Grove Comprehensive Plan; and

WHEREAS, the updated Forest Grove Comprehensive Plan requires specific revisions to the Forest Grove Development Code to implement policies contained in the updated Forest Grove Comprehensive Plan; and

WHEREAS, the City prepared the required amendments and forwarded the proposed amendments to the Planning Commission for consideration on January 5, 2016; and

WHEREAS, the City desires to make other amendments to the Development Code to promote the efficient use of land within commercial areas, encourage housing near transit and shopping; and

WHEREAS, the Planning Commission held a public hearing on the proposed amendments on January 5, 2016; and

WHEREAS, the Planning Commission adopted Planning Commission Findings and Decision Number 16-01 recommending approval of the proposed Development Code amendments; and

WHEREAS, the City mailed by first class mail notice required under Measure 56 to affected property owners on January 19, 2016; and

WHEREAS, the City Council held a duly-noticed Public Hearing on the proposed ordinance on March 14, 2016, and continued the hearing on March 28, 2016.

NOW THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1. The City Council hereby adopts the Planning Commission's Findings and Decision dated January 12, 2016.

Section 2. The City Council of the City of Forest Grove hereby adopts the text amendments to the Development Code, Articles 3, 4, 7 and 12 as shown on Exhibit A.

Section 3. The City Council hereby finds that the proposed amendments are consistent with and meet the provisions of Development Code Section 10.2.630 *Review Criteria Pertaining to Zoning Text Amendments* as shown on Exhibit B.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 5. This ordinance shall be effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading this 14th day of March, 2016.

PASSED the second reading this 28th day of March, 2016.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 28th day of March, 2016.

Peter B. Truax, Mayor

City of Forest Grove Development Code – Draft Amendments	Commentary
<p>Article 1 INTRODUCTION & PROCEDURES</p> <p>10.1.000 HOW TO USE THIS CODE</p> <p>This Development Code (Code) is organized as a reference document and is not intended to be read from cover to cover. Instead, it is organized so you may look up only the parts you need. The list of articles in the table of contents is very important, as are the section listings at the beginning of each article. Tables and charts are used in many places to summarize information.</p> <p>The Code is divided into nine articles, with each article containing related information. Note that numbers 9 – 11 are held for future articles:</p> <p>Article 1 - Introduction & Procedures Article 2 - Land Use Reviews Article 3 - Zoning Districts Article 4 - Overlay Districts Article 5 - Special Provisions Article 6 - Land Divisions Article 7 - Miscellaneous Provisions Article 8 - General Development Standards Article 12 - Use Categories & Definitions</p> <p>Article 1 provides basic information on the purpose and legal framework of the Code and describes how land use permits are classified for review under four different categories of procedure (Type I – Type IV). Information on application requirements, application review, public notice, public hearings and appeals are included in this article along with general provisions on administering the Code.</p> <p>Article 2 describes the various land use reviews and assigns decision authority. Some reviews may be applied for at the discretion of the applicant, such as a conditional use or adjustment request. Other reviews are mandatory in certain situations, such as design review. Article 2 includes the approval criteria for the land use reviews and cross-references the applicable procedures from Article 1.</p> <p>Article 3 contains the standards for the different zoning districts. The districts are grouped into the following categories:</p> <ul style="list-style-type: none"> • Residential Zones • Institutional Zone • Commercial <u>and Mixed Use</u> Zones • Town Center Zones • Industrial Zones <p>Article 3 states which uses are permitted in each district, which uses are allowed in limited situations, which are conditional uses, and which are prohibited. The general development standards for each district are also included in Article 3. The development standards include requirements such as maximum building heights and setbacks.</p> <p>Article 4 contains the standards for overlay districts. Overlay districts consist of regulations that address specific subjects that may be applicable in a variety of areas in the City. The Code includes two <u>three</u> overlay districts:</p>	<p>No changes are proposed to Articles 1 and 2.</p> <p>In Article 3 a new mixed use zone has been added to the Commercial Zones and amendments to consolidate the Town Center Transition (TCT) and Town Center Support (TCS) zones.</p>

City of Forest Grove Development Code – Draft Amendments	Commentary
<ul style="list-style-type: none"> • Master Plan • Planned Developments • <u>Mixed Use Planned Developments</u> <p>Overlay districts apply in conjunction with the base zoning district and can modify the regulations and standards of the base district. The Official Zoning Map identifies the location of the zoning districts and overlay districts.</p> <p>Article 5 establishes the Natural Resource Areas process to protect environmentally sensitive areas. Special provisions and standards for historic landmarks, manufactured home parks and tree protection are also included in this Article:</p> <ul style="list-style-type: none"> • Natural Resource Areas • Historic Landmarks • Tree Protection • Manufactured Dwelling Parks • Solar Access • Recreational Vehicle Parks <p>Review procedures, approval criteria and development and design standards for special provisions are cross-referenced or included in this article.</p> <p>Article 6 deals with land divisions. This article describes submittal requirements, approval criteria and design standards for lot line adjustments, partitions and subdivisions. Article 1 procedures for review of land divisions are cross-referenced. Article 8 standards for public improvements are also cross-referenced.</p> <p>Article 7 contains the regulations for specific uses (such as home occupations and accessory structures) that may be developed in several zoning districts. The regulations in Article 7 generally supplement the regulations of the Article 3 zoning districts.</p> <p>Article 8 describes the general development standards that are applicable to all new development or intensification of existing development (including land divisions and development on existing lots). This article includes standards for parking, landscaping, public improvements, signs, and other topics. The general development standards are grouped in Article 8 to provide consolidated information and less repetition in code language.</p> <p>Articles 9 – 11 are held for future topics.</p> <p>Article 12 describes the framework for the classification of individual uses into broad land use categories. This article also includes definitions of words that are not in common use or that have a specific meaning in the Code.</p>	<p>A new overlay district is proposed to be included in Article 4.</p> <p>A new density bonus section is proposed for Article 7. Alternatively, this section could be included in Article 3. Also 10.7.300 (cell towers) has been amended to include NMU.</p> <p>Article 8 has been amended to address parking for MF in the Town Center.</p> <p>Article 12 has been amended to add a definition of Car-Share Organization and modify definition of Net Density</p>

City of Forest Grove Development Code – Draft Amendments	Commentary																																																				
Article 2 LAND USE REVIEWS	No changes																																																				
Article 3 ZONING DISTRICTS																																																					
<p>10.3.010 CLASSIFICATION OF ZONES</p> <p>All areas within the corporate limits of the City of Forest Grove are divided into the following zones:</p> <p style="text-align: center;">Table 3-1 Zoning Districts</p> <table border="1" data-bbox="378 614 1034 1874"> <thead> <tr> <th><u>Zoning District</u></th> <th><u>Map Symbol</u></th> </tr> </thead> <tbody> <tr><td>Single-Family Residential</td><td>R-5</td></tr> <tr><td>Single-Family Residential</td><td>R-7</td></tr> <tr><td>Single-Family Residential</td><td>R-10</td></tr> <tr><td>Suburban Residential</td><td>SR</td></tr> <tr><td colspan="2"> </td></tr> <tr><td>Multi-Unit (Low) Residential</td><td>RML</td></tr> <tr><td>Multi-Unit (High) Residential</td><td>RMH</td></tr> <tr><td colspan="2"> </td></tr> <tr><td>Institutional</td><td>INST</td></tr> <tr><td colspan="2"> </td></tr> <tr><td>Community Commercial</td><td>CC</td></tr> <tr><td>Commercial – Neighborhood</td><td>NC</td></tr> <tr><td><u>Neighborhood Mixed Use</u></td><td><u>NMU</u></td></tr> <tr><td colspan="2"> </td></tr> <tr><td>Town Center Core</td><td>TCC</td></tr> <tr><td>Town Center Support</td><td>TCS</td></tr> <tr><td>Town Center Transition</td><td>TCT</td></tr> <tr><td colspan="2"> </td></tr> <tr><td>Light Industrial</td><td>LI</td></tr> <tr><td>General Industrial</td><td>GI</td></tr> <tr><td colspan="2"> </td></tr> <tr> <th><u>Overlay District (Article 4)</u></th> <th><u>Map Symbol</u></th> </tr> <tr><td>Master Plan</td><td>MP</td></tr> <tr><td>Planned Development</td><td>PD</td></tr> <tr><td><u>Mixed Use Planned Development</u></td><td><u>MUPD</u></td></tr> </tbody> </table>	<u>Zoning District</u>	<u>Map Symbol</u>	Single-Family Residential	R-5	Single-Family Residential	R-7	Single-Family Residential	R-10	Suburban Residential	SR			Multi-Unit (Low) Residential	RML	Multi-Unit (High) Residential	RMH			Institutional	INST			Community Commercial	CC	Commercial – Neighborhood	NC	<u>Neighborhood Mixed Use</u>	<u>NMU</u>			Town Center Core	TCC	Town Center Support	TCS	Town Center Transition	TCT			Light Industrial	LI	General Industrial	GI			<u>Overlay District (Article 4)</u>	<u>Map Symbol</u>	Master Plan	MP	Planned Development	PD	<u>Mixed Use Planned Development</u>	<u>MUPD</u>	<p>New Neighborhood Mixed Use zone added to table.</p> <p>TCS zone deleted as part of consolidation of Town Center zones.</p>
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<u>Mixed Use Planned Development</u>	<u>MUPD</u>																																																				

City of Forest Grove Development Code – Draft Amendments	Commentary
<p>COMMERCIAL AND MIXED USE ZONES</p> <p>10.3.300 PURPOSE</p> <p>The City of Forest Grove has established two commercial zones to implement the Commercial designation of the Comprehensive Plan <u>and one zone to implement the Mixed Use designation of the Comprehensive Plan</u>. The Neighborhood Commercial zone provides for limited commercial activities at a neighborhood scale. The Community Commercial zone is established to accommodate commercial uses with a community market focus and promote a concentration of mixed uses along the regional transit corridor. <u>The Neighborhood Mixed Use zone is established to encourage the development of pedestrian-friendly mixed use neighborhoods</u>. Additional commercial development opportunities are provided in the Town Center Zones.</p>	<p>A new mixed use zone is proposed to be added to the Commercial Zones section of the code.</p>
<p>10.3.310 LIST OF COMMERCIAL AND MIXED USE ZONES</p> <p>A. <u>Neighborhood Commercial (NC)</u></p> <p>The NC zone is established to provide for small to medium sized shopping and service facilities adjacent to residential neighborhoods. The district is intended to meet the convenience shopping and service needs of the immediate neighborhood and to have minimal negative impacts on surrounding residential uses. NC zones should be located on arterial or collector streets, preferably at an intersection. NC zones should be spaced at approximately one-half (1/2) mile intervals and each zoned area should be limited to a total size of approximately two (2) acres.</p> <p>B. <u>Community Commercial (CC)</u></p> <p>The CC zone is established to promote a concentration of mixed uses – including retail, service, office and residential uses – along the regional transit corridor. The link between land use and transit is intended to result in an efficient development pattern that supports the regional transit system and makes progress in reducing traffic congestion and air pollution. The location, mix and configuration of land uses are designed to encourage convenient alternatives to the auto, a safe and attractive streetscape, and a more livable community.</p> <p>C. <u>Neighborhood Mixed Use (NMU)</u></p> <p><u>The Neighborhood Mixed Use zone is established to support the development of pedestrian-friendly mixed use neighborhoods with a diversity in the mix of housing types and neighborhood-scale retail sales and service, office, civic or recreational uses. Most non-residential uses must be located within a “Village Center”. The Village Center is intended to serve as the center of the neighborhood providing convenient access to goods and services as well as “third places” where residents can gather. The NMU zone implements the Comprehensive Plan’s Mixed Use designation. Mixed Use Planned Development approval is required in the NMU zone in order to ensure that the objectives of the Comprehensive Plan are addressed.</u></p>	<p>Purpose statement for the NMU zone emphasizes mixed use and pedestrian orientation.</p>
<p>10.3.320 USE REGULATIONS</p> <p>Refer to Article 12 for information on the characteristics of uses included in each of the Use Categories.</p> <p>A. <u>Permitted Uses</u>. Uses allowed in the Commercial zones are listed in Table 3-10 with a “P”. These uses are allowed if they comply with the development standards and other regulations of this Code.</p> <p>B. <u>Limited Uses</u>. Uses that are allowed subject to specific limitations are listed in Table 3-10 with an “L”. These uses are allowed if they comply with the limitations listed in the footnotes to the table</p>	

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<p>and the development standards and other regulations of this Code.</p> <p>C. <u>Conditional Uses</u>. Uses that are allowed if approved through the conditional use process are listed in Table 3-10 with a “C”. These uses are allowed provided they comply with the conditional use approval criteria, the development standards, and other regulations of this Code. Section 10.2.200 contains the conditional use process and approval criteria.</p> <p>D. <u>Not Permitted Uses</u>. Uses listed in Table 3-10 with an “N” are not permitted or prohibited. Existing uses may be subject to the regulations of Section 10.7.100, Nonconforming Development.</p> <p>E. <u>Accessory Uses</u>. Uses that are accessory to a primary use are allowed if they comply with specific regulations for accessory uses and all development standards.</p>	

TABLE 3-10 Commercial and Mixed Use Zones Use Table

USE CATEGORY	NC	CC	NMU
<u>RESIDENTIAL</u>	L ^[1]	L ^[2]	<u>P/L</u> ^[13]
Household Living			
Group Living	N	P	<u>N</u>
Transitional Housing	N	C	<u>N</u>
Home Occupation	L ^[3]	L ^[3]	<u>L</u> ^[3]
Bed and Breakfast	L ^[4]	P	<u>L</u> ^[4]
<u>CIVIC / INSTITUTIONAL</u>			
Basic Utilities	P	P	<u>P</u>
Major Utility Transmission Facilities	C	C	<u>C</u>
Colleges	N	C	<u>N</u>
Community Recreation	N	P	<u>L</u> ^[14]
Cultural Institutions	P	P	<u>L</u> ^[14]
Day Care	P	P	<u>L</u> ^[13]
Emergency Services	C	C	<u>L</u> ^[14]
Postal Services	C	P	<u>L</u> ^[14]
Religious Institutions	C	P	<u>L</u> ^[14]
Schools	C	C	<u>L</u> ^[14]
Social/ Fraternal Clubs / Lodges	C	P	<u>L</u> ^[14]
<u>COMMERCIAL</u>			
Commercial Lodging	N	L ^[5]	<u>L</u> ^[14]
Eating and Drinking Establishments	L ^[6]	P	<u>L</u> ^[14]
Entertainment – Oriented:			
- Major Event Entertainment	N	N	<u>N</u>
- Outdoor Entertainment	N	N	<u>N</u>
- Indoor Entertainment	N	P	<u>L</u> ^[14]
General Retail:			

New NMU allows a wide range of uses with an approved MUPD.

Those uses with footnote 13 are allowed anywhere within the MUPD.

Those uses with footnote 14 are only allowed within a Village Center.

Those uses with footnote 15 are restricted to uses existing as of the date of the ordinance is adopted (i.e., no new uses).

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- Sales – Oriented	P	P	<u>L^[14]</u>	
- Personal Services	P	P	<u>L^[14]</u>	
- Repair – Oriented	P	P	<u>L^[14]</u>	
- Bulk Sales	N	P	<u>N</u>	
- Outdoor Sales	^[7] L	^[7] L	<u>L^[14]</u>	
- Animal – Related	N	P		
Medical Centers	N	P	<u>N</u>	
Motor Vehicle Related:		^[8] L	<u>N</u>	
- Motor Vehicles Sale / Rental	N			
- Motor Vehicle Servicing / Repair	N	P	<u>L^[15]</u>	
- Motor Vehicle Fuel Sales	^[9] P	P	<u>N</u>	
Non-Accessory Parking	N	P	<u>N</u>	
Office	P	P	<u>L^[14]</u>	
Self-Service Storage	N	C	<u>N</u>	
INDUSTRIAL				
Industrial Services	N	N	<u>N</u>	
Manufacturing and Production:		^[10] C	<u>N</u>	
- Light Industrial	N			
- General Industrial	N	N	<u>N</u>	
Railroad Yards	N	N	<u>N</u>	
Research and Development	N	N	<u>N</u>	
Warehouse / Freight Movement	N	N	<u>N</u>	
Waste – Related	N	N	<u>N</u>	
Wholesale Sales	N	N	<u>N</u>	
OTHER				
Agriculture / Horticulture	^[12] L	^[12] L	<u>L^[12]</u>	
Cemeteries	N	N	<u>N</u>	
Detention Facilities	N	N	<u>N</u>	
Mining	N	N	<u>N</u>	
Wireless Communication Facilities	^[11] L	^[11] L	<u>L^[12]</u>	

P=Permitted L=Limited C=Conditional Use N=Not Permitted

Footnotes:

- [1] Residential units are permitted in conjunction with a mixed-use development in the NC zone, at a minimum density of 3.48 and a maximum density of 4.35 dwelling units/net acre.
- [2] Residential units are permitted as a stand-alone use or as part of a mixed-use development in the CC zone, at a minimum density of 16.22 units/net acre and a maximum density of ~~20.28~~ 30 units/net acre. Stand-alone residential projects shall have a minimum density of 16.22 units/net acre. There is no minimum density requirement when residential units are constructed over first floor commercial uses.
- [3] Home occupations permitted as an accessory use to residential development, subject to compliance with the home occupation standards in Article 7.
- [4] Bed & breakfast inn limited to three (3) guest rooms in the NC zone, subject to compliance with the bed & breakfast inn standards in Article 7.
- [5] Recreational Vehicle Parks require obtaining a conditional use permit and compliance with the

The proposed amendment to Footnote 2 increases the density in the CC zone from 20.28 to 30 units/net acre.

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<p>requirements of Section 10.5.500 et. seq. All other commercial lodging uses are permitted.</p> <p>[6] Restaurants are permitted in the NC zone (drive-through service is prohibited).</p> <p>[7] Outdoor sales in the NC zone are limited to plants and produce. Outdoor sales areas in the CC zone must be set back at least ten (10) feet from street lot lines and lot lines abutting residential zones and the setback area must be landscaped.</p> <p>[8] Cleaning, sales and repair of motor vehicles and light equipment is permitted outright in the CC zone; sales and rental of heavy vehicles and farm equipment and/or storage of recreational vehicles and boats permitted with conditional use approval.</p> <p>[9] Automobile service station in the NC zone is limited to fuel sales and incidental repair service. [10] As a conditional use pursuant to Section 10.2.200 et. seq., light industrial uses limited within a building no larger than 5,000 square feet in size with no visible emissions or odor outside the building, and with the added criteria that such use does not detract from the commercial viability of the area.</p> <p>[11] Wireless communication facilities are regulated by the standards in Article 7.</p> <p>[12] Domesticated fowl are allowed in conjunction with existing single-family uses and primarily for personal use. Domesticated fowl are allowed subject to these conditions.</p> <ol style="list-style-type: none"> a. Up to 4 adult fowl over 6 months of age may be kept on any lot with a minimum area of 5,000 square feet. One additional adult fowl shall be permitted for each 2,000 square feet of additional lot area, up to a maximum of 12 fowl. b. No roosters shall be permitted. c. Animal waste matter shall not be allowed to accumulate. d. All animal food shall be stored in metal or other rodent-proof containers. e. Fencing shall be designed and constructed to confine all animals to the owner’s property. f. All structures that house fowl shall be located at least 20 feet from all residences (except the animal owner’s). g. All structures that house fowl shall be located at least 5 feet from any side or rear property line. <p>[13] <u>Residential and day care uses – Existing uses are permitted outright. New uses are permitted within a Mixed Use Planned Development approved in accordance with Section 10.4.300. Residential density shall be established in the Mixed Use Planned Development.</u></p> <p>[14] <u>Use is only permitted within the Village Center of a Mixed Use Planned Development approved in accordance with Section 10.4.300.</u></p> <p>[15] <u>Restricted to uses existing as of [DATE OF ADOPTED ORDINANCE]</u></p>	<p>Those uses with footnote 13 are allowed anywhere within the MUPD.</p> <p>Those uses with footnote 14 are only allowed within a Village Center.</p> <p>Those uses with footnote 15 are restricted to uses existing as of the date of the ordinance is adopted (i.e., no new uses).</p>

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10.3.330 COMMERCIAL AND MIXED USE ZONE DEVELOPMENT STANDARDS

A. Purpose

The development standards for the commercial and mixed use zones are intended to promote efficient site planning, control the overall scale of buildings, and promote streetscapes that are consistent with the desired character of the two zones.

B. Development Standards

Development standards for the NC, and CC and NMU zones are summarized below:

**TABLE 3-11
Commercial and Mixed Use Zones: Dimensional Requirements**

STANDARD	NC	CC	NMU
Maximum Use Size ^[1]	2,000 square feet	No maximum	<u>No maximum</u> ^[5]
Minimum Lot Size	5,000 square feet	5,000 square feet	<u>No minimum</u> ^[5]
Minimum Lot Width	50 feet	50 feet	<u>No minimum</u> ^[5]
Minimum Lot Depth	100 feet	None	<u>No minimum</u> ^[5]
Minimum Setbacks ^[2]			
- Front	14 feet	None	<u>No minimum</u> ^[5]
- Interior Side	5 feet	None	<u>No minimum</u> ^[5]
- Corner (street side)	14 feet	None	<u>No minimum</u> ^[5]
- Rear	15 feet	None	<u>No minimum</u> ^[5]
Maximum Setback	20 feet	See footnote [3]	<u>No minimum</u> ^[5]
Maximum Building Height ^[4]	35 feet	45 feet	<u>35 feet</u> <u>45 feet</u> ^[6]
Minimum Landscaped Area	15% of site	15% of site	<u>No minimum</u> ^[5]

As noted in footnote 5, Development standards will be established through the MUPD process.

Footnote 6 provides alternative height restriction for buildings in Village Center with MUPD approval.

Footnotes:

[1] Individual uses in the NC zone are limited to a maximum gross floor area of 2,000 square feet by right. Uses larger than 2,000 square feet required conditional use permit approval.

[2] New development in the NC and CC zones is subject to Design Review and the Screening & Buffering standards in Article 8. Side or rear yard setbacks may be required where the CC zone abuts a Residential zone. The need for a side or rear yard setback to provide privacy, access to sunlight and a transition between zones shall be evaluated in the Design Review Process.

[3] To ensure that new development is oriented to the street, maximum building setback standards are established in the CC zone, as follows:

a) For sites with one building, a minimum of twenty feet or 50% of the face of the

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<p>building, whichever is greater, shall not exceed the maximum front yard setback of 30 feet. The primary entrance shall be contained within that portion of the building meeting the maximum setback requirement.</p> <p>b) For sites with more than one building, the primary entrance of the building with the largest square footage shall be set back no more than 10% of the depth of the average depth of the lot or 50 feet, whichever is lesser. Satellite buildings shall comply with the setback requirement of (a) above.</p> <p>c) There is no maximum setback for the area east of Oak Street.</p> <p>[4] A step-down in building heights may be required when a new commercial building in the CC zone is proposed within twenty (20) feet of a lower density residential zone (SR, R-10, R-7, and R-5). The need for a step-down in building heights to provide privacy, access to sunlight and a transition between zones shall be evaluated in the Design Review Process. The screening and buffering standards in Article 8 will be used as a guideline.</p> <p>[5] <u>New development in the NMU zone requires approval of a Mixed Use Planned Development (MUPD) in accordance with Section 10.4.300. Development standards are established through the MUPD process.</u></p> <p>[6] <u>Maximum 45 feet building height only within Village Center with approved MUPD.</u></p>	
<p>10.3.340 COMMERCIAL ZONE DESIGN STANDARDS & GUIDELINES</p> <p>Commercial development in the NC and CC zones is subject to the design review process in Article 2 and standards in Article 8.</p>	
<p>10.3.400 PURPOSE</p> <p>The purpose of the Town Center zones is to implement the Forest Grove Town Center Plan and to reinforce the historic role of the downtown as the civic, financial and business center. Three <u>Two</u> Town Center zones are adopted to reflect the distinctions between different areas of the Town Center and to focus pedestrian-oriented retail uses to the traditional downtown core along Main Street. Specific development and design standards are adopted for the Town Center zones to reflect the established storefront character of the area and to enhance an active and attractive pedestrian environment for shoppers, employees and residents.</p>	
<p>10.3.410 LIST OF TOWN CENTER ZONES</p> <p>A. <u>Town Center Core (TCC)</u></p> <p>The Town Center Core zone encompasses the traditional downtown core along Main Street. The purpose of this zone is to provide a concentration of retail and office uses in a defined area. Retail, service uses are required on the ground floor, with an emphasis on those uses that serve a walk-in clientele. Office and/or residential uses are allowed on upper floors. The design standards for this zone require a continuous storefront facade featuring streetscape amenities for the pedestrian.</p> <p>B. <u>Town Center Transition (TCT)</u></p> <p>The Town Center Transition zone is established to increase employment and housing opportunities in close proximity to the Town Center Core. A mix of retail, office, light industrial and residential uses are allowed in the TCT zone, but ground floor retail uses are permitted but not required. Consistent streetscape improvements such as street lighting, street trees and sidewalks will link the Town Center Transition zone with the Town Center Core.</p>	<p>Proposed amendments delete TCS in favor of TCT and make some changes to TCT to accommodate the consolidation of TCS and TCT zoned lands.</p>

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~~C. Town Center Support (TCS)~~

~~The Town Center Support zone is established to increase employment and housing opportunities that support the Town Center Core. A mix of office, light industrial and residential uses are allowed in the TCS zone. Ground floor retail uses are permitted but not required. Pedestrian and bicycle improvements will link the Town Center Support zone with the Town Center Core.~~

10.3.420 USE REGULATIONS

Refer to Article 12 for characteristics of uses included in each of the Use Categories.

- A. Permitted Uses. Uses allowed in the Town Center zones are listed in Table 3-12 with a “P”. These uses are allowed if they comply with the development standards and other regulations of this Code.
- B. Limited Uses. Uses that are allowed subject to specific limitations are listed in Table 3-12 with an “L”. These uses are allowed if they comply with the limitations listed in the footnotes to the table and the development standards and other regulations of this Code.
- C. Conditional Uses. Uses that are allowed if approved through the conditional use process are listed in Table 3-12 with a “C”. These uses are allowed provided they comply with the conditional use approval criteria, the development standards, and other regulations of this Code. The conditional use process and approval criteria are stated in Section 10.2.200.
- D. Not Permitted Uses. Uses listed in Table 3-12 with an “N” are not permitted. Existing uses may be subject to Section 10.7.100, Nonconforming Development.
- E. Accessory Uses. Uses that are accessory to a primary use are allowed if they comply with specific regulations for accessory uses and all development standards.

**TABLE 3-12
Town Center Zones: Use Table**

USE CATEGORY	TC-Core	TC-Transition	TC-Support
<u>RESIDENTIAL</u>			
Household Living	L ^[1]	L ^[1]	L ^[H]
Group Living	p ^[1]	P	P
Transitional Housing	N	C	C
Home Occupation	L ^[2]	L ^[2]	L ^[2]
Bed and Breakfast	C ^[2]	P	P
<u>CIVIC / INSTITUTIONAL</u>			
Basic Utilities	P	P	P
Major Utility Transmission Facilities	C	C	C
Colleges	C	C	C
Community Recreation	N	P	P
Cultural Institutions	P	P	P
Day Care	P	P	P

Proposed amendments delete TC Support (TCS) and consolidate with TC Transition (TCT).

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Emergency Services	C	C	€	<p>Proposed amendments split footnote 3 into 3 and 4 and renumbered all subsequent footnotes.</p> <p>Clarified that footnote 5 which prohibits drive through service from restaurants applies in TCT. This requirement when applied to the expanded TCT area may create some non-conforming uses. This issue should be discussed.</p>
Postal Services	C	P	P	
Religious Institutions	C	P	P	
Schools	C	C	€	
Social/ Fraternal Clubs / Lodges	C	P	P	
COMMERCIAL				
Commercial Lodging	L ^[3 4]	L ^[3 4]	L ^[3]	
Eating and Drinking Establishments	P ^{[4][5]}	P ^{[4][5]}	P	
Entertainment – Oriented:				
- Major Event Entertainment	N	N C	€	
- Outdoor Entertainment	N	N	N	
- Indoor Entertainment	P	P	P	
General Retail:				
- Sales – Oriented	P	P	P	
- Personal Services	P	P	P	
- Repair – Oriented	P	P	P	
- Bulk Sales	L ^[5 6]	L ^[5 6]	L ^[5]	
- Outdoor Sales	N	N	N	
- Animal – Related	N	N	N	
Medical Centers	N	C	€	
Motor Vehicle Related:				
- Motor Vehicles Sale / Rental	N	N P/C ^[12]	N	
- Motor Vehicle Servicing / Repair	N	N C ^[13]	N	
- Motor Vehicle Fuel Sales	N	N C ^[14]	N	
Non-Accessory Parking	N	C	€	
Office	L ^[3]	P	P	
Self-Service Storage	N	N	N	
INDUSTRIAL				
Industrial Services	N	N	N	
Manufacturing and Production:				
- Light Industrial	N	C	€	
- General Industrial	N	N	N	
Call Centers	L ^{[6][7][8]}	L ^[6 7]	L ^[6]	
Railroad Yards	N	N	N	
Research and Development	N	N C	P	
Warehouse / Freight Movement	N	N	N	
Waste – Related	N	N	N	
Wholesale Sales	N	N	N	
OTHER				
Agriculture / Horticulture	N	N	N	
Cemeteries	N	N	N	
Detention Facilities	N	N	N	
Mining	N	N	N	

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Wireless Communication Facilities	L ^[8 9]	L ^[8 9]	L ^[8]	
Information	L ^{[9][10]} [11]	L ^[9 10]	L ^[9]	
<p>P=Permitted L=Limited C=Conditional Use N=Not Permitted</p> <p>Footnotes:</p> <p>[1] New dwellings in the TCC zone are only permitted on or above the 2nd floor. There are no minimum density requirements when housing is part of a mixed-use building. In the TCT zone <u>and TCS zones</u> new dwellings are permitted as “stand-alone” developments or as part of mixed-use developments, but must meet density requirements.</p> <p>[2] Home occupations are permitted as an accessory use to residential uses, subject to compliance with the home occupation standards in Article 7.</p> <p>[3] Offices only permitted as part of a ground-floor retail or personal service use or as a stand-alone use above the first floor in the TC-Core zone. Recreational vehicle parks are prohibited in all districts.</p> <p>[4] <u>Recreational vehicle parks are prohibited in all districts.</u></p> <p>[4 5] Drive through service is prohibited from restaurants in the TC-Core and TC-Transition zones.</p> <p>[5 6] Bulk sales stores with ground floor building footprint small than 10,000 square feet are permitted. All merchandise must be enclosed within a building. All other bulk sales are prohibited.</p> <p>[6 7] Permitted where there are no off premise impacts and no product is transported from the site. Centers with any offsite impacts or transport products from the site are to be located in either Light or General Industrial districts.</p> <p>[7 8] Call Centers shall not be allowed on the ground floor in the TC-Core Zone District.</p> <p>[8 9] Wireless communication facilities are regulated by the standards in Article 7.</p> <p>[9 10] Permitted where there are no off premise impacts.</p> <p>[10 11] Information business is not allowed on the ground floor in the TC-Core Zone District.</p> <p>[12] <u>Motor Vehicles Sales/Rental uses may be allowed as a conditional use if conducted entirely indoors.</u></p> <p>[13] <u>Motor Vehicle Servicing/Repair uses existing as of [DATE OF ADOPTED ORDINANCE] are allowed to continue and may expand within the boundaries of the existing lots 1N436B002900, 1N436B002901, 1N436B003000 with conditional use approval. All other Motor Vehicle Servicing/Repair uses are prohibited.</u></p> <p>[14] <u>Motor Vehicle Fuel Sales uses existing as of [DATE OF ADOPTED ORDINANCE] are allowed to continue and may expand within the boundaries of the existing lot 1S306BA01300 with conditional use approval. All other Motor Vehicle Fuel Sales uses are prohibited.</u></p>				
				<p>Split footnote 3 into 3 and 4 and renumbered all subsequent footnotes.</p> <p>Currently, Footnote 5 (now #6) is not applied to the TCT (or TCS) zone in the table; however, the text of the footnote references TCT. Proposed amendment would make it clear that the prohibition on drive-through service restaurants applies in TCT.</p> <p>Footnotes 13 and 14 allow the continuation and expansion of the existing gas station and auto repair on their existing lots.</p>

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10.3.430 TOWN CENTER ZONE DEVELOPMENT STANDARDS

A. Purpose

The development standards are intended to promote efficient use of land and more intensive development. The standards establish minimum and maximum building heights and maximum building setbacks to reinforce the scale and storefront character of existing historic buildings and to support a pedestrian-oriented environment.

B. Development Standards

Development standards for the Town Center Core (TCC), and Town Center Transition (TCT) ~~and Town Center Support (TCS)~~ zones are summarized below.

**TABLE 3-13
Town Center Zones: Dimensional Requirements**

STANDARD	TCC	TCT	TCS
Floor Area Ratio ^[1]			
- Minimum	1:1	0.75 <u>0.5</u> :1	0.5:1
- Maximum	3:1 <u>4:1</u>	3:1 <u>4:1</u>	3:1
Building Height (all parts)			
- Minimum	2 stories	16 feet	16 feet
- Maximum	4 stories	4 stories	4 stories
Residential Density ^[2]			
- Minimum	None	16.22 units / acre	16.22 units / acre
- Maximum	20.28 <u>40</u> units / acre ^[7]	20.28 <u>40</u> units / acre ^[7]	20.28 units / acre
Front Setback ^[3]			
- Minimum	0	0	0
- Maximum	15 feet	15 feet	15 feet
Side and Rear Setback ^[4]	0	0	0
Parking ^[5]	Exempt	Exempt	Exempt
Landscaping ^[6]	5 % of lot	5 % of lot	5 % of lot

Footnotes:

[1] Floor area ratio is defined as the ratio of building square footage to gross site square footage. For example, a 5,000 square foot building is required on a 5,000 square foot site (FAR of 1:1); a ~~45,000~~ 20,000 square foot building is allowed (FAR of ~~3:1~~ 4:1).

[2] All densities are based on net acres.

[3] A larger front yard setback may be approved through Design Review if the setback area incorporates enhanced pedestrian spaces and amenities such as plazas, arcades, courtyards, outdoor cafes, widened sidewalks, benches, shelters, street furniture, public art, or kiosks. No parking is allowed between building and public right-of-way.

[4] Side and rear yard setbacks may be required through Design Review when needed to provide a transition

TCS deleted from the table.

Maximum FAR increased from 3:1 to 4:1 for TCC and TCT. Minimum FAR for TCT reduced to 0.5:1.

Base residential density increased 40 du/net ac.

Minimum residential density in TCT proposed to be retained at the current requirement of 16.22 units/acre

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<p>between zones or different land uses. The screening and buffering standards in Article 8 will be used as a guideline.</p> <p>[5] Except for multifamily residential uses, off-street Off-street parking is not required in any of the three Town Center Zones. When off-street parking is provided, it shall be located to the side or rear of buildings, in shared parking lots or in parking structures. Parking and/or maneuvering areas shall not be located between the front facade of the building and the street/sidewalk. <u>Parking for multifamily residential uses shall be provided in accordance with Table 8-5 in Section 10.8.515</u></p> <p>[6] Required landscaping in the Town Center zones may include planters, hanging baskets, and architectural features such as benches and water fountains that are supportive of the Town Center pedestrian environment. Jointly improved landscaped areas are encouraged to facilitate continuity of landscape design.</p> <p>[7] <u>Residential density may be increased above the maximum in accordance with the density incentives in Section 10.7.400. Minimum density does not apply to projects on sites which are less than ½ acres in net area or which include a mix of uses.</u></p>	<p>Footnote 5 amended to specify that off-street parking will be required for MF residential uses in the TC zones.</p> <p>Footnote 7 references new density bonus section.</p>
<p>10.3.440 TOWN CENTER ZONE DESIGN STANDARDS AND GUIDELINES</p> <p>Development in all Town Center Zones is subject to the design review process provided in Article 2 and standards provided in Article 8.</p>	
<p>ARTICLE 4 OVERLAY DISTRICTS</p>	
<p>10.4.000 OVERVIEW OF ARTICLE 4</p> <p>This Article includes procedures and requirements related to zoning overlay districts. Properties with an overlay designation will also have an underlying zoning. Provision of the overlay district may add or modify requirements of the underlying zoning district. Forest Grove has two overlay districts:</p> <ul style="list-style-type: none"> ▪ Master Plan ▪ Planned Developments ▪ <u>Mixed Use Planned Developments</u> <p>The purpose of the Master Plan Zone is to promote and facilitate the coordinated development of larger-scale institutional facilities through adoption of a master plan. This Article also includes procedures and standards for Planned Developments (PD). The PD procedures are established to provide greater flexibility in the development of land for residential, commercial or industrial purposes than allowed outright by the base zones. <u>The Mixed Use Planned Development procedures are similar to the PD, but are specifically intended for use within the Neighborhood Mixed Use Zone.</u></p>	
<p><u>MIXED USE PLANNED DEVELOPMENT</u></p> <p>10.4.300 PURPOSE</p> <p><u>The purpose of the Mixed Use Planned Development is to ensure that sites zoned Neighborhood Mixed Use are developed into pedestrian-friendly mixed use neighborhoods. In order to accomplish that, Mixed Use Planned Developments need to provide:</u></p> <p><u>A. Diversity in the mix of housing types including single family houses, apartments, row houses,</u></p>	<p>New procedure for Mixed Use Planned Development based on City's existing PD but with significant changes. MUPDs would</p>

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<p><u>cottages, senior housing, and residential units above commercial or office space;</u></p> <p><u>B. Pedestrian-orientation in the arrangement and placement of buildings, parking and circulation systems, land uses, and utilities;</u></p> <p><u>C. Pedestrian and bicycle access to, and through, the site and provide connectivity to adjacent areas for motorized and non-motorized modes of transportation;</u></p> <p><u>D. Neighborhood-scale retail sales and service, office, civic or recreational uses conveniently located for neighborhood access, thereby contributing to the livability of the area by reducing the amount of vehicle miles traveled to reach goods and services;</u></p> <p><u>E. Coordinated architectural styles, landscaping building forms and building relationships which help establish a cohesive sense of place;</u></p> <p><u>F. An urban form that emphasizes the efficient use of land and compact urban form;</u></p> <p><u>G. The applicant with reasonable assurance of ultimate approval before requiring detailed design and engineering, while providing the City with assurances that the project will retain the character envisioned at the time of approval; and</u></p> <p><u>H. A basis for discretionary review of an overall plan of development that can subsequently be developed in phases over time with administrative approval.</u></p>	<p>be required for all development within the new NMU Zone.</p> <p>New purpose statement emphasizes pedestrian oriented mixed use.</p>
<p><u>10.4.305 PROCEDURES</u></p> <p><u>A Mixed Use Planned Development (MUPD) is reviewed through a two-step process.</u></p> <p><u>A. Preliminary plan. The preliminary plan is reviewed under Type III procedures. The preliminary plan review examines the MUPD with respect to items such as the mix of uses; density, including the number, type, and location of dwelling units; the location and amount of non-residential uses; parking; impacts on surrounding areas; adequacy of services; and conceptual plan for service improvements. Preliminary plan approval will only be granted when there is a reasonable certainty that the MUPD will fulfill all applicable requirements of the City Codes.</u></p> <p><u>B. Final plan. The final plan for the MUPD is reviewed under Type I administrative procedures. The applicant must submit the detailed and technical information necessary to demonstrate that all applicable City standards, requirements, and conditions have been met. Approval will only be granted if the final plan is in substantial conformance with the preliminary plan.</u></p> <p><u>C. Concurrent land division. A MUPD may be filed and processed concurrently with a partition or subdivision application; however, no land division shall be approved unless it is found to be consistent with the applicable MUPD. All of the submittal requirements and review standards of Article 6 will apply to a concurrent MUPD/land division request. The tentative plat will be combined with the preliminary MUPD review and the final plat will be combined with the final MUPD review.</u></p> <p><u>D. Site development/design review. The MUPD approval shall remove the requirement for subsequent site development or design review of individual buildings, if the MUPD includes building elevations and sufficient information to demonstrate compliance with the applicable site development/design review standards. The MUPD decision shall expressly state whether individual buildings within the MUPD (such as commercial or multifamily buildings) shall require subsequent site development or design review approval.</u></p>	<p>Proposed procedures are generally comparable to current PD requirements.</p>

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<p><u>10.4.310 PROFESSIONAL DESIGN TEAM REQUIRED</u></p> <p><u>For MUPDs over three (3) gross acres in size, the MUPD applicant must certify, in writing, that a member of each of the following professions will be used in the planning and design process for the proposed MUPD:</u></p> <p>A. <u>A licensed architect or professional urban designer approved by the Planning Director.</u></p> <p>B. <u>A licensed landscape architect, a certified nurseryman, or landscape designer approved by the Director.</u></p> <p>C. <u>A registered civil engineer or land surveyor.</u></p> <p><u>One of the above professionals shall be designated by the applicant to act as a liaison between the Community Development Department, the design team, and the applicant during the two-step MUPD review process. The Planning Commission or City Council may require the expertise of other professionals on the design team if it is determined that the site merits special consideration to unique or adverse features or conditions.</u></p>	<p>Proposed requirement is comparable to PD. As drafted, this requirement would only apply to MUPDs over 3 acres in size.</p>																
<p><u>10.4.315 MUPD DEVELOPMENT STANDARDS</u></p> <p>A. <u>Base Zone Standards. The development standards of the base zone apply unless they are superseded by the standards of this section or an MUPD approval.</u></p> <p>B. <u>Site Size. There are no minimum or maximum size limitations for a MUPD.</u></p> <p>C. <u>Residential Density.</u></p> <p><u>1. The target, minimum and maximum residential density for each of the NMU zoned area is shown in Table 4-1. Dwelling units may be transferred between parcels as part of an approved MUPD provided the average density within the MUPD meets the standards in Table 4-1.</u></p> <p style="text-align: center;"><u>TABLE 4-1</u> <u>Residential Density</u></p> <table border="1" data-bbox="123 1400 1219 1581"> <thead> <tr> <th><u>NMU Zoned Area</u></th> <th><u>Minimum Density</u></th> <th><u>Target Density</u></th> <th><u>Maximum Density</u></th> </tr> </thead> <tbody> <tr> <td><u>Area 1 - David Hill</u></td> <td><u>9.6 units/net acre</u></td> <td><u>12 units/net acre</u></td> <td><u>13.8 units/net acre</u></td> </tr> <tr> <td><u>Area 2 - Gales Creek</u></td> <td><u>6.97 units/net acre</u></td> <td><u>8.71 units/net acre</u></td> <td><u>10.02 units/net acre</u></td> </tr> <tr> <td><u>Area 3 - Davidson</u></td> <td><u>9.6 units/net acre</u></td> <td><u>12 units/net acre</u></td> <td><u>13.8 units/net acre</u></td> </tr> </tbody> </table> <p>D. <u>Lot Sizes. There are no required minimum lot sizes.</u></p> <p>E. <u>Housing Types Allowed. All housing types are permitted. For MUPDs over three (3) gross acres in size, a mix of housing types is required unless otherwise approved by the Planning Commission. Multi-unit buildings shall be subject to Multi-Unit Residential Focus Area standards unless standards are modified through an approved MUPD.</u></p> <p>F. <u>Village Center. Commercial Uses and Institutional Uses (other than Basic Utilities, Major Utilities Transmission Facilities, Daycare, Home Occupations and Community Recreation) shall be located within a</u></p>	<u>NMU Zoned Area</u>	<u>Minimum Density</u>	<u>Target Density</u>	<u>Maximum Density</u>	<u>Area 1 - David Hill</u>	<u>9.6 units/net acre</u>	<u>12 units/net acre</u>	<u>13.8 units/net acre</u>	<u>Area 2 - Gales Creek</u>	<u>6.97 units/net acre</u>	<u>8.71 units/net acre</u>	<u>10.02 units/net acre</u>	<u>Area 3 - Davidson</u>	<u>9.6 units/net acre</u>	<u>12 units/net acre</u>	<u>13.8 units/net acre</u>	<p>Base zone standards are included in the new MUPD zone.</p> <p>An MUPD would be required prior to development in NMU Zone. There are both large and small sites in the areas designated on the CP map for Mixed Use. Standards need to be scalable.</p> <p>The TCT standards and guidelines will apply to Village Centers and the MF standards and guidelines will apply to multi-unit developments.</p>
<u>NMU Zoned Area</u>	<u>Minimum Density</u>	<u>Target Density</u>	<u>Maximum Density</u>														
<u>Area 1 - David Hill</u>	<u>9.6 units/net acre</u>	<u>12 units/net acre</u>	<u>13.8 units/net acre</u>														
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<p><u>Village Center.</u></p> <p><u>1. The applicant shall propose designs for the Village Center that provide services at a neighborhood scale within a compact, pedestrian-friendly environment. The Design and Development Standards and/or Design Guidelines applicable to the Town Center Transition (TCT) zone shall be used as a basis for development within the Village Center unless modified through an approved MUPD.</u></p> <p><u>2. The minimum and maximum floor area of commercial or institutional uses permitted within the Village Center is shown in Table 4-2.</u></p> <p><u>3. The total area of the Village Center shall not exceed 50% of the buildable land within the MUPD or three (3) acres, whichever is greater. For the purposes of this calculation the area of the Village Center shall include the contiguous areas dedicated to commercial and institutional uses and related parking. Streets and open space shall not be included in the Village Center area calculations.</u></p> <p><u>4. Only one (1) Village Center is permitted within each of the NMU Zoned Areas.</u></p> <p><u>5. Institutional uses shall not exceed 10% of the maximum allowed square footage within the Village Center.</u></p> <p><u>6. Within Area 3 (Davidson), the maximum building footprint is 50,000 square feet. One tenant in Area 3 may occupy up to 50,000 square feet of gross floor area. Multiple tenants in a single building are allowed.</u></p> <p style="text-align: center;"><u>TABLE 4-2</u> <u>Commercial/Institutional Uses within the Village Center</u></p> <table border="1" data-bbox="186 1223 1247 1400"> <thead> <tr> <th><u>NMU Zoned Area</u></th> <th><u>Minimum Square Footage</u></th> <th><u>Maximum Square Footage</u></th> </tr> </thead> <tbody> <tr> <td><u>Area 1 - David Hill</u></td> <td><u>None</u></td> <td><u>15,000 SF Gross Floor Area</u></td> </tr> <tr> <td><u>Area 2 - Gales Creek</u></td> <td><u>None</u></td> <td><u>25,000 SF Gross Floor Area</u></td> </tr> <tr> <td><u>Area 3 - Davidson</u></td> <td><u>25,000 SF Gross Floor Area</u></td> <td><u>130,000 SF Gross Floor Area</u></td> </tr> </tbody> </table> <p><u>G. Height. The height limits of the base zone apply.</u></p> <p><u>H. Building Setbacks. Building setbacks are established as part of the preliminary development plans approval.</u></p> <p><u>I. Open Space. A MUPD shall include a minimum of 20% usable common open space, landscaped areas, and/or protected natural areas.</u></p> <p><u>J. Pedestrian-Orientation and Circulation. A MUPD shall include a transportation system that emphasizes pedestrian mobility and accessibility, and demonstrates an effective and convenient system of pedestrian facilities that provides connectivity throughout the MUPD and to adjacent properties. The transportation system shall identify existing and proposed pedestrian connections and may include a combination of sidewalks, multi-use pathways and trails.</u></p>	<u>NMU Zoned Area</u>	<u>Minimum Square Footage</u>	<u>Maximum Square Footage</u>	<u>Area 1 - David Hill</u>	<u>None</u>	<u>15,000 SF Gross Floor Area</u>	<u>Area 2 - Gales Creek</u>	<u>None</u>	<u>25,000 SF Gross Floor Area</u>	<u>Area 3 - Davidson</u>	<u>25,000 SF Gross Floor Area</u>	<u>130,000 SF Gross Floor Area</u>	<p>However, standards can be modified through the MUPD approval.</p> <p>F. In order to avoid scatter or strip development or multiple lots, the proposed language allows commercial and civic uses only in a Village Center and allows only one Village Center in each of the Areas. Also, in order to keep the Village Centers relatively compact, they are limited to a maximum size of 50% of the buildable land or 3 acres whichever is greater.</p> <p>K. In order to ensure a pedestrian friendly environment, parking must be located to the rear or side of non-residential buildings and residential developments are required to have alley</p>
<u>NMU Zoned Area</u>	<u>Minimum Square Footage</u>	<u>Maximum Square Footage</u>											
<u>Area 1 - David Hill</u>	<u>None</u>	<u>15,000 SF Gross Floor Area</u>											
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<p><u>K. Parking. The base zone parking requirements apply except that shared parking is encouraged within the MUPD. Where the MUPD abuts land zoned for single family residential development, common parking and maneuvering areas must be set back at least twenty (20) feet from the lot line. No parking or vehicular circulation areas shall be located between the building and the street. Garages and off-street parking areas for residential developments shall be accessed by alleys unless otherwise approved by the Planning Commission</u></p> <p><u>L. Water Features. Water features such as streams or ponds must be left in a natural state unless altered to improve the natural values of the water feature or to improve stormwater drainage. Water features and their buffers should be kept in common ownership.</u></p> <p><u>M. Facilities and Services. It is the responsibility of the applicant to provide all service facilities necessary for the functioning of the MUPD. Service facilities such as streets, water supply facilities, sanitary sewers, and storm water detention facilities must be dedicated to the public if they are to provide service to any property not included in the MUPD. However, the review body may approve private service facilities with the consent of the appropriate service provider.</u></p> <p><u>N. Underground Utilities. All service facilities must be placed underground except those that by their nature must be on or above ground, such as fire hydrants and open water courses. The applicant is responsible for making the necessary arrangements with utility companies and other appropriate entities when installing all service facilities.</u></p> <p><u>O. Construction to Standards. All service facilities dedicated to the public must be constructed to City standards. All private service facilities must be designed by a qualified civil engineer to City standards or comparable design life as determined by the City Engineer.</u></p>	<p>access</p>
<p><u>10.4.320 PRELIMINARY PLAN REVIEW</u></p> <p><u>A. Procedure. Preliminary plan reviews are processed through a Type III procedure.</u></p> <p><u>B. Submittal Requirements. Applications for a preliminary plan review must contain the information stated below in addition to that required by Section 10.1.325.</u></p> <p><u>1. General statement. A statement of how the purpose of Section 10.4.300 will be achieved by the proposed MUPD. The statement should include sketches or illustrations of the proposed character of the development, a description of how the MUPD will relate to surrounding land uses and whether other land use reviews are requested.</u></p> <p><u>2. Summary report. A summary report identifying the different land uses, including the amount of land for housing, Village Center (if any) and other non-residential uses, open areas, streets and parking; the number and type of housing units; and a statement of how necessary services will be provided and whether the services will be publicly or privately owned and operated.</u></p> <p><u>3. Drawings of existing site conditions. A drawing or drawings must be submitted which display and inventory existing site conditions including the items listed below.</u></p> <p><u>a. Ground elevations shown with contour lines at two (2) -foot intervals or less.</u></p> <p><u>b. Areas of moderate or severe landslide potential, as identified on City maps or documented by an engineering geologist or geotechnical engineer.</u></p> <p><u>c. General soil types as identified on City maps or as documented by an engineering</u></p>	<p>Proposed requirements are generally comparable to current PD requirements.</p>

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<p><u>geologist of soils engineer.</u></p> <p>d. <u>Existing natural features, including rock outcroppings, trees and tree groves, fish and wildlife habitats, ponds, wetlands, and watercourses.</u></p> <p>e. <u>Existing on-site or abutting sanitary sewage, storm drainage, and water supply facilities. If such facilities are not on or abutting the site, indicate the direction and distance to the nearest ones.</u></p> <p>f. <u>Width, location, and purpose of all existing easements of record on or abutting the site.</u></p> <p>g. <u>A description of the traffic circulation system for all modes on or abutting the site, including street sizes, level of improvements, and condition of the streets.</u></p> <p>h. <u>A description of areas abutting the MUPD, indicating zoning districts, land uses, densities, circulation systems, public service facilities, natural features, and approximate locations of nearby structures.</u></p> <p>i. <u>Any additional information about existing site conditions required for a concurrent subdivision application.</u></p> <p>4. <u>MUPD Site Plan. The site plan must include the information stated below.</u></p> <p>a. <u>Setbacks and orientation to the street all buildings.</u></p> <p>b. <u>The traffic circulation system for all modes, including connections to existing public rights-of-way, off-street parking, and the ownership of streets, street trees and street lighting.</u></p> <p>c. <u>The general location of parking areas, identify ingress and egress locations, and the number of spaces to be provided.</u></p> <p>d. <u>Conceptual plans for pedestrian and bicycle circulation systems.</u></p> <p>e. <u>Conceptual plans for all necessary services, including their location and whether the services will be publicly or privately owned and maintained.</u></p> <p>f. <u>Conceptual plans for all facilities for the control and disposal of storm water and groundwater.</u></p> <p>g. <u>Conceptual plans for the location and design of public and private open areas or structures.</u></p> <p>h. <u>Treatment proposed for the periphery of the site, including the approximate amount, location, and type of any required landscaping.</u></p> <p>5. <u>Drawings. Drawings showing the existing site conditions and the proposed site plan must be at a reasonable size and scale to clearly show all required information. The drawings must display the following:</u></p>	

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<p>a. <u>Name of the proposed PD;</u></p> <p>b. <u>Date, north arrow, and scale of the drawing;</u></p> <p>c. <u>Legal description of the PD sufficient to define its location and boundaries;</u></p> <p>d. <u>Names, addresses, and telephone numbers of the owner, applicant, and design team;</u></p> <p>e. <u>Appropriate identification of the drawing as a preliminary plan.</u></p> <p>6. <u>Building Elevations or Design Guidebook. The application shall include sample elevations for detached single family dwellings and specific elevations for all other buildings. In lieu of providing detailed elevations for each building, the application may include a Design Guidebook, created by a qualified architect or urban designer, which outlines the design standards that will be applicable to all development within the MUPD including architectural features for all building types and identify proposed color palates, materials and typical elevations.</u></p> <p>7. <u>Phased MUPDs. If the project will be built in phases, a Development Phasing Plan is required. The Development Phasing Plan shall:</u></p> <p>a. <u>Demonstrate how the required mix of uses will be provided through phasing, including the approximate locations, amount in square footage of non-residential uses (a size range may be provided), number of residential dwelling units, and phasing schedule of each use;</u></p> <p>b. <u>Demonstrate how on-site circulation, parking, landscaping and tree planting, lighting and other on-site improvements will function, after the completion of each phase and following complete buildout of the development site;</u></p> <p>c. <u>Identify the timeframe, in what order and how proposed public utilities, public facilities and other improvements and amenities necessary to support the project will be constructed, dedicated or reserved; and</u></p> <p>C. <u>Approval Criteria. The preliminary plan will be approved if the review body finds that the applicant has shown that all of the following approval criteria are met:</u></p> <p>1. <u>The plan fulfills the purpose for MUPDs stated in Section 10.4.300;</u></p> <p>2. <u>The plan meets the submittal requirements of Section 10.4.320 B;</u></p> <p>3. <u>Adequate public services exist or can be provided to serve the proposed MUPD; and</u></p> <p>4. <u>Where a tentative subdivision plat is requested, the requirements of Article 8 are met.</u></p> <p>D. <u>Time Limit. Preliminary plan approval is valid for three (3) years and may not be extended. The three (3)-year period will not begin until any appeals beyond the jurisdiction of the City are completed. Within the three (3) year time period, the applicant must submit a final development plan for the entire site, or for the first phase if the MUPD has been approved for phased development. The applicant must submit final development plans for any subsequent phases within the time limit specified for the phases.</u></p>	<p>6. The allowance for a Design Guidebook is unique to this MUPD process. It is intended to allow developers who are doing phased developments to delay preparing all of the building elevations.</p>
<p>10.4.325 <u>FINAL PLAN REVIEW</u></p>	<p>Proposed requirements</p>

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<p><u>A. Final Plan Submittal. The applicant must present detailed plans, which meet the public facility standards of the City. The applicant must present other plans or studies required by the preliminary approval, such as a grading plan, soils engineer report, or detailed landscaping plans.</u></p> <p><u>B. Procedure. The final plan is reviewed under Type I procedures.</u></p> <p><u>C. Requirements. The final development plan will be approved if it meets the requirements stated below and is in substantial conformance with the approved preliminary plan and any conditions of the approval.</u></p> <p><u>1. Drawing quality. The final development plan must be drawn clearly and legibly at a size and scale that clearly shows all required information. The plan must be identified as the final MUPD plan.</u></p> <p><u>2. Additional information on the final plan. In addition to the information required on preliminary drawings or otherwise specified by law, the following information must be shown:</u></p> <p><u>a. Reference points of identified existing surveys by distances and bearings, and referenced to field book or map, including stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the MUPD;</u></p> <p><u>b. The location and width of streets and easements intercepting the boundary of the MUPD;</u></p> <p><u>c. Easements and stormwater drainage reserves must be clearly identified and, if already of record, their recorded reference. The width of the easement, its length and bearing, and sufficient ties to locate the easement within the MUPD must be shown. If the easement is being dedicated by the plan, it must be properly referenced in the owner's certificates of dedication; and</u></p> <p><u>d. Identification of land to be dedicated to the public.</u></p> <p><u>3. Additional certificates or drawings. The items stated below may be combined where appropriate.</u></p> <p><u>a. A certificate signed and acknowledged by all parties having any recorded title interest in the land and consenting to the preparation and recording of the MUPD.</u></p> <p><u>b. A certificate signed and acknowledged as above, dedicating the land intended for public use, if any.</u></p> <p><u>c. A title report issued by the title insurance company verifying ownership by the applicant of real property that is to be dedicated to the public.</u></p> <p><u>d. A certificate with the seal of, and signed by, the surveyor responsible for the survey.</u></p> <p><u>e. Other certificates required by law.</u></p> <p><u>f. A copy of any deed restrictions applicable to the MUPD.</u></p> <p><u>4. Detailed design plan for the MUPD site. A detailed design plan for the MUPD is required</u></p>	<p>are generally comparable to current PD requirements.</p>

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<p><u>and must include the items stated below.</u></p> <p>a. <u>The location of proposed buildings and structures, parking areas and, where applicable, the location of allowable building areas of individual lots.</u></p> <p>b. <u>All building setback lines and height limits that are to be made part of the MUPD restrictions.</u></p> <p>c. <u>The location and type of proposed buildings, structures, or improvements in common open areas.</u></p> <p>d. <u>The location and design information for all proposed streets as required by Article 8.</u></p> <p>e. <u>A plan for water mains and fire hydrants.</u></p> <p>f. <u>A plan for sanitary sewage disposal.</u></p> <p>g. <u>A plan for storm water drainage.</u></p> <p>h. <u>A plan for additional improvements such as walkways and street lighting.</u></p> <p>i. <u>Required solar-related information if the MUPD is also subject to the solar regulations for new subdivisions.</u></p> <p>5. <u>Landscaping. A landscaping plan for common open areas, the perimeter of the MUPD, and other landscaped areas is required.</u></p> <p>a. <u>The plan must show areas that the applicant proposes to retain in natural vegetation. The plan must show the areas, sizes, numbers, and types of plant and other materials to be used for all landscaped areas.</u></p> <p>b. <u>The plan must address the revegetation of common open areas and perimeter areas disturbed during construction.</u></p> <p>c. <u>The plan must include a proposed schedule for required perimeter landscaping. A performance guarantee is required if the landscaping cannot be completed prior to the occupancy of buildings, or cannot be completed when required by the conditions of approval.</u></p> <p>6. <u>Geotechnical engineer’s report. A geotechnical engineer’s report consistent with the requirements of Section 10.8.310 must be submitted if the MUPD is in a moderate or severe landslide area, or if the report was required as a part of the preliminary approval. The City Engineer or the Building Official must approve the report.</u></p> <p>7. <u>CC & Rs. The Declaration of Covenants, Conditions, and Restrictions (CC & Rs) for the MUPD must be submitted. In addition, any other legal instruments for the protection and maintenance of common open areas, private streets, and private utilities if any, must be submitted. These legal instruments must be approved by the City Attorney to ensure that the City’s interests are protected.</u></p>	

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8. <u>Concurrent subdivision approval. Simultaneous final plat approval is permitted.</u>																																										
ARTICLE 5 SPECIAL PROVISIONS	No changes																																									
ARTICLE 6 LAND DIVISIONS	No changes																																									
ARTICLE 7 MISCELLANEOUS PROVISIONS																																										
<p>10.7.000 OVERVIEW OF ARTICLE 7 This Article includes miscellaneous provisions for special uses or exceptions that are not addressed elsewhere in the Code. The following list summarizes topics covered in this Article:</p> <ul style="list-style-type: none"> • Accessory Dwelling Units • Accessory Structures • Bed & Breakfast Inn • Fences • General Exceptions • Home Occupations • Manufactured Homes on Lots • Nonconforming Development • Solid Waste & Recycling Storage • Wireless Communication Facilities • <u>Residential Density Incentives</u> <p>These headings can assist the user in locating information. The table of contents contains a complete list of the material included in this Article.</p>																																										
<p>WIRELESS COMMUNICATION FACILITIES</p> <p>10.7.310 PROCEDURE Table 6-1 describes the type of wireless communication facility and review procedure by zone. The placement, construction, and/or modification of wireless communication facilities are subject to review and approval as indicated below. The two options for review are a Type I administrative decision or a Type III conditional use permit. NP indicates that the type of antenna or support structure is not permitted in that zone at that height.</p> <p style="text-align: center;">TABLE 7-1: WIRELESS FACILITY TYPES AND REVIEW PROCEDURES</p> <table border="1" data-bbox="62 1655 1357 1940"> <thead> <tr> <th rowspan="2">ANTENNA OR SUPPORT STRUCTURE</th> <th colspan="6">ZONE</th> </tr> <tr> <th>R</th> <th>Inst</th> <th>C</th> <th>TC</th> <th>I</th> <th>NMU</th> </tr> </thead> <tbody> <tr> <td>Antenna attached to existing structure (i.e., buildings, towers, grain elevators, or other structures)</td> <td>AA</td> <td>AA</td> <td>AA</td> <td>AA</td> <td>AA</td> <td><u>AA</u></td> </tr> <tr> <td>Monopoles – maximum height of 35 feet</td> <td>CU</td> <td>AA</td> <td>AA</td> <td>CU</td> <td>AA</td> <td><u>AA</u></td> </tr> <tr> <td>Monopoles – 36 feet to 70 feet in height</td> <td>NP</td> <td>NP</td> <td>CU</td> <td>CU</td> <td>AA</td> <td><u>NP</u></td> </tr> <tr> <td>Monopoles – greater than 70 feet</td> <td>NP</td> <td>NP</td> <td>CU</td> <td>NP</td> <td>AA</td> <td><u>NP</u></td> </tr> </tbody> </table>	ANTENNA OR SUPPORT STRUCTURE	ZONE						R	Inst	C	TC	I	NMU	Antenna attached to existing structure (i.e., buildings, towers, grain elevators, or other structures)	AA	AA	AA	AA	AA	<u>AA</u>	Monopoles – maximum height of 35 feet	CU	AA	AA	CU	AA	<u>AA</u>	Monopoles – 36 feet to 70 feet in height	NP	NP	CU	CU	AA	<u>NP</u>	Monopoles – greater than 70 feet	NP	NP	CU	NP	AA	<u>NP</u>	The new NMU zone has been added to the Table 7-1. NMU is subject to the same standards as Residential.
ANTENNA OR SUPPORT STRUCTURE		ZONE																																								
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City of Forest Grove Development Code – Draft Amendments		Commentary				
<p>Footnotes:</p> <p>R: Residential Zones C: Commercial Zones (except for NMU) TC: Town Center Zones I: Industrial Zones Inst: Institutional Zones NMU: Neighborhood Mixed Use Zones</p> <p>AA: Administrative Action – Type I Process CU: Conditional Use Permit – Type III Process NP: Not Permitted</p>						
<p><u>RESIDENTIAL DENSITY INCENTIVE ABOVE BASE REQUIREMENT</u></p> <p><u>10.7.400 PURPOSE</u> The residential density incentive is intended to allow significantly higher densities within the Town Center, while ensuring that livability is preserved and sustainability is encouraged. Projects which receive density incentives are expected to exceed the City’s design standards.</p> <p><u>10.7.405 APPLICABILITY</u> For proposed mixed use and multifamily residential developments within the Town Center, the Planning Commission may consider the request for a density incentive as part of Design Review at the applicant’s request.</p> <p><u>10.7.410 STANDARDS</u> Available density incentives are described in Table 7-2. However, in no case shall the total density on a site exceed 100 units per net acre. In addition, the City may limit the total number and/or type of density incentives for which the property may qualify based on the following:</p> <ul style="list-style-type: none"> A. <u>Availability of adequate public facilities and services, including public water, sanitary sewer, storm drainage, police and fire protections</u> B. <u>Traffic impacts. Applicants may be required to provide a traffic impact analysis, prepared by a licensed traffic engineer, which includes appropriate mitigation measures.</u> C. <u>Compatibility with adjacent single-family residential zonings districts.</u> 		<p>New density incentive (bonus) section. As written would only apply to Town Center zones, but in the future the City could consider applying to Community Commercial (CC) zone or Residential Multifamily.</p> <p>Maximum density permitted with incentives is 100 units/net acre.</p>				
<p><u>TABLE 7-2</u> <u>DENSITY INCENTIVES</u></p>						
<p><u>Tier 1: Density Incentives for Project Amenities</u></p> <p>Tier 1 density incentives are earned when a developer provides the project amenities listed in Table 7-3 to earn the number of points required for the density increases shown in this table.</p>		<table border="1"> <thead> <tr> <th><u>Minimum Points Required</u></th> <th><u>Density Increase</u></th> </tr> </thead> <tbody> <tr> <td style="background-color: yellow;">11 points</td> <td>10 units/acre</td> </tr> </tbody> </table>	<u>Minimum Points Required</u>	<u>Density Increase</u>	11 points	10 units/acre
<u>Minimum Points Required</u>	<u>Density Increase</u>					
11 points	10 units/acre					

City of Forest Grove Development Code – Draft Amendments			Commentary
<p><u>In order to qualify for a density incentive the proposed improvements must provide an amenity which is not otherwise required by the Development Code. Where a qualifying amenity requires that a minimum amount of area be provided, the same square footage may not be counted towards other amenities. The property owner may be required to execute a covenant with the City ensuring continuation and maintenance of the qualifying amenity by the property owner. Projects cannot qualify for multiple point values in the same amenity category.</u></p>	14 points	20 units/acre	<p>Maximum density of 100 du/net acre within the TC zones. The base density in the Town Center is proposed to be increased to 40 du/ac so the bonus would allow an increase of up to 60 additional du/ac.</p>
	19 points	30 units/acre	
	25 points	40 units/acre	
	30 points	60 units/acre	
<p><u>Tier 2: Density Incentives for Affordable Housing</u></p> <p><u>Tier 2 density incentives are earned when 20% of units are set aside for renters or purchasers earning no more than 80% of median income and paying no more than 30% of total household income in rent or mortgage.</u></p> <p><u>Such units shall be developed by a developer with experience undertaking market and non-profit low-income housing developments. This density bonus does not apply to institutional housing</u></p>			

**TABLE 7-3
AMENITY CATEGORIES AND VALUES**

<u>Amenity Category</u>	<u>Value</u>	<u>Description</u>
<u>Bicycle Amenities</u>	<u>1 point</u>	<u>Provide residents with enhanced bicycle amenities (parking and repair area). The area dedicated to long-term bicycle parking shall be sized to accommodate 0.5 bicycles per unit and must be covered and secure. The area dedicated to bicycle repair shall be a minimum of 50 square feet in area and designed and equipped to facilitate bicycle maintenance.</u>
<u>Energy Efficiency</u>	<u>2 points</u>	<u>Energy efficiency improvements compliant with Energy Trust of Oregon. Projects must enroll in the Energy Trust’s Design Assistance program during schematic design or earlier and commit to exceeding Oregon code requirements by a minimum of five percent.</u>
	<u>2 points</u>	<u>Achieve an Energy Star score of 7 or better, as calculated by the EPA online tool.</u>
	<u>3 points</u>	<u>Project designed to Net Zero Energy Certification.</u>
<u>“Green” Materials</u>	<u>2 points</u>	<u>Use environmentally sensitive (“Green”) materials on at least 50% of the building’s interior surfaces including:</u> <ul style="list-style-type: none"> • <u>Wall and Ceiling Latex Paint: Low-VOC</u> • <u>Paint with recycled content: minimum 50% post-consumer</u> • <u>Countertop with recycled content: 25% Post-consumer content</u> • <u>Carpet with post-consumer recycled content (+50%)</u> • <u>Renewable flooring materials: Linoleum, Cork, Bamboo, or Wool</u> <ul style="list-style-type: none"> • <u>Forest Stewardship Council certified wood Reclaimed Wood</u>
	<u>3 points</u>	<u>Use of “Green Material” on at least 75% of the building’s interior.</u>
<u>Low Impact Design</u>	<u>1 point</u>	<u>Manage all stormwater from the site using low impact design techniques from <i>Clean Water Services Low Impact Development Handbook for the</i></u>

Table 7-3 identifies the type and amount of each improvement required to qualify for points.

City of Forest Grove Development Code – Draft Amendments			Commentary
		<u>Tualatin Basin</u>	
<u>Ground Floor Retail</u>	<u>3 points</u>	<u>Provide at least 5,000 square feet of retail or space which is designed to be convertible to ground level retail. A density bonus for this amenity is available in the TCT zone only.</u>	
<u>Residential Gardening</u>	<u>2 points</u>	<u>Provide a community garden for use by residents. The garden must include raised beds (minimum size 3' by 5') with improved soil and a water source for irrigation. The garden may be at grade or rooftop, but must be located in an area with adequate sunlight (minimum 6 hours/day). The area dedicated to the community garden shall be sized to accommodate 0.3 raised beds per unit plus walkways.</u>	
<u>Rooftop Garden or Eco-Roof</u>	<u>2 points</u>	<u>Provide a rooftop garden or an eco-roof. The rooftop garden or eco-roof must cover at least 50 percent of the roof area of the building. Rooftop gardens must be accessible to residents and at least 30 percent of the garden area must contain plants. The remaining area must include seating areas and other amenities. Eco-roofs must be designed to reduce stormwater and be entirely covered with vegetation.</u>	
<u>Public Plaza/Outdoor Patio/Seating Area</u>	<u>2 points</u>	<u>Where ground floor retail is planned, provide a patio area for outdoor seating between the retail and the primary public street frontage which is designed to activate the street frontage. The patio and seating area must extend along at least 20 feet of the frontage and be at least 10 feet deep.</u>	
	<u>3 points</u>	<u>Provide a public plaza with a minimum area of 2,000 square feet. Seating areas and landscape plantings are required amenities. Water features are encouraged. To promote a sense of openness and safety, public plazas shall be completely visible from an adjacent street frontage.</u>	
<u>Structured Parking</u>	<u>10 points</u>	<u>At least 80% of the required parking is provided in a parking structure. Structures may be at- or below grade.</u>	
<u>LEED Certification</u>	<u>Silver: 8 points</u> <u>Gold: 10 points</u> <u>Platinum: 12 points</u>	<u>Project designed to achieve LEED Silver, Gold, or Platinum certification. Project features required to qualify for LEED certification cannot be used to qualify for points in other amenity categories.</u>	
<u>Other</u>	<u>TBD</u>	<u>Other amenity approved by Planning Commission</u>	

ARTICLE 8 GENERAL DEVELOPMENT STANDARDS

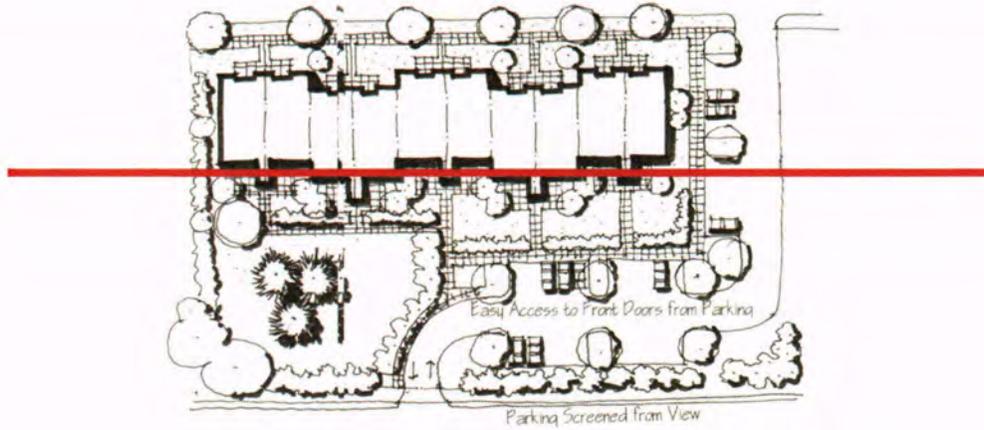
ACCESS AND CIRCULATION

10.8.140 SPECIFIC SITE ACCESS AND CIRCULATION STANDARDS

The following access and circulation standards apply specifically to certain types of development or apply within certain locations within the community.

- A. Multi-Unit Development. A functional and safe environment for vehicles and pedestrians is important within residential areas. Multi-unit development should be visual appealing from the adjacent street right-of-way and be functionally and aesthetically tied to adjacent residential neighborhoods.
 - 1. Circulation
 - a. A continuous pedestrian connection shall be provided from the front door of all residential buildings to the public sidewalk.
 - b. Separate pathways from dwellings a minimum distance of ten (10) feet. The separation is measured from the pathway edge closest to any dwelling unit.
 - c. On-site pedestrian walkways are required to be a minimum width of five (5) feet connecting dwelling units to parking/open space/recreation areas.
 - 2. Parking Areas
 - a. Separate physically and visually parking areas greater than 10,000 square feet in area with landscape planter bays at least eighteen feet in width. Individual parking areas may be connected by a driveway.
 - b. The sidewalk system shall connect the front door of all residential buildings to parking area(s).
 - 3. Pedestrian Environment
 - a. Residential doors which face a public right-of-way shall be setback a minimum of ~~2 feet~~ 3 feet plus any additional width needed to meet the minimum sidewalk requirements (where applicable) from a public sidewalk.
 - b. The following types of doors shall not provide the primary entrance into a dwelling unit: sliding glass or solid metal doors without glazing.
 - c. Residential stoops, porches or terraces shall be raised a maximum of 3 feet above grade at the adjacent right-of-way.
 - d. Residences with entry porches or terraces shall have a minimum area of ~~60~~ 40 square feet.
 - e. Residential entries shall be lowered a maximum of 4 feet below grade measured at adjacent right-of-way.

Figure 8-2: Example Site Layout for Multi-Unit Development



Existing Figure 8-2 to be deleted and replaced.



Updated Figure 8-2: Example Site Layout for Multi-Unit Development

Figure 8-3: Pedestrian Environment for Multi-Unit Development



A new Figure 8-3 has been added illustrating setback requirements

<p>4. Screening/Service Areas</p> <ul style="list-style-type: none"> a. All mechanical equipment shall be screened from view by an opaque fence or solid landscape screen 8 feet high. b. Service/refuse collection areas shall not be located within 20 feet of public rights-of-way. c. All development of two or more stories in height shall be required to provide screening of garbage collection and storage areas from above. d. All roof mounted mechanical equipment other than vents shall be screened from ground level view. The screening shall be as high as the height of the equipment and shall be integrated with the exterior building façade <p>5. Landscaping</p> <ul style="list-style-type: none"> a. At least 75% of required landscaped area shall be planted with any suitable combination of trees, shrubs, or evergreen ground cover. b. A maximum of 25% of required landscaped area may include architectural features or artificial ground covers such as sculptures, benches, masonry or stone walls, rock groupings, bark dust, decorative hard paving and gravel areas interspersed with planting areas. <p>6. Crime Prevention Through Environmental Design (CPTED)</p> <ul style="list-style-type: none"> a. No landscaping, fences, walls or plant materials greater than 5 feet in height shall be installed which obstruct the visibility of a dwelling entry from a public street. b. A minimum of 25 square feet of window area shall be provided within each dwelling unit facing a common open space, pedestrian path or parking lot to allow visual surveillance. c. A clear line of site between all front building entries and the public sidewalk or parking areas shall be maintained. d. Lighting shall be provided at all exterior dwelling unit entrances. e. Guard or a keyed variation of gated residential development is prohibited. f. Motion activated security lighting is prohibited along public rights-of- way. <p>B. Commercial Development. Commercial development should accommodate automobiles, mass transit, bicycles and pedestrians in a safe, functional and visually appealing manner.</p> <p>1. Circulation</p> <ul style="list-style-type: none"> a. Auto/truck access to parking shall be from a local or collector street, an adjacent development, alley, or existing driveways along arterial roads. b. Where buildings are setback from right-of-ways, a continuous and direct sidewalk with a 12-foot minimum width shall be provided between the public sidewalk and the front door to all buildings on site. c. All roadways or drives shall include sidewalks on both sides of travel lanes with the exception of vehicle facilities that provide access to loading and service areas. <p>2. Parking</p>	<p>b. Bark dust is proposed to be deleted as a possible landscaped cover.</p>
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- a. Construct off-street surface parking that does not occupy more than 50% of the street frontage. Where a site has frontage along a side street a surface parking lot may occupy more than 50% of the side street frontage.
- b. Screen parking with solid perimeter wall, decorative welded metal (wrought iron) fencing and columns, earthen berm or evergreen hedge (or a combination of) at a minimum spacing of 3 feet and a maximum of 5 feet in height. The maximum height of screening shall be five (5) feet except along the street frontage where the maximum height shall be three (3) feet six (6) inches.
- c. Provide a minimum of 15% of parking lot as water pervious surface – either paving or landscaped retention areas.
- d. Development sites shall not consist of paved parking areas of more than 50% of the entire site area.

2b. Amendments intended to clarify current code language.

Figure 8-4: Parking for Commercial Development



A new Figure 8-4 has been added to illustrate parking for commercial development.

3. Pedestrian Environment

- a. The sidewalk system shall connect all customer entrances to the public sidewalk.
- b. Minimum sidewalk width 10 feet. Sidewalks shall meet American with Disabilities Act (ADA) requirements and may include landscaped areas, benches and other pedestrian amenities.
- c. Plazas, squares or courts shall be fronted by commercial building facades with 75% or more transparency/window opening of first 15 feet of building.
- d. All development shall provide a sheltered entry area at the entrance to each commercial establishment with a minimum area of fifty (50) square feet and a minimum dimension of six (6) feet.

4. Screening of Service Areas

- a. All loading areas shall be physically separated from customer pedestrian and residential areas with a solid 5-foot tall fence, evergreen hedge, arbor, berm or a combination of these elements.
- b. All ground level and roof-top mechanical equipment shall be screened from view with landscaping, fencing and or walls. The height of the screen shall equal or exceed the height of the equipment, and include screening from views from above

when visible from adjacent inhabited buildings.

5. Landscaping

- a. Landscaping standards vary depending on zoning, use, adjacent zoning, and existing site conditions.
- b. A landscaped strip at least ten (10) feet in width shall be provided abutting any property line facing a street. The landscape strip shall be appropriately landscaped with ground cover, planted berm, shrubbery and/or trees.
- c. At least 75% of required landscaped area shall be planted with any suitable combination of trees, shrubs, or evergreen ground cover.
- d. A maximum of 25% of required landscaped area may include architectural features or artificial ground covers such as sculptures, benches, masonry or stone walls, rock groupings, ~~bark dust~~, decorative hard paving and gravel areas interspersed with planting areas.

d. Bark dust is proposed to be deleted as a possible landscaped cover.

C. Town Center Districts. The intent of the following standards is to provide a functional and safe environment for vehicles and pedestrians, where the needs of pedestrian are emphasized. The Town Center should have a clear separation between pedestrian and vehicular areas and should be comfortable and safe in all seasons and hours of the day.

1. Building Orientation

- a. TCC: Building facades shall be built along at least 80% of the primary building frontage line.
- b. TCT: Building facades shall be built along at least 75% of the primary building frontage line.
- ~~e. TCS: Building facades shall be built along at least 50% of the primary building frontage line.~~
- d. One (1) entrance shall be provided for each building façade. When building is located on a corner, one entrance at the corner is permitted.
- e. If a building is setback from right-of-way, it shall be a minimum of four feet (4') in depth and include plazas, forecourts or other paved areas for public seating, artwork and landscaped planting beds.
- f. If a building is setback from the right-of-way, mechanical units, meters or other above grade or wall mounted utilities shall not be located in the front setback area.

Deleted TCS building façade frontage requirement in 10.8.140.C(1)(c)

2. Pedestrian Connections

- a. When provided on-site, parking shall not be located between the front façade and the front property line.
- b. Where walkways are parallel and adjacent to a driveway or street (public or private), they shall be raised 6 inches and curbed or separated from the driveway/street with bollards and/or a 3-foot minimum landscape barrier.
- c. Where pathways cross a parking area, driveway or street (“crosswalk”), they shall be clearly marked with contrasting paving materials, humps/raised crossings, or painted striping. If painted striping is used, it shall consist of thermo-plastic striping or similar type of durable application.
- d. All mechanical equipment, outdoor storage, and manufacturing and service and delivery areas shall be screened from view from pedestrian sidewalks. Screening

shall be provided by one or more of the following: decorative wall (masonry or similar quality material, evergreen hedge, wood fence - non-see through).

3. Site Amenities. Every development shall provide at least one of the “pedestrian amenities” listed below:
 - a. A plaza, courtyard next to the building entrance a minimum of 4 feet in depth for residential food, beverage or entertainment establishments only or, for other uses, an area with public art which incorporates seating (e.g. a fountain).
 - b. Public seating areas (chairs, tables, benches)
 - c. Building canopy, awning or similar weather protection across 75% of façade projecting a minimum of four feet over the sidewalk.

CLEAR VISION AREA

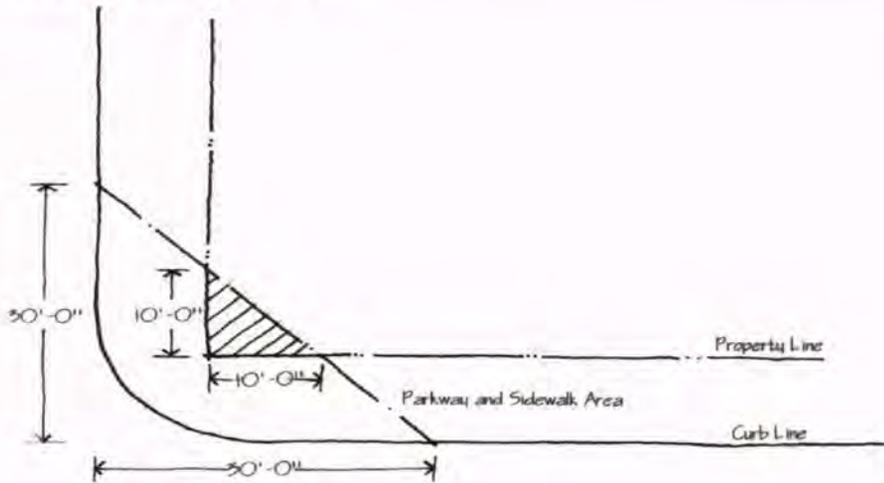
10.8.155 STANDARDS

Except in the Town Center zones ~~Core zone~~, a clear vision area shall be maintained on the corners of all property adjacent to the intersection of two streets, a street and a railroad, or a driveway providing vehicular access to a public street, excluding alleys.

- A. On Corner Lots, no vehicle, fence, wall, hedge or other planting or structure shall be parked, erected, planted, placed, located or maintained, except for occasional tree trunks or poles, so as to impede visibility within the greater of the two clear vision areas defined below (see Figure 8-3):
 1. The triangular area formed by the curb lines along such lots and a straight line joining said curb lines at points which are 30 feet distant from the intersection of the curb lines and measured along such lines; or
 2. The triangular area formed by the property lines of such lots and a straight line joining said property lines at points which are 10 feet distant from the intersection of the property lines and measured along such lines.
- B. A Private Access shall be treated as a public street for the purpose of this section. The edge of the paved surface area of the private access, be it roadway, curb or sidewalk, shall be treated as the curb line in determining the vision clearance area.
- C. The vision clearance area for all commercial, industrial, institutional, and multi-family uses shall be determined in the manner set forth in subsection (A)(1) above.
- D. The vision clearance area for single-family homes and duplexes shall be determined in the manner set forth in subsection (A)(2) above.
- E. Any obstruction maintained in violation of this section shall be deemed in violation of the Development Code and shall be abated pursuant to Section 10.1.400 enforcement procedures.

The TCT zone requires building facades be built along at least 75% of the primary building frontage line. This may be difficult to accomplish with the clear vision triangle. This section was amended so that the exemption applies to all TC zones.

Figure 8-3 5: Clear Vision Area



Updated Figure numbering. No graphic change.

OPEN SPACE, RECREATIONAL FACILITIES AND COMMON AREAS

10.8.205 STANDARDS

- A. Open space areas may be required to avoid placing structures or other improvements either in identified hazard or resource areas as required by Section 10.5.005 et. seq. and Section 10.8.300 et. seq.
- B. Areas retained to comply with Clean Water Services (CWS) water quality sensitive area and vegetative corridor requirements of the Design and Construction Standards or surface water quality or quantity facilities requiring over 100 square feet of area shall be considered open space but not be considered a recreational area unless so designed as to be integrated with a development’s site design and available for access for residents in the development.
- C. For land divisions:
 - 1. Each open space and recreational facility shall be placed in separate tracts.
 - 2. Having a net density of at least 9.60 units per acre, 20% of the entire site in open space with at least one recreational tract having minimum dimension of sufficient size to accommodate play equipment targeted for preschool and elementary aged children plus table(s) and bench(es) for passive recreation.
- D. Except for developments in TCC or TCT zones, any For development not involved in a division of land, open space and recreation areas shall be held in common for residential condominiums or by the primary land owner for apartment complexes or non-residential development. The area shall be placed within an easement unless waived by the Director for minor recreation facilities or recreation facilities that are integrated with the developed portion of the project. Developments within the NMU zone may modify the standards below through an approved MUPD.
 - 1. Residential projects in the Residential Multifamily Low (RML) and Residential Multifamily High (RMH) districts shall provide the following: All condominium, two-

C2 may affect developments within NMU zone; however, it is consistent with the 20% open space required for MUPDs.

D1, which requires 20% OS, is specific to RML and RMH, so it does not affect TC or NMU zones.

D2 – D7 are not limited to RML and RMH. The amendments would exempt the TC zones. For NMU, applicants could

<p>family dwellings, multi-family dwellings, residential care facilities, residential care institutions, and nursing or convalescent homes shall provide 20% of the lot area in open space, excluding that area designated in the site plan and improved for off-street parking and driveways. All dwelling units shall be immediately accessible to a minimum of 600 square feet of open space.</p> <ol style="list-style-type: none"> 2. All condominium, two-family dwellings and multi-family dwellings of 20 units or more, residential care facilities, residential care institutions, and nursing or convalescent homes shall improve 1/2 of the required open space as recreation space. Recreation space shall be planted in grass and/or improved for recreational use, and have a minimum area of 870 square feet and a minimum dimension of 20 feet. For two-family and multi-family dwellings, the recreational area shall include a children’s play area. A fence shall be installed that is a minimum of thirty (30) inches in height to separate a parking lot, street, or driveway from any children’s play area. 3. For the development of condominiums, two-family and multi-family dwellings of 20 units or more, residential care facilities and residential care institutions, individual private open space (patio or balcony) shall be provided for each dwelling unit. All private open space shall be directly accessible from the dwelling unit through a doorway. Patios and balconies shall be at least 48 square feet in size with a minimum width dimension of four (4) feet. 4. Floor area of ground floor patios and all balconies for individual units can be used to meet no more than 1/2 of the recreational land area requirement. Private open space shall be separated from common open space through the use of perimeter landscaping, fencing or a change in vertical grade (e.g. second floor balconies). 5. Where a proposed condominium, multi-family development, residential care facility, residential care institution, or nursing or convalescent home will abut an existing or proposed public park or open space, the development shall integrate into its design the adjoining park or open space to maximize its benefits to development residents. 6. No less than 75% of all open space areas excluding recreational space shall be landscaped with living ground cover, shrubs or trees. 7. State law and administrative codes pertaining to residential care facilities, assisted care and nursing facilities shall supersede the provisions of this section where there is a conflict. <p>E. Areas and tracts of land to be held in common, shall meet the following requirements:</p> <ol style="list-style-type: none"> 1. Common areas shall be held in ownership by either a homeowners association or operator of a multi-family development, residential care facility, residential care institution, or nursing or convalescent home. 2. To ensure adequate maintenance of common areas within the land division, the applicant shall provide maintenance provisions in Covenants, Conditions and Requirements (CC&Rs) when to be maintained by a homeowners association or another method an operator of a multi-family development, residential care facility, residential care institution, or nursing or convalescent home. <p>F. A development shall include proposed dedication of open space or recreational facilities to the City or reserve such areas for acquisition by the City based on the following requirements:</p>	<p>modify standards with MUPD.</p>
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<p>1. The dedication or reservation shall be approved by the Parks and Recreation Commission prior to any acceptance of the reservation or dedication by the City. The Parks and Recreation Commission shall only consider any dedication or reservation if found:</p> <ul style="list-style-type: none"> a. Consistent with the Parks, Recreation and Open Space Master Plan in terms of location, size, shape and purpose of the facility or area; b. Adequate recreational elements for active and/or passive recreational needs (e.g. trails, benches, play equipment, ball fields, etc.) are provided; c. Open space areas provide connectivity with other open space or recreational areas as shown on the Parks, Recreation and Open Space Master Plan; d. Adequate services and facilities are available to maintain the dedication or reservation; and e. For reservations, that acquisition of the property has been programmed in the most recently adopted capital improvement program or otherwise authorized by the City Council. <p>2. Where the City will accept a dedication pursuant to paragraph (1) above, no more than 50% of the System Development Charges (SDC) for a project can be waived by the Community Development Director upon consultation with the Parks and Recreation Director. The amount of the waiver shall be based on the completeness of the recreational elements and maintenance facilities provided, and the importance of the property to the completion of the Park, Recreation and Open Space Master Plan. There shall be no waiver of park SDC for any reservation of an open space area or recreational facility.</p> <p>3. If the developer is required to reserve land area for a park, playground, or other public use, such land shall be acquired by the appropriate public agency within eighteen (18) months following final land use approval including but not limited to final plat, site plan, conditional use or design review approvals. The price shall be agreed upon prior to final approval or such reservation shall be released to the subdivider.</p> <p>G. Where it is determined by the Director that to achieve a greater sense of open space of an area, open space that is proposed for two adjoining developments shall be located adjacent to each other.</p>	
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<p>Figure 8-4 <u>6</u>: Parking Lot Landscaping</p>	<p>Updated Figure numbering. No graphic change</p>
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<p>HAZARDS AND RESOURCES</p>	<p>No change to this section</p>
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<p>LANDSCAPING, SCREENING & BUFFERING</p> <p>10.8.420 LANDSCAPING REQUIREMENTS BY ZONE</p> <p>A. <u>Landscaping Required In The Neighborhood Commercial Zone.</u> All required yards (exclusive of accessways and other permitted intrusions) adjacent to a public or private street shall be landscaped.</p> <p>B. <u>Landscaping Required In The Community Commercial Zones.</u> A landscaped strip at least ten (10) feet in width shall be provided abutting any property line facing a street. The landscape strip shall be appropriately landscaped with ground cover, planted berm, shrubbery and/or trees.</p>	<p>C. Proposed amendments would eliminate</p>
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<p>C. <u>Landscaping Required In The Town Center Zones.</u> All new commercial and residential developments in the Town Center <u>Transition</u> Zones shall landscape no less than 5% of the lot area using appropriate native plant materials and/or architectural features such as benches, planters, and water fountains which are suitable and supportive of the downtown commercial environment. Jointly improved landscaped areas are encouraged to facilitate continuity of landscape design within the Town Center. <u>The City may choose to waive this requirement for developments that provide streetscape amenities within the public right-of-way. New development in the Town Center Core zone is exempt from the minimum landscaping requirement.</u></p> <p>D. <u>Landscaping Required in the Institutional Zone.</u> Landscaping shall be in context with the use and surrounding zones. For institutional uses that consist of primarily open space, such as a park or playground, the landscaped area shall be defined by the site plan and include a landscaped strip at least ten (10) feet in width abutting any property line facing a street. For institutional uses in which the site is primarily devoted to non-open space, the landscaping requirements shall match the zone district immediately adjacent to the use. Where there are no landscaping requirements for the adjoining zone, the landscaping requirements shall meet the requirements of subsection (B) <i>Community Commercial</i> above.</p> <p>E. <u>75% Coverage. Except in the Town Center Core Zone,</u> At least 75% of the required landscaped area shall be planted with any suitable combination of trees, shrubs, or evergreen ground cover. The required 75% coverage shall be based on the size of the plant material within a specified time as follows:</p> <ol style="list-style-type: none"> 1. Trees – within five (5) years from the date of final inspection by the Building Official. 2. Shrubs – within two (2) years from the date of final inspection by the building Official. 3. Ground covers – at the time of final inspection by the Building Official. <p>F. <u>25% Architectural Features. Except in the Town Center Core Zone,</u> Landscaped areas as required by this article may include architectural features or artificial ground covers such as sculptures, benches, masonry or stone walls, fences, rock groupings, bark dust, decorative hard paving and gravel areas, interspersed with planting areas. The exposed area developed with such features shall not exceed 25 percent of the required landscaped area. Artificial plants are prohibited in any required landscaped area.</p>	<p>the 5% landscape requirement in TCC and allow City the option of eliminating it in TCT for developments that provide streetscape improvements in the public ROW.</p> <p>F. Bark dust is proposed to be deleted as a possible landscaped cover.</p>
<p>10.8.425 BUFFERING AND SCREENING STANDARDS</p>	
<p>A. <u>General Provisions</u></p>	
<ol style="list-style-type: none"> 1. It is the intent that these requirements shall provide for privacy and protection and reduce or eliminate the adverse impacts of visual or noise pollution at a development site, without unduly interfering with the view from neighboring properties or jeopardizing the safety of pedestrians and vehicles; 2. Buffering and screening is required to reduce the impacts on adjacent uses which are of a different type in accordance with the matrices in this chapter (Tables 8-2, 8-3 and 8-4). The owner of each proposed development is responsible for the installation and effective maintenance of buffering and screening. 3. In lieu of these standards, a detailed buffer area landscaping and screening plan may be submitted for the Director's approval as an alternative to the standards, provided it 	

affords the same degree of buffering and screening as required by this code.

B. Buffering and Screening Requirements

1. A buffer consists of an area within a required setback adjacent to a property line and having a depth equal to the amount specified in the buffering and screening matrix and containing a length equal to the length of the property line of the abutting use or uses.
2. Utilities, screening, sidewalks and bikeways, and landscaping may only occupy a buffer area. No buildings, accessways or parking areas shall be allowed in a buffer area except where an accessway has been approved by the City.
3. The minimum improvements within a buffer area shall consist of combinations for landscaping and screening as specified in Tables 8-2, 8-3 and 8-4. In addition, improvements shall meet the following specifications:
 - a. At least one (1) row of trees shall be planted. They shall have a minimum caliper of two (2) inches at four (4) feet in height above grade for deciduous trees and a minimum height of five (5) feet high for evergreen trees at the time of planting. Spacing for trees shall be as follows:
 1. Small or narrow-stature trees, less than twenty-five (25) feet tall or less than sixteen (16) feet wide at maturity shall be spaced no further than twenty (20) feet apart;
 2. Medium-sized trees between twenty-five to forty (25-40) feet tall and with sixteen to thirty-five (16-35) feet wide branching at maturity shall be spaced no greater than thirty (30) feet apart;
 3. Large trees, over forty (40) feet tall and with more than thirty-five (35) feet wide branching at maturity, shall be spaced no greater than forty (40) feet apart.
 - b. In addition, at least ten (10) five-gallon shrubs or twenty (20) one-gallon shrubs shall be planted for each 1,000 square feet of required buffer area;
 - c. The remaining area shall be planted in lawn or other living ground cover.
4. Where screening is required the following standards shall apply in addition to those required for buffering:
 - a. A hedge of narrow or broad leaf evergreen shrubs shall be planted which will form a four (4)-foot continuous screen of the height specified in Table 8-3 within two (2) years of planting; or
 - b. An earthen berm planted with evergreen plant materials shall be provided which will form a continuous screen of the height specified in Table 8-3 within two (2) years; or
 - c. A fence or wall of the height specified in Table 8-3 shall be constructed to provide a continuous sight-obscuring screen.
5. Buffering and screening provisions shall be superseded by the clear vision area requirements as set forth in Section 10.8.150.

6. When the use to be screened is downhill from the adjoining zone or use, the prescribed heights of required fences, walls, or landscape screening shall be measured from the actual grade of the adjoining property. In this case, fences and walls may exceed the permitted six (6)-foot height at the discretion of the Director as a condition of approval. When the grades are so steep so as to make the installation of walls, fences or landscaping to the required height impractical, a detailed landscape/screening plan shall be submitted for approval.
7. Fences and Walls:
 - a. Fences and walls shall be constructed of any materials commonly used in the construction of fences and walls such as wood, stone, rock or brick, or otherwise acceptable by the Director;
 - b. Such fence or wall construction shall be in compliance with other City regulations;
 - c. Walls shall be a minimum of six (6) inches thick; and
 - d. Chain link fences with slats shall qualify for screening. However, chain link fences without slats shall require the planting of a continuous evergreen hedge to be considered screening.

C. Screening: Special Provisions

1. Screening and Landscaping Of Parking and Loading Areas. Screening and landscaping of parking and loading areas is required as provided in this Article.
2. Screening of Service Facilities. Except for one-family and two-family dwellings, any service facilities such as gas meters and air conditioners which would otherwise be visible from a public street, customer or resident parking area, any public facility or any residential area shall be screened from view by placement of a solid wood fence or masonry wall between five and eight (5-8) feet in height.
3. Screening of Refuse Containers. Except for one- and two-family dwellings, any refuse container or refuse collection area which would be visible from a public street, parking lot, residential or commercial area, or any public facility such as a school or park shall be screened or enclosed from view by placement of a solid wood fence, masonry wall or evergreen hedge. All refuse shall be contained within the screened area.
4. Screening of Swimming Pools. All swimming pools shall be enclosed as required by City of Forest Grove Building Code.

D. Buffer Matrix

1. The Buffer Matrices contained in Tables 8-2, 8-3 and 8-4 shall be used in calculating widths of buffering/screening and required improvements to be installed between proposed uses and abutting uses or zoning districts.
2. An application for an adjustment or variance to the standards required in Tables 8-2, 8-3 and 8-4 shall be processed as a Type I, II or III procedure, as regulated by Article 2 provisions for Adjustments and Variances.

TABLE 8-2: BUFFER MATRIX PROPOSED USE

DEVELOPMENT SITE → ABUTTING USE	Single Units, Detached; Manufactured Units	Attached Single Units and Multifamily, 1-5 Units; Duplexes	Attached Single Units and Multifamily, 5+ Units	Commercial and Institutional Zones (NC, CC, INST)	Town Center Zones (TCC, TCS, TCT)	Industrial Zones (LI, GI)
Detached Single Units; Manufactured Units	--	A	C	D	C	E
Attached Single Units and Multifamily, 1-5 Units, Duplexes	A	--	B	D	C	E
Attached Single Units and Multifamily, 5+ Units	A	A	--	D	C	E
Commercial Zones (NC, CC)	C	C	C	--	A	D
Town Center Zones (TCC, TCS, TCT)	C	C	C	A	--	D
Industrial Zones (LI, GI)	D	D	D	B	A	--

Table 8-2: Eliminated buffer requirements between Town Center zones and CC zone.

Eliminated TCS from Table 8-2

Note: See Table 8-3 for alternative combinations for meeting these screening requirements.

**TABLE 8-3
BUFFER COMBINATIONS FOR LANDSCAPING AND SCREENING[1]**

	Options	Minimum Width	Trees (per linear feet of buffer)	Shrubs or Groundcover	Screening
A	--	10	--	Lawn / living	--
B	--	10	20' min / 30' max	Lawn / living	--
C	1	10	15' min / 30' max spacing	Shrubs	4' hedges
	2	8		Shrubs	5' fence
	3	6		Shrubs	6' wall
D	1	20	10' min / 20' max spacing	Shrubs	6' hedge
	2	15		Shrubs	6' fence
	3	10		Shrubs	6' wall
E	1	30	10' min / 20' max spacing	Shrubs	6' hedge or fence
	2	25		Shrubs	5' earthen berm or wall

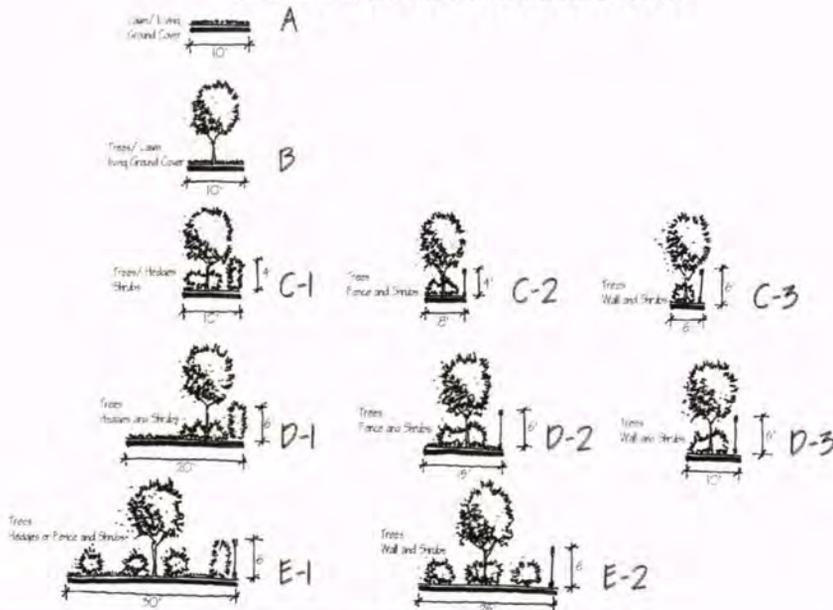
[1] Buffers are not required between abutting uses that are not of a different type when the uses are separated by a street. Adjustments from these requirements can be obtained; see Article 2.

Figure 8-5 7
Buffer Example – Between Single-Family and Multi-Family



Updated Figure numbering. No graphic change

TABLE 8-4
BUFFER COMBINATIONS FOR
LANDSCAPING AND SCREENING



**OFF-STREET PARKING AND LOADING
10.8.505 APPLICABILITY**

- A. New Construction. At the time of the erection of a new structure within any residential, commercial, institutional, and industrial zoning district, off-street vehicle parking shall be provided in accordance with this section. Except as specified in subsection D, below, uses ~~Uses~~ in the Town Center zones are exempt from the requirement to provide off-street parking.
- B. Expansion of Existing Use. At the time of an enlargement of a structure, which increases the on-site vehicle parking requirement, off-street vehicle parking shall be provided in accordance with this section, subject to the following:
 - 1. On the date of adoption of this code, the number of vehicle parking and loading spaces required shall be based only on floor area or capacity of such enlargement.
- C. Change of Use. When an existing structure is changed from one use to another as listed in this section, the following provisions shall apply:
 - 1. If the parking requirements for each use are the same, no additional vehicle parking shall be required;
 - 2. Where a change results in an intensification of use in terms of the number of vehicle parking spaces required, additional vehicle parking spaces shall be provided in an amount equal to the difference between the number of spaces required for the existing use and the number of spaces required for the more intensive use;
 - 3. Where the change results in a decrease in intensity of use, the applicant may eliminate excess vehicle parking spaces in an amount equal to the difference between the number of spaces required for the existing use and the number of spaces required for the less intensive use.
- D. Parking Exemption for the Town Center Zones.
 - 1. Except for new multifamily dwelling units, all AH development in the Town Center zones shall be exempt from off-street parking requirements for new construction, expansion of existing use and change of use. New multifamily or mixed use developments (residential portion only) shall provide the minimum required spaces in accordance with Table 8-5 except that:
 - a. In order to encourage the preservation and reuse of historic buildings, no parking shall be required for new or existing multifamily units above the ground floor in buildings built before 1950.
 - c. A 25% reduction in the minimum number of parking spaces required is allowed for age-restricted senior housing.
 - d. A reduction of three (3) parking spaces is allowed for every one (1) dedicated car-share space provided.

Change exemption to allow for new parking requirement for MF.

D. Amendments address new parking requirement for new MF units in the TC zones.

TABLE 8-5: Parking Requirements

LAND USE	MINIMUM PARKING REQUIRED	MAXIMUM PARKING ALLOWED	
		Parking Zone	Parking Zone B
RESIDENTIAL			
Household Living - Single Units, Attached	See Multifamily	None	None
- Single Units, Detached	1.0 / DU	None	None
- Accessory Units	1.0 / DU	None	None
- Duplexes	1.0 / DU	None	None
- Multifamily Units (outside of Town Center)	DU<500 sq ft: 1.0 / DU 1 bedroom: 1.25 / DU 2 bedroom: 1.50 / DU 3 bedroom: 1.75 / DU	None	None
- Multifamily Units (within in the Town Center)	DU<500 sq ft: 0.5 / DU 1 bedroom: 0.75 / DU 2 bedroom: 1.25 / DU 3 bedroom: 1.75 / DU	None	None
- Manufactured Units	1.0 / DU	None	None
- Mobile Home Parks	1.0 / DU	None	None
Group Living	1.0 / room 1.0 / 2.5 beds	None 2.7 / 1000[2]	None
Transitional Housing	1.0 / 2.5 beds	None	None
Home Occupation	None	None	None
CIVIC			
Basic Utilities	None	None	None
Colleges	1.0 / 5 students / staff	1.0 / 3.3 students / staff	1.0 / 3.3 students / staff
Community Recreation	2.0 / 1,000[2]	2.5 / 1,000[2]	4.0 / 1,000[2]
Cultural Institutions	2.5 / 1,000[2]	3.5 / 1,000[2]	4.5 / 1000[2]
Day Care - Home	None	None	None
- Commercial	2.0 / classroom	2.7 / 1,000[2]	3.2 / 1,000[2]
Emergency Services	3.0 / 1,000[2]	3.5 / 1,000[2]	4.5 / 1,000[2]
Postal Services	2.5 / 1,000[2]	3.0 / 1,000[2]	4.5 / 1,000[2]
Religious Institutions	1.0 / 4 seats in main assembly area	1.0 / 1.7 seats in main assembly	1.0 / 1.3 seats in main assembly area
Schools			
- Preschool	5.0 + 1 / classroom	7.0 + 1 / classroom	10.0 + 1 / classroom
- K-8	2.0 / classroom	2.5 / classroom	3.5 / classroom
- 9-12	1.0 / 5 students / staff	1.0 / 3.3 students / staff	1.0 / 3.3 students / staff
Social / Fraternal Clubs / Lodges	10.0 / 1,000[2] main assembly area	12.0 / 1,000[2] main	14.0 / 1,000[2] main assembly area

Proposed amendment to the parking table would require parking for MF in the TC, but at somewhat reduced rate relative to the rest of the city. 1

<p style="text-align: center;">Figure 8-6 <u>8</u>: Parking Stall Dimensions +Figure 8-7 <u>9</u>: Parking Stall and Aisle Dimensions</p>	<p>Updated Figure numbering. No graphic change</p>
<p>PUBLIC IMPROVEMENTS</p>	<p>No change to this section.</p>
<p>BUILDING DESIGN AND DEVELOPMENT STANDARDS</p> <p>10.8.710 STANDARDS</p> <p>A. Building Design Standards for Multi-Unit Development <u>except within Town Center Zones.</u></p> <p>1. Massing and Form</p> <p>a. On lots with an average cross slope of 15% or more, no more than 60% of the site shall be re-graded.</p> <p>b. No building shall have a dimension greater than one-hundred and fifty (150) feet without a minimum three (3) feet off-set of the exterior wall.</p> <p>c. At a minimum, every two dwelling units shall be offset from the next dwelling unit by at least four (4) feet in depth.</p> <p>d. All habitable rooms shall incorporate at least one window when facing parking lots and common areas.</p> <p>2. Compatibility</p> <p>a. All buildings shall incorporate a porch or architecturally defined entry space for each ground level dwelling unit with a minimum area of 16 square feet per dwelling unit, with no dimension less than 4 feet.</p> <p>b. Shared porches or entry spaces are permitted. All grade level porches shall include hand-railing, half-walls, or shrubs to define their outside perimeter.</p> <p>e. Common entrances shall not serve more than four (4) dwelling units.</p> <p>3. Privacy</p> <p>a. Front entryways into dwelling units shall be separated vertically or horizontally a minimum of three feet from sidewalks used by more than one dwelling unit.</p> <p>b. Bedroom and bathroom windows shall be offset a minimum of four (4) feet from windows on adjacent buildings (unless window glazing is frosted, diffused or glass block)</p>	<p>Some of these standards (e.g. subsection 2a, 2c, 4b) appear to be contrary to the goals of the Town Center zones to have higher density buildings. The TC zones already have their own standards. Proposed amendments make it clear that TC zones are exempt from these zones.</p> <p>Deleted common entrance requirement due to not being practical with buildings served by elevators.</p>

Figure 8-8 10: Examples of Private Multi-Family Open Space

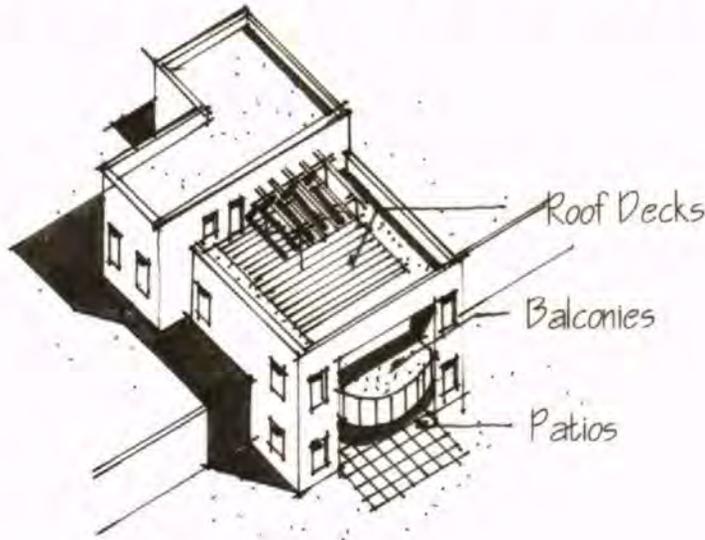


Figure 8-8:
Updated Figure
numbering. No
change to
graphic.

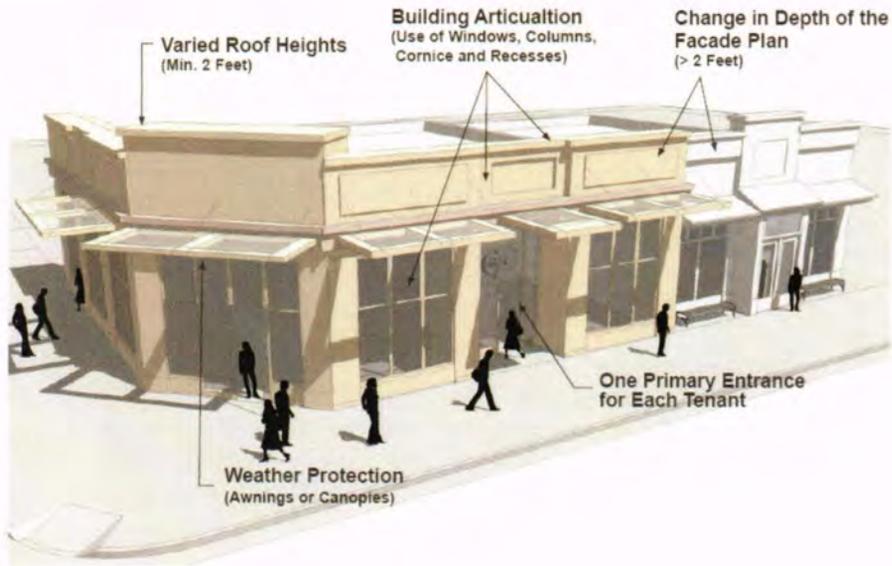
4. Building Relationship with Adjacent Arterials
 - a. Buildings shall be setback at least 10 feet from arterials.
 - b. Buildings shall be oriented away from arterials and no front or main entries shall be facing the arterials.
 - c. The setback area shall be landscaped consistent with the buffering requirements of Section 10.8.425 except that chain link fence shall not be allowed.

B. Building Design Standards for Commercial Development except within Town Center or Mixed Use zones.

1. Building Orientation
 - a. Design and construct buildings so that at least one façade is within sixty (60) feet of a dedicated public street right-of-way line.
 - b. Design and construct a minimum of one primary building entrance for each building ground floor use or tenant along a public right-of-way or internal roadway built to City public street engineering standards.
2. Massing and Form
 - a. Provide changes in the depth of the façade plane in excess of two (2) feet for all building walls more than 75 feet in length.
 - b. Maximum length of building facades shall be 200 feet.
 - c. Roofline heights must be varied a minimum of 2 feet for building facades greater than 75 feet in length.
 - d. Provide vertical partitioning of facades by using columns, pilasters and other vertical elements a minimum of every twenty-five (25) feet.
 - e. Articulation of building fronts through changes in depth or building relief (e.g. windows, doors, cornices, columns, change in materials) shall occur a minimum of every fifteen (15) feet in the horizontal or vertical dimensions.

The TC zones already have their own standards and NMU will be subject to a MUPD. Proposed amendments make it clear that these zones are exempt from this section.

Figure 8-11: Commercial Development Massing and Form



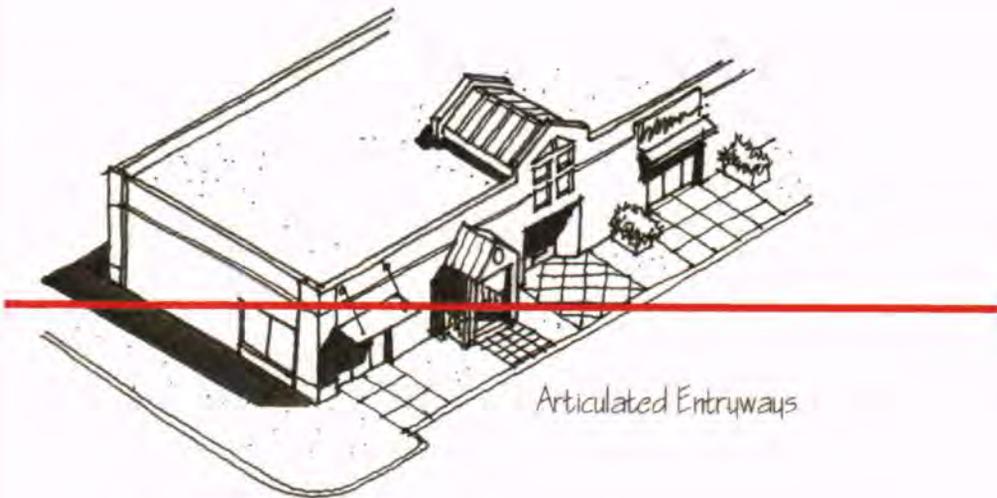
New figure added Figure 8-11: Massing and Form

Figure 8-9 12: Example of Building Entry Design Elements



Replaced Figure 8-9 and renumbered to Figure 8-12

Delete existing Figure 8-9.

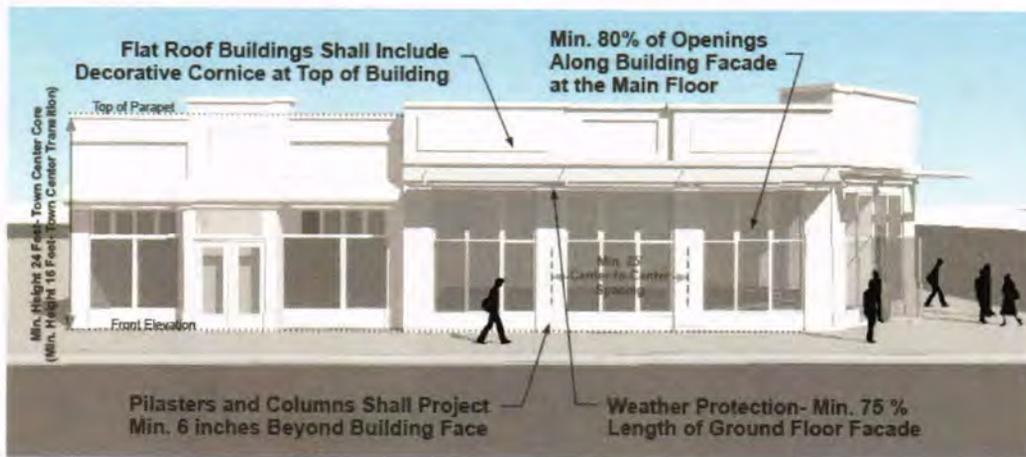


3. Design Elements
 - a. Every building elevation adjacent to a street with a horizontal dimension of more than 100 feet shall have a building entrance.
 - b. Building facades adjacent to sidewalks or pedestrian connections must include weather protection canopies or awnings along at least 75% of the length of the ground floor façade.
 - c. Incorporate a minimum of 50% transparency/window openings on the ground floor facades of buildings that are 5,000 square feet or less, or 20% transparency/window openings for buildings greater than 5,000 square feet facing the public right-of-way. For a building that faces two streets, the requirement shall apply to the predominant street or as determined by the Director where both streets are considered similar.
 - d. Windows shall not be reflective, tinted or treated in such a way as to block views into or out of windows unless for energy or security purposes.
 - e. Windows must be recessed a minimum of 4 inches from building facades.
 - f. Materials such as synthetic stucco (EIFS, Dryvit, etc.) are prohibited at ground floor.
 - g. Vinyl cladding of building façade is prohibited at ground floor.
4. Compatibility
 - a. Any building or portion of a building that is less than 50 feet from existing residential dwellings must not be higher than 15 feet above the top of the roofline of the nearest existing dwelling.
 - b. When adjacent to existing residential development, all commercial structures with floor areas less than 20,000 square feet of total building area must provide a gabled element to the parapet or roof.
5. Safety
 - a. Security gates or bars on windows or doors are prohibited along ground floors of commercial buildings, excluding loading and storage areas.
 - b. Motion activated security lighting is prohibited along building facades that front onto public rights-of-way.
 - c. Public access shall be provided to all commercial uses that provide plazas, squares, or courts intended for food, beverage or entertainment uses.
 - d. Parking lots or roadways shall not be gated or secured excluding loading and storage areas or residential parking areas.

- C. Building Design Standards within Town Center Districts
1. Building Form
 - a. All new structures shall be a minimum of two-stories in height in the TCC zone or a minimum height of ~~24 feet~~ 16 feet in the TCT zone measured at the front elevation to top of parapet or eave line of lowest point of facade.
 - b. All flat-roofed buildings shall have a decorative cornice at top of building (parapet)
 - c. Exterior pilasters and columns shall project a minimum of 6 inches beyond building face.
 - d. All rooftop mechanical equipment shall be screened by a solid wall from view of the public right-of-way and pedestrian routes.

Section C Amended for consistency with development standards table in zone.

Figure 8-10 13: Retail Storefront Details-Town Center Districts Building Form



Updated Figure 8-10 with new graphic and renumbered to 8-13

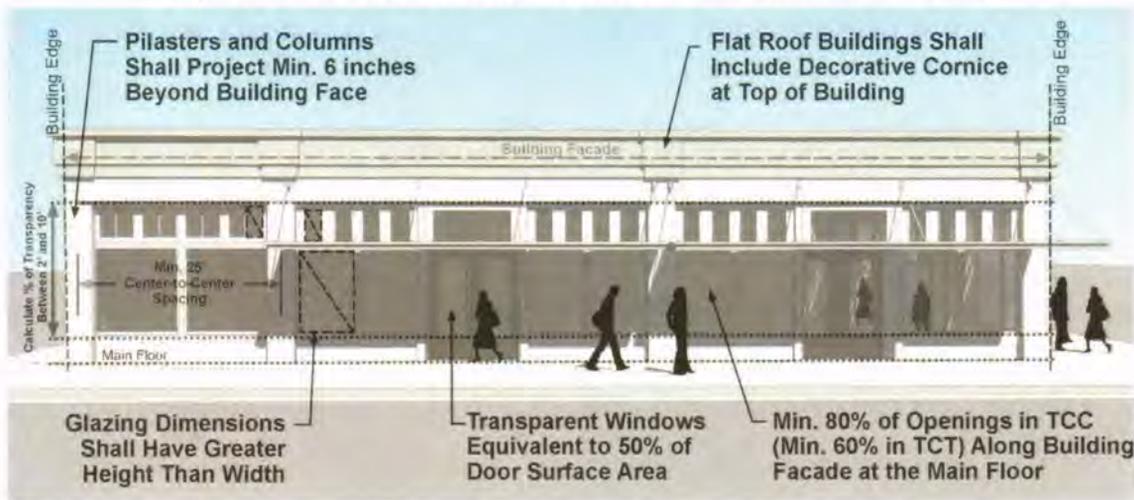


2. Retail Storefronts

- a. ~~Ground floor storefront glazing along the primary public façade shall comprise a minimum percentage of the main floor's exterior wall area, as follows: TCC—80%; TCT & TCS—50%.~~
 - ~~a.~~ ~~b.~~ First floor vertical elements such as columns or pilasters shall be provided and spaced center-to-center at a maximum of 25 feet apart.
 - ~~b.~~ ~~e.~~ Doors on the main floor façade facing a street shall contain windows equivalent in size to 50% of door surface area.
 - ~~c.~~ ~~d.~~ Storefront glazing must be transparent. Reflective, tinted, glazed or techniques that obscure more than 20% of glazed surfaces shall be prohibited.
 - ~~d.~~ ~~e.~~ Glazing dimensions shall have a greater height than width.
 - ~~e.~~ ~~f.~~ Storefront glazing with divided lights shall be limited to transom windows only.
 - ~~f.~~ ~~g.~~ All window frames shall be painted.
 - ~~g.~~ ~~h.~~ Awnings shall be constructed of metal, glass or natural canvas fabrics. Vinyl, synthetic fabric, plastic or backlit awnings are prohibited. ~~Signage or lettering on awnings is prohibited.~~

Subsection 2a is redundant to Subsection 5 below. Proposed amendments delete 2a in favor of subsection 5.

Figure 8-14: Town Center Districts Retail and Storefronts Details



New Figure 8-14: Town Center Districts Retail and Storefronts Details graphic

3. Commercial Entries

- a. The entry enclosure shall be offset a minimum of 2 feet from the building façade.
- b. Windows and door in exterior wall shall be surrounded with trim of 2-1/2 inches minimum width.
- c. At least 25% of all primary entry doors shall contain transparent glazing.
- d. Unpainted metal frames are prohibited.
- e. Reflective, opaque or tinted glazing is prohibited.

4a. Require that residential entries be setback at least 3 feet. In some cases additional setback may be needed to accommodate sidewalk

4. Residential Entries

- a. Residential doors which face a public right-of-way shall be setback a minimum of ~~2 feet~~ 3 feet from a public sidewalk plus any additional setback needed to meet the minimum sidewalk requirements (where applicable).

- b. The following types of doors shall not provide the primary entrance into a dwelling unit: sliding glass or solid metal doors without glazing.
- c. Residential stoops, porches or terraces shall be raised no higher than 34 feet above grade at the adjacent right of way.
- d. Residences with entry porches or terraces shall have a minimum area of 60 square feet.
- e. Residential entries shall be no lower than 4 feet below grade measured at adjacent right-of-way.

requirements downtown.

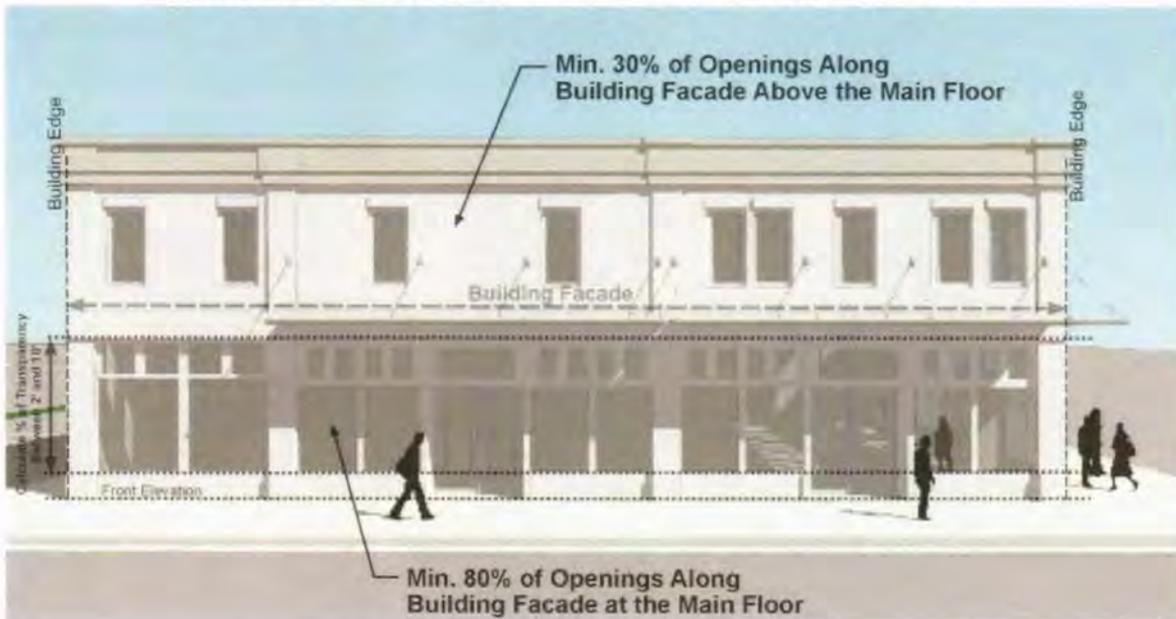
4c increase the permissible height of stoops, etc.

5. Windows and doors

- a. Window and door openings shall comprise the following minimum portions of the front building facades at the main floor measured between 2 feet above sidewalk to 10 feet above sidewalk: TCC - 80%; ~~TCS - 30%~~; TCT - ~~60%~~ 50%.
- b. Window and door openings shall comprise the following minimum portions of the front building façade above the main floor measured between 2 feet above sidewalk to 10 feet above sidewalk: TCC - 30%; ~~TCS - 20%~~; TCT - 30%.
- c. Clear or transparent glazing is required for windows fronting the public rights-of-way.
- d. Glass shall be recessed a minimum of 1-1/2 inches from the surrounding exterior wall surface.
- e. Spandrel, glass curtain-wall or any window wall glazing that creates an opaque, flat or featureless, or reflective surface shall not be used at ground floor.

5a/5b Removed TCS reference. Allow doors to be included. Change from 60% to 50% for consistency with Subsection 2.

Figure 8-15: Town Center Districts Window and Door Openings



New Figure 8-15: Town Center Districts Window and Door Openings graphic

6. Exterior Walls

- f. Vinyl, plastic or metal siding are prohibited the all Town Center zones.
- g. Synthetic Stucco (EIFS, Dryvit, etc.) insulating cladding materials along the first floor of facades that front public rights-of-way are prohibited.
- h. Flagstone or other stone veneer along the first floor of facades that front public

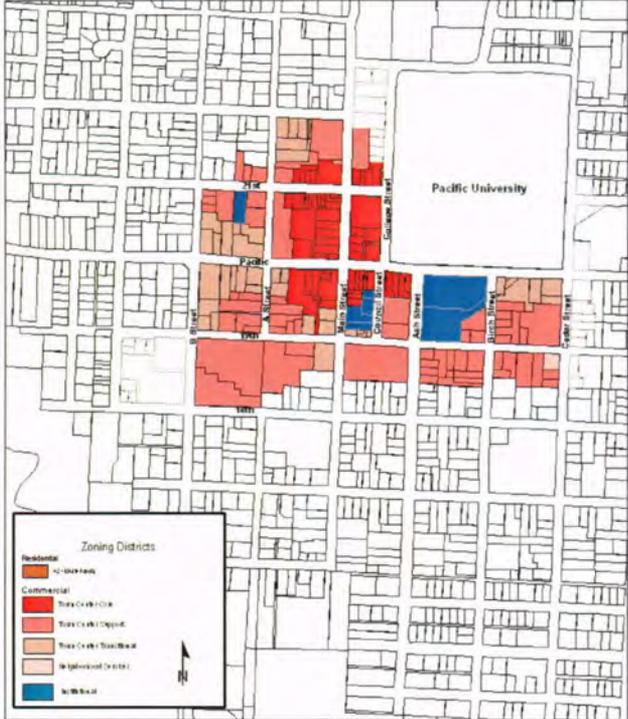
<p>rights-of-way are prohibited.</p> <p>i. Simulated or cultured stonework are prohibited for commercial uses.</p> <p>j. Wood, asphalt or cement shingles are prohibited at first floor for commercial uses.</p> <p>7. Walls and Fences</p> <p>k. Plastic and/or chain-link fences are prohibited in all Town Center zones.</p> <p>l. All wood fences shall be painted.</p>	
<p>ARTICLE 12 USE CATEGORIES & DEFINITIONS</p>	
<p>10.12.100 CLASSIFICATION OF USES</p> <p>Uses are assigned to the category whose description most closely describes the nature of the primary uses. When all the primary uses of a development fall within one use category, then the development is assigned to that category. When the primary uses of a development fall within different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.</p>	
<p>10.12.105 LISTING OF USE CATEGORIES</p> <p>All uses are classified into one or more of the following use categories. In order of listing in this section, they are: Residential, Civic, Commercial, Industrial and Other. Use types listed within each category are presented in alphabetical order.</p> <p>In addition to use categories, the Code defines residential building types. Residential building types are listed in each zoning district that permits residential use from least intensive to most intensive (for example, “Single Detached” is listed above “Single Attached”, and both of these building types are listed above “Multi-Family”).</p>	
<p>10.12.130 COMMERCIAL USE CATEGORY</p> <p>...</p> <p><u>F. Motor Vehicle Related</u></p> <p>1. <u>Motor Vehicle Sales/Rental</u>: Includes car, light and heavy truck, mobile home, boat and recreation vehicle sales, rental and services. <u>Parking facilities for car sharing vehicles by a car sharing organization are regulated as accessory parking to the use where the parking is located and are not classified as motor vehicle rental.</u></p>	<p>Modified Motor Vehicle Sales/Rental use category to clarify relationship to car-sharing.</p>
<p>10.12.210 MEANING OF SPECIFIC WORDS AND TERMS</p> <p>...</p> <p>C1. Caliper. The diameter of a tree trunk measured at a prescribed height.</p> <p>C2. Carpool/Vanpool. A group of two (2) or more commuters who share the ride to and from work, school, and other destinations.</p> <p><u>C3. Car-Share Organization. A car-share organization” is any public or private entity that provides a membership-based car-share service to the public and manages, maintains, and insures motor vehicles for shared use by individuals and group members.</u></p> <p>C4.-C3. Change of Use. Any use that differs from the previous use as defined in the Section 10.12.005, Use Categories.</p> <p>C5.-C4. City. The area within the territorial limits of the City of Forest Grove.</p> <p>C6.-C5. City Engineer. The person assigned the title of City Engineer for the City of Forest Grove, Oregon, or designee.</p>	<p>Added new definition of Car-Share Organization</p>

<p>C7, C6. City of Forest Grove. The governing structure for the municipality of Forest Grove, Oregon.</p> <p>C8, C7. Clear Vision Area. A triangular area located at the intersection of two (2) streets, a street and a railroad, or a street and driveway; defined by a line across the corners, the ends of which are on the street or alley lines, an equal and specified distance from the corner.</p> <p>C9, C8. Complex. A structure or group of structures developed on one (1) or more contiguous lots of record and developed as part of an overall development plan.</p> <p>C10, C9. Comprehensive Plan. The generalized, coordinated land use map and policy statement of the governing body of the City of Forest Grove that interrelates all functional and natural systems and activities relating to the use of land, including, but not limited to: sewer and water systems, transportation systems, educational facilities, natural resources, and air and water quality management systems.</p> <p>C11, C10. Conditional Use. A use which may be permitted by the approval authority following a public hearing, upon findings by the authority that the approval criteria have been met or will be met upon satisfaction of conditions of approval.</p> <p>C12, C11. Contiguous. See "Abutting."</p>	
<p>D4. <u>Density</u>. The intensity of residential land uses, usually stated as the number of housing units per net acre.</p> <ul style="list-style-type: none"> a. <u>Gross Density</u>. The number of residential dwelling units per acre based on the area of the site found inside the parcel boundary. This includes the building lots, parking and driving areas, sidewalks, public right-of-ways, public and private streets and common driveways, public and private open space areas, and other tracts intended for public use. b. <u>Net Density</u>. The number of dwelling units per acre based on the net site acreage, which does not include sidewalks, public right-of-ways, public and private streets, common driveways, public and private open space areas, and other tracts intended for common use <u>rights-of-way through or on the edge of the site, environmentally constrained areas, or land intended for public ownership such park and open spaces uses.</u> c. <u>Bonus Density</u>. Density bonuses <u>either</u> are granted by the Planning Commission and/or City Council to the developer, to have an overall ratio of dwelling units to the planned development site area greater than would be allowed for a conventional development in the same location; <u>or are applied pursuant to 10.7.400.</u> 	<p>Updated definition is more consistent with regional standards.</p>
<p style="text-align: center;">Figure 8-11 <u>16</u>: Signs in the Town Center</p> <p style="text-align: center;">Figure 8-12 <u>17</u>: Visual Surveillance Standard</p>	<p>Updated Figure numbering. No graphic change</p>

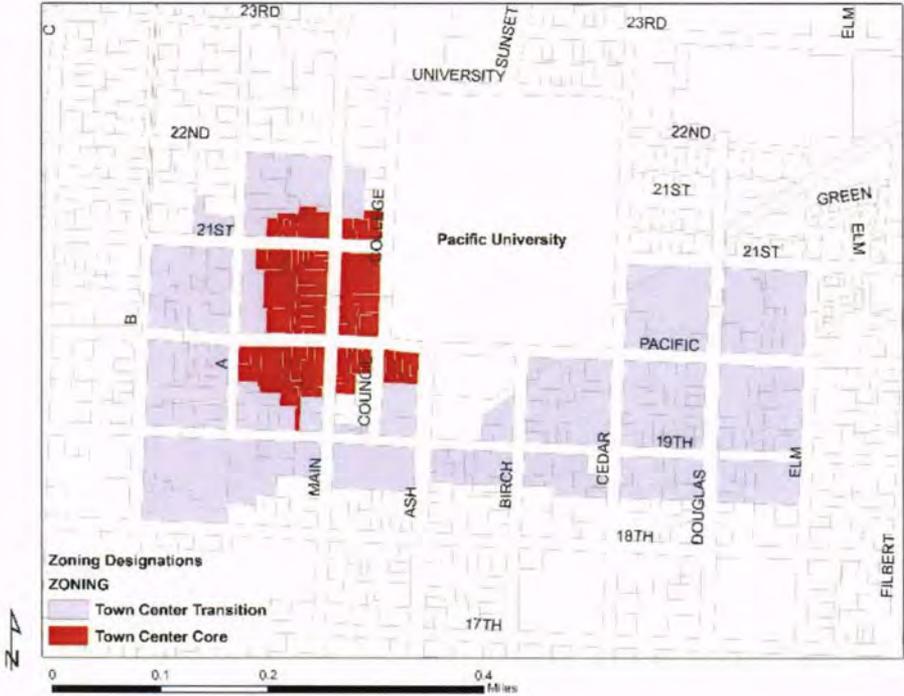
Design Guideline Handbook Amendments	Commentary
FOCUS AREA 1 – TOWN CENTER GUIDELINES	
<p>Overview Forest Grove began as a small farming community with a small downtown and a quality educational institution (now Pacific University) at its center. Since the community’s inception, the town center has been important and still maintains much of its turn of the century charm with numerous intact historic buildings.</p> <p>This section, Focus Area I, establishes specific design review guidelines for new development in the Town Center. The primary intent of the Town Center Focus Area is to reinforce the existing positive qualities of the architecture and streetscape. While the City is not seeking new development to replicate the architecture of existing buildings, new projects should use design elements that reinforce or enhance the character of the Town Center.</p> <p>Applicability The City has three <u>two</u> town center zones, listed below and illustrated in the map on the following page (Unless otherwise noted, Design Guidelines apply uniformly to <u>both</u> the three zones.)</p> <ul style="list-style-type: none"> • <u>Town Center Core (TCC)</u> provides for a concentration of retail and office needs in the core commercial area of the city. Retail or office uses are required on the ground floor, with an emphasis on those uses that serve a walk-in clientele. A combination of office and residential uses are allowed on upper floors. Design components should work together to form a unified district. Architectural elements should form a continuous and interesting storefront façade featuring streetscape amenities for the pedestrian shopper. • <u>Town Center Transition (TCT)</u> is similar in form and specific street front characteristics to the TCC with the primary difference being that retail uses are not required on the ground floor, and therefore the vibrant streetscape may also include residential or office activities. • Town Center Support (TCS) creates an area with a mix of office, light industrial and residential and some retail uses as a continuation of the Town Center compact urban form concept. Ground floor retail uses are allowed on the ground floor, but not required. A varied and attractive streetscape is desired in this zone. <p>In cases where a development falls into both the Town Center Focus Area and another Focus Area, both sets of guidelines may apply, but where they conflict the guidelines for the Town Center take precedence.</p> <p>The following section is divided into four general categories:</p> <ul style="list-style-type: none"> • Site • Building • Lighting • Signs <p>Each category has a set of corresponding design objectives, guidelines and standards, and is further divided into sub-categories as necessary.</p>	<p>Consolidated TC zones, delete TCS.</p>

Design Guideline Handbook Amendments **Commentary**

**Town Center Map
City of Forest Grove
Town Center Zoning Districts**



Map updated to reflect consolidation of Town Center zones and expansion of the Town Center boundary east to Elm St, south 1/2 from block from 19th and north to 21st



SITE – BUILDING ORIENTATION

Guideline – Design and construct buildings oriented to a public street right-of-way to create safe, pleasant and active pedestrian environments.

Description – Development in the town center area should create a well-defined, safe, attractive and active pedestrian environment. Zero lot line development should be encouraged in all town center zones, particularly the Town Center Core. Parking should be behind or to the side of buildings, so as to not obstruct pedestrian pathways to the front door of buildings. If buildings are setback from the sidewalk, the area in front of the building should be well landscaped and or used as an expanded sidewalk area or a pedestrian plaza.

Suggest modifying last sentence in description by changing “and” to “or”.

As a result of consolidating TC zones, delete TCS.

Track 2 – Design Guidelines

Recommended

- Minimize building setbacks from any public street right-of-way. Zero lot line buildings along the public street right-of-way are encouraged to maintain an inviting and continuous storefront presentation.
- Design and construct a primary building entrance for each building façade. If a building has frontage on more than one public street, a single building entrance on the corner is acceptable.
- Use the area between the right-of-way and building to create a plaza court, planter area, bicycle parking or another amenity.
- Main entrance should be oriented to the street.

Not Recommended

- Parking located between the building façade and the street.
- Excessive front setbacks (greater than 10 feet).
- Storage in front of building façade.

Track 1 – Development Standards

Related Code Standards

- TCC: Building facades shall be built along at least 80% of the primary building frontage line.
- TCT: Building facades shall be built along at least 75% of the primary building frontage line.
- ~~TCS: Building facades shall be built along at least 50% of the primary building frontage line.~~
- One (1) entrance shall be provided for each building façade. When a building is located on a corner, one entrance at the corner is permitted.
- If a building is setback from right-of-way, it shall be a minimum of four (4) feet in depth and include plazas, forecourts or other paved areas for public seating, artwork and landscaped planting beds.
- If a building is setback from the right-of-way, mechanical units, meters or other above grade or wall mounted utilities shall not be located in the front setback area.



Recommended: zero setbacks at sidewalk

SITE – AMENITIES

Guideline – Protect pedestrians from wind, sun and rain and provide courtyards or other outdoor spaces to create a comfortable environment for meeting and sitting.

Description – Pedestrians should be protected from the elements, to encourage use of the Town Center during inclement weather. The design of awnings and canopies should be integral and well proportioned to the facades of buildings. Street furniture, such as benches, lamps and landscape planters should be provided.

Track 2 – Design Guidelines

Recommended

- Provide weather protection above sidewalks in the form of awnings or other building elements appropriate to the design of the structure.
- Canvas fixed or retractable awnings or horizontal metal canopies.
- Seating areas near retail establishments.
- Courtyards, squares, forecourts, and plazas with active adjacent ground-floor uses.

Not Recommended

- Awnings with vinyl or synthetic fabrics, plastic, backlit, or with oversized lettering.
- Seating areas adjacent to loading, service bays or storage areas.
- Seating areas that are hidden, secluded, dark or unsecured spaces behind or on the side of buildings.

Track 1 – Development Standards

Related Code Standards

- Every development shall provide 2 or more of the “pedestrian amenities” listed below:
 - a. A plaza, courtyard next to the building entrance a minimum of four (4) feet in depth for residential food, beverage or entertainment establishments only.
 - b. Seating areas (chairs, tables, benches)
 - c. Building canopy, awning or similar weather protection across 75% of façade projecting a minimum of four feet over the sidewalk.
 - d. Public art ~~which that~~ incorporates seating (e.g., fountain).
- Awnings shall be constructed of metal, glass or natural canvas fabrics. Vinyl, synthetic fabric, plastic or backlit awnings are prohibited. ~~Signage or lettering on awnings is prohibited.~~

Proposed amendment allows signage on awnings. The current graphic illustrating this code requirement includes signage.

Example: Desirable Weather Protection-Canvas Fabric Awning



Existing graphic with new caption.

Example: Desirable Weather Protection – Metal and Glass Awning



New graphic showing metal and glass awning

BUILDING – FACADES

Guideline – All buildings shall contribute to the storefront character and visual relatedness of town center buildings

Description – Facades should define a continuous street edge, while adding visual interest and variety for the pedestrian. Building frontages should provide a sense of continuity and enclosure to the street, creating a human-scale “street wall.”

Track 2 – Design Guidelines

Recommended

- Walls that have a comfortable rhythm of bays, columns, pilasters or other articulations.
- Facades should be taller than one -story to create a sense of enclosure along the sidewalk.
- Architectural elements such as towers, roof parapets.
- Well-detailed cornices of significant proportions to create visual interest and shadow lines.
- Vertical elements which that break up long, monolithic building facades along the street.
- Regularly spaced and similar-shaped windows with window trim on all building stories.
- Bay windows on second story or higher floor levels.
- Screen mechanical equipment.

Not Recommended

- Blank walls at street level.
- Unarticulated rooflines.
- Exposed rooftop mechanical equipment, electrical units or telecommunication equipment.

Track 1 – Development Standards

Related Code Standards

- All new ~~structures~~ buildings in the TCC zone shall be a minimum of two -stories in height ~~or a minimum height of 24 feet.~~ All new buildings in the TCT zone shall be a minimum of 16 feet in height. Building height shall be measured at the front elevation to top of parapet or eave line of lowest point of facade.
- All flat-roofed buildings shall have a decorative cornice at top of building (parapet)
- Exterior pilasters and columns shall project a minimum of 6 inches beyond building face.
- All rooftop mechanical equipment shall be screened by a solid wall from view of the public right-of-way and pedestrian routes.

The minimum height in the TCC zone is two stories. The minimum height in TCT and TCS is 16’. The minimum height requirement should apply to buildings only, not all structures (e.g., fences, walls, poles, etc. should not be subject to minimum height).

Examples: Desirable Building Façade and Design Elements



New graphic showing newer building with desired façade elements.

Updated caption.



Delete existing graphic.

Recommended: Façade articulation

BUILDING – RETAIL STOREFRONTS

Guideline – Storefronts should appear open, inviting and engaging to the passerby.

Description – Retail and other commercial establishments should provide windows and doors offering views in and out of the building so passersby may see activity within buildings.

Track 2 – Design Guidelines
Recommended

- Storefronts should be designed to encourage a lively streetscape with clear windows, window displays.
- Clerestory or transom windows above storefronts are recommended.
- Entryways with multiple doors, windows, architecture details and ornate hardware.
- Sliding, overhead or other operable windows for restaurants or other active uses.

Not Recommended

- Blank walls.
- Windows which that are too small to provide views in and out.
- Tinted, opaque or reflective glazing on windows or doors.
- Solid metal or wood doors with small or no windows.
- Featureless entryways (doors flush with building facades, no architectural details, etc.)
- Windows with residential-type multiple lites or divisions.
- Windows that have a greater horizontal than vertical dimension.

Track 1 – Development Standards
Related Code Standards

- Ground floor storefront glazing along the primary public façade shall comprise a minimum percentage of the main floor’s exterior wall area (measured between 2 feet above sidewalk to 10 feet above sidewalk) as follows:
 - TCC: 80%
 - TCT & TCS: 50%
- First floor vertical elements such as columns or pilasters shall be provided and spaced center-to-center at a maximum of 25 feet apart.
- Doors on the main floor façade facing a street shall contain windows equivalent in size to 50% of door surface area.
- Storefront glazing must be transparent. Reflective, tinted, glazed or techniques that obscure more than 20% of glazed surfaces shall be prohibited.
- Glazing dimensions shall have a greater height than width
- Storefront glazing with divided lites shall be limited to transom windows only.
- All window frames shall be painted.

Proposed amendments delete TCS zone. As noted in Development Code the methodology has been clarified.

Examples: Retail Storefront Windows and Active Streetscape



Added new graphics with caption

BUILDING – WINDOWS

Guideline – Use windows to create an open and inviting atmosphere.

Description - Retail uses should provide windows that create visual interest and encourage people to visit restaurants and shops. Blank walls should be avoided.

Track 2 – Design Guidelines

Recommended

- The majority of the ground floor building façade should contain windows.
- Multiple windows should be provided on the front façade above the main floor in a uniform pattern.
- Window should be oriented vertically with rectangular shapes.
- Frame openings with trim around windows and doors.
- If used, door and window shutters should be sized to cover the entire window.
- “Punched” window openings recessed rather than flush with the building façade.

Not Recommended

- Tinted or reflective glass and glass block.
- Spandrel or other contemporary glazing (i.e., glass surface smoothly and uniformly covering structural elements).

Track 1 – Development Standards

Related Code Standards

- Window openings shall comprise the following portions of the front building facades at the main floor:
 TCC: Minimum 80%
 TCS: ~~Minimum 30%~~
 TCT: Minimum ~~60%~~ 50%
- Window openings shall comprise the following portions of the front building façade above the main floor:
 TCC: Minimum 30%, maximum 80%
 TCS: ~~Minimum 20%, maximum 80%~~
 TCT: Minimum 30%, maximum 80%
- Clear or transparent glazing is required for windows fronting the public rights-of-way.
- Glass shall be recessed a minimum of 1-1/2 inches from the surrounding exterior wall surface.
- Spandrel, glass curtain-wall or any window wall glazing that creates an opaque, flat or featureless, or reflective surface shall not be used at ground floor.

Amended to delete TCS zone.

TCT amended to be consistent with 50% required by “Building – Retail Storefronts”)

Example: Inviting Ground Floor Retail and Upper Floor Windows



New graphic and caption added.

BUILDING – EXTERIOR WALLS

Guideline – Use materials ~~which~~ that are compatible with the character of Forest Grove and create a sense of permanence.

Description – Materials used should be consistent with the existing buildings in the Town Center. Quality wall materials provide a sense of permanence and should be applied to create a sense of substance and mass.

Track 2 – Design Guidelines

Recommended

- Quality materials such as brick, stone and natural wood.
- Applications ~~which~~ that create depth, such as recessed windows and doors.
- Establish a single clearly dominant exterior wall material and finish.
- Belt courses and medallions.
- Consider the following materials:
TCC: Brick or stone masonry.
TCT & TCS: Brick or stone masonry; cement-based stucco; lap siding; board and batten siding; shingles and shakes.

Not Recommended

- Brick or stone veneer
- Vinyl or metal siding.
- Flagstone, simulated river rock or other similar veneer cladding.
- Simulated stucco cladding (such as EIFS/Dryvit) at ground level.
- Concrete masonry block at ground level.

Track 1 – Development Standards

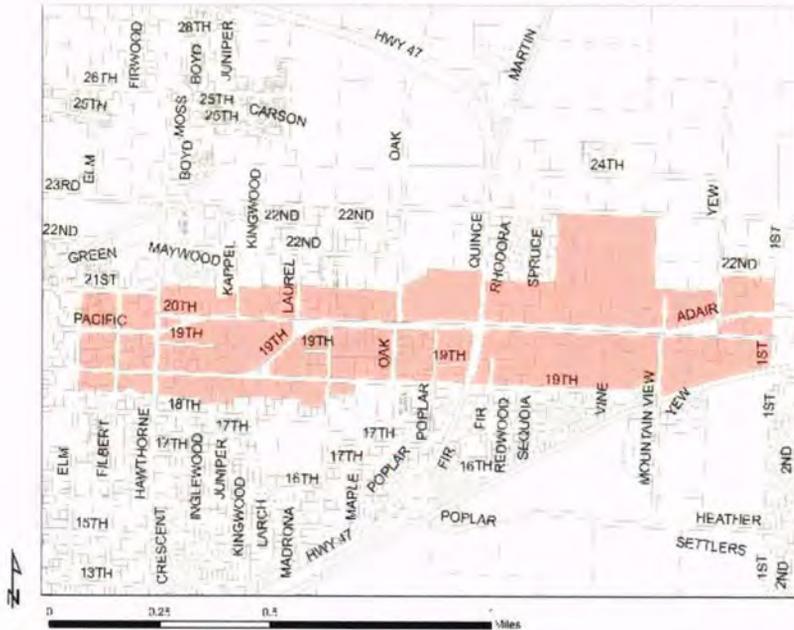
Related Code Standards

- Vinyl, plastic or metal siding are prohibited the all Town Center zones.
- Synthetic Stucco (EIFS, Dryvit, etc.) insulating cladding materials along the first floor of facades that front public rights-of-way are prohibited.
- Flagstone or other stone veneer along the first floor of facades that front public rights-of-way are prohibited.
- Simulated or cultured stonework are prohibited for commercial uses.
- Wood, asphalt or cement shingles are prohibited at first floor for commercial uses.

Amended to delete TCS zone.

Section II – Commercial Corridor Focus Area

Commercial Zoning Map



Commercial Corridor map added. Map shows proposed western boundary at Elm Street, which reflects the rezoning of the Town Center Expansion Area from CC to TCT.

No other changes to the Commercial Corridor Guidelines proposed.

Section III Multi-Unit Residential Focus Area	
<p>Applicability The City has a variety of areas which that are designated for multi-unit housing. Primarily, M-multi-unit housing is focused on land zoned either:</p> <ul style="list-style-type: none"> • Residential Multi-unit Low (RML). • Residential Multi-unit High (RMH). <p>Land zoned Community Commercial (CC) and <u>Neighborhood Mixed-Use (NMU)</u> also allows multi-unit development. The design standards and guidelines in this section apply to multi-unit development in these three <u>four</u> districts, with multi-unit being defined as buildings which that include at least three dwelling units. <u>However, within the NMU zone, these standards may be modified through an approved Mixed-Use Plan Development (MUPD).</u></p> <p>While multi-unit residential development is also allowed in Town Center zones, its character in those areas can be significantly different from that of the Commercial Corridor and residential zoning districts, but is not subject to the standards in this section. Therefore, residential development in the Town Center is subject to the Town Center guidelines found in Section I.</p> <p>In the RML, RMH, <u>and CC, and NMU</u> zones, these multi-unit residential design guidelines apply to the multi-unit types as follows:</p> <ul style="list-style-type: none"> • Single-family attached developments with three or more units (i.e. townhouse, courtyard). • Duplex developments with at least two duplexes (i.e. courtyard/loft/urban housing). • Apartment buildings with three or more units (i.e. courtyard/loft/urban housing). <p>The following guidelines section is divided into four categories, with sub-categories provided as necessary within each. Each category has a set of corresponding design objectives, guidelines and standards:</p> <ul style="list-style-type: none"> • Site • Building • Lighting • Signs 	<p>The proposed amendments assume that MF within NMU zone will occur as part of a MUPD. The standards and guidelines in this section are the "default" if MUPD applicants do not want to develop their own Guidebook.</p>
<p>Map of Zones which Allow Multi-Unit Residential Development</p>	<p>Map reference deleted, previous section outlines which zones are subject to the guidelines.</p>

SITE – PEDESTRIAN ENVIRONMENT

Guideline – Create safe, pleasant and active streets and public spaces.

Description – Pedestrian areas should be functional and inviting, providing the multi-unit residential development with amenities. These areas should enhance the feeling of community and increase the ability for neighbors to meet. Development of public courts, plazas and squares is encouraged.

Track 2 – Design Guidelines

Recommended

- Provide pedestrian amenities such as benches for a pleasant and inviting place to sit, rest, linger and meet.
- Safely separate pedestrian areas from vehicle traffic by providing street trees along sidewalks as buffers.
- Provide an active ground floor environment along all pedestrian streets and public courts, plazas and squares. That is, design buildings with transparent windows and doors.
- Develop public spaces – plazas, squares or other open spaces that are “activated” by building entries and locate uses that encourage foot traffic.

Not Recommended

- Pedestrian-only streets or corridors.
- Indirect pedestrian routes.
- Pedestrian routes blocked by obstructions or barriers including mechanical units or utility, sign or light poles.
- Public spaces that are not “outdoor rooms” – i.e., that are not enclosed by building edges and landscaping on all sides.
- Public plazas or squares in parking lots.
- Pedestrian-inhospitable areas such as public plazas or squares at intersections of arterial roadways.
- Use of public spaces primarily as

Track 1 – Development Standards

Related Code Standards (Section 10.8.140(A)(3))

- Residential doors ~~which that~~ face a public right-of-way shall be setback a minimum of ~~2 feet~~ 3 feet from a public sidewalk plus any additional width needed to meet the minimum sidewalk requirements (where applicable).
- The following types of doors shall not provide the primary entrance into a dwelling unit: sliding glass or solid metal doors without glazing.
- Residential stoops, porches or terraces shall be no higher than raised a maximum of 34 feet above grade measured at the adjacent right-of-way.
- Residences with entry porches or terraces shall have a minimum area of ~~60~~ 40 square feet.
- Residential entries shall be no lower than lowered a maximum of 4 feet below grade measured at adjacent right-of-way.

Proposed amendments for consistency with amendments to Dev Code.

Amendments allow greater flexibility by allowing a higher maximum for the porch or stoop and a smaller minimum for a smaller entry porch.

Example: Residential Entries Oriented to Sidewalk and Transitions



New graphic with caption.

SITE – LANDSCAPING

Guideline – Use landscaping to enhance character and visual quality of residential developments.

Description – Landscaping can help provide a quality environment for residents and help achieve compatibility with surrounding land uses. A mix of landscaping treatments and techniques can provide appropriate separation between adjacent properties, screen objectionable views, provide visual relief, and create weather protection.

Track 2- Design Guidelines

Recommended

- Plant landscaping to define and accentuate entry-ways.
- Provide landscape elements along all exterior walls to soften the visual impact of the building and promote residential character of the site.
- Use landscaping and/or fencing to buffer multi-unit development from abutting properties and enhance privacy of dwelling units, especially by landscaping setback areas.
- Distribute canopy trees along roadways; provide landscape buffers along edges of developed areas and throughout parking areas.
- Large species street trees should be planted to provide shade and emphasize the residential character of the site.

Not Recommended

- Removing significant trees.
- Landscaping that creates a pedestrian physical barrier between walkways, gathering areas and building entries.
- Use of non-native-incompatible, noxious or invasive plant materials.
- Parking lot landscaping that creates pedestrian physical or visual barriers between walkways and building entries
- ~~Canopy trees that drop excessive amounts of seeds, fruit or leaves onto cars and walkways.~~

Track 1- Development Standards

Related Code Standards (Section ~~10.7.055~~

- Landscaping standards vary depending on zoning, use, adjacent zoning, and existing site conditions.
- At least 75% of required landscaped area shall be planted with any suitable combination of trees, shrubs, or evergreen ground cover.
- A maximum of 25 % of required landscaped area may include architectural features or artificial ground covers such as sculptures, benches, masonry or stone walls, rock groupings, ~~bark dust~~, decorative hard paving and gravel areas interspersed with planting areas.
- Buffering and screening is required as specified in Section ~~10.7.075~~ 10.8.425.

Delete bark dust as a permissible landscape coverage material.

Recommend deleting last bullet. Unless the tree is within the public right-of-way, staff recommends it be left to the property owner to decide type of tree to plant.

<p>BUILDING – COMPATIBILITY</p>		
<p>Guideline - Encourage design which <u>that</u> provides visual linkages between proposed development and adjoining existing buildings.</p>		
<p>Description - Much of the land zoned for multi-unit development is currently occupied by single-family homes. New multi-unit development should “fit” by relating to surrounding architecture through use of common elements of scale, color, rhythm and proportion in similar ways as existing buildings.</p>		
<p>Track 2- Design Guidelines</p>	<p>Task 1 – Development Standards</p>	
<p><u>Recommended</u></p> <ul style="list-style-type: none"> ▪ Design buildings to provide an appropriate transition between new buildings and adjacent buildings. ▪ Use architectural elements and façade materials consistently throughout the site. ▪ Locate and treat entries similar to that of existing adjacent or neighborhood buildings (for example, providing roof, awning, or portico) ▪ Use similar landscaping, setback, spacing and orientation of buildings that strengthens and contributes to character and identity of the neighborhood. ▪ Use similar façade materials, colors and treatments of existing buildings. ▪ Repeat, strengthen and expand upon building elements that create a unified street edge – i.e., window placement, belt coursings, etc. 	<p><u>Related Code Standards</u></p> <ul style="list-style-type: none"> ▪ Setback requirements vary by building height (see Section 10.3.035 et al) ▪ All buildings shall incorporate a porch or architecturally defined entry space for each ground level dwelling unit with a minimum area of 16 square feet per dwelling unit, with no dimension less than 4 feet. Shared porches or entry spaces are permitted. All grade level porches shall include hand-railing, half-walls, or shrubs to define their outside perimeter. ▪ Common entrances shall not serve more than four (4) dwelling units. 	<p>Deleted common entrance requirement due to not being practical with buildings served by elevators.</p>
<p><u>Not Recommended</u></p> <ul style="list-style-type: none"> ▪ Literal interpretation of existing buildings. ▪ Surface materials, building textures or color that vary greatly with nearby development. ▪ Proportions of windows, doorways, bays and other features that vary greatly with nearby development. 		

Date: December 16, 2015
To: Project Management Team - Forest Grove Mixed-use and Town Center Zoning
From: Cathy Corliss, Principal; CJ Doxsee, Planner
cc: Anne Sylvester, SCJ Alliance
Re: Code and Map Amendments and Findings (Task 6.2)¹

PROJECT DESCRIPTION

The City of Forest Grove has recently adopted a new comprehensive plan. This code assistance project is intended to implement some of its key elements including provisions for mixed use and Town Center zoning and increasing residential densities through a series of development code and zoning map amendments which will affect different areas within the City of Forest Grove.

TEXT AMENDMENTS

Text amendments are shown in:

- Exhibit A – Amendments to the City of Forest Grove Development Code
- Exhibit B - Amendments to the City of Forest Grove Design Guideline Handbook

The amendments are presented in two column format. The first column shows potential amendments to the code. Additions to the code are shown in double-underline and deletions are shown in ~~strike-through~~. The second column provides commentary and questions for the Planning Commissions' consideration.

In summary, these amendments are intended to accomplish the following:

¹ *This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Moving Ahead for Progress in the 21st Century (MAP-21), local government, and the State of Oregon funds.*

The contents of this document do not necessarily reflect views or policies of the State of Oregon.

EXHIBIT B

- Establish a new Neighborhood Mixed Use (NMU) zone and Mixed Use Planned Development (MUPD) standards to implement the Mixed Use designation of the Comprehensive Plan.
- Consolidate the Town Center Support (TCS) zone into the Town Center Transition (TCT) zone and make minor adjustments to the TCT zone.
- Increase the maximum residential density from 20.28 to 40 dwelling units per acre in both the TCC and TCT zones and provide a residential density bonus up to 100 dwelling units per acre through building amenity and affordable housing incentives. The proposed increase in the base zone density is consistent with the City's Residential Capacity Analysis completed as a part of the Comprehensive Plan update (January 2014). In that analysis, the City of Forest Grove committed to adopting the necessary Zoning Map and Development Code text to achieve residential capacities planned for the Town Center within one year from DLCD approval of the Forest Grove Comprehensive Plan.
- Increase the maximum residential density in the Community Commercial (CC) zone from 20.28 to 30 dwelling units per acre.
- Amend the definition of "Net Acres" to reduce the types of land that must be subtracted from the gross area of the site when calculating net acres. Net acres is used to calculate density; thus, increasing net acres may potentially increase the resulting number of dwelling units that can be permitted. Rights-of-way through or on the edge of the site, environmentally constrained areas, and land intended for public ownership (such park and open spaces uses) will still be subtracted from gross acres to calculate net acres in the proposed new definition.

MAP AMENDMENTS

MIXED USE AREAS

The three mixed use areas are proposed to have the new Neighborhood Mixed Use (NMU) zoning applied with the purpose of encouraging the placement of complementary land uses in close proximity to promote complete neighborhoods. The NMU zone will allow a variety of housing types to be developed. The NMU zones will also allow for a wide range of non-residential uses within a designated "Village Center" and as part of a Mixed Use Planned Development (MUPD) review.

MIXED USE AREA 2 (DAVID HILLS)

The David Hill site is currently zoned as Single-Family Residential (R-10). The 8.5 gross acre area proposed to be rezoned at this time has approximately 2.9 net acres of developable land, due in part to the presence of environmental feature constraints. It is at the northwest corner of David Hill Road and Thatcher Road. The remaining Mixed Use area north of David Hill Road (approximately 20.6 gross acres) will be addressed as part of the Westside Planning Project. This area will likely be recommended for rezoning to Single Family Residential (R-10).



MIXED USE AREA 2 (CPD AREA)

The CPD Area is currently zoned Commercial Planned Development, a now defunct zone since the adoption of the Comprehensive Plan. The CPD area is parcelized and has existing non-conforming development. The total net developable acres on all the sites is approximately 5.4 acres.

MIXED USE AREA 3 (DAVIDSON SITE)

The Davidson Site is currently zoned Industrial (IND). It is a large and level site under one ownership with visibility from Highway 47. The Davidson Site has approximately 19.9 net acres of developable land.



The residential density and minimum and maximum amount of commercial and institutional uses permitted vary by area as shown in the tables below.

Residential Density

NMU Zoned Area	Minimum Density	Target Density	Maximum Density
Area 1 - David Hill	9.6 units/net acre	12 units/net acre	13.8 units/net acre
Area 2 - Gales Creek	6.97 units/net acre	8.71 units/net acre	10.02 units/net acre
Area 3 - Davidson	9.6 units/net acre	12 units/net acre	13.8 units/net acre

Commercial/Institutional Uses within the Village Center

NMU Zoned Area	Minimum Square Footage	Maximum Square Footage
Area 1 - David Hill	None	15,000 SF Gross Floor Area
Area 2 - Gales Creek	None	25,000 SF Gross Floor Area
Area 3 - Davidson	25,000 SF Gross Floor Area	130,000 SF Gross Floor Area

TOWN CENTER

TOWN CENTER CONSOLIDATION – TCS TO TCT

As described above, the proposed amendments consolidate the Town Center Support (TCS) zone into the Town Center Transition (TCT) zone and make minor adjustments to the TCT zone. This change requires that all land zoned TCS be rezoned to TCT.

TOWN CENTER EXPANSION AREA

The Community Commercial (CC) area directly east of the Town Center is proposed to be rezoned to TCT. The transition from CC to TCT will encourage more urbanized development to occur by restricting new auto-oriented development, reducing landscape requirements, applying “urban” design standards, and allowing residential uses in mixed use or stand-alone development.

Summary of Proposed Map Amendments

Location	Comp Plan Designation	Current Zoning	Proposed Zoning	Gross Acreage Proposed to be Rezoned
Mixed Use Area 1 (David Hill)	Mixed Use	R-10	NMU	8.5 acres
Mixed Use Area 2 (CPD Area)	Mixed Use	CPD	NMU	6.4 acres
Mixed Use Area 3 (Davidson Site)	Mixed Use	LI	NMU	23.5 acres
Town Center Consolidation	Town Center	TCS	TCT	22.6 acres
Town Center Expansion Area	Town Center Expansion	CC	TCT	24.2 acres

PUBLIC INVOLVEMENT

A series of community events, public hearings, and stakeholder interviews, allowing for citizen involvement, have been provided throughout the course of developing the proposed amendments. Summarized below are the dates and events allowing for citizen involvement.

Event	Date
Stakeholder Interviews	January 2015
Community Meeting #1	March 2015
Stakeholder Meetings	June 2015
Planning Commission Worksession #1	June 2015
Planning Commission Worksession #2	August 2015
Community Meeting #2	September 2015
Planning Commission Worksession #3	September 2015
Planning Commission/City Council Worksession	November 9, 2015
Planning Commission Hearing	January 4, 2016
City Council Hearing	February 8, 2016 (First Reading of Ordinance) February 22, 2016 (Second Reading of Ordinance)

APPROVAL CRITERIA

All of the proposed actions are legislative subject to a Type IV review. The approval criteria and procedures applicable to text and map amendments are shown below. Findings in response to these criteria are provided in the subsequent sections.

DEVELOPMENT CODE TEXT AMENDMENT

10.2.630 REVIEW CRITERIA

- A. *The text amendment is consistent with relevant goals and policies of the Forest Grove Comprehensive Plan;*
- B. *The text amendment is consistent with relevant statewide and regional planning goals, programs and rules.*

MAP AMENDMENT (ZONE CHANGE)

10.2.770 REVIEW 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 Correspondence Table in Article 3, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes 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 will 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 zone 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.*
- F. The establishment of a zone district is not subject to the meeting of conditions.*

FINDINGS - TEXT AMENDMENTS (SUBJECT TO 10.2.630)

The City of Forest Grove adopted a new Comprehensive Plan in 2014. This TGM Code Assistance project and the proposed text amendments are intended to implement some of its key elements including provisions for mixed use and Town Center zoning and increasing residential densities. Comprehensive Plan housing, economic development, urbanization, and transportation goals and policies are relevant to the proposed development code text amendments. Relevant goals and policies related to the proposed changes are addressed.

MIXED USE AREAS

Review Criteria 10.2.630.A: The text amendment is consistent with the relevant goals and policies of the Forest Grove Comprehensive Plan.

Finding: The relevant goals and policies are addressed below.

Community Sustainability Goals

Goal 7: Promote interconnected land uses that encourage diverse, accessible, and proximate land uses that promote active living and access to vital services including employment, education, and healthy food.

Goal 8: Create complete neighborhoods, through land use regulations, with housing, recreational opportunities, retail, services and employment nearby.

Goal 11: Encourage the clustering of residential development in the David Hill area to reduce impacts to the environments and minimize degradation of views from lower elevations especially the Town Center.

Finding: A new "Neighborhood Mixed Use (NMU)" zone is proposed to be added to Article 3, Commercial Zones, the purpose of which is to ensure sites are developed into pedestrian-friendly mixed use neighborhoods. The zone allows for a mix of housing types and commercial uses. A new Mixed Use Planned Development (MUPD) is proposed to be added to Article 4, Overlay Districts, which will work in conjunction with the NMU zone. The MUPD standards

ensure that land uses are interconnected and pedestrian-oriented by establishing standards for densities, desired building mix, connectivity, building orientation, and open space requirements. A portion of the David Hill area is proposed to be rezoned to NMU. Clustering is allowed in a MUPD and the standards require that water features such as streams or ponds be left in a natural state unless altered to improve the natural values of the water feature.

Housing Goals and Policies

Goal 3: Promote mixed-use development opportunities throughout the community

Policy 3.1 Identify locations on the Comprehensive Plan and Zoning maps for mixed-use development opportunities. Establish standards for residential and commercial densities, desired building mixed, and building design for mixed-use areas.

Finding: A new “Neighborhood Mixed Use (NMU)” zone is proposed to be added to Article 3, Commercial Zones, and would allow for a mix of housing types. The City is required to provide clear and objective standards for “needed housing”. However, mixed use areas, while potentially providing opportunities for additional housing within the City of Forest Grove, were not identified in the City’s 2009 Economic Opportunity Analysis and Buildable Lands Inventory as necessary to provide “needed housing”. The NMU zone provides development standards for densities, desired building mix, and building design through a “Mixed Use Planned Development” overlay, proposed to be added to Article 4.

Goal 6: Promote neighborhoods complete with residences, open space, schools, parks, and shopping opportunities within close proximity to each other. Avoid stand-alone residential development lacking support activities.

Policy 6.1 Designate small-scale neighborhood-oriented commercial areas within walking distance of residential areas.

Finding: The purpose of Neighborhood Mixed Use zones would be to develop as a pedestrian friendly neighborhoods, with a diversity of housing types, be pedestrian oriented, include a minimum amount of open space, and provide opportunities for neighborhood-scale retail. In addition, the three mixed use areas are distributed throughout the City of Forest Grove and generally adjacent to areas zoned Single Family (R-5 or R-7), which would increase the opportunities for residents in these neighborhoods to access neighborhood amenities through non-automotive means of transportation. The amount of commercial development is capped within each of the mixed use areas in order to help ensure they remain neighborhood-oriented in scale.

The NMU zone with associated MUPD overlay will allow a variety of additional housing to be built to provide options for Forest Grove residents. All the areas with the proposed NMU designations will have the flexibility to develop a mix of housing types, including single-family housing, apartments, row houses, senior housing, etc. as long as the minimum residential density targets are met. In addition, developments in areas with NMU designations will be required to provide basic amenities such as open space, pedestrian facilities, and parking, to support housing development.

Land Use Goals and Policies

Commercial Land Use Objective 1: Distribute commercial activity throughout the city to serve existing and planned residential or employment areas.

Finding: The NMU zone will allow for commercial activity in areas of the community where no commercial land is currently designated. As such, the NMU zone provides the opportunity to distribute commercial activity throughout the City to serve existing and planned residential or employment areas as identified on the Comprehensive Plan Map.

Commercial Land Use Objective 12: The Comprehensive Plan Map and corresponding zoning standards shall provide for commercial development opportunities serving newly developing areas in the City.

Finding: The NMU zone and associated MUPD overlay will promote commercial uses in areas of the City where none currently exists. This includes the Sunset Drive/Hwy. 47 and David Hill Road/Thatcher Road areas.

Economic Development Goals & Policies

Goal 5: Promote Retail Activities

Policy 5.3 Promote opportunities for mixed-use development, including retail, near major transportation intersections (nodes) within the City including the Forest Grove Town Center.

Policy 5.4 Adopt development standards to encourage the creation of commercial areas at a scale proportionate for meeting the daily needs of nearby residents.

Finding: The MUPD Overlay, applied to NMU zones, would include review procedures and development standards for allowing commercial areas (defined as Village Centers) to be developed. The review procedures, Type III for preliminary plan and Type I for final plan, would provide greater flexibility in the development of commercial areas to meet the needs of nearby

residents. In addition, development standards for Village Centers would regulate the maximum square footage and building footprint. The text amendments for the NMU zone addresses a need identified in the City’s 2009 Economic Opportunity Analysis related to retail sales leakage. The EOA States “The City of Forest Grove’s estimated retail sales are significantly below originating sales by a sizable margin, reflecting the City’s position as a bedroom community, failing to capture a typical share of general retail spending, particularly Food Services. In other words, residents in Forest Grove spend a sizable share of their retail dollars outside Forest Grove.” The NMU areas are located in areas of the community not located near shops or services. As such the NMU zone is intended to provide opportunities to capture retail dollars currently being spent outside the community.

Urbanization Goals & Policies

Goal 4: Implement policies to create complete neighborhoods in areas undergoing urbanization.

Finding: The NMU zone is proposed to encourage the creation of complete neighborhoods with a variety of housing choices and the opportunity to obtain goods and services nearby. The NMU zone text amendment establishes the framework necessary to implement the NMU comprehensive plan and zoning designation. Without the ability to implement the NMU zoning designation the opportunity to encourage the creation of complete neighborhoods is lost.

Transportation Goals & Policies

Goal 6: Establish and maintain a context sensitive set of transportation design and development regulations

Policy 6.3 Require developers to include pedestrian, bicycle, and transit-supportive improvements within proposed developments and to adjacent right-of-way in accordance with adopted policies and standards.

Finding: The MUPD Overlay’s purpose, applied to NMU zones, is to create pedestrian-friendly mixed use neighborhoods which provide pedestrian and bicycle access to, and through, the site and provide connectivity to adjacent areas for motorized and non-motorized modes of transportation. Development plans for pedestrian and bicycle access are required to include a transportation system that emphasizes pedestrian mobility and accessibility that provides connections within the property and to adjacent properties. Proposed commercial and institutional uses that are located in the designated “Village Center” are required to be compact and pedestrian friendly and are encouraged to use Forest Grove’s Town Center Design Guidelines as a basis for development. As described in Exhibit C (Transportation Analysis), the

proposed intensities and densities allowed by the proposed NMU zone and associated MUPD overlay are consistent with the City's adopted Transportation System Plan.

Review Criteria 10.2.630.B: The text amendment is consistent with relevant statewide and regional planning goals, programs and rules.

Regional Planning Goals

Metro Regional Framework Plan

Introduction: It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

1. People live, work and play in vibrant communities where their everyday needs are easily accessible....

Finding: The proposed new NMU zone and associated MUPD overlay are intended to facilitate the development of complete neighborhoods that offer a mix of uses in a pedestrian friendly environment where residents can walk to the village center.

Policy 1.1 Compact Urban Form

1.1.1. Ensure and maintain a compact urban form within the UGB.

1.1.7. Promote excellence in community design.

Finding: The proposed new NMU zone and associated MUPD overlay establish minimum densities which are consistent with development within the UGB. The efficient use of land and building styles that establish a cohesive sense of place are stated purposes of the MUPD and required to be addressed as approval criteria.

Policy 1.3 Housing Choices and Opportunities

Finding: The proposed new NMU zone will increase housing choices and opportunities in Forest Grove through regulations that allow new housing to be developed. The associated MUPD overlay will ensure new development provides a range of diverse housing, including single family house, apartments, row houses, cottages, senior housing, etc. in a compact urban form. Standards require a mix of housing types for MUPDs over 3 acres.

1.10 Urban Design

Policy 1.10.1 Support the identity and functioning of communities in the region through:

c. Ensuring that incentives and regulations guiding the development and redevelopment of the urban area promote a settlement pattern that:

iv) Reinforces nodal, mixed-use, neighborhood-oriented community designs to provide walkable access to a mix of destinations to support meeting daily needs, such as jobs, education, shopping, services, transit and recreation, social and cultural activities.

Finding: The proposed new NMU zone and associated MUPD overlay are intended to facilitate the development of complete neighborhoods that offer a mix of uses in a pedestrian friendly environment where residents can walk to the village center. Standards emphasize compact urban forms with access to, and through the area.

Metro Urban Growth Management Functional Plan

Title 1: Housing Capacity

Finding: The proposed new NMU zone and associated MUPD overlay will allow the development of mixed use areas at urban densities and intensities, helping ensure that the City meets its regional housing target.

Statewide Planning Goals

Goal 1, Citizen Involvement – To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding: As described above, an extensive public outreach program was conducted as a part of this project including: community events, public hearings, and stakeholder interviews. These allowed for citizen involvement, throughout the course of developing the proposed amendments.

Goal 9, Economic Development – To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.

Finding: The proposed amendments to add the NMU zone with associated MUPD overlay will help promote economic development by allowing a mix of neighborhood-scale and pedestrian-oriented quality residential and commercial development to occur. All of the areas with the proposed NMU designations will have the flexibility to develop a mix of housing types as long as the minimum residential density targets are met. In addition, the two smaller areas with the proposed NMU designation will have the available option to develop a mix of commercial and institutional uses within designated “Village Centers” up to a maximum square footage. The third and largest of the areas is proposed to have a minimum square footage requirement, ensuring a

minimum amount of commercial or institutional uses are developed to support the surrounding areas.

Goal 10, Housing – To provide for the housing needs of citizens of the state.

Finding: NMU zoned lands, while potentially providing opportunities for additional housing within the City of Forest Grove, were not identified in the City’s 2009 Economic Opportunity Analysis and Buildable Lands Inventory as necessary to provide “needed housing”. While areas designated as Mixed Use in the Comprehensive Plan are not required to provide “needed housing”, the proposed amendments to add the NMU zone with associated MUPD overlay will allow a variety of additional housing to be built. All the areas with the proposed NMU designations will have the flexibility to develop a mix of housing types, including single-family housing, apartments, row houses, senior housing, etc. as long as the minimum residential density targets are met. In addition, developments in areas with NMU designations will be required to provide basic amenities such as open space, pedestrian facilities, and parking, to support housing development.

Goal 12, Transportation – To provide and encourage a safe, convenient and economic transportation system.

Finding: As described in Exhibit C (Transportation Analysis), the proposed intensities and densities allowed by the proposed NMU zone and associated MUPD overlay are consistent with the City’s adopted Transportation System Plan.

Goal 14, Urbanization – To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Finding: As noted above, the proposed NMU designations will allow for the development of new livable neighborhoods to be built within Forest Grove’s Urban Growth Boundary (UGB). The additional opportunities are being provided within the UGB, where City services and amenities are best provided, will help decrease the demand for housing outside of the UGB in more rural areas, and help preserve valuable forest and agricultural land.

TOWN CENTER

Review Criteria 10.2.630.A: The text amendment is consistent with the relevant goals and policies of the Forest Grove Comprehensive Plan.

Community Sustainability Goals

Goal 6: Foster excellence in the design of public and private development projects to minimize environmental impacts, maximize financial efficiency, optimize social equity and benefits, and improve public health.

Goal 7: Promote interconnected land uses that encourage diverse, accessible, and proximate land uses that promote active living and access to vital services including employment, education, and healthy food.

Goal 8: Create complete neighborhoods, through land use regulations, with housing, recreational opportunities, retail, services and employment nearby.

Finding: Town Center zones in the Development Code allow for residential development to occur in an area generally considered to be an existing complete neighborhood, with access to retail, services, transit, etc. The proposed amendments to the Town Center zones would increase the maximum residential density from 20.23 to 40 dwelling units per acre allowed outright, and to 100 dwelling units per acre with density bonuses. The increase in residential capacity will allow for more residents to live in the Town Center where they will be able to access existing neighborhood amenities and transit. The proposed density incentives promote and reward excellence in design and maximize social equity by encouraging affordable housing.

Housing Goals and Policies

Goal 2: Provide incentives for increased residential development densities within the Forest Grove Town Center

Policy 2.1 Establish incentive programs to leverage local resources with private investments. Incentive may take the form of direct financial participation (grants or loans), or indirect participation such as land write-downs.

Policy 2.3 Amend Development Code standards to increase maximum development densities within the Forest Grove Town Center, identified high capacity transit station areas, and mixed-use target areas along the Pacific Avenue commercial corridor.

Finding: Town Center zones in the Development Code currently allow for residential development to occur as part of mixed use developments. Proposed amendments to the Development Code would increase the allowed maximum floor area ratio (FAR) and residential density in Town Center zones. FAR would increase from 3:1 to 4:1, while the outright allowed residential density would increase from 20.28 to 40 dwellings units per acre. In addition, the maximum residential density can be increased above the proposed outright allowed amount, up to 100 dwelling units per acre, through density incentives. The proposed residential density incentive is intended to allow significantly higher densities, while ensuring that livability is preserved and sustainability is encouraged, by allowing developments to include affordable housing and building amenities that exceed minimum design standards.

Goal 5: Develop and implement standards for sustainable neighborhood development.

Policy 5.1 Encourage the use of Leadership in Energy and Environmental Design (LEED) development practices in subdivisions and residential structures.

Policy 5.2 Encourage the use of energy efficient building materials and practices in the design, construction, and remodeling of housing.

Finding: As noted above, the proposed amendment to the Forest Grove Development Code includes incentives to increase the residential density beyond the maximum allowed outright amount. Density incentives are organized by amenity categories and are heavily focused on sustainable building designs including LEED certification. Notable amenities oriented toward sustainable building designs include: Energy Efficiency, “Green” Materials, Low Impact Design, Residential Gardening, Rooftop Garden or Eco-Roof, Public Plaza/Outdoor Patio/Seating Area, and LEED Certification.

Economic Development Goals & Policies

Goal 5: Promote Retail Activities

Policy 5.3 Promote opportunities for mixed-use development, including retail, near major transportation intersections (nodes) within the City including the Forest Grove Town Center.

Policy 5.4 Adopt development standards to encourage the creation of commercial areas at a scale proportionate for meeting the daily needs of nearby residents.

Finding: The Town Center designations currently allow mixed use developments to occur. The proposed amendments to the Town Center designations will continue to allow mixed use

development to occur and encourage it by increasing the allowed outright minimum residential density and by adding residential density bonus incentives. All development within the Town Center will continue to be subject to the design review process provided in Article 2 and standards provided in Article 8 to ensure commercial and mixed use areas develop a scale proportionate to the residents' needs. Proposed amendments to Article 8 are primarily focused on minor edits for consistency with proposed Town Center and NMU zone amendments. In addition, the City will have the capacity to limit residential density incentives based on the availability of public service, traffic impacts, and compatibility with adjacent single-family residential zoning districts.

Goal 7: Promote the Forest Grove Town Center as the Focal Point of the Community

Policy 7.10 Amend development standards to increase minimum development densities in the Town Center to improve the economic investment climate for residential construction and encourage a variety of housing types.

Finding: The proposed amendments will decrease the minimum floor area ratio (FAR) standard from 0.75:1 to 0.5:1 in limited areas of the Town Center by consolidating TCT and TCS designations. Minimum requirements for building height, residential densities, and setbacks will remain the same. However, the economic investment climate will be improved with the proposed amendments by increasing the maximum allowed residential density and allowing residential density to increase further through density bonus incentives in all Town Center zones.

Urbanization Goals & Policies

Goal 4: Implement policies to create complete neighborhoods in areas undergoing urbanization

Policy 10 The City of Forest Grove will continue to promote the efficient use of land within the Forest Grove Town Center and any areas designated as transit station communities on the Forest Grove Comprehensive Plan land use map.

Finding: The proposed amendments will increase the maximum allowed FAR and residential densities in the Town Center zones and the maximum allowed residential densities in the Commercial Corridor. This will enable development to occur at higher densities, which can take advantage of existing public services and promote the use of transit.

Transportation Goals & Policies

Goal 6: Establish and maintain a context sensitive set of transportation design and development regulations

Policy 6.3 Require developers to include pedestrian, bicycle, and transit-supportive improvements within proposed developments and to adjacent right-of-way in accordance with adopted policies and standards.

Finding: As described in Exhibit C (Transportation Analysis), the proposed intensities and densities allowed by the proposed Town Center text amendments are consistent with the City’s adopted Transportation System Plan. The proposed increase in density is intended to allow for transit-supportive densities within the Town Center. In addition, bicycle parking and public plazas are proposed as potential amenities that would qualify for a density incentive.

Review Criteria 10.2.630.B: *The text amendment is consistent with relevant statewide and regional planning goals, programs and rules.*

Regional Planning Goals

Metro Regional Framework Plan

Introduction: It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

1. People live, work and play in vibrant communities where their everyday needs are easily accessible....

Finding: The proposed amendments to expand the Town Center and increase the residential densities in the Town Center and Commercial Corridor will encourage higher-density, mixed use redevelopment to occur. Redevelopment in the Town Center and Commercial Corridor will provide walkable access to a mix of existing complete neighborhood amenities and reduce the need for single-occupancy automotive trips.

Policy 1.1 Compact Urban Form

1.1.3 Facilitate infill and re-development, particularly within Centers, Corridors, Station Communities, Main Streets and Employment Areas, to use land and urban services efficiently, to support public transit, to promote successful, walkable communities and to create equitable and vibrant communities.

1.1.7. Promote excellence in community design.

Finding: The proposed amendments to expand the Town Center and increase the residential densities in the Town Center and Commercial Corridor will encourage higher-density, mixed use redevelopment to occur within a center and a corridor. Redevelopment in the Town Center and

Commercial Corridor will support access to public transit and locate additional residents within walking distance to a wide range of commercial, civic uses, and transit.

Policy 1.3 Housing Choices and Opportunities

Finding: The proposed amendments to expand the Town Center and increase the residential densities in the Town Center and Commercial Corridor will allow for a variety of multi-family development to occur. The residential density incentives will also encourage multi-family development to incorporate affordable housing and/or sustainable building design.

1.10 Urban Design

1.10.1 Support the identity and functioning of communities in the region through:

c. Ensuring that incentives and regulations guiding the development and redevelopment of the urban area promote a settlement pattern that:

v) Includes concentrated, high-density, mixed-use urban centers developed in relation to the region's transit system.

Finding: The proposed amendments to expand the Town Center and increase the residential densities in the Town Center and Commercial Corridor will encourage higher density development within the mixed use urban center in proximity to transit service.

Metro Urban Growth Management Functional Plan

Title 1: Housing Capacity

Title 6: Centers, Corridors, Station Communities, and Main Streets

Finding: The proposed increases in residential density will allow the development within the Town Center at appropriate transit-supportive densities, helping ensure that the City meets its regional housing target.

Statewide Planning Goals

Goal 1, Citizen Involvement – To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding: As described above, an extensive public outreach program was conducted as a part of this project including: community events, public hearings, and stakeholder interviews. These allowed for citizen involvement, throughout the course of developing the proposed amendments.

Goal 9, Economic Development – To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.

Finding: The proposed amendments to consolidate the Town Center zones, increase outright residential density, and add residential density bonus incentives will promote economic development by reducing the complexity of Town Center zoning designations and increasing the residential capacity of areas with the most immediate access to existing services.

Current standards and regulations for Town Center Transition and Town Center Support designations are almost identical. Zoning boundaries for these designations are not uniformly distributed across individual blocks increasing the complexity of applying the development code. The proposed amendments to the development code will consolidate the Town Center Support with the Town Center Transition designation, allowing for the development code to be applied to developments more uniformly while still achieving Forest Grove Town Center goals.

The Town Center and Civic Corridor contains the majority of commercial services within Forest Grove. Increasing the maximum allowed residential density and adding residential density bonus incentives will contribute to the creation of complete neighborhoods in these areas by allowing Forest Grove’s growing population to locate nearby existing commercial services. Allowing Forest Grove’s growing population to locate in these areas will help existing and new businesses to grow.

Goal 10, Housing – To provide for the housing needs of citizens of the state.

Finding: The proposed amendments to increase the maximum allowed residential density in the Town Center and Civic Corridor and the addition of residential density bonus incentives to the Town Center will create additional opportunities and incentives for multi-family housing to be developed.

The increase in the maximum allowed residential density will create additional opportunities for a variety of multi-family housing to be developed at a range of densities.

The residential density bonus provide two tiers of incentives which allow flexibility and incentives for new housing development beyond the base residential density to high quality design and sustainability and/or affordable housing. The first tier of incentives encourage the use project amenities, such as sustainable building design or public plazas. The second tier of incentives encourage the development of affordable housing, where 20% are set aside for qualified residents.

Goal 12, Transportation – To provide and encourage a safe, convenient and economic transportation system.

Finding: As described in Exhibit C (Transportation Analysis), the proposed intensities and densities allowed by the proposed Town Center text amendments are consistent with the City’s adopted Transportation System Plan.

Goal 14, Urbanization – To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Finding: As noted above, the proposed amendments to the Town Center and Civic Corridor designations will allow a variety of additional housing to be built within Forest Grove’s Urban Growth Boundary (UGB) to meet the City’s housing needs as population growth occurs over the next 20 years. The additional capacity to supply housing within the UGB, where City services and amenities are best provided, will help decrease the demand for housing outside of the UGB in more rural areas, and help preserve valuable forest and agricultural land.

FINDINGS - MAP AMENDMENTS (SUBJECT TO 10.2.750 – 10.2.770)

MIXED USE AREAS

Review Criteria 10.2.770.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 Correspondence Table in Article 3, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.

Finding: The recommended zoning designation for the three mixed use areas is consistent with the Comprehensive Plan Map, as amended in Ordinance No. 2014-02. However, only a portion of the David Hill site is proposed to be rezoned at this time. The area proposed to be rezoned consistent with the Comprehensive Plan Map is at the northwest corner of David Hill Road and Thatcher Road. This area has a gross size of approximately 8.5 acres with approximately one-third (2.9 acres) developable. The remaining area (approximately 20.6 gross acres) currently shown as Mixed Use on the Comprehensive Plan map north of David Hill Road will be addressed further as part of the Westside Planning Project. This area will likely be recommended for rezoning to Single Family Residential (R-10). Parallel amendments to include the NMU designation in the Forest Grove Development Code are currently proposed (see Text Amendments above), which would allow for a mix of housing types and commercial uses.

Review Criteria 10.2.770.B: The zone change is consistent with relevant goals and policies of the Comprehensive Plan, as identified by the Director.

Finding: The Comprehensive Plan describes the opportunity to create three mixed use areas as follows:

A potential opportunity site for commercial land is located west of Sunset Drive and south of Highway 47. This site, under single ownership is approximately 23.5 acres in gross land area. Other potential opportunity sites include the area near Watercrest Road and Thatcher Road and David Hill Road and Thatcher Road.

The proposed zone changes for the mixed use areas are consistent with the Comprehensive Plan since the zoning map amendments will affect only the areas identified above. Furthermore, the proposed zone changes for the mixed use areas are consistent with the location factor contained in the Comprehensive Plan which states:

Areas where a mixture of residential, office and retail uses are appropriate to create complete neighborhoods or provide needed services and housing.

The zoning map amendments are consistent with this location factor since all three mixed use areas are located outside of the Town Center and off the Pacific Avenue/19th Avenue commercial corridor in areas that are predominantly residential in character. For the reasons stated above, this criterion is met. In addition, the commercial development in the NMU zones will be limited to "Village Centers" which cannot comprise more than 50% of the buildable land within a mixed use planned development or three acres, whichever is greater. As a result of this standard, the largest "village center" would be at the Davidson Site (9.4 acres based on overall developable site area of 18.8 acres). This ensures the NMU zoning at Mixed Use Area 3 (Davidson Site) is consistent with the Comprehensive Plan location criteria that mixed use sites tend to be 10 acres in land area or less. The basis for this conclusion is the premise that mixed use commercial/residential area is the "village center", and the "village center" is capped at 9.4 acres.

The NMU areas are also consistent with the Comprehensive Plan location factor that the NMU designation apply to areas where a mixture of residential, office, and retail uses are appropriate to create complete neighborhoods or provide needed service. Mixed use areas are in locations previously zoned for single family residential development. The Gales Creek mixed use area was previously designated as Commercial Planned Development on the Forest Grove Comprehensive Plan Map which promoted commercial development near residential areas. Zoning these areas

as NMU will promote the creation of complete neighborhoods where residents are able to find goods and services in close proximity.

As provided for in the findings in the Text Amendment section above, the proposed map amendment is consistent with the Forest Grove Comprehensive Plan's goals and policies for housing, economic development, urbanization, and transportation.

Review Criteria 10.2.770.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 will 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.

Finding: The Forest Grove Comprehensive Plan created a new Mixed Use plan designation to provide for a variety of retail and office uses near residential neighborhoods. The Comprehensive Plan states the Mixed Use plan designation is established to provide for a variety of retail and office uses near residential neighborhoods. Such limited commercial zones should be located on or bounded by arterial and collector streets to create nodes or concentrations of activity. The location of these new plan designations, as seen in the Forest Grove Comprehensive Plan Map, are located on or bounded by arterial and collector streets and adjacent to residential areas, so as to create nodes or concentrations of activity. The proposed zoning map amendments implement the adopted Comprehensive Plan designation and are consistent the requirement that the proposed zone change be considered based on parcel suitability and location. Therefore, this criterion is met.

Review Criteria 10.2.770.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 zone change if it may impact transportation facilities.

Finding: The proposed amendments to the Forest Grove Zoning Map are consistent with the Forest Grove Comprehensive Plan Map, which informed the Forest Grove Transportation System Plan's assessment of future transportation needs. The future transportation needs assessment was based on the Preferred Land Use Alternative, and reflects changes to the City's existing Comprehensive Land Use Plan to encourage more nodal mixed use development. A Transportation Analysis was prepared and is attached as Exhibit C. As noted in this analysis, the proposed map amendments are not expected to substantially impact transportation facilities below the minimum acceptable levels identified in the City's adopted Transportation System

Plan. Based on the transportation analysis completed for the updated Comprehensive Plan Map which included mixed use areas the proposed zoning amendment this criterion is met.

Review Criteria 10.2.770.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.

Finding: The three mixed use areas range from vacant to partially developed with a related range of available facilities and services. Availability, need, and necessary improvements to facilities and services will be determined as new development occurs and is evaluated through the Mixed Use Planned Development process. The applicant will be responsible for providing all services necessary for the functionality of the MUPD. Facilities such as streets, water supply facilities, sanitary sewers, and storm water detention facilities must be dedicated to the public if they are to provide service to any property not included in the MUPD. Mixed Use Area 1 (David Hill) is primarily vacant and will require new facilities and services as development occurs. Mixed Use Area 2 (CPD Area) is currently a mix of residential and commercial uses in a developed area and will likely not need new facilities and services. Mixed Use Area 3 (Davidson Site) is developed as a residential use and has been historically utilized as a farm use.

Existing Services (Water): Water lines are present adjacent to all three mixed use areas. Development of the mixed use areas is subject to the requirements of Development Code Article 8: Public Improvements. Future improvements to the water system necessary to serve development are identified in the Forest Grove Water Master Plan. The City's Water System Plan shows the City has sufficient capacity to serve future development in the mixed use areas.

Existing Services (Sanitary Sewer):

Mixed Use Area 1 (David Hill): An existing 8" PVC sanitary sewer line is located within the David Hill Right of Way west of Thatcher Road. David Hill Road/Thatcher Road: The City's Waste Water Master Plan shows a proposed 12 inch sanitary sewer trunk line within the David Hill Road right-of-way west of Thatcher Road. This line when installed will serve the David Hill Road/Thatcher Road mixed use area.

Mixed Use Area 2 (CPD Area): A 12 inch corrugated steel pipe is located adjacent to the mixed use area within the Thatcher Road right-of-way.

Mixed Use Area 3 (Davidson Site): A 10 inch PVC sanitary sewer line is adjacent to the Davidson Site within the Sunset Drive right-of-way. An 8 inch PVC line also exists across Hwy 47 to a manhole at the Davidson Site from the 36" Clean Water Services trunk line

north/east of Hwy. 47. The City's Waste Water Master Plan shows a future extension of the 8" line into the Davidson site to serve future development.

Existing Services (Storm Sewer):

Mixed Use Area 1 (David Hill): This area is not currently served with storm water piping. The City's Storm Drainage Master Plan shows a capital improvement project for stream restoration within the mixed use area. The Master Plan also shows future piping improvements along Thatcher Road.

Mixed Use Area 2 (CPD Area): An existing 12 inch storm line is present along the north side of Gales Creek Road adjacent to the mixed use area. A storm line is also present along the east side of Thatcher Road This line runs for a distance of approximately 150 feet from the Gales Creek Road/Thatcher Road intersection.

Mixed use Area 3 (Davidson Site): A 30 inch corrugated steel pipe exists along the west side of Sunset Drive. There are five storm inlets along the west side of Sunset Drive adjacent to the Davidson Site. Storm water is conveyed from the inlet to the storm pipe west of Sunset Drive. In addition to the storm pipe, a storm water swale and storm pond exist south of the Davidson Site approximately 730 feet east of Sunset Drive providing additional opportunity to accommodate drainage.

With future improvements shown in the Storm Drainage Master Plan and improvements required for development approval the City will have the ability to serve the mixed use areas.

The three mixed use areas are within the Forest Grove city limits. As such, the City will provide police and fire protection necessary to serve future development. Service needs are assessed though the annual budget process.

Review Criteria 10.2.770.A: The establishment of a zone district is not subject to the meeting of conditions.

Finding: No conditions are proposed.

TOWN CENTER/CIVIC CORRIDOR

Review Criteria 10.2.770. 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 Correspondence Table in Article 3, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.

Finding: As described above, the proposed amendments consolidate the Town Center Support (TCS) zone into the Town Center Transition (TCT) zone. This change requires that all land currently zoned TCS be rezoned to TCT. In addition, the Town Center Expansion area, which is currently zoned Community Commercial (CC), is proposed to be rezoned to TCT. The transition from CC to TCT will encourage more urbanized development to occur by restricting new auto-oriented development, reducing landscape requirements, applying “urban” design standards, and allowing residential uses in mixed use or stand-alone development. **Of the Town Center zones, TCT is the most appropriate for this area given its location adjacent to the Town Center Core and its function as a transition area between Core and adjacent residential areas.**

Review Criteria 10.2.770. B: The zone change is consistent with relevant goals and policies of the Comprehensive Plan, as identified by the Director.

Finding: As provided for in the findings in the Text Amendment section above, the proposed map amendments are consistent with the Forest Grove Comprehensive Plan’s goals and policies for housing, economic development, urbanization, and transportation. This is reinforced by the fact that the proposed zone changes implement the 2014 Forest Grove Comprehensive Plan.

Review Criteria 10.2.770. 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 will 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.

Finding: The update to the Forest Grove Comprehensive Plan, completed in 2014, included consideration of site suitability for the proposed zoning classifications necessary to implement the Comprehensive Plan. Since the proposed zone changes simply implement the Comprehensive Plan the sites are determined to be suitable and consistent with this review criterion. Given that both TCS and TCT are Town Center zones and allow a very similar mix of uses, land which is currently suitable for TCS should be suitable for TCT. With the Town Center Expansion area, the transition from CC to TCT will encourage more urbanized development to occur by restricting new auto-oriented development, reducing landscape requirements, applying “urban” design standards, and allowing residential uses in mixed use or stand-alone development. In order to avoid making some existing uses non-conforming, exceptions are proposed within the TCT zone to allow for the continuation of those uses.

Review Criteria 10.2.770. 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 zone change if it may impact transportation facilities.

Finding: The proposed amendment to the Forest Grove Zoning Map would be consistent with the Forest Grove Comprehensive Plan Map, which informed the Forest Grove Transportation System Plan’s assessment of future transportation needs. The future transportation needs assessment was based on the Preferred Land Use Alternative and reflects changes to the City’s existing Comprehensive Land Use Plan to encourage more nodal mixed use development. A Transportation Analysis was prepared and is attached as Exhibit C. As noted in this analysis, the proposed map amendments are not expected to substantially impact transportation facilities below the minimum acceptable levels identified in the City’s adopted Transportation System Plan. The City’s minimum acceptable level of service is LOS D.

Review Criteria 10.2.770. 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.

Finding: The proposed amendments to consolidate the Town Center Support with Town Center Transition zones and to expand the Town Center boundary to the east will occur in a developed area, currently provided with public facilities and services. The distinction between Town Center Support and Town Center transition is minor. The proposed change will not affect demand for public services currently planned for as reflected in the Comprehensive Plan. Service demand related to changing the zoning in the Town Center Expansion area from Community Commercial to Town Center Transition was considered during the Comprehensive Plan update. The Forest Grove Water Master Plan Updated (2010) indicates Forest Grove has a sufficient water supply for meeting service needs for at least the next twenty years. The Forest Grove Sanitary Sewer Master Plan update (2007) identifies a capital improvement project in the Town Center and Town Center Expansion areas. This project will increase the 8-inch and 10-inch diameter lines along 19th Avenue from Birch Street to A Street to the B Street pump station. This improvement will improve the City’s ability to serve development promoted by the proposed zone changes. The Forest Grove Storm Drainage Master Plan (2007) does not indicate a need for general storm drainage improvements in the areas affected by the zone changes. Necessary improvements meeting Clean Water Services and City standards resulting from individual development projects will be identified as part of the development review process. Projected service demands to Police and Fire resulting from the proposed zone changes, if any, will be addressed through the annual City budgeting process.



Review Criteria 10.2.770. F: The establishment of a zone district is not subject to the meeting of conditions.

Finding: No conditions are proposed

ORDINANCE NO. 2016-04

**ORDINANCE AMENDING FOREST GROVE COMPREHENSIVE PLAN MAP
FOR PROPERTIES DESIGNATED TOWN CENTER SUPPORT AND COMMUNITY
COMMERCIAL IN THE TOWN CENTER EXPANSION AREA ON THE
COMPREHENSIVE PLAN DATED JANUARY 27, 2014
FILE NO. 311-15-00020-PLNG**

WHEREAS, The City of Forest Grove approved Ordinance 2014-01 and 2014-02 updating the Forest Grove Comprehensive Plan; and

WHEREAS, the Comprehensive Plan establishes three land use designations for the Town Center; and

WHEREAS, the three land use designations include Town Center Core, Town Center Support and Town Center Transition; and

WHEREAS, the City desires to change the designation of property classified as Town Center Support to Town Center Transition consistent with proposed Development Code text amendments; and

WHEREAS, the City prepared the Comprehensive Plan map amendments and forwarded the proposed amendments to the Planning Commission for consideration on January 5, 2016; and

WHEREAS, the Planning Commission held a Public Hearing on the proposed amendments on January 5, 2016; and

WHEREAS, the Planning Commission adopted Planning Commission Findings and Decision Number 16-01 recommending approval of the proposed Development Code amendments; and

WHEREAS, the City mailed by first class mail notice required under Measure 56 to affected property owners on January 19, 2016; and

WHEREAS, the City Council held a duly-noticed Public Hearing on the proposed ordinance on March 14, 2016, and continued the hearing on March 28, 2016.

NOW THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1. The City Council of the City of Forest Grove hereby amends the Comprehensive Plan Map as shown on Exhibit A.

Section 2. The City Council hereby finds that the proposed amendments are consistent with and meet the provisions of the Forest Grove Comprehensive Plan Chapter 2, Decision Considerations Pertaining to Comprehensive Plan Amendments making the following findings in support:

1. Consistency with applicable Comprehensive Plan policies

Finding: City Council adopted Ordinance 2014-02 and 2014-02 updating the Forest Grove Comprehensive Plan. The updated Comprehensive Plan Map identifies the area generally between Cedar and Elm Street and 21st Avenue and south of 19th Avenue as Town Center Expansion. This area is currently designated Community Commercial. Amending the Comprehensive Plan Map, from Community Commercial to Town Center Transition, implements the Town Center Expansion land use concept. In addition, meets the Land Use Location Factors described in the Comprehensive Plan including being located within ¼ mile of existing or planned transit service. This factor is met since the Town Center Expansion area is served by Tri-Met Line 57 and GroveLink.

Finding: Amending the Comprehensive Plan Map, from Town Center Support to Town Center Transition is consistent with applicable Comprehensive Plan policies including the Land Use Location Factors described in the Comprehensive Plan including being located within ¼ mile of existing or planned transit service. This factor is met since the Town Center Expansion area is served by Tri-Met Line 57 and GroveLink. In addition, the Town Center Transition designation, as described in the Comprehensive Plan, is established to increase employment and housing opportunities in close proximity to the Town Center. With the permitted uses allowed by the Town Center Transition designation, the designation supports Comprehensive Plan Housing Policy 3: Promote mixed-use development opportunities throughout the community. The designation also supports Comprehensive Plan policies related to strengthening downtown Forest Grove including promoting the continued viability of the Forest Grove Town Center as the focal point of the community and increasing housing in the Town Center.

2. Consistency with the Metro Regional Framework Plan or Regional Transportation Functional Plan as applicable

Finding: The proposed Comprehensive Plan Map amendments are consistent with Metro Regional Framework Policies related to Town Centers including Policy 1.15.1 which recognizes that the success of the Metro Region 2040 Growth Concept depends upon the enhancement of the Center City, Regional and Town Centers, Station Communities and Main Streets. In addition the amendments are consistent Framework Plan Policy 1.6 (Growth Management) by encouraging development within the urban growth boundary through efficient use of land.

3. Consistency with the Oregon Statewide Land Use Planning Goals

Finding: The proposed amendments are consistent with Oregon Statewide Land Use Planning Goal 9 (Economy) and Goal 10 (Housing). This is achieved by providing opportunities for a variety of housing types and new businesses by identifying land on the Comprehensive Plan map for such activities.

Section 3. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 4. This ordinance shall be effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading this 14th day of March, 2016.

PASSED the second reading this 28th day of March, 2016.

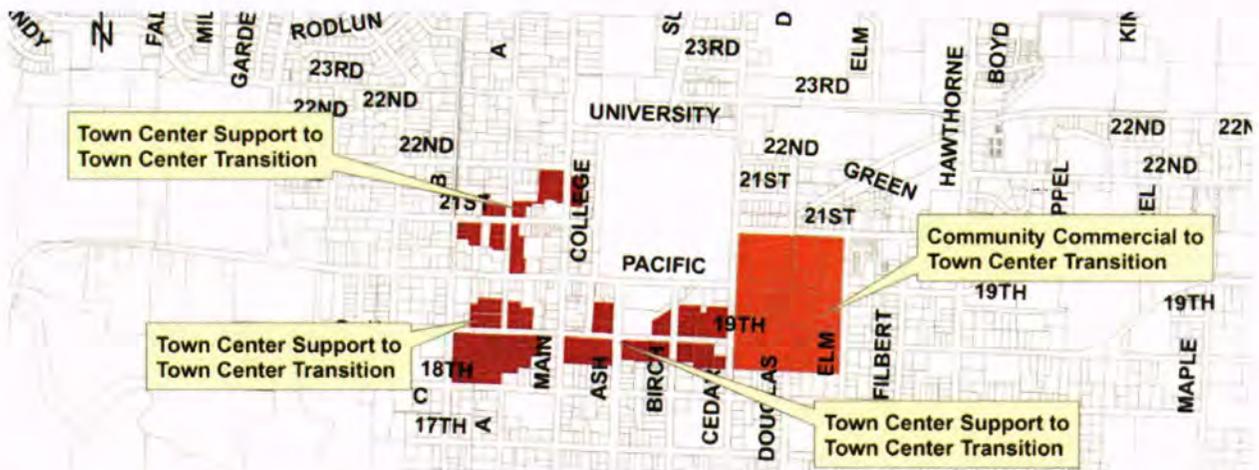
Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 28th day of March, 2016.

Peter B. Truax, Mayor

EXHIBIT A

The update to the Comprehensive Plan in 2014 identified an area as “Town Center Expansion” on the Comprehensive Plan Map. This area is located between Cedar and Elm Street and 21st Avenue and just south of 19th Avenue as shown on the map below. This area is intended to be a transition between the more auto-oriented commercial corridor and the Town Center core. The subject area is currently designated Community Commercial. The recommendation is to change the Comprehensive Plan designation to Town Center Transition.



The map above also shows the area proposed for a Comprehensive Plan Map change from Town Center Support to Town Center Transition. This change is necessary since the Town Center Support designation is proposed for elimination as part of the recommended Development Code amendments.

The table below shows the amount of land affected by the proposed Comprehensive Plan map changes. This information is provided for reference.

	Current Comp Plan Designation	Proposed Comp Plan Designation	Gross Acreage Proposed to be Redesignated
Town Center Expansion Area (Cedar St. to Elm St. and south of 19th Avenue to 21st Avenue)	Community Commercial	Town Center Transition	24.2 acres
Town Center Consolidation	Town Center Support	Town Center Transition	22.6 acres

<i>CITY RECORDER USE ONLY:</i>	
AGENDA ITEM #:	<u>9.</u>
ACTION:	FIRST READING

ORDINANCE NO. 2016-05

**ORDINANCE AMENDING OFFICIAL FOREST GROVE ZONING MAP FOR
PROPERTIES DESIGNATED NEIGHBORHOOD MIXED USE AND TOWN CENTER
EXPANSION ON THE COMPREHENSIVE PLAN MAP DATED JANUARY 27, 2014
FILE NO. 311-15-00020-PLNG**

WHEREAS, The City of Forest Grove approved Ordinance 2014-01 and 2014-02 updating the Forest Grove Comprehensive Plan; and

WHEREAS, the updated Forest Grove Comprehensive Plan requires specific revisions to the Forest Grove Development Code to implement policies contained in the updated Forest Grove Comprehensive Plan; and

WHEREAS, the City prepared the required amendments and forwarded the proposed amendments to the Planning Commission for consideration on January 5, 2016; and

WHEREAS, the City desires to make other amendments to the Development Code to promote the efficient use of land within commercial areas, encourage housing near transit and shopping; and

WHEREAS, the Planning Commission held a Public Hearing on the proposed amendments on January 5, 2016; and

WHEREAS, the Planning Commission adopted Planning Commission Findings and Decision Number 16-01 recommending approval of the proposed Development Code amendments; and

WHEREAS, the City mailed by first class mail notice required under Measure 56 to affected property owners on January 19, 2016; and

WHEREAS, the City Council held a duly-noticed Public Hearing on the proposed ordinance on March 14, 2016, and continued the hearing on March 28, 2016.

NOW THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1. The City Council of the City of Forest Grove hereby amends the Official Zoning Map as shown on Exhibit A.

Section 2. The City Council hereby adopts the Planning Commission's Findings and Decision dated January 12, 2016 as shown on Exhibit B.

Section 3. The City Council hereby finds that the proposed amendments are consistent with and meet the provisions of Development Code Section 10. 2.770 *Review Criteria Pertaining to Zone Change* as shown on Exhibit B.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 5. This ordinance shall be effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading this 14th day of March, 2016.

PASSED the second reading this 28th day of March, 2016.

Anna D. Ruggles, City Recorder

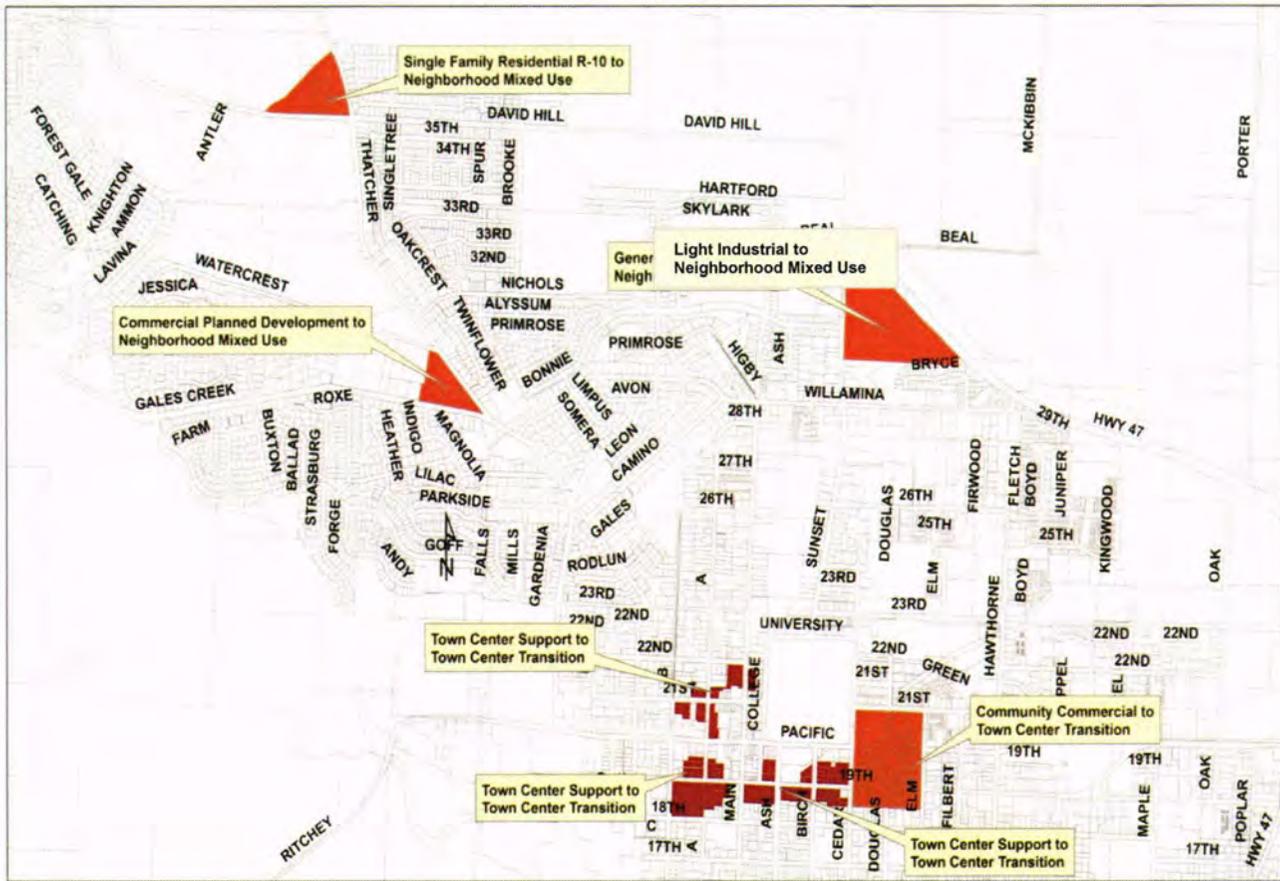
APPROVED by the Mayor this 28th day of March, 2016.

Peter B. Truax, Mayor

EXHIBIT A

	Current Zoning	Proposed Zoning	Gross Proposed Rezoned	Acreage to be
Mixed Use Area 1 (David Hill)	R-10	NMU	8.5 acres	
Mixed Use Area 2 (CPD Area)	CPD	NMU	6.4 acres	
Mixed Use Area 3 (Davidson Site)	LI	NMU	23.5 acres	
Town Center Consolidation	TCS	TCT	22.6 acres	
Town Center Expansion Area (Cedar St. to Elm St. and south of 19 th Avenue to 21 st Avenue)	CC	TCT	24.2 acres	

Proposed Zoning Map Amendments



2-1

EXHIBIT B

FINDINGS - MAP AMENDMENTS (SUBJECT TO 10.2.750 – 10.2.770)

MIXED USE AREAS

Review Criteria 10.2.770.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 Correspondence Table in Article 3, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.*

Finding: The recommended zoning designation for the three mixed use areas is consistent with the Comprehensive Plan Map, as amended in Ordinance No. 2014-02. However, only a portion of the David Hill site is proposed to be rezoned at this time. The area proposed to be rezoned consistent with the Comprehensive Plan Map is at the northwest corner of David Hill Road and Thatcher Road. This area has a gross size of approximately 8.5 acres with approximately one-third (2.9 acres) developable. The remaining area (approximately 20.6 gross acres) currently shown as Mixed Use on the Comprehensive Plan map north of David Hill Road will be addressed further as part of the Westside Planning Project. This area will likely be recommended for rezoning to Single Family Residential (R-10). Parallel amendments to include the NMU designation in the Forest Grove Development Code are currently proposed (see Text Amendments above), which would allow for a mix of housing types and commercial uses.

Review Criteria 10.2.770.B: *The zone change is consistent with relevant goals and policies of the Comprehensive Plan, as identified by the Director.*

Finding: The Comprehensive Plan describes the opportunity to create three mixed use areas as follows:

A potential opportunity site for commercial land is located west of Sunset Drive and south of Highway 47. This site, under single ownership is approximately 23.5 acres in gross land area. Other potential opportunity sites include the area near Watercrest Road and Thatcher Road and David Hill Road and Thatcher Road.

The proposed zone changes for the mixed use areas are consistent with the Comprehensive Plan since the zoning map amendments will affect only the areas identified above. Furthermore, the proposed zone changes for the mixed use areas are consistent with the location factor contained in the Comprehensive Plan which states:

Areas where a mixture of residential, office and retail uses are appropriate to create complete neighborhoods or provide needed services and housing.

The zoning map amendments are consistent with this location factor since all three mixed use areas are located outside of the Town Center and off the Pacific Avenue/19th Avenue commercial corridor in areas that are predominantly residential in character. For the reasons stated above, this criterion is met. In addition, the commercial development in the NMU zones will be limited to "Village Centers" which cannot comprise more than 50% of the buildable land within a mixed use planned development or three acres, whichever is greater. As a result of this standard, the largest "village center" would be at the Davidson Site (9.4 acres based on overall developable site area of 18.8 acres). This ensures the NMU zoning at Mixed Use Area 3 (Davidson Site) is consistent with the Comprehensive Plan location criteria that mixed use sites tend to be 10 acres in land area or less. The basis for this conclusion is the premise that mixed

use commercial/residential area is the “village center”, and the “village center” is capped at 9.4 acres.

The NMU areas are also consistent with the Comprehensive Plan location factor that the NMU designation apply to areas where a mixture of residential, office, and retail uses are appropriate to create complete neighborhoods or provide needed service. Mixed use areas are in locations previously zoned for single family residential development. The Gales Creek mixed use area was previously designated as Commercial Planned Development on the Forest Grove Comprehensive Plan Map which promoted commercial development near residential areas. Zoning these areas as NMU will promote the creation of complete neighborhoods where residents are able to find goods and services in close proximity.

As provided for in the findings in the Text Amendment section above, the proposed map amendment is consistent with the Forest Grove Comprehensive Plan’s goals and policies for housing, economic development, urbanization, and transportation.

Review Criteria 10.2.770.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 will 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.

Finding: The Forest Grove Comprehensive Plan created a new Mixed Use plan designation to provide for a variety of retail and office uses near residential neighborhoods. The Comprehensive Plan states the Mixed Use plan designation is established to provide for a variety of retail and office uses near residential neighborhoods. Such limited commercial zones should be located on or bounded by arterial and collector streets to create nodes or concentrations of activity. The location of these new plan designations, as seen in the Forest Grove Comprehensive Plan Map, are located on or bounded by arterial and collector streets and adjacent to residential areas, so as to create nodes or concentrations of activity. The proposed zoning map amendments implement the adopted Comprehensive Plan designation and are consistent the requirement that the proposed zone change be considered based on parcel suitability and location. Therefore, this criterion is met.

Review Criteria 10.2.770.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 zone change if it may impact transportation facilities.

Finding: The proposed amendments to the Forest Grove Zoning Map are consistent with the Forest Grove Comprehensive Plan Map, which informed the Forest Grove Transportation System Plan’s assessment of future transportation needs. The future transportation needs assessment was based on the Preferred Land Use Alternative, and reflects changes to the City’s existing Comprehensive Land Use Plan to encourage more nodal mixed use development. A Transportation Analysis was prepared and is attached as Exhibit C. As noted in this analysis, the proposed map amendments are not expected to substantially impact transportation facilities below the minimum acceptable levels identified in the City’s adopted Transportation System Plan. Based on the transportation analysis completed for the updated

Comprehensive Plan Map which included mixed use areas the proposed zoning amendment this criterion is met.

Review Criteria 10.2.770.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.

Finding: The three mixed use areas range from vacant to partially developed with a related range of available facilities and services. Availability, need, and necessary improvements to facilities and services will be determined as new development occurs and is evaluated through the Mixed Use Planned Development process. The applicant will be responsible for providing all services necessary for the functionality of the MUPD. Facilities such as streets, water supply facilities, sanitary sewers, and storm water detention facilities must be dedicated to the public if they are to provide service to any property not included in the MUPD. Mixed Use Area 1 (David Hill) is primarily vacant and will require new facilities and services as development occurs. Mixed Use Area 2 (CPD Area) is currently a mix of residential and commercial uses in a developed area and will likely not need new facilities and services. Mixed Use Area 3 (Davidson Site) is developed as a residential use and has been historically utilized as a farm use.

Existing Services (Water): Water lines are present adjacent to all three mixed use areas. Development of the mixed use areas is subject to the requirements of Development Code Article 8: Public Improvements. Future improvements to the water system necessary to serve development are identified in the Forest Grove Water Master Plan. The City's Water System Plan shows the City has sufficient capacity to serve future development in the mixed use areas.

Existing Services (Sanitary Sewer):

Mixed Use Area 1 (David Hill): An existing 8" PVC sanitary sewer line is located within the David Hill Right of Way west of Thatcher Road. David Hill Road/Thatcher Road: The City's Waste Water Master Plan shows a proposed 12 inch sanitary sewer trunk line within the David Hill Road right-of-way west of Thatcher Road. This line when installed will serve the David Hill Road/Thatcher Road mixed use area.

Mixed Use Area 2 (CPD Area): A 12 inch corrugated steel pipe is located adjacent to the mixed use area within the Thatcher Road right-of-way.

Mixed Use Area 3 (Davidson Site): A 10 inch PVC sanitary sewer line is adjacent to the Davidson Site within the Sunset Drive right-of-way. An 8 inch PVC line also exists across Hwy 47 to a manhole at the Davidson Site from the 36" Clean Water Services trunk line north/east of Hwy. 47. The City's Waste Water Master Plan shows a future extension of the 8" line into the Davidson site to serve future development.

Existing Services (Storm Sewer):

Mixed Use Area 1 (David Hill): This area is not currently served with storm water piping. The City's Storm Drainage Master Plan shows a capital improvement project for stream restoration within the mixed use area. The Master Plan also shows future piping improvements along Thatcher Road.

Mixed Use Area 2 (CPD Area): An existing 12 inch storm line is present along the north side of Gales Creek Road adjacent to the mixed use area. A storm line is also present along the east side of Thatcher Road This line runs for a distance of approximately 150 feet from the Gales Creek Road/Thatcher Road intersection.

Mixed use Area 3 (Davidson Site): A 30 inch corrugated steel pipe exists along the west side of Sunset Drive. There are five storm inlets along the west side of Sunset Drive adjacent to the Davidson Site. Storm water is conveyed from the inlet to the storm pipe west of Sunset Drive. In addition to the storm pipe, a storm water swale and storm pond exist south of the Davidson Site approximately 730 feet east of Sunset Drive providing additional opportunity to accommodate drainage.

With future improvements shown in the Storm Drainage Master Plan and improvements required for development approval the City will have the ability to serve the mixed use areas. The three mixed use areas are within the Forest Grove city limits. As such, the City will provide police and fire protection necessary to serve future development. Service needs are assessed through the annual budget process.

Review Criteria 10.2.770.A: The establishment of a zone district is not subject to the meeting of conditions.

Finding: No conditions are proposed.

TOWN CENTER/CIVIC CORRIDOR

Review Criteria 10.2.770. 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 Correspondence Table in Article 3, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.

Finding: As described above, the proposed amendments consolidate the Town Center Support (TCS) zone into the Town Center Transition (TCT) zone. This change requires that all land currently zoned TCS be rezoned to TCT. In addition, the Town Center Expansion area, which is currently zoned Community Commercial (CC), is proposed to be rezoned to TCT. The transition from CC to TCT will encourage more urbanized development to occur by restricting new auto-oriented development, reducing landscape requirements, applying "urban" design standards, and allowing residential uses in mixed use or stand-alone development. Of the Town Center zones, TCT is the most appropriate for this area given its location adjacent to the Town Center Core and its function as a transition area between Core and adjacent residential areas.

Review Criteria 10.2.770. B: The zone change is consistent with relevant goals and policies of the Comprehensive Plan, as identified by the Director.

Finding: As provided for in the findings in the Text Amendment section above, the proposed map amendments are consistent with the Forest Grove Comprehensive Plan's goals and policies for housing, economic development, urbanization, and transportation. This is reinforced by the fact that the proposed zone changes implement the 2014 Forest Grove Comprehensive Plan.

Review Criteria 10.2.770. 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 will 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.

Finding: The update to the Forest Grove Comprehensive Plan, completed in 2014, included consideration of site suitability for the proposed zoning classifications necessary to implement

the Comprehensive Plan. Since the proposed zone changes simply implement the Comprehensive Plan the sites are determined to be suitable and consistent with this review criterion. Given that both TCS and TCT are Town Center zones and allow a very similar mix of uses, land which is currently suitable for TCS should be suitable for TCT. With the Town Center Expansion area, the transition from CC to TCT will encourage more urbanized development to occur by restricting new auto-oriented development, reducing landscape requirements, applying "urban" design standards, and allowing residential uses in mixed use or stand-alone development. In order to avoid making some existing uses non-conforming, exceptions are proposed within the TCT zone to allow for the continuation of those uses.

Review Criteria 10.2.770. 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 zone change if it may impact transportation facilities.

Finding: The proposed amendment to the Forest Grove Zoning Map would be consistent with the Forest Grove Comprehensive Plan Map, which informed the Forest Grove Transportation System Plan's assessment of future transportation needs. The future transportation needs assessment was based on the Preferred Land Use Alternative and reflects changes to the City's existing Comprehensive Land Use Plan to encourage more nodal mixed use development. A Transportation Analysis was prepared and is attached as Exhibit C. As noted in this analysis, the proposed map amendments are not expected to substantially impact transportation facilities below the minimum acceptable levels identified in the City's adopted Transportation System Plan. The City's minimum acceptable level of service is LOS D.

Review Criteria 10.2.770. 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.

Finding: The proposed amendments to consolidate the Town Center Support with Town Center Transition zones and to expand the Town Center boundary to the east will occur in a developed area, currently provided with public facilities and services. The distinction between Town Center Support and Town Center transition is minor. The proposed change will not affect demand for public services currently planned for as reflected in the Comprehensive Plan. Service demand related to changing the zoning in the Town Center Expansion area from Community Commercial to Town Center Transition was considered during the Comprehensive Plan update. The Forest Grove Water Master Plan Updated (2010) indicates Forest Grove has a sufficient water supply for meeting service needs for at least the next twenty years. The Forest Grove Sanitary Sewer Master Plan update (2007) identifies a capital improvement project in the Town Center and Town Center Expansion areas. This project will increase the 8-inch and 10-inch diameter lines along 19th Avenue from Birch Street to A Street to the B Street pump station. This improvement will improve the City's ability to serve development promoted by the proposed zone changes. The Forest Grove Storm Drainage Master Plan (2007) does not indicate a need for general storm drainage improvements in the areas affected by the zone changes. Necessary improvements meeting Clean Water Services and City standards resulting from individual development projects will be identified as part of the development review process. Projected

service demands to Police and Fire resulting from the proposed zone changes, if any, will be addressed through the annual City budgeting process.

Review Criteria 10.2.770. F: The establishment of a zone district is not subject to the meeting of conditions.

Finding: No conditions are proposed



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February 23, 2016

NewsTimes

Legal Ads/Public Notice:

To be published: Wednesday, March 9, 2016

NOTICE OF PUBLIC HEARING FOR THE CITY OF FOREST GROVE

NOTICE IS HEREBY GIVEN that the Forest Grove City Council will hold a Public Hearing on **Monday, March 14, 2016**, at 7:00 p.m. or thereafter, at the Forest Grove Community Auditorium, 1915 Main Street, to consider the Planning Commission's recommendation to approve the following proposal:

Proposal: Amend the text of the Forest Grove Development Code necessary for a new industrial zoning district: Business Industrial Park (BIP). The proposed amendments are considered necessary to implement Forest Grove Comprehensive Plan policies related to land use and economic development. The following Development Code sections are affected by this proposal: 10.3.510 (List of Industrial Zones), 10.3.520 (Use Regulations), 10.3.520 (Industrial Zone Development Standards), 10.3.540 (Additional Industrial Zone Standards).

Applicant: City of Forest Grove

File Number: 311-15-00027-PLNG

Criteria: Forest Grove Development Code Section 10.2.630: A) The text amendment is consistent with the relevant goals and policies of the Forest Grove Comprehensive Plan; and B) The text amendment is consistent with the relevant statewide and regional planning goals, program and rules.

All persons will be given a reasonable opportunity to give testimony about this proposal responding to the review criteria. If an issue is not raised in the hearing (by person or letter) or if the issue is not explained in sufficient detail to allow the City Council to respond to the issue, then that issue cannot be used for an appeal to the Land Use Board of Appeals. If additional documents or evidence are provided in support of the application, any party shall be entitled to a continuance of the hearing. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. A copy of the report is 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: March 9, 2016



CITY RECORDER USE ONLY:
AGENDA ITEM #: 10.
FINAL ACTION: 1st Reading

A place where families and businesses thrive.

CITY COUNCIL STAFF REPORT

TO: City Council

FROM: Jesse VanderZanden, City Manager

MEETING DATE: March 14, 2016

PROJECT TEAM: Jon Holan, Community Development Director; Daniel Riordan, Senior Planner; and James Reitz, Senior Planner

SUBJECT TITLE: Public Hearing and First Reading of Ordinance Amending Article 3 of the Forest Grove Development Code to Establish the Business Industrial Park Zone; File No. 311-15-000027-PLNG

ACTION REQUESTED:	<input checked="" type="checkbox"/> Ordinance	<input type="checkbox"/> Order	<input type="checkbox"/> Resolution	<input type="checkbox"/> Motion	<input type="checkbox"/> Informational
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X all that apply

ISSUE STATEMENT: On January 27, 2014, the City of Forest Grove approved Ordinance 2014-01 and 2014-02 updating the Forest Grove Comprehensive Plan. Among other things, the updated Comprehensive Plan established a new Campus Employment plan designation. The Campus Employment plan designation is intended for development of industrial and office parks with a high level of amenity value. An amendment to the Article 3 of the Development Code (Zoning Districts) is necessary to implement provisions of the Comprehensive Plan related to the Campus Employment Comprehensive Plan designation.

BACKGROUND: As described in the Comprehensive Plan, uses expected within the Campus Employment plan designation include high technology companies, call centers, research and development firms, and flexible space for small emerging companies. Uses within the Campus Employment could also include supportive retail and business services. Now that the Campus Employment plan designation is in place a commensurate zoning district must be established. The need for creating a new zoning district was discussed with the Planning Commission during a work session on November 2, 2015. The necessary amendments are described below.

Business Industrial Park Zone

Article 3 of the Forest Grove Development Code establishes the zoning districts and development standards applicable within the Forest Grove city limits. The zoning districts relate to applicable Comprehensive Plan designations applicable within the urban growth boundary. A Business Industrial Park (BIP) zoning district is proposed to correspond to the Campus Employment Comprehensive Plan designation. Proposed amendments to Article 3 to establish the Business Industrial Park zone is provided below. Text proposed for addition is double underlined.

There are four amendments proposed to Article 3 as explained below:

1. Amend Development Code (DC) Section 10.3.510 (Industrial Zones)
2. Amend DC Section 10.3.510 (Use Regulations)

3. Amend DC Section 10.3.530 (Industrial Use Development Standards)
4. Amend DC Section 10.3.540 (Additional Industrial Zone Standards)

ARTICLE 3 ZONING DISTRICTS - INDUSTRIAL ZONES

Amendment 1: Amend DC 10.3.510 to add a description of the proposed Business Industrial Park zone:

10.3.510 LIST OF INDUSTRIAL ZONES

A. Light Industrial (LI)

The LI zone is intended for a wide variety of manufacturing and other industrial uses with controlled external impacts. These types of industries are often involved in the secondary processing of materials into components, the assembly of components into finished products, transportation, communication and utilities, wholesaling and warehousing. Industrial activities occur within enclosed buildings. On a limited basis, supporting commercial and office uses are permitted in the LI zone.

B. General Industrial (GI)

The GI zone is intended for industrial uses that are generally not compatible with residential development because of their operational characteristics. This district is also intended for uses that may require extensive outdoor areas to conduct business activities or for product storage or display. General industrial uses include those involved in the processing of raw materials into refined products and/or industrial uses that have external impacts. The purpose of this district is to permit the normal operations of any industry that can meet and maintain compliance with established state and federal performance standards. The district is intended to contain supportive retail development. Commercial or retail uses that do not primarily serve the needs of people working or living in the employment and industrial areas are prohibited in this district. New residential uses are not permitted in the GI zone.

C. Business Industrial Park (BIP)

The BIP zone is intended to implement the Campus Employment designation of the Forest Grove Comprehensive Plan through the identification of allowed uses and the establishment of development standards. The BIP zone allows a mixture of light industrial, employment, and office uses, together with some small-scale commercial uses. The development standards within the zone require well-landscaped, attractive and cohesive developments.

Amendment 2: Amend DC Section 10.3.520 (Table 3-14) to establish uses in the Business Industrial Park zone. The following abbreviations are used to classify uses:

N = Not allowed

P = Permitted

C= Conditional Use subject to the provisions of Development Code Section 10.2.200 et. seq.

L = Limited Use subject to the footnotes following Table 3-14

10.3.520 USE REGULATIONS

Refer to Article 12 for information on the characteristics of uses included in each of the Use Categories.

- A. Permitted Uses. Uses allowed in the Industrial zones are listed in Table 3-14 with a “P”. These uses are allowed if they comply with the development standards and other regulations of this Code.
- B. Limited Uses. Uses that are allowed subject to specific limitations are listed in Table 3-14 with an “L”. These uses are allowed if they comply with the limitations listed in the footnotes to the table and the development standards and other regulations of this Code.
- C. Conditional Uses. Uses that are allowed if approved through the conditional use process are listed in Table 3-14 with a “C”. These uses are allowed provided they comply with the conditional use approval criteria, the development standards, and other regulations of this Code. Section 10.2.200 contains the conditional use process and approval criteria.
- D. Prohibited Uses. Uses listed in Table 3-14 with an “N” are prohibited. Existing uses may be subject to the regulations of Section 10.7.700, Nonconforming Development.
- E. Accessory Uses. Uses that are accessory to a primary use are allowed if they comply with specific regulations for accessory uses and all

**Table 3-14
Industrial Zones: Use Table**

USE CATEGORY	LI	GI	BIP
<u>RESIDENTIAL</u>	L ^[1]	L ^[1]	
Household Living	N	N	N
Group Living	N	N	N
Transitional Housing	N	N	N
Home Occupation	N	N	N
Bed & Breakfast	N	N	N
<u>CIVIC / INSTITUTIONAL</u>			
Basic Utilities	P	P	P
Major utility transmission facilities	C	C	C
Colleges	N	N	N
Community Recreation	N	N	C
Cultural Institutions	N	N	C
Day Care	L ^[2]	L ^[2]	L[2]
Emergency Services	C	C	C
Postal Services	C	N	C
Religious Institutions	N	N	N
Schools	L ^[3]	L ^[3]	L[3]
Social/ Fraternal Clubs / Lodges	N	N	N

<u>COMMERCIAL</u>			
Commercial Lodging	N	N	N
Eating & Drinking Establishments	L ^[4]	L ^[4]	L[4]
Entertainment – Orientated:			
- Major Event Entertainment	N	N	N
- Outdoor Entertainment	N	N	N
- Indoor Entertainment	N	N	C
General Retail:			
- Sales – Orientated	N	L ^[4]	L[4]
- Personal Services	N	N	L[9]
- Repair – Orientated	N	N	P
- Bulk Sales	N	N	N
- Outdoor Sales	N	N	N
- Animal - Related	N	N	N
Medical Centers	N	N	C
Motor Vehicle Related:			
- Motor Vehicles Sale / Rental	N	N	N
- Motor Vehicle Servicing / Repair	N	N	N
- Motor Vehicle Fuel Sales	N	N	N
Non-Accessory Parking	N	N	N
Office	L ^[5]	L ^[5]	L[10]
Self-Service Storage	N	P	P
<u>INDUSTRIAL</u>			
Industrial Services	L ^[6]	P	L[6]
Manufacturing & Production:			
- Light Industrial	P	P	L[7]
- General Industrial	N	P	L[7]
Call Centers	P	P	P
Railroad Yards	N	P	N
Research & Development	P	P	P
Warehouse / Freight Movement	P	P	P
Waste – Related	C	C	C
Wholesale Sales	P	P	C
<u>OTHER</u>			
Agriculture / Horticulture	P	P	P
Cemeteries	N	N	N
Detention Facilities	C	P	C
Mining	N	C	N
Wireless Communication Facilities	L[8]	L[8]	L[8]
Information	P	P	P

Table 3-6 Footnotes:

- [1] One (1) dwelling is permitted for a watchman employed on the premises.
- [2] On-site day care for employees is permitted in the LI, GI and BIP zones. Conditional use permit approval is required for a day care facility that is intended to serve more than on-site employees.
- [3] Educational uses for high school or college level programs governed by ORS Chapter 300 et. seq. comprising no more than 20% of the floor space of a building owned by a governmental agency shall be permitted provided that the following are met: (1) the use is separated from all industrial activities located on the site; (2) the use is located totally within a building; and (3) hours of operation are limited from 7:00 to 7:00 P.M.
- [4] Supportive retail or commercial use, such as convenience store, coffee shop, deli or business service, up to 3,000 square feet per use, permitted if the Director finds that it primarily serves the needs of the people working or living in the industrial area (drive-through prohibited). Employee cafeterias are permitted as an accessory use.
- [5] In the LI zone, up to 50% and in the GI zone, up to 20% of the total floor area of the development may consist of executive and administrative offices that relate to the industrial use of the property. Stand-alone offices in association with uses allowed in the LI but are at other locations are allowed in that district. Multiple tenant office buildings are prohibited.
- [6] Industrial services in the LI and BIP zones must take place within an enclosed building.
- [7] All processing and manufacturing must take place within a building or enclosed structure. Outdoor storage of raw materials, finished products and vehicles is prohibited.
- [8] Wireless communication facilities are regulated by the standards in Article 8.
- [9] Personal services limited to 3,000 square feet in conjunction with larger uses.
- [10] Limited to corporate offices where the majority of traffic generated comes from employees and not the general public.

Amendment 3: Amend DC Section 10.3.530 (Table 3-15) to establish lot dimension and building setback standards within the BIP zone. The standards include maximum building height, lot coverage and minimum landscaping to create a business park type environment.

10.3.530 INDUSTRIAL ZONE DEVELOPMENT STANDARDS

The development standards listed below are applicable to all development within the Light Industrial, General Industrial and Business Industrial Park zones. Development within these zones shall also comply with all other applicable requirements of this Code, including the general development standards in Article 8.

**Table 3-15
Industrial Zone Dimensional Requirements**

STANDARD	LI	GI	BIP
Minimum lot size	10,000 sf	10,000 sf	20,000 sf
Minimum lot width	100 ft.	100 ft.	100 ft.
Minimum lot depth	None	None	None
Minimum yard setbacks ^[1]	None	None	Front: 20 feet Interior Side: 10 feet Rear: 10 feet
Maximum building height ^[2]	None	None	45 feet
Maximum building coverage			50%
Minimum landscaping			15%

Footnotes:

- [1] A setback and buffer may be required where a LI, GI or BIP boundary abuts a less intensive zone. See screening and buffering standards in Article 8. When an industrial site is separated from a residential zone by either a dedicated public street, or a railroad main line or spur track, no setback shall be required in that yard adjacent to the residential zone.
- [2] Building height unlimited per the Building Code with the installation of a sprinkler system approved by the Forest Grove Fire Department in all buildings over two (2) stories.

Amendment 4: Amend DC Section 10.3.540 to establish additional development requirements for projects in the BIP zone. The standards are intended to require a higher level of design for projects within the BIP zone. This includes:

- Limiting off-street parking between buildings and public right-of-way;
- Orienting buildings towards the public right-of-way;
- Building articulation to “break-up” building facades;
- Requiring landscaping along a public street frontage;
- Restricting sign height;
- Enhancing on-site pedestrian circulation with pedestrian connections to the public sidewalk and landscaping;
- Incorporating on-site surface water management with open space and landscaped areas.

10.3.540 ADDITIONAL INDUSTRIAL ZONE STANDARDS

- A. Site Plan Review Required. Development in the LI, GI and BIP zones is subject to a Type II site plan review process.
- B. Parking. Parking, loading and unloading areas shall not be located within a required setback area.

No loading or unloading facilities shall be located adjacent to a residential district if there is an alternative location of adequate size for loading and unloading facilities that is not adjacent to a residential district.

Off-street surface parking shall not occupy more than 33% of the public street frontage. Where a site has frontage along a side street a surface parking lot may occupy more than 33% of the side street frontage. Parking areas located along a public street frontage shall be screened with any one or combination of the following techniques: solid perimeter wall, earthen berm or evergreen hedge with a minimum spacing of 3 feet and maximum height of 5 feet. Parking areas shall be landscaped as required in Development Code Section 10.8.415.

- C. Performance Standards. No land or structure in the LI, GI and BIP zones shall be used or occupied unless there is continuing compliance with the standards set forth by the Environmental Protection Agency, Oregon Department of Environmental Quality and Metro relative to noise, vibration, smoke and particulate matter, odors, heat and glare, and insects and rodents.
- D. Solid Waste Collection Areas. Exterior solid waste dumpsters and solid waste collection areas must be screened from the public street and any abutting residential, commercial or town center zones.
- E. Mechanical Equipment. Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators, must be screened from the street and any abutting residential zones by walls, fences, or vegetation tall enough to screen the equipment. Mechanical equipment on roofs must be screened from the ground level of any abutting residential zone.

- F. Building Façade and Massing. Where building elevations are oriented to the street, architectural features, such as windows, pedestrian entrances, building off-sets, projections, change in materials or change in colors shall be used to break-up building surfaces and volumes.

Buildings exceeding 100 feet in the horizontal direction facing a public street shall include vertical relief using windows or vertical design elements incorporating change in exterior building materials or landscape screening.

Recessed entries or canopies shall be used at the entrances of buildings in order to reinforce a pedestrian-scale and to break-up large blank walls.

- G. Landscaping. Except for driveways and parking areas, the front setback area along a primary public street frontage shall be landscaped with lawn, trees, hedges or ornamental flowers. Such landscaping shall be maintained in good order.

- I. Signage. Pole signs are prohibited within areas zoned as Business Industrial Park. Free standing signs shall be monument type signs no more than five feet in height with a maximum area of 40 square feet including face and pedestal.

Multi-tenant complexes shall provide unified monument signage for individual tenants near an access point for the complex. Such signs shall comply with the requirements of Section 10.8.830(D). Monument shall be not be placed within any clear vision area required in Section 10.8.155.

- J. Site Circulation. All roadways and drives shall include sidewalks on at least one side of the roadway or drive with the exception of vehicle facilities that provide access solely to loading and service areas.

All pedestrian connections to the public sidewalk shall include canopy trees spaced at maximum of 30 feet on center. Coniferous trees are permitted with approval of the Director. Trees shall be placed within planting beds sized appropriately for the tree species using tree planting best practices adopted by the International Society of Arboriculture or similar professional organization.

- K. **Surface Water Management.** When required, on-site surface water management facilities, such as detention ponds and swales, shall be incorporated into open space and landscaped areas through the use of unifying landscape elements. The Director shall make a determination as to whether the design meets the intent of this standard. The Director's determination is appealable to the Planning Commission.

REVIEW CRITERIA

The applicable review criteria for a Development Code text amendment is contained in Article 2 (10.2.600 et. seq.). The criteria include:

- A. The text amendment is consistent with the relevant goals and policies of the Forest Grove Comprehensive Plan; and
- B. The text amendment is consistent with relevant statewide and regional planning goals, program and policies.

FINDINGS

Attachment B contains draft findings demonstrating how the proposed text amendment complies with the criteria above.

STAFF RECOMMENDATION: Staff recommends City Council adopt the ordinance for first reading on March 14 and second reading on March 28, 2016, amending Article 3 of the Forest Grove Development Code to Establish the Business Industrial Park Zone

ATTACHMENT:

- A. Planning Commission and Findings and Decision Number 2016-02

PLANNING COMMISSION FINDINGS AND DECISION NUMBER 16-02

**RECOMMENDATION TO CITY COUNCIL ON AMENDMENTS TO DEVELOPMENT
CODE TO ESTABLISH DEVELOPMENT STANDARDS IN THE BUSINESS
INDUSTRIAL PARK ZONE**

File No. 311-15-000027-PLNG

WHEREAS, the City Council on January 27, 2014 adopted Ordinance 2014-01 and 2014-02 updating the Forest Grove Comprehensive Plan; and

WHEREAS, the updated Forest Grove Comprehensive Plan established a new Campus Employment plan designation; and

WHEREAS, the Campus Employment plan designation is intended for development of industrial and office parks with a high level of amenity value; and

WHEREAS, the City desires to amend the text of Article 3 of the Forest Grove Development Code to create the Business Industrial Park (BIP) zoning district to implement the Campus Employment Comprehensive Plan designation; and

WHEREAS, the Development Code amendments establish uses and standards for development within the Business Industrial Park zone consistent with the intent of Campus Employment Plan designation; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed amendments to the Development Code on January 19, 2016.

Now, therefore, The Planning Commission of the City of Forest Grove recommends to the City Council approval of amendment to Article 3 of the Forest Grove Development Code shown on EXHIBIT A including the following modification recommended by the Planning Commission:

1. Revise amendment to Development Code Section 10.3.540(I) (Additional Industrial Zone Standards - Signs):

Multi-tenant complexes shall provide unified monument signage for individual tenants near an access point for the complex. Such signs shall comply with the requirements of Section 10.8.830(D). Monument shall be not be placed within any clear vision area required in Section 10.8.155.

The Planning Commission also makes the following findings in support of this decision:

Section 1. The recommended amendments are consistent with and meet the provisions of Development Code Section 10.2.630 Review Criteria pertaining to zoning text amendments:

ATTACHMENT A

- A. The text amendment is consistent with relevant goals and policies of the Forest Grove Comprehensive Plan.

Finding: The text amendment to establish the Business Industrial Park zone is consistent with the Land Use, Economic Development and Urbanization goals and policies identified in the Forest Grove Comprehensive Plan for the following reasons. The BIP zone is intended to implement the Campus Employment designation of the Forest Grove Comprehensive Plan through the identification of allowed uses and the establishment of development standards. The BIP zone allows a mixture of light industrial, employment, and office uses, together with some small-scale commercial uses. The development standards within the zone require well-landscaped, attractive and cohesive developments.

The Comprehensive Plan states the Campus Employment district “is intended to contain supportive retail development and business services” Furthermore, the Comprehensive Plan states Typical uses [within the Campus Employment district] include high technology companies, call centers, research and development firms, and business incubators.”

As stated in the Comprehensive Plan “The Campus Employment designation is intended for development of industrial and office parks with a high level of amenity value including landscaping and open space.” The Business Industrial Park zone establishes development standards consistent with the Comprehensive Plan.

The Comprehensive Plan states industrial activities within the Campus Employment District typically take place in enclosed structures. To comply with this requirement wording is proposed in the text amendment to require “All processing and manufacturing must take place within a building or enclosed structure. Outdoor storage of raw materials, finished products and vehicles is prohibited.”

- B. The text amendment is consistent with relevant statewide and regional planning goals, programs and rules.

Finding: The recommended amendment is comply with the following Statewide Land Use Planning and regional planning goals, programs and rules:

1. Statewide Land Use Planning Goals

Finding: Goal 9: Economic Development: Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies.

OAR 660-009-0025 implements Statewide Planning Goal 9. Under OAR 660-009-0025, cities and counties must adopt measures adequate to implement policies of OAR 660-009-0020 (Industrial and Other Employment Development Policies). Appropriate implementing measures include amendments to plan and zone map designations, land

use regulations, public facility plans, and transportation system plans. This amendment is to land use regulations to implement the Campus Employment Comprehensive Plan designation. Since development in the Campus Employment designation and Business Improvement Park zone provides for employment opportunities the recommended amendment meets Statewide Plan Use Planning Goal 9.

2. Metro Regional Framework Plan

Finding: The purpose of Metro Regional Framework Plan Land Use Policy 1.5.3 is to ensure that all neighborhoods and all people have access to opportunity and share the benefits, as well as burdens, of economic and population growth in the region. The recommended expands local opportunities for employment. As such, the amendment furthers the intent of Policy 1.5.3 by promoting employment for Forest Grove residents so that residents participate in the benefits of a strong local economy.

The Metro 2040 Growth Concept, implemented through Metro Regional Framework Plan, encourages the mixing of various types of employment. The Campus Employment Comprehensive Plan designation and corresponding Business Industrial Park zone allows for a variety of employment activities meeting employment needs identified in the City's Economic Opportunities Analysis adopted in 2009. Such uses include industrial services, manufacturing, call centers, research and development, warehousing, wholesale sales, office, and limited retail. These activities meet the intent of the Metro 2040 Growth Concept.

3. Metro Regional Functional Plan

Finding: The recommended amendment is consistent with Title 4 of the Metro Regional Functional Plan. Title 4 addresses industrial and other employment areas in the regional. The purpose and intent statement of Title 4 promotes a strong regional economy. To improve the economy, Title 4 seeks to cluster activities in proximity to one another rather than in dispersed locations. The recommended amendment provides an opportunity to zone land near existing industrial areas to provide complementary employment activities. Such activities include industrial services, warehousing, and uses serving employees working in industrial areas.

TOM BECK, Chair

Date

EXHIBIT A
PLANNING COMMISSION RECOMMENDED DEVELOPMENT CODE AMENDMENTS
File Number 311-15-000027-PLNG

INDUSTRIAL ZONES

10.3.500 PURPOSE

The City of Forest Grove has established two industrial zones to implement the Industrial designation of the Comprehensive Plan. Non-industrial uses are restricted to protect industrial lands for employment and to minimize land use conflicts.

10.3.510 LIST OF INDUSTRIAL ZONES

A. Light Industrial (LI)

The LI zone is intended for a wide variety of manufacturing and other industrial uses with controlled external impacts. These types of industries are often involved in the secondary processing of materials into components, the assembly of components into finished products, transportation, communication and utilities, wholesaling and warehousing. Industrial activities occur within enclosed buildings. On a limited basis, supporting commercial and office uses are permitted in the LI zone.

B. General Industrial (GI)

The GI zone is intended for industrial uses that are generally not compatible with residential development because of their operational characteristics. This district is also intended for uses that may require extensive outdoor areas to conduct business activities or for product storage or display. General industrial uses include those involved in the processing of raw materials into refined products and/or industrial uses that have external impacts. The purpose of this district is to permit the normal operations of any industry that can meet and maintain compliance with established state and federal performance standards. The district is intended to contain supportive retail development. Commercial or retail uses that do not primarily serve the needs of people working or living in the employment and industrial areas are prohibited in this district. New residential uses are not permitted in the GI zone.

C. Business Industrial Park (BIP)

The BIP zone is intended to implement the Campus Employment designation of the Forest Grove Comprehensive Plan through the identification of allowed uses and the establishment of development standards. The BIP zone allows a mixture of light industrial, employment, and office uses, together with some small-scale commercial uses. The development standards within the zone require well-landscaped, attractive and cohesive developments.

10.3.520 USE REGULATIONS

Refer to Article 12 for information on the characteristics of uses included in each of the Use Categories.

- A. Permitted Uses. Uses allowed in the Industrial zones are listed in Table 3-14 with a "P". These uses are allowed if they comply with the development standards and other regulations of this Code.
- B. Limited Uses. Uses that are allowed subject to specific limitations are listed in Table 3-14 with an "L". These uses are allowed if they comply with the limitations listed in the footnotes to the table and the development standards and other regulations of this Code.
- C. Conditional Uses. Uses that are allowed if approved through the conditional use process are listed in Table 3-14 with a "C". These uses are allowed provided they comply with the conditional use approval criteria, the development standards, and other regulations of this Code. Section 10.2.200 contains the conditional use process and approval criteria.
- D. Prohibited Uses. Uses listed in Table 3-14 with an "N" are prohibited. Existing uses may be subject to the regulations of Section 10.7.700, Nonconforming Development.
- E. Accessory Uses. Uses that are accessory to a primary use are allowed if they comply with specific regulations for accessory uses and all development standards.

Table 3-14
Industrial Zones: Use Table

USE CATEGORY	LI	GI	BIP
<u>RESIDENTIAL</u>	L ^[1]	L ^[1]	
Household Living	N	N	<u>N</u>
Group Living	N	N	<u>N</u>
Transitional Housing	N	N	<u>N</u>
Home Occupation	N	N	<u>N</u>
Bed & Breakfast	N	N	<u>N</u>
<u>CIVIC / INSTITUTIONAL</u>			
Basic Utilities	P	P	<u>P</u>
Major utility transmission facilities	C	C	<u>C</u>
Colleges	N	N	<u>N</u>
Community Recreation	N	N	<u>C</u>
Cultural Institutions	N	N	<u>C</u>
Day Care	L ^[2]	L ^[2]	<u>L[2]</u>

Emergency Services	C	C	<u>C</u>
Postal Services	C	N	<u>C</u>
Religious Institutions	N	N	<u>N</u>
Schools	L ^[3]	L ^[3]	<u>L[3]</u>
Social/ Fraternal Clubs / Lodges	N	N	<u>N</u>
<u>COMMERCIAL</u>			
Commercial Lodging	N	N	<u>C</u>
Eating & Drinking Establishments	L ^[4]	L ^[4]	<u>L[4]</u>
Entertainment – Orientated:			
- Major Event Entertainment	N	N	<u>N</u>
- Outdoor Entertainment	N	N	<u>N</u>
- Indoor Entertainment	N	N	<u>C</u>
General Retail:			
- Sales – Orientated	N	L ^[4]	<u>L</u>
- Personal Services	N	N	<u>P</u>
- Repair – Orientated	N	N	<u>P</u>
- Bulk Sales	N	N	<u>C</u>
- Outdoor Sales	N	N	<u>C</u>
- Animal - Related	N	N	<u>C</u>
Medical Centers	N	N	<u>C</u>
Motor Vehicle Related:			
- Motor Vehicles Sale / Rental	N	N	<u>N</u>
- Motor Vehicle Servicing / Repair	N	N	<u>N</u>
- Motor Vehicle Fuel Sales	N	N	<u>N</u>
Non-Accessory Parking	N	N	<u>N</u>
Office	L ^[5]	L ^[5]	<u>P</u>
Self-Service Storage	N	P	<u>P</u>
<u>INDUSTRIAL</u>			
Industrial Services	L ^[6]	P	<u>P</u>
Manufacturing & Production:			
- Light Industrial	P	P	<u>L[7]</u>
- General Industrial	N	P	<u>L[7]</u>
Call Centers	P	P	<u>P</u>
Railroad Yards	N	P	<u>N</u>
Research & Development	P	P	<u>P</u>
Warehouse / Freight Movement	P	P	<u>P</u>
Waste – Related	C	C	<u>C</u>
Wholesale Sales	P	P	<u>P</u>
<u>OTHER</u>			
Agriculture / Horticulture	P	P	<u>P</u>
Cemeteries	N	N	<u>N</u>
Detention Facilities	C	P	<u>C</u>
Mining	N	C	<u>N</u>
Wireless Communication	L[8]	L[8]	<u>L[8]</u>

Facilities			
Information	P	P	P

Table 3-6 Footnotes:

- [1] One (1) dwelling is permitted for a watchman employed on the premises.
- [2] On-site day care for employees is permitted in the LI, GI and BIP zones. Conditional use permit approval is required for a day care facility that is intended to serve more than on-site employees.
- [3] Educational uses for high school or college level programs governed by ORS Chapter 300 et. seq. comprising no more than 20% of the floor space of a building owned by a governmental agency shall be permitted provided that the following are met: (1) the use is separated from all industrial activities located on the site; (2) the use is located totally within a building; and (3) hours of operation are limited from 7:00 to 7:00 P.M.
- [4] Supportive retail or commercial use, such as convenience store, coffee shop, deli or business service, up to 3,000 square feet per use, permitted if the Director finds that it primarily serves the needs of the people working or living in the industrial area (drive-through prohibited). Employee cafeterias are permitted as an accessory uses.
- [5] In the LI zone, up to 50% and in the GI zone, up to 20% of the total floor area of the development may consist of executive and administrative offices that relate to the industrial use of the property. Stand-alone offices in association with uses allowed in the LI but are at other locations are allowed in that district. Multiple tenant office buildings are prohibited.
- [6] Industrial services in the LI and BIP zones must take place within an enclosed building.
- [7] All processing and manufacturing must take place within a building or enclosed structure. Outdoor storage of raw materials, finished products and vehicles is prohibited.
- [8] Wireless communication facilities are regulated by the standards in Article 8.

10.3.530 INDUSTRIAL ZONE DEVELOPMENT STANDARDS

The development standards listed below are applicable to all development within the Light Industrial, General Industrial and Business Industrial Park zones. Development within these zones shall also comply with all other applicable requirements of this Code, including the general development standards in Article 8.

**Table 3-15
Industrial Zone Dimensional Requirements**

STANDARD	LI	GI	BIP
Minimum lot size	10,000 sf	10,000 sf	20,000 sf
Minimum lot width	100 ft	100 ft	100 ft
Minimum lot depth	None	None	None
Minimum yard setbacks ^[1]	None	None	Front: 20 feet Interior Side: 10 feet Rear: 10 feet
Maximum building height ^[2]	None	None	45 feet

Maximum building coverage			50%
Minimum landscaping			15%

Footnotes:

- [1] A setback and buffer may be required where a LI, GI or BIP boundary abuts a less intensive zone. See screening and buffering standards in Article 8. When an industrial site is separated from a residential zone by either a dedicated public street, or a railroad main line or spur track, no setback shall be required in that yard adjacent to the residential zone.
- [2] Building height unlimited per the Building Code with the installation of a sprinkler system approved by the Forest Grove Fire Department in all buildings over two (2) stories.

10.3.540 ADDITIONAL INDUSTRIAL ZONE STANDARDS

- A. Site Plan Review Required. Development in the LI, GI and BIP zones is subject to a Type II site plan review process.
- B. Parking. Parking, loading and unloading areas shall not be located within a required setback area.

No loading or unloading facilities shall be located adjacent to a residential district if there is an alternative location of adequate size for loading and unloading facilities that is not adjacent to a residential district.

Off-street surface parking shall not occupy more than 33% of the public street frontage. Where a site has frontage along a side street a surface parking lot may occupy more than 33% of the side street frontage. Parking areas located along a public street frontage shall be screened with any one or combination of the following techniques: solid perimeter wall, earthen berm or evergreen hedge with a minimum spacing of 3 feet and maximum height of 5 feet. Parking areas shall be landscaped as required in Development Code Section 10.8.415.

- C. Performance Standards. No land or structure in the LI, GI and BIP zones shall be used or occupied unless there is continuing compliance with the standards set forth by the Environmental Protection Agency, Oregon Department of Environmental Quality and Metro relative to noise, vibration, smoke and particulate matter, odors, heat and glare, and insects and rodents.
- D. Solid Waste Collection Areas. Exterior solid waste dumpsters and solid waste collection areas must be screened from the public street and any abutting residential, commercial or town center zones.
- E. Mechanical Equipment. Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators, must be screened from the street and any abutting residential zones by walls, fences, or vegetation tall enough to screen the equipment. Mechanical equipment on roofs must be screened from the ground level of any abutting residential zone.

F. Building Façade and Massing. Where building elevations are oriented to the street, architectural features, such as windows, pedestrian entrances, building off-sets, projections, change in materials or change in colors shall be used to break-up building surfaces and volumes.

Buildings exceeding 100 feet in the horizontal direction facing a public street shall include vertical relief using windows or vertical design elements incorporating change in exterior building materials or landscape screening.

Recessed entries or canopies shall be used at the entrances of buildings in order to reinforce a pedestrian-scale and to break-up large blank walls.

G. Landscaping. Except for driveways and parking areas, the front setback area along a primary public street frontage shall be landscaped with lawn, trees, hedges or ornamental flowers. Such landscaping shall be maintained in good order.

I. Signage. Pole signs are prohibited within areas zoned as Business Industrial Park. Free standing signs shall be monument type signs no more than five feet in height with a maximum area of 40 square feet including face and pedestal.

Signs for multi-tenant complexes shall comply with the requirements of Section 10.8.830(D). Monument signs shall not be placed within any clear vision area required in Section 10.8.155.

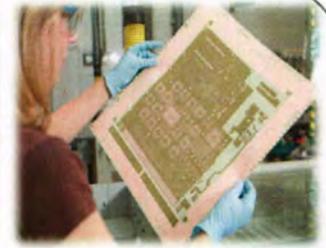
Interior lighted plastic signs are prohibited within any area zoned as Business Industrial Park.

J. Site Circulation. All roadways and drives shall include sidewalks on at least one side of the roadway or drive with the exception of vehicle facilities that provide access solely to loading and service areas.

All pedestrian connections to the public sidewalk shall include canopy trees spaced at maximum of 30 feet on center. Coniferous trees are permitted with approval of the Director. Trees shall be placed within planting beds sized appropriately for the tree species using tree planting best practices adopted by the International Society of Arboriculture or similar professional organization.

K. Surface Water Management. When required, on-site surface water management facilities, such as detention ponds and swales, shall be incorporated into open space and landscaped areas through the use of unifying landscape elements. The Director shall make a determination as to whether the design meets the intent of this standard. The Director's determination is appealable to the Planning Commission.

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City Initiated Amendments Development Code Article 3 (Zoning Districts) Establish Business Industrial Park Zone

City Council Public Hearing
March 14, 2016

A place where businesses and families thrive.

Purpose of Tonight's Hearing

- Consider the Planning Commission and staff recommendation to establish a new zone district (Business Industrial Park) to correspond to the Campus Employment Comprehensive Plan designation.
- Consider Economic Development Commission comments.
- Provide opportunity for public comment prior to final City Council action on March 28th.

Project Overview

- Forest Grove Comprehensive Plan Update in 2014 and includes a new Plan designation called “Campus Employment”. This project will establish a corresponding Zoning District.
- The Campus Employment designation is intended for development of industrial and office parks with a high level of amenities including landscaping and open space.
- The Campus Employment Designation, and proposed Business Industrial Zone, responds to a need identified in the City’s Economic Opportunities Analysis for long term manufacturing and corporate office employment land.



Proposed Amendments

- **Amendment 1:** Amend DC 10.3.510 to add a description of the proposed Business Industrial Park zone;
- **Amendment 2:** Amend DC Section 10.3.520 (Table 3-14) to establish uses in the Business Industrial Park zone;
- **Amendment 3:** Amend DC Section 10.3.530 (Table 3-15) to establish lot dimension and building setback standards within the BIP zone;
- **Amendment 4:** Amend DC Section 10.3.540 to establish additional development requirements for projects in the BIP zone.

Review Criteria

- The applicable review criteria are contained in Development Code Article 2 (Land Use Reviews):
 - Development Code Section 10.2.630)
- Criteria Include:
 - The text amendment is consistent with the relevant goals and policies of the Forest Grove Comprehensive Plan; and
 - The text amendment is consistent with relevant statewide and regional planning goals, program and policies.
- Detailed findings contained in written staff report and Planning Commission decision for reference.

Alternatives

- Alternatives available to City Council include:
 - Accept the recommendation as proposed;
 - Modify the recommendation with supportive findings; or
 - Refer the proposal back to the Planning Commission for further evaluation

Staff Recommendation

Staff recommends City Council adopt the ordinance accepting the Planning Commission and staff recommendation to amend the text of Forest Grove Development Code to establish the Business Industrial Park zone and implement the Campus Employment Comprehensive Plan designation.

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ORDINANCE NO. 2016-06**ORDINANCE AMENDING FOREST GROVE DEVELOPMENT CODE ARTICLE 3 TO
ESTABLISH THE BUSINESS INDUSTRIAL PARK ZONE
FILE NO. 311-15-00027-PLNG**

WHEREAS, The City of Forest Grove approved Ordinance 2014-01 and 2014-02 updating the Forest Grove Comprehensive Plan; and

WHEREAS, the updated Forest Grove Comprehensive Plan includes a new plan designation title Campus Employment; and

WHEREAS, the Campus Employment Comprehensive Plan designation is an employment plan designation intended for development of industrial and office parks with a high level of amenity value including landscaping and open space; and

WHEREAS, the Campus Employment designation is intended to allow for industrial and corporate office uses and supporting service activities; and

WHEREAS, a zoning designation is necessary to implement the Campus Employment Plan designation and for zoning property; and

WHEREAS, on January 19, 2016, the Planning Commission held a duly-noticed Public Hearing on proposed amendments to Article 3 of the Development Code to establish a Business Industrial Park zoning designation intended to implement the Campus Employment Plan designation; and

WHEREAS, the Planning Commission adopted Planning Commission Findings and Decision Number 16-02 recommending approval of the proposed Development Code amendments; and

WHEREAS, the City Council held a duly-noticed Public Hearing on the proposed ordinance on March 14, 2016, and continued the hearing on March 28, 2016.

NOW THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1. The City Council of the City of Forest Grove hereby adopts the text amendments to the Development Code Articles 3 as shown on Exhibit A.

Section 2. The City Council hereby adopts the Planning Commission's Findings and Decision dated January 12, 2016 as shown on Exhibit B.

Section 3. The City Council hereby finds that the proposed amendments are consistent with and meet the provisions of Development Code Section 10.2.630 *Review Criteria Pertaining to Zoning Text Amendments* as shown on Exhibit B.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 5. This ordinance shall be effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading this 14th day of March, 2016.

PASSED the second reading this 28th day of March, 2016.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 28th day of March, 2016.

Peter B. Truax, Mayor

EXHIBIT A

	Current Zoning	Proposed Zoning	Gross Proposed Rezoned	Acreage to be
Mixed Use Area 1 (David Hill)	R-10	NMU	8.5 acres	
Mixed Use Area 2 (CPD Area)	CPD	NMU	6.4 acres	
Mixed Use Area 3 (Davidson Site)	LI	NMU	23.5 acres	
Town Center Consolidation	TCS	TCT	22.6 acres	
Town Center Expansion Area (Cedar St. to Elm St. and south of 19 th Avenue to 21 st Avenue)	CC	TCT	24.2 acres	

Proposed Zoning Map Amendments

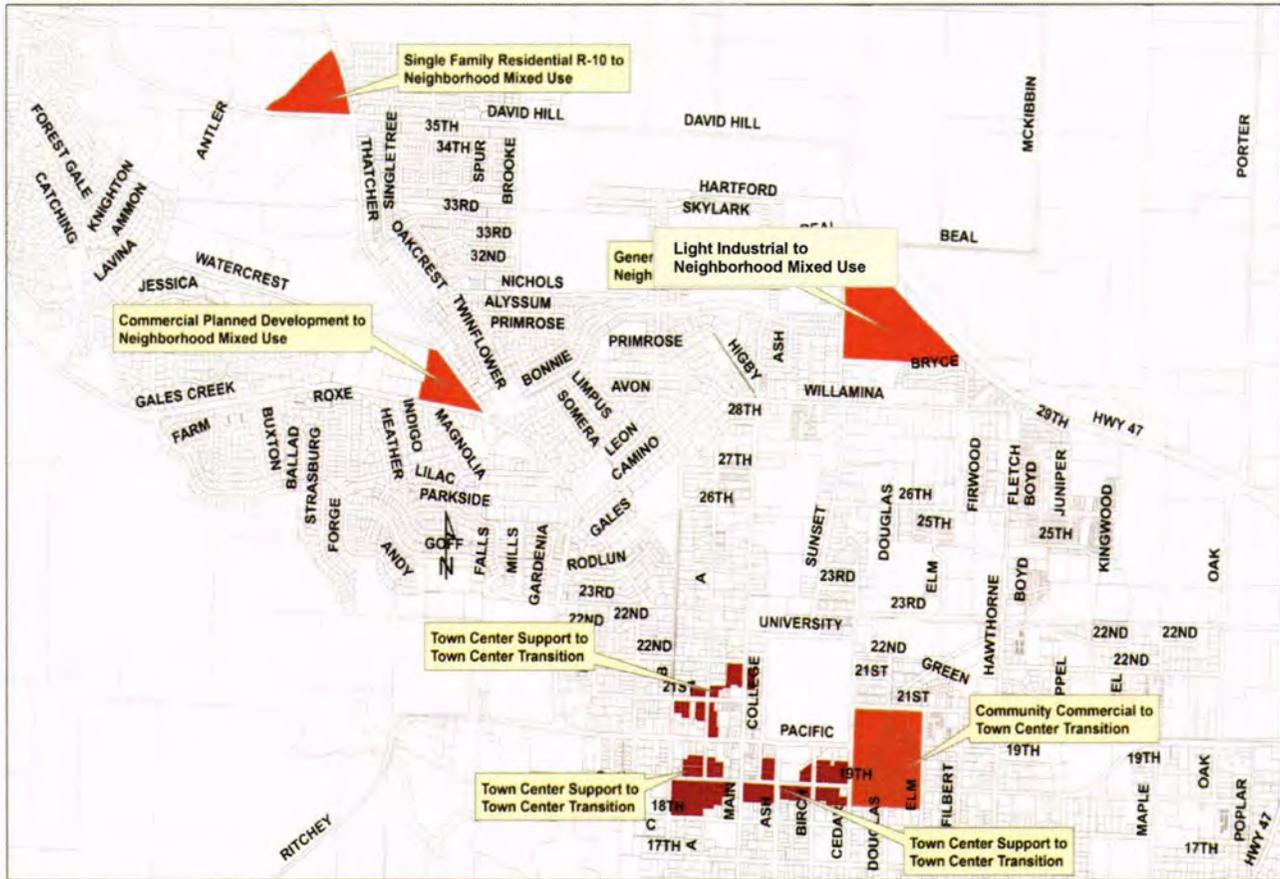


EXHIBIT B

FINDINGS - MAP AMENDMENTS (SUBJECT TO 10.2.750 – 10.2.770)

MIXED USE AREAS

Review Criteria 10.2.770.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 Correspondence Table in Article 3, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.*

Finding: The recommended zoning designation for the three mixed use areas is consistent with the Comprehensive Plan Map, as amended in Ordinance No. 2014-02. However, only a portion of the David Hill site is proposed to be rezoned at this time. The area proposed to be rezoned consistent with the Comprehensive Plan Map is at the northwest corner of David Hill Road and Thatcher Road. This area has a gross size of approximately 8.5 acres with approximately one-third (2.9 acres) developable. The remaining area (approximately 20.6 gross acres) currently shown as Mixed Use on the Comprehensive Plan map north of David Hill Road will be addressed further as part of the Westside Planning Project. This area will likely be recommended for rezoning to Single Family Residential (R-10). Parallel amendments to include the NMU designation in the Forest Grove Development Code are currently proposed (see Text Amendments above), which would allow for a mix of housing types and commercial uses.

Review Criteria 10.2.770.B: *The zone change is consistent with relevant goals and policies of the Comprehensive Plan, as identified by the Director.*

Finding: The Comprehensive Plan describes the opportunity to create three mixed use areas as follows:

A potential opportunity site for commercial land is located west of Sunset Drive and south of Highway 47. This site, under single ownership is approximately 23.5 acres in gross land area. Other potential opportunity sites include the area near Watercrest Road and Thatcher Road and David Hill Road and Thatcher Road.

The proposed zone changes for the mixed use areas are consistent with the Comprehensive Plan since the zoning map amendments will affect only the areas identified above. Furthermore, the proposed zone changes for the mixed use areas are consistent with the location factor contained in the Comprehensive Plan which states:

Areas where a mixture of residential, office and retail uses are appropriate to create complete neighborhoods or provide needed services and housing.

The zoning map amendments are consistent with this location factor since all three mixed use areas are located outside of the Town Center and off the Pacific Avenue/19th Avenue commercial corridor in areas that are predominantly residential in character. For the reasons stated above, this criterion is met. In addition, the commercial development in the NMU zones will be limited to "Village Centers" which cannot comprise more than 50% of the buildable land within a mixed use planned development or three acres, whichever is greater. As a result of this standard, the largest "village center" would be at the Davidson Site (9.4 acres based on overall developable site area of 18.8 acres). This ensures the NMU zoning at Mixed Use Area 3 (Davidson Site) is consistent with the Comprehensive Plan location criteria that mixed use sites tend to be 10 acres in land area or less. The basis for this conclusion is the premise that mixed

use commercial/residential area is the “village center”, and the “village center” is capped at 9.4 acres.

The NMU areas are also consistent with the Comprehensive Plan location factor that the NMU designation apply to areas where a mixture of residential, office, and retail uses are appropriate to create complete neighborhoods or provide needed service. Mixed use areas are in locations previously zoned for single family residential development. The Gales Creek mixed use area was previously designated as Commercial Planned Development on the Forest Grove Comprehensive Plan Map which promoted commercial development near residential areas. Zoning these areas as NMU will promote the creation of complete neighborhoods where residents are able to find goods and services in close proximity.

As provided for in the findings in the Text Amendment section above, the proposed map amendment is consistent with the Forest Grove Comprehensive Plan’s goals and policies for housing, economic development, urbanization, and transportation.

Review Criteria 10.2.770.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 will 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.

Finding: The Forest Grove Comprehensive Plan created a new Mixed Use plan designation to provide for a variety of retail and office uses near residential neighborhoods. The Comprehensive Plan states the Mixed Use plan designation is established to provide for a variety of retail and office uses near residential neighborhoods. Such limited commercial zones should be located on or bounded by arterial and collector streets to create nodes or concentrations of activity. The location of these new plan designations, as seen in the Forest Grove Comprehensive Plan Map, are located on or bounded by arterial and collector streets and adjacent to residential areas, so as to create nodes or concentrations of activity. The proposed zoning map amendments implement the adopted Comprehensive Plan designation and are consistent the requirement that the proposed zone change be considered based on parcel suitability and location. Therefore, this criterion is met.

Review Criteria 10.2.770.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 zone change if it may impact transportation facilities.

Finding: The proposed amendments to the Forest Grove Zoning Map are consistent with the Forest Grove Comprehensive Plan Map, which informed the Forest Grove Transportation System Plan’s assessment of future transportation needs. The future transportation needs assessment was based on the Preferred Land Use Alternative, and reflects changes to the City’s existing Comprehensive Land Use Plan to encourage more nodal mixed use development. A Transportation Analysis was prepared and is attached as Exhibit C. As noted in this analysis, the proposed map amendments are not expected to substantially impact transportation facilities below the minimum acceptable levels identified in the City’s adopted Transportation System Plan. Based on the transportation analysis completed for the updated

Comprehensive Plan Map which included mixed use areas the proposed zoning amendment this criterion is met.

Review Criteria 10.2.770.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.

Finding: The three mixed use areas range from vacant to partially developed with a related range of available facilities and services. Availability, need, and necessary improvements to facilities and services will be determined as new development occurs and is evaluated through the Mixed Use Planned Development process. The applicant will be responsible for providing all services necessary for the functionality of the MUPD. Facilities such as streets, water supply facilities, sanitary sewers, and storm water detention facilities must be dedicated to the public if they are to provide service to any property not included in the MUPD. Mixed Use Area 1 (David Hill) is primarily vacant and will require new facilities and services as development occurs. Mixed Use Area 2 (CPD Area) is currently a mix of residential and commercial uses in a developed area and will likely not need new facilities and services. Mixed Use Area 3 (Davidson Site) is developed as a residential use and has been historically utilized as a farm use.

Existing Services (Water): Water lines are present adjacent to all three mixed use areas. Development of the mixed use areas is subject to the requirements of Development Code Article 8: Public Improvements. Future improvements to the water system necessary to serve development are identified in the Forest Grove Water Master Plan. The City's Water System Plan shows the City has sufficient capacity to serve future development in the mixed use areas.

Existing Services (Sanitary Sewer):

Mixed Use Area 1 (David Hill): An existing 8" PVC sanitary sewer line is located within the David Hill Right of Way west of Thatcher Road. David Hill Road/Thatcher Road: The City's Waste Water Master Plan shows a proposed 12 inch sanitary sewer trunk line within the David Hill Road right-of-way west of Thatcher Road. This line when installed will serve the David Hill Road/Thatcher Road mixed use area.

Mixed Use Area 2 (CPD Area): A 12 inch corrugated steel pipe is located adjacent to the mixed use area within the Thatcher Road right-of-way.

Mixed Use Area 3 (Davidson Site): A 10 inch PVC sanitary sewer line is adjacent to the Davidson Site within the Sunset Drive right-of-way. An 8 inch PVC line also exists across Hwy 47 to a manhole at the Davidson Site from the 36" Clean Water Services trunk line north/east of Hwy. 47. The City's Waste Water Master Plan shows a future extension of the 8" line into the Davidson site to serve future development.

Existing Services (Storm Sewer):

Mixed Use Area 1 (David Hill): This area is not currently served with storm water piping. The City's Storm Drainage Master Plan shows a capital improvement project for stream restoration within the mixed use area. The Master Plan also shows future piping improvements along Thatcher Road.

Mixed Use Area 2 (CPD Area): An existing 12 inch storm line is present along the north side of Gales Creek Road adjacent to the mixed use area. A storm line is also present along the east side of Thatcher Road This line runs for a distance of approximately 150 feet from the Gales Creek Road/Thatcher Road intersection.

Mixed use Area 3 (Davidson Site): A 30 inch corrugated steel pipe exists along the west side of Sunset Drive. There are five storm inlets along the west side of Sunset Drive adjacent to the Davidson Site. Storm water is conveyed from the inlet to the storm pipe west of Sunset Drive. In addition to the storm pipe, a storm water swale and storm pond exist south of the Davidson Site approximately 730 feet east of Sunset Drive providing additional opportunity to accommodate drainage.

With future improvements shown in the Storm Drainage Master Plan and improvements required for development approval the City will have the ability to serve the mixed use areas. The three mixed use areas are within the Forest Grove city limits. As such, the City will provide police and fire protection necessary to serve future development. Service needs are assessed through the annual budget process.

Review Criteria 10.2.770.A: The establishment of a zone district is not subject to the meeting of conditions.

Finding: No conditions are proposed.

TOWN CENTER/CIVIC CORRIDOR

Review Criteria 10.2.770. 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 Correspondence Table in Article 3, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.

Finding: As described above, the proposed amendments consolidate the Town Center Support (TCS) zone into the Town Center Transition (TCT) zone. This change requires that all land currently zoned TCS be rezoned to TCT. In addition, the Town Center Expansion area, which is currently zoned Community Commercial (CC), is proposed to be rezoned to TCT. The transition from CC to TCT will encourage more urbanized development to occur by restricting new auto-oriented development, reducing landscape requirements, applying "urban" design standards, and allowing residential uses in mixed use or stand-alone development. Of the Town Center zones, TCT is the most appropriate for this area given its location adjacent to the Town Center Core and its function as a transition area between Core and adjacent residential areas.

Review Criteria 10.2.770. B: The zone change is consistent with relevant goals and policies of the Comprehensive Plan, as identified by the Director.

Finding: As provided for in the findings in the Text Amendment section above, the proposed map amendments are consistent with the Forest Grove Comprehensive Plan's goals and policies for housing, economic development, urbanization, and transportation. This is reinforced by the fact that the proposed zone changes implement the 2014 Forest Grove Comprehensive Plan.

Review Criteria 10.2.770. 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 will 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.

Finding: The update to the Forest Grove Comprehensive Plan, completed in 2014, included consideration of site suitability for the proposed zoning classifications necessary to implement

the Comprehensive Plan. Since the proposed zone changes simply implement the Comprehensive Plan the sites are determined to be suitable and consistent with this review criterion. Given that both TCS and TCT are Town Center zones and allow a very similar mix of uses, land which is currently suitable for TCS should be suitable for TCT. With the Town Center Expansion area, the transition from CC to TCT will encourage more urbanized development to occur by restricting new auto-oriented development, reducing landscape requirements, applying "urban" design standards, and allowing residential uses in mixed use or stand-alone development. In order to avoid making some existing uses non-conforming, exceptions are proposed within the TCT zone to allow for the continuation of those uses.

Review Criteria 10.2.770. 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 zone change if it may impact transportation facilities.

Finding: The proposed amendment to the Forest Grove Zoning Map would be consistent with the Forest Grove Comprehensive Plan Map, which informed the Forest Grove Transportation System Plan's assessment of future transportation needs. The future transportation needs assessment was based on the Preferred Land Use Alternative and reflects changes to the City's existing Comprehensive Land Use Plan to encourage more nodal mixed use development. A Transportation Analysis was prepared and is attached as Exhibit C. As noted in this analysis, the proposed map amendments are not expected to substantially impact transportation facilities below the minimum acceptable levels identified in the City's adopted Transportation System Plan. The City's minimum acceptable level of service is LOS D.

Review Criteria 10.2.770. 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.

Finding: The proposed amendments to consolidate the Town Center Support with Town Center Transition zones and to expand the Town Center boundary to the east will occur in a developed area, currently provided with public facilities and services. The distinction between Town Center Support and Town Center transition is minor. The proposed change will not affect demand for public services currently planned for as reflected in the Comprehensive Plan. Service demand related to changing the zoning in the Town Center Expansion area from Community Commercial to Town Center Transition was considered during the Comprehensive Plan update. The Forest Grove Water Master Plan Updated (2010) indicates Forest Grove has a sufficient water supply for meeting service needs for at least the next twenty years. The Forest Grove Sanitary Sewer Master Plan update (2007) identifies a capital improvement project in the Town Center and Town Center Expansion areas. This project will increase the 8-inch and 10-inch diameter lines along 19th Avenue from Birch Street to A Street to the B Street pump station. This improvement will improve the City's ability to serve development promoted by the proposed zone changes. The Forest Grove Storm Drainage Master Plan (2007) does not indicate a need for general storm drainage improvements in the areas affected by the zone changes. Necessary improvements meeting Clean Water Services and City standards resulting from individual development projects will be identified as part of the development review process. Projected

service demands to Police and Fire resulting from the proposed zone changes, if any, will be addressed through the annual City budgeting process.

Review Criteria 10.2.770. F: The establishment of a zone district is not subject to the meeting of conditions.

Finding: No conditions are proposed

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INDUSTRIAL ZONES**10.3.500 PURPOSE**

The City of Forest Grove has established two industrial zones to implement the Industrial designation of the Comprehensive Plan. Non-industrial uses are restricted to protect industrial lands for employment and to minimize land use conflicts.

10.3.510 LIST OF INDUSTRIAL ZONES**A. Light Industrial (LI)**

The LI zone is intended for a wide variety of manufacturing and other industrial uses with controlled external impacts. These types of industries are often involved in the secondary processing of materials into components, the assembly of components into finished products, transportation, communication and utilities, wholesaling and warehousing. Industrial activities occur within enclosed buildings. On a limited basis, supporting commercial and office uses are permitted in the LI zone.

B. General Industrial (GI)

The GI zone is intended for industrial uses that are generally not compatible with residential development because of their operational characteristics. This district is also intended for uses that may require extensive outdoor areas to conduct business activities or for product storage or display. General industrial uses include those involved in the processing of raw materials into refined products and/or industrial uses that have external impacts. The purpose of this district is to permit the normal operations of any industry that can meet and maintain compliance with established state and federal performance standards. The district is intended to contain supportive retail development. Commercial or retail uses that do not primarily serve the needs of people working or living in the employment and industrial areas are prohibited in this district. New residential uses are not permitted in the GI zone.

C. Business Industrial Park (BIP)

The BIP zone is intended to implement the Campus Employment designation of the Forest Grove Comprehensive Plan through the identification of allowed uses and the establishment of development standards. The BIP zone allows a mixture of light industrial, employment, and office uses, together with some small-scale commercial uses with controlled external impacts. The development standards within the zone require well-landscaped, attractive and cohesive developments.

10.3.520 USE REGULATIONS

Refer to Article 12 for information on the characteristics of uses included in each of the Use Categories.

- A. Permitted Uses. Uses allowed in the Industrial zones are listed in Table 3-14 with a “P”. These uses are allowed if they comply with the development standards and other regulations of this Code.
- B. Limited Uses. Uses that are allowed subject to specific limitations are listed in Table 3-14 with an “L”. These uses are allowed if they comply with the limitations listed in the footnotes to the table and the development standards and other regulations of this Code.
- C. Conditional Uses. Uses that are allowed if approved through the conditional use process are listed in Table 3-14 with a “C”. These uses are allowed provided they comply with the conditional use approval criteria, the development standards, and other regulations of this Code. Section 10.2.200 contains the conditional use process and approval criteria.
- D. Prohibited Uses. Uses listed in Table 3-14 with an “N” are prohibited. Existing uses may be subject to the regulations of Section 10.7.700, Nonconforming Development.
- E. Accessory Uses. Uses that are accessory to a primary use are allowed if they comply with specific regulations for accessory uses and all development standards.

Table 3-14
Industrial Zones: Use Table

USE CATEGORY	LI	GI	BIP
RESIDENTIAL	L ^[1]	L ^[1]	
Household Living	N	N	N
Group Living	N	N	N
Transitional Housing	N	N	N
Home Occupation	N	N	N
Bed & Breakfast	N	N	N
CIVIC / INSTITUTIONAL			
Basic Utilities	P	P	P
Major utility transmission facilities	C	C	C
Colleges	N	N	N
Community Recreation	N	N	C
Cultural Institutions	N	N	C
Day Care	L ^[2]	L ^[2]	L ^[2]
Emergency Services	C	C	C
Postal Services	C	N	C
Religious Institutions	N	N	N
Schools	L ^[3]	L ^[3]	L ^[3]
Social/ Fraternal Clubs / Lodges	N	N	N

<u>COMMERCIAL</u>			
Commercial Lodging	N	N	N
Eating & Drinking Establishments	L ^[4]	L ^[4]	L[4]
Entertainment – Orientated:			
- Major Event Entertainment	N	N	N
- Outdoor Entertainment	N	N	N
- Indoor Entertainment	N	N	C
General Retail:			
- Sales – Orientated	N	L ^[4]	L[4]
- Personal Services	N	N	L[9]
- Repair – Orientated	N	N	P
- Bulk Sales	N	N	N
- Outdoor Sales	N	N	N
- Animal - Related	N	N	N
Medical Centers	N	N	C
Motor Vehicle Related:			
- Motor Vehicles Sale / Rental	N	N	N
- Motor Vehicle Servicing / Repair	N	N	N
- Motor Vehicle Fuel Sales	N	N	N
Non-Accessory Parking	N	N	N
Office	L ^[5]	L ^[5]	L[10]
Self-Service Storage	N	P	P
<u>INDUSTRIAL</u>			
Industrial Services	L ^[6]	P	L[6]
Manufacturing & Production:			
- Light Industrial	P	P	L[7]
- General Industrial	N	P	L[7]
Call Centers	P	P	P
Railroad Yards	N	P	N
Research & Development	P	P	P
Warehouse / Freight Movement	P	P	P
Waste – Related	C	C	C
Wholesale Sales	P	P	C
<u>OTHER</u>			
Agriculture / Horticulture	P	P	P
Cemeteries	N	N	N
Detention Facilities	C	P	C
Mining	N	C	N
Wireless Communication Facilities	L[8]	L[8]	L[8]
Information	P	P	P

Table 3-6 Footnotes:

- [1] One (1) dwelling is permitted for a watchman employed on the premises.
- [2] On-site day care for employees is permitted in the LI, GI and BIP zones. Conditional use permit approval is required for a day care facility that is intended to serve more than on-site employees.

- [3] Educational uses for high school or college level programs governed by ORS Chapter 300 et. seq. comprising no more than 20% of the floor space of a building owned by a governmental agency shall be permitted provided that the following are met: (1) the use is separated from all industrial activities located on the site; (2) the use is located totally within a building; and (3) hours of operation are limited from 7:00 to 7:00 P.M.
- [4] Supportive retail or commercial use, such as convenience store, coffee shop, deli or business service, up to 3,000 square feet per use, permitted if the Director finds that it primarily serves the needs of the people working or living in the industrial area (drive-through prohibited). Employee cafeterias are permitted as an accessory use.
- [5] In the LI zone, up to 50% and in the GI zone, up to 20% of the total floor area of the development may consist of executive and administrative offices that relate to the industrial use of the property. Stand-alone offices in association with uses allowed in the LI but are at other locations are allowed in that district. Multiple tenant office buildings are prohibited.
- [6] Industrial services in the LI and BIP zones must take place within an enclosed building.
- [7] All processing and manufacturing must take place within a building or enclosed structure. Outdoor storage of raw materials, finished products and vehicles is prohibited.
- [8] Wireless communication facilities are regulated by the standards in Article 8.
- [9] Personal services limited to 3,000 square feet in conjunction with larger uses.
- [10] Limited to corporate offices where the majority of traffic generated comes from employees and not the general public.

10.3.530 INDUSTRIAL ZONE DEVELOPMENT STANDARDS

The development standards listed below are applicable to all development within the Light Industrial, General Industrial and Business Industrial Park zones. Development within these zones shall also comply with all other applicable requirements of this Code, including the general development standards in Article 8.

**Table 3-15
Industrial Zone Dimensional Requirements**

STANDARD	LI	GI	BIP
Minimum lot size	10,000 sf	10,000 sf	20,000 sf
Minimum lot width	100 ft.	100 ft.	100 ft.
Minimum lot depth	None	None	None
Minimum yard setbacks ^[1]	None	None	Front: 20 feet Interior Side: 10 feet Rear: 10 feet
Maximum building height ^[2]	None	None	45 feet
Maximum building coverage			50%
Minimum landscaping			15%

Footnotes:

- [1] A setback and buffer may be required where a LI, GI or BIP boundary abuts a less intensive zone. See screening and buffering standards in Article 8. When an industrial site is separated from a

residential zone by either a dedicated public street, or a railroad main line or spur track, no setback shall be required in that yard adjacent to the residential zone.

- [2] Building height unlimited per the Building Code with the installation of a sprinkler system approved by the Forest Grove Fire Department in all buildings over two (2) stories.

10.3.540 ADDITIONAL INDUSTRIAL ZONE STANDARDS

- A. Site Plan Review Required. Development in the LI, GI and BIP zones is subject to a Type II site plan review process.
- B. Parking. Parking, loading and unloading areas shall not be located within a required setback area.

No loading or unloading facilities shall be located adjacent to a residential district if there is an alternative location of adequate size for loading and unloading facilities that is not adjacent to a residential district.

Off-street surface parking shall not occupy more than 33% of the public street frontage. Where a site has frontage along a side street a surface parking lot may occupy more than 33% of the side street frontage. Parking areas located along a public street frontage shall be screened with any one or combination of the following techniques: solid perimeter wall, earthen berm or evergreen hedge with a minimum spacing of 3 feet and maximum height of 5 feet. Parking areas shall be landscaped as required in Development Code Section 10.8.415.

- C. Performance Standards. No land or structure in the LI, GI and BIP zones shall be used or occupied unless there is continuing compliance with the standards set forth by the Environmental Protection Agency, Oregon Department of Environmental Quality and Metro relative to noise, vibration, smoke and particulate matter, odors, heat and glare, and insects and rodents.
- D. Solid Waste Collection Areas. Exterior solid waste dumpsters and solid waste collection areas must be screened from the public street and any abutting residential, commercial or town center zones.
- E. Mechanical Equipment. Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators, must be screened from the street and any abutting residential zones by walls, fences, or vegetation tall enough to screen the equipment. Mechanical equipment on roofs must be screened from the ground level of any abutting residential zone.
- F. Building Façade and Massing. Where building elevations are oriented to the street, architectural features, such as windows, pedestrian entrances, building off-sets, projections, change in materials or change in colors shall be used to break-up building surfaces and volumes.

Buildings exceeding 100 feet in the horizontal direction facing a public street shall include vertical relief using windows or vertical design elements incorporating change in exterior building materials or landscape screening.

Recessed entries or canopies shall be used at the entrances of buildings in order to reinforce a pedestrian-scale and to break-up large blank walls.

G. Landscaping. Except for driveways and parking areas, the front setback area along a primary public street frontage shall be landscaped with lawn, trees, hedges or ornamental flowers. Such landscaping shall be maintained in good order.

I. Signage. Pole signs are prohibited within areas zoned as Business Industrial Park. Free standing signs shall be monument type signs no more than five feet in height with a maximum area of 40 square feet including face and pedestal.

Multi-tenant complexes shall provide unified monument signage for individual tenants near an access point for the complex. Such signs shall comply with the requirements of Section 10.8.830(D). Monument shall be not be placed within any clear vision area required in Section 10.8.155.

J. Site Circulation. All roadways and drives shall include sidewalks on at least one side of the roadway or drive with the exception of vehicle facilities that provide access solely to loading and service areas.

All pedestrian connections to the public sidewalk shall include canopy trees spaced at maximum of 30 feet on center. Coniferous trees are permitted with approval of the Director. Trees shall be placed within planting beds sized appropriately for the tree species using tree planting best practices adopted by the International Society of Arboriculture or similar professional organization.

K. Surface Water Management. When required, on-site surface water management facilities, such as detention ponds and swales, shall be incorporated into open space and landscaped areas through the use of unifying landscape elements. The Director shall make a determination as to whether the design meets the intent of this standard. The Director's determination is appealable to the Planning Commission.

PLANNING COMMISSION FINDINGS AND DECISION NUMBER 16-02

RECOMMENDATION TO CITY COUNCIL ON AMENDMENTS TO DEVELOPMENT CODE TO ESTABLISH DEVELOPMENT STANDARDS IN THE BUSINESS INDUSTRIAL PARK ZONE

File No. 311-15-000027-PLNG

WHEREAS, the City Council on January 27, 2014 adopted Ordinance 2014-01 and 2014-02 updating the Forest Grove Comprehensive Plan; and

WHEREAS, the updated Forest Grove Comprehensive Plan established a new Campus Employment plan designation; and

WHEREAS, the Campus Employment plan designation is intended for development of industrial and office parks with a high level of amenity value; and

WHEREAS, the City desires to amend the text of Article 3 of the Forest Grove Development Code to create the Business Industrial Park (BIP) zoning district to implement the Campus Employment Comprehensive Plan designation; and

WHEREAS, the Development Code amendments establish uses and standards for development within the Business Industrial Park zone consistent with the intent of Campus Employment Plan designation; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed amendments to the Development Code on January 19, 2016.

Now, therefore, The Planning Commission of the City of Forest Grove recommends to the City Council approval of amendment to Article 3 of the Forest Grove Development Code shown on EXHIBIT A including the following modification recommended by the Planning Commission:

1. Revise amendment to Development Code Section 10.3.540(I) (Additional Industrial Zone Standards - Signs):

Multi-tenant complexes shall provide unified monument signage for individual tenants near an access point for the complex. Such signs shall comply with the requirements of Section 10.8.830(D). Monument shall be not be placed within any clear vision area required in Section 10.8.155.

The Planning Commission also makes the following findings in support of this decision:

Section 1. The recommended amendments are consistent with and meet the provisions of Development Code Section 10.2.630 Review Criteria pertaining to zoning text amendments:

- A. The text amendment is consistent with relevant goals and policies of the Forest Grove Comprehensive Plan.

Finding: The text amendment to establish the Business Industrial Park zone is consistent with the Land Use, Economic Development and Urbanization goals and policies identified in the Forest Grove Comprehensive Plan for the following reasons.

The BIP zone is intended to implement the Campus Employment designation of the Forest Grove Comprehensive Plan through the identification of allowed uses and the establishment of development standards. The BIP zone allows a mixture of light industrial, employment, and office uses, together with some small-scale commercial uses. The development standards within the zone require well-landscaped, attractive and cohesive developments.

The Comprehensive Plan states the Campus Employment district “is intended to contain supportive retail development and business services” Furthermore, the Comprehensive Plan states Typical uses [within the Campus Employment district] include high technology companies, -call centers, research and development firms, and business incubators.”

As stated in the Comprehensive Plan “The Campus Employment designation is intended for development of industrial and office parks with a high level of amenity value including landscaping and open space.” The Business Industrial Park zone establishes development standards consistent with the Comprehensive Plan.

The Comprehensive Plan states industrial activities within the Campus Employment District typically take place in enclosed structures. To comply with this requirement wording is proposed in the text amendment to require “All processing and manufacturing must take place within a building or enclosed structure. Outdoor storage of raw materials, finished products and vehicles is prohibited.”

- B. The text amendment is consistent with relevant statewide and regional planning goals, programs and rules.

Finding: The recommended amendment is comply with the following Statewide Land Use Planning and regional planning goals, programs and rules:

1. Statewide Land Use Planning Goals

Finding: Goal 9: Economic Development: Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies.

OAR 660-009-0025 implements Statewide Planning Goal 9. Under OAR 660-009-0025, cities and counties must adopt measures adequate to implement policies of OAR 660-009-0020 (Industrial and Other Employment Development Policies). Appropriate implementing measures include amendments to plan and zone map designations, land

use regulations, public facility plans, and transportation system plans. This amendment is to land use regulations to implement the Campus Employment Comprehensive Plan designation. Since development in the Campus Employment designation and Business Improvement Park zone provides for employment opportunities the recommended amendment meets Statewide Plan Use Planning Goal 9.

2. Metro Regional Framework Plan

Finding: The purpose of Metro Regional Framework Plan Land Use Policy 1.5.3 is to ensure that all neighborhoods and all people have access to opportunity and share the benefits, as well as burdens, of economic and population growth in the region. The recommended expands local opportunities for employment. As such, the amendment furthers the intent of Policy 1.5.3 by promoting employment for Forest Grove residents so that residents participate in the benefits of a strong local economy.

The Metro 2040 Growth Concept, implemented through Metro Regional Framework Plan, encourages the mixing of various types of employment. The Campus Employment Comprehensive Plan designation and corresponding Business Industrial Park zone allows for a variety of employment activities meeting employment needs identified in the City's Economic Opportunities Analysis adopted in 2009. Such uses include industrial services, manufacturing, call centers, research and development, warehousing, wholesale sales, office, and limited retail. These activities meet the intent of the Metro 2040 Growth Concept.

3. Metro Regional Functional Plan

Finding: The recommended amendment is consistent with Title 4 of the Metro Regional Functional Plan. Title 4 addresses industrial and other employment areas in the regional. The purpose and intent statement of Title 4 promotes a strong regional economy. To improve the economy, Title 4 seeks to cluster activities in proximity to one another rather than in dispersed locations. The recommended amendment provides an opportunity to zone land near existing industrial areas to provide complementary employment activities. Such activities include industrial services, warehousing, and uses serving employees working in industrial areas.

TOM BECK, Chair

Date

EXHIBIT A
PLANNING COMMISSION RECOMMENDED DEVELOPMENT CODE AMENDMENTS
File Number 311-15-000027-PLNG

INDUSTRIAL ZONES

10.3.500 PURPOSE

The City of Forest Grove has established two industrial zones to implement the Industrial designation of the Comprehensive Plan. Non-industrial uses are restricted to protect industrial lands for employment and to minimize land use conflicts.

10.3.510 LIST OF INDUSTRIAL ZONES

A. Light Industrial (LI)

The LI zone is intended for a wide variety of manufacturing and other industrial uses with controlled external impacts. These types of industries are often involved in the secondary processing of materials into components, the assembly of components into finished products, transportation, communication and utilities, wholesaling and warehousing. Industrial activities occur within enclosed buildings. On a limited basis, supporting commercial and office uses are permitted in the LI zone.

B. General Industrial (GI)

The GI zone is intended for industrial uses that are generally not compatible with residential development because of their operational characteristics. This district is also intended for uses that may require extensive outdoor areas to conduct business activities or for product storage or display. General industrial uses include those involved in the processing of raw materials into refined products and/or industrial uses that have external impacts. The purpose of this district is to permit the normal operations of any industry that can meet and maintain compliance with established state and federal performance standards. The district is intended to contain supportive retail development. Commercial or retail uses that do not primarily serve the needs of people working or living in the employment and industrial areas are prohibited in this district. New residential uses are not permitted in the GI zone.

C. Business Industrial Park (BIP)

The BIP zone is intended to implement the Campus Employment designation of the Forest Grove Comprehensive Plan through the identification of allowed uses and the establishment of development standards. The BIP zone allows a mixture of light industrial, employment, and office uses, together with some small-scale commercial uses. The development standards within the zone require well-landscaped, attractive and cohesive developments.

10.3.520 USE REGULATIONS

Refer to Article 12 for information on the characteristics of uses included in each of the Use Categories.

- A. Permitted Uses. Uses allowed in the Industrial zones are listed in Table 3-14 with a "P". These uses are allowed if they comply with the development standards and other regulations of this Code.
- B. Limited Uses. Uses that are allowed subject to specific limitations are listed in Table 3-14 with an "L". These uses are allowed if they comply with the limitations listed in the footnotes to the table and the development standards and other regulations of this Code.
- C. Conditional Uses. Uses that are allowed if approved through the conditional use process are listed in Table 3-14 with a "C". These uses are allowed provided they comply with the conditional use approval criteria, the development standards, and other regulations of this Code. Section 10.2.200 contains the conditional use process and approval criteria.
- D. Prohibited Uses. Uses listed in Table 3-14 with an "N" are prohibited. Existing uses may be subject to the regulations of Section 10.7.700, Nonconforming Development.
- E. Accessory Uses. Uses that are accessory to a primary use are allowed if they comply with specific regulations for accessory uses and all development standards.

**Table 3-14
Industrial Zones: Use Table**

USE CATEGORY	LI	GI	BIP
<u>RESIDENTIAL</u>	L ^[1]	L ^[1]	
Household Living	N	N	N
Group Living	N	N	N
Transitional Housing	N	N	N
Home Occupation	N	N	N
Bed & Breakfast	N	N	N
<u>CIVIC / INSTITUTIONAL</u>			
Basic Utilities	P	P	P
Major utility transmission facilities	C	C	C
Colleges	N	N	N
Community Recreation	N	N	C
Cultural Institutions	N	N	C
Day Care	L ^[2]	L ^[2]	L[2]

Emergency Services	C	C	<u>C</u>
Postal Services	C	N	<u>C</u>
Religious Institutions	N	N	<u>N</u>
Schools	L ^[3]	L ^[3]	<u>L[3]</u>
Social/ Fraternal Clubs / Lodges	N	N	<u>N</u>
<u>COMMERCIAL</u>			
Commercial Lodging	N	N	<u>C</u>
Eating & Drinking Establishments	L ^[4]	L ^[4]	<u>L[4]</u>
Entertainment – Orientated:			
- Major Event Entertainment	N	N	<u>N</u>
- Outdoor Entertainment	N	N	<u>N</u>
- Indoor Entertainment	N	N	<u>C</u>
General Retail:			
- Sales – Orientated	N	L ^[4]	<u>L</u>
- Personal Services	N	N	<u>P</u>
- Repair – Orientated	N	N	<u>P</u>
- Bulk Sales	N	N	<u>C</u>
- Outdoor Sales	N	N	<u>C</u>
- Animal - Related	N	N	<u>C</u>
Medical Centers	N	N	<u>C</u>
Motor Vehicle Related:			
- Motor Vehicles Sale / Rental	N	N	<u>N</u>
- Motor Vehicle Servicing / Repair	N	N	<u>N</u>
- Motor Vehicle Fuel Sales	N	N	<u>N</u>
Non-Accessory Parking	N	N	<u>N</u>
Office	L ^[5]	L ^[5]	<u>P</u>
Self-Service Storage	N	P	<u>P</u>
<u>INDUSTRIAL</u>			
Industrial Services	L ^[6]	P	<u>P</u>
Manufacturing & Production:			
- Light Industrial	P	P	<u>L[7]</u>
- General Industrial	N	P	<u>L[7]</u>
Call Centers	P	P	<u>P</u>
Railroad Yards	N	P	<u>N</u>
Research & Development	P	P	<u>P</u>
Warehouse / Freight Movement	P	P	<u>P</u>
Waste – Related	C	C	<u>C</u>
Wholesale Sales	P	P	<u>P</u>
<u>OTHER</u>			
Agriculture / Horticulture	P	P	<u>P</u>
Cemeteries	N	N	<u>N</u>
Detention Facilities	C	P	<u>C</u>
Mining	N	C	<u>N</u>
Wireless Communication	L[8]	L[8]	<u>L[8]</u>

Facilities			
Information	P	P	P

Table 3-6 Footnotes:

- [1] One (1) dwelling is permitted for a watchman employed on the premises.
- [2] On-site day care for employees is permitted in the LI, GI and BIP zones. Conditional use permit approval is required for a day care facility that is intended to serve more than on-site employees.
- [3] Educational uses for high school or college level programs governed by ORS Chapter 300 et. seq. comprising no more than 20% of the floor space of a building owned by a governmental agency shall be permitted provided that the following are met: (1) the use is separated from all industrial activities located on the site; (2) the use is located totally within a building; and (3) hours of operation are limited from 7:00 to 7:00 P.M.
- [4] Supportive retail or commercial use, such as convenience store, coffee shop, deli or business service, up to 3,000 square feet per use, permitted if the Director finds that it primarily serves the needs of the people working or living in the industrial area (drive-through prohibited). Employee cafeterias are permitted as an accessory uses.
- [5] In the LI zone, up to 50% and in the GI zone, up to 20% of the total floor area of the development may consist of executive and administrative offices that relate to the industrial use of the property. Stand-alone offices in association with uses allowed in the LI but are at other locations are allowed in that district. Multiple tenant office buildings are prohibited.
- [6] Industrial services in the LI and BIP zones must take place within an enclosed building.
- [7] All processing and manufacturing must take place within a building or enclosed structure. Outdoor storage of raw materials, finished products and vehicles is prohibited.
- [8] Wireless communication facilities are regulated by the standards in Article 8.

10.3.530 INDUSTRIAL ZONE DEVELOPMENT STANDARDS

The development standards listed below are applicable to all development within the Light Industrial, General Industrial and Business Industrial Park zones. Development within these zones shall also comply with all other applicable requirements of this Code, including the general development standards in Article 8.

**Table 3-15
Industrial Zone Dimensional Requirements**

STANDARD	LI	GI	BIP
Minimum lot size	10,000 sf	10,000 sf	20,000 sf
Minimum lot width	100 ft	100 ft	100 ft
Minimum lot depth	None	None	None
Minimum yard setbacks ^[1]	None	None	Front: 20 feet Interior Side: 10 feet Rear: 10 feet
Maximum building height ^[2]	None	None	45 feet

Maximum building coverage			50%
Minimum landscaping			15%

Footnotes:

- [1] A setback and buffer may be required where a LI, GI or BIP boundary abuts a less intensive zone. See screening and buffering standards in Article 8. When an industrial site is separated from a residential zone by either a dedicated public street, or a railroad main line or spur track, no setback shall be required in that yard adjacent to the residential zone.
- [2] Building height unlimited per the Building Code with the installation of a sprinkler system approved by the Forest Grove Fire Department in all buildings over two (2) stories.

10.3.540 ADDITIONAL INDUSTRIAL ZONE STANDARDS

- A. Site Plan Review Required. Development in the LI, GI and BIP zones is subject to a Type II site plan review process.
- B. Parking. Parking, loading and unloading areas shall not be located within a required setback area.

No loading or unloading facilities shall be located adjacent to a residential district if there is an alternative location of adequate size for loading and unloading facilities that is not adjacent to a residential district.

Off-street surface parking shall not occupy more than 33% of the public street frontage. Where a site has frontage along a side street a surface parking lot may occupy more than 33% of the side street frontage. Parking areas located along a public street frontage shall be screened with any one or combination of the following techniques: solid perimeter wall, earthen berm or evergreen hedge with a minimum spacing of 3 feet and maximum height of 5 feet. Parking areas shall be landscaped as required in Development Code Section 10.8.415.

- C. Performance Standards. No land or structure in the LI, GI and BIP zones shall be used or occupied unless there is continuing compliance with the standards set forth by the Environmental Protection Agency, Oregon Department of Environmental Quality and Metro relative to noise, vibration, smoke and particulate matter, odors, heat and glare, and insects and rodents.
- D. Solid Waste Collection Areas. Exterior solid waste dumpsters and solid waste collection areas must be screened from the public street and any abutting residential, commercial or town center zones.
- E. Mechanical Equipment. Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators, must be screened from the street and any abutting residential zones by walls, fences, or vegetation tall enough to screen the equipment. Mechanical equipment on roofs must be screened from the ground level of any abutting residential zone.

F. Building Façade and Massing. Where building elevations are oriented to the street, architectural features, such as windows, pedestrian entrances, building off-sets, projections, change in materials or change in colors shall be used to break-up building surfaces and volumes.

Buildings exceeding 100 feet in the horizontal direction facing a public street shall include vertical relief using windows or vertical design elements incorporating change in exterior building materials or landscape screening.

Recessed entries or canopies shall be used at the entrances of buildings in order to reinforce a pedestrian-scale and to break-up large blank walls.

G. Landscaping. Except for driveways and parking areas, the front setback area along a primary public street frontage shall be landscaped with lawn, trees, hedges or ornamental flowers. Such landscaping shall be maintained in good order.

I. Signage. Pole signs are prohibited within areas zoned as Business Industrial Park. Free standing signs shall be monument type signs no more than five feet in height with a maximum area of 40 square feet including face and pedestal.

Signs for multi-tenant complexes shall comply with the requirements of Section 10.8.830(D). Monument signs shall not be placed within any clear vision area required in Section 10.8.155.

Interior lighted plastic signs are prohibited within any area zoned as Business Industrial Park.

J. Site Circulation. All roadways and drives shall include sidewalks on at least one side of the roadway or drive with the exception of vehicle facilities that provide access solely to loading and service areas.

All pedestrian connections to the public sidewalk shall include canopy trees spaced at maximum of 30 feet on center. Coniferous trees are permitted with approval of the Director. Trees shall be placed within planting beds sized appropriately for the tree species using tree planting best practices adopted by the International Society of Arboriculture or similar professional organization.

K. Surface Water Management. When required, on-site surface water management facilities, such as detention ponds and swales, shall be incorporated into open space and landscaped areas through the use of unifying landscape elements. The Director shall make a determination as to whether the design meets the intent of this standard. The Director's determination is appealable to the Planning Commission.

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February 23, 2016

NewsTimes

Legal Ads/Public Notice:

To be published: Wednesday, March 9, 2016

NOTICE OF PUBLIC HEARING FOR THE CITY OF FOREST GROVE

NOTICE IS HEREBY GIVEN that the Forest Grove City Council will hold a Public Hearing on **Monday, March 14, 2016**, at 7:00 p.m. or thereafter, at the Forest Grove Community Auditorium, 1915 Main Street, to consider the Planning Commission's recommendation to approve the following proposal:

Proposal: Amendments to the text of the Development Code to prohibit marijuana activities regulated by the State in residential zone districts, prohibit certain marijuana consumption activities in commercial districts, and amending development requirements for certain marijuana activities. The following Development Code sections are affected by this proposal: 10.3.120 (Use Regulations for Residential Zones), 10.3.320 (Use Regulations for Commercial Zones), 10.3.420 (Use Regulations for Town Center Zones), 10.7.065 (Home Occupations), 10.8.1100 (Medical Marijuana Dispensaries Development Requirements) and 10.8.1110 (Other Marijuana Facilities – new section).

Applicant: City of Forest Grove

File Number: 311-15-00028-PLNG

Criteria: Forest Grove Development Code Section 10.2.630: A) The text amendment is consistent with the relevant goals and policies of the Forest Grove Comprehensive Plan; and B) The text amendment is consistent with the relevant statewide and regional planning goals, program and rules.

All persons will be given a reasonable opportunity to give testimony about this proposal responding to the review criteria. If an issue is not raised in the hearing (by person or letter) or if the issue is not explained in sufficient detail to allow the City Council to respond to the issue, then that issue cannot be used for an appeal to the Land Use Board of Appeals. If additional documents or evidence are provided in support of the application, any party shall be entitled to a continuance of the hearing. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. A copy of the report is 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, Jon Holan. Community Development Director, jholan@forestgrove-or.gov.

Anna D. Ruggles, CMC, City Recorder

Published: March 9, 2016

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Proposed Marijuana Amendments

Forest Grove City Council
Public Hearing
March 14, 2016

A place where businesses and families thrive.

Purpose of Presentation

- 1) Seek Council Approval of certain Development Code and City Code Amendments regulating marijuana-related activities within City limits.
- 2) Establish a framework for discussing future possible Development Code and City Code amendments.

History

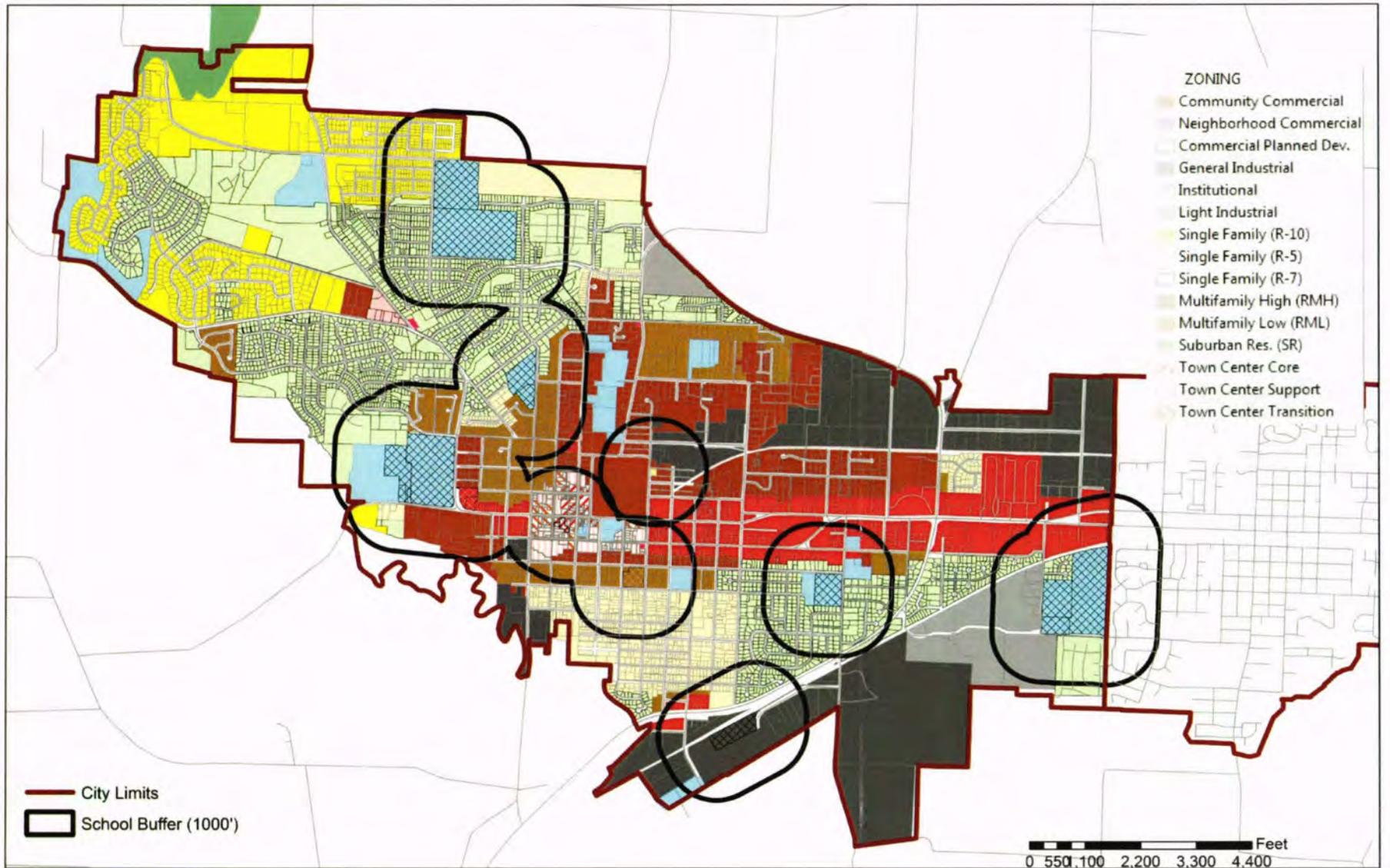
HB 3400, passed in 2015, established 7 regulated activities:

- Medical (Oregon Health Authority)
 - Dispensaries (*State reg's prohibit within 1000 feet from public or private school and 1000 feet from another dispensary. City established other locational, development and operational regulations in April, 2015*)
 - Growing
 - Processing
- Recreational (Oregon Liquor Control Commission)
 - Retail (*State reg's prohibit within 1000 feet from public or private school*)
 - Growing
 - Processing
 - Wholesale

Current Local Requirements

- Locational:
 - Residential Districts:
 - Recreational Marijuana Retailers (likely) (except Suburban Residential)
 - Medical and Recreational grow operations (except RMH)
 - Neighborhood Commercial District:
 - Recreational Marijuana Retailers
 - Community Commercial District:
 - Medical Dispensaries
 - Recreational Marijuana Retailers
 - Town Center Districts:
 - Recreational Marijuana Retailers (not allowed due to State school buffer requirements)
 - Light Industrial District:
 - Medical grow operations
 - Recreational grow operations
 - Marijuana Wholesalers
 - General Industrial District:
 - Medical grow operations
 - Recreational grow operations
 - Marijuana Wholesalers
 - Marijuana Processors
 - Exclusive Farm Use District (within City but outside UGB):
 - Grow Operations
- Development and Operational Regulations:
 - Medical Marijuana dispensaries

Consumption not addressed



History

- Council Work Sessions - September 14 and November 9, 2015
 - Prohibit Marijuana Activities (Retail and Grow activities) in residential districts; and
 - Allow dispensaries and recreational retail outlets in TC districts and CC District (Both are currently prohibited in the Town Center districts due to state buffer requirements from schools).
- Staff prepared amendments based on above and moved forward due to increasing interest locating retail, processing and grow operations in Forest Grove. The proposed amendments also address:
 - Establishing development and operational requirements for all marijuana related activities
 - Prohibiting marijuana consumption in commercial establishments in the NC, CC and TC zone districts
- Planning Commission on January 19th recommended adoption of the following proposed Development Code Amendments subject to revisions

Proposed Development Code Amendments

1. In Residential Districts: Prohibit Marijuana Retail Sales
2. In Residential Districts: amend the definition of "Neighborhood Stores" to explicitly exclude marijuana retail outlets*
3. In Residential Districts: Prohibit Marijuana Grow Sites
4. In Neighborhood Commercial District: Prohibit Marijuana Retail outlets and prohibit on-site consumption of marijuana related products in taverns, lounges or other commercial uses

In the Community Commercial district: prohibit on-site consumption of marijuana related products in taverns, lounges or other commercial uses

*Proposed for deletion by Planning Commission

Proposed DC Amendments continued

5. For the Town Center districts: Allow Medical Marijuana Dispensaries and Marijuana Retail activities, and prohibit taverns, lounges or other commercial uses intended for the on-site consumption of marijuana related products
6. Prohibit Marijuana related activities as a Home Occupation
7. Revise Medical Marijuana Dispensaries Development Standards to apply to Marijuana Recreational Retail activities
8. Add new Development Standards to apply to marijuana activities other than dispensaries and retailers
 - New requirement for Odor Control for grow and processor operations
 - Allow for greenhouses and open field grow operations

Proposed Requirements

- Location:
 - Residential Districts:
 - ~~Recreational Marijuana Retailers (likely) (except Suburban Residential)~~
 - ~~Medical and Recreational grow operations (except RMH)~~
 - Neighborhood Commercial District:
 - ~~Recreational Marijuana Retailers~~
 - Community Commercial District:
 - Medical Dispensaries
 - Recreational Marijuana Retailers
 - Town Center Districts:
 - Recreational Marijuana Retailers (not allowed due to State school buffer requirements)
 - *Medical Dispensaries*
 - Light Industrial District:
 - Medical grow operations
 - Recreational grow operations
 - Marijuana Wholesalers
 - General Industrial District:
 - Medical grow operations
 - Recreational grow operations
 - Marijuana Wholesalers
 - Marijuana Processors
 - Exclusive Farm Use District:
 - Grow Operations
- Development and Operational Regulations
 - Medical Dispensaries
 - *Recreational Retailers*
 - *Medical and Recreational Grow operations*
 - *Medical and Recreational Processors*
 - *Wholesalers*
- Consumption prohibited in NC, CC and TC zone districts

Planning Commission Proposed DC Revisions

- Three grammatical/minor revisions:
 - Revise Amendment 1 to change "Any" to "No" and delete "not" for grammatical purposes.
 - Delete Amendment 2 because Amendment 1 addresses the prohibition of retail marijuana sales in residential zone district.
 - For Amendment 3, insert "as regulated by the state" into the text to clarify it does not apply to personal growing of marijuana.
- Revise Amendment 7 to reduce hours of operation from 10 pm to 8 pm to coincide with other business hours in the community.
- Ordinance Exhibit reflects Planning Commission revisions

Council Considerations Development Code

- Proposed reduction in Hours of Operation from 10 pm to 8 pm as recommended by the Planning Commission
- Allow Grow Operations in greenhouses or in open fields

Proposed City Code Amendments

Expand Current Adopted Operational Requirements from Marijuana Dispensaries to All Marijuana Activities

- Compliance with State Law
- Obtain Business License
- Clarify and extend opaque bag requirement to Retail Outlets
- Prohibit establishments for the on-site consumption of marijuana products
- If Council approves change of operating hours under Development Code, hours of operation needs to be amended under Sectyion7.860 C.

Findings and Conclusions

- The DC text amendment is consistent with relevant goals and policies of the Forest Grove Comprehensive Plan;
- The DC text amendment is consistent with relevant statewide and regional planning goals, programs and rules.
- Staff recommends approval of the proposed Development and City code amendments

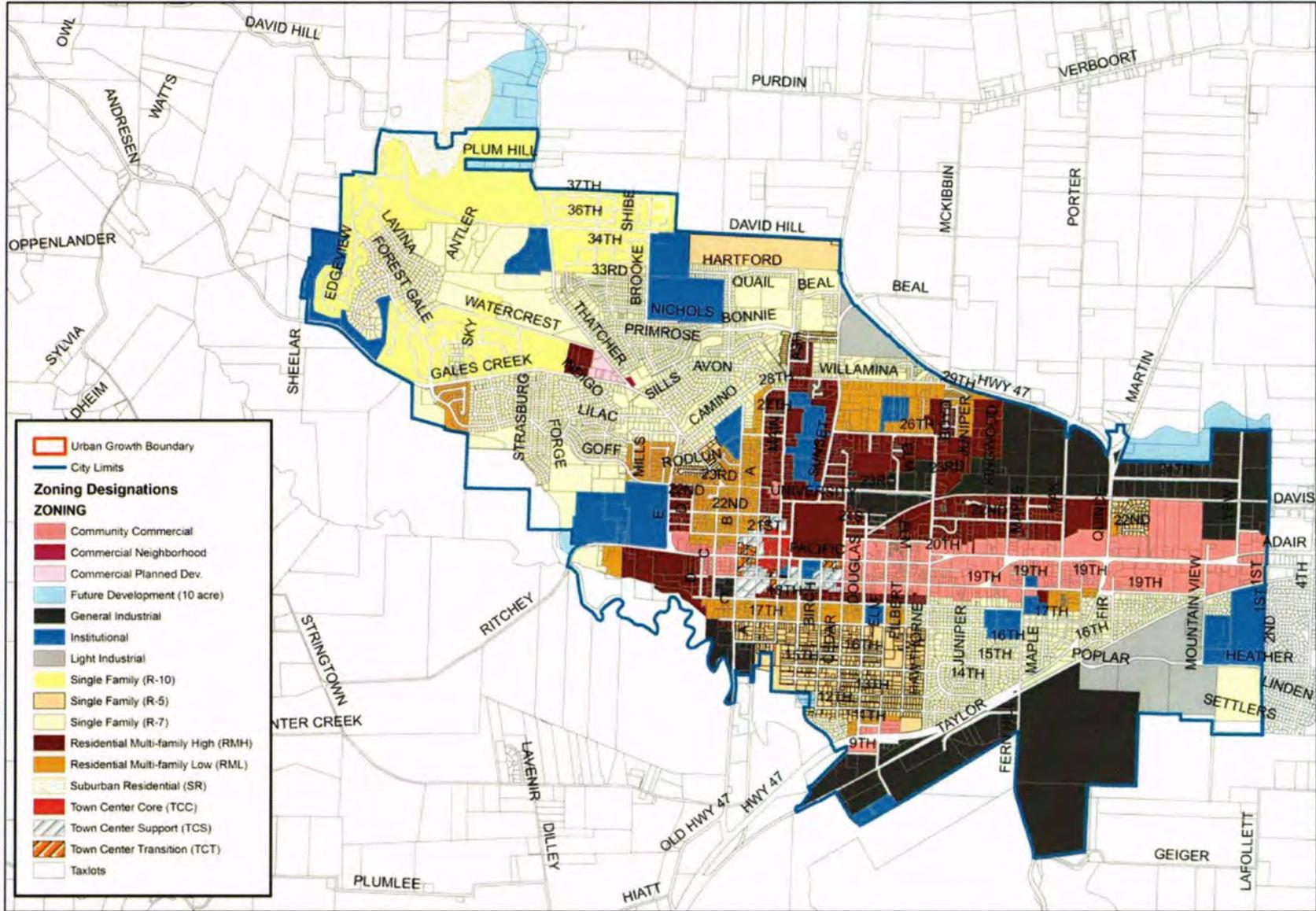
Framework for Future Discussions

- Buffers
 - Between same and other uses
- Other Potential Development Requirements – For Example:
 - Additional setbacks from residential districts
 - Signage(?)
 - Building design
 - Additional Lighting
- Local Sales Tax

Extra Slides

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City of Forest Grove Zoning Designations March 2014



ATTACHMENT 7

Commercial Corridor Vacant Land and Buildings



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<i>CITY RECORDER USE ONLY:</i>	
AGENDA ITEM #:	<u>11</u>
FINAL ACTION:	<u>for Reading</u>

CITY COUNCIL STAFF REPORT

TO: City Council

FROM: Jon Holan, Community Development Director, Jesse VanderZanden, City Manager

MEETING DATE: March 14, 2016

PROJECT TEAM: Jon Holan, Community Development, Janie Schutz, Police Chief, Kevin Ellensburg, Police Captain

SUBJECT TITLE: Proposed Development and City Amendments pertaining to certain Marijuana Activities; File No. 311-15-000028-PLNG

ACTION REQUESTED:

<input checked="" type="checkbox"/>	Ordinance	<input type="checkbox"/>	Resolution	<input type="checkbox"/>	Motion	<input type="checkbox"/>	Informational
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X all that apply

ISSUE STATEMENT: Staff is requesting City Council action to consider amendments to the Development and City codes to prohibit marijuana activities regulated by the State in residential zone districts, prohibit certain marijuana consumption activities in commercial districts, and amending development and operational requirements for certain marijuana activities.

BACKGROUND: Staff held two work sessions with the City Council on September 14th and November 9th to ask direction on various marijuana related policy options. Out of those two work sessions, the Council gave the following guidance:

- There will be no ban on marijuana related activities but rather the focus will be allowed location of these activities;
- Marijuana activities regulated by the state should not be allowed in residential districts; and
- Dispensaries and retail outlets should be allowed in Town Center districts and the Community Commercial District (currently dispensaries are prohibited in the Town Center districts).

Staff is now forwarding a set of proposed amendments to address the above direction from the Council. The reason is that staff is receiving a number of inquiries on recreational marijuana retail outlets, and grow and processing sites. The amendments are intended to preclude these operations in residential districts as well as the Neighborhood Commercial zone district. In addition, the amendments would allow dispensaries and retail outlets in the Town Center districts as well as establishing development requirements for marijuana related activities beyond medical marijuana dispensaries. Staff has also included a proposed amendment to prohibit consumption of marijuana related products in certain establishments.

Staff recommended eight proposed amendments to the Development Code and one amendment to the City Code. The details and analysis of each Development Code amendment is provided in the attached staff report. Regarding the amendment to the City Code, the City Council adopted operational requirements for medical marijuana dispensaries. The amendment would extend those operational requirements to all marijuana related facilities.

The Planning Commission held a public hearing on the matter on January 19, 2016. As a of their review, the Planning Commission is recommending the City Council adopt the proposed amendments to the Development Code with the following four modifications:

1. Revise Amendment 1 to change "Any" to "No" and delete "not" for grammatical purposes.
2. Delete Amendment 2 because Amendment 1 addresses the prohibition of retail marijuana sales in residential zone district.
3. For Amendment 3, insert "as regulated by the state" into the text to clarify it does not apply to personal growing of marijuana.
4. Revise Amendment 7 to reduce hours of operation from 10 pm to 8 pm to coincide with other business hours in the community.

The proposed Development Code amendments as revised by the Planning Commission is included as Exhibit A in the proposed Ordinance to amend the Development Code. Staff has no objections with the changes recommended by the Planning Commission. There may be some Council discussion regarding the proposed changes in the hours of operation. Options the Council may considered are:

1. Not accepting the change in the hours of operation; or
2. Modify the hours. For example, 8 pm may be appropriate from Sunday to Thursday and allow a 10 pm closing on Friday and Saturday.

The Council may want to discuss one other matter in Amendment 8. As proposed, the development requirements for grow operations would allow greenhouses, either permanent or temporary (see Subsection C under proposed Section 10.8.1110). There may be concern about allowing grow operations in such circumstances.

The proposed City Code amendments are as proposed by staff and is contained in Exhibit A of the proposed Ordinance to amend the City Code.

FISCAL IMPACT: There is no additional fiscal impact to the City other than the typical permit processing and possible enforcement actions which are encountered.

STAFF RECOMMENDATION: Staff recommends the City Council, as may be modified; adopt the attached ordinance to amend the Development and City codes, respectively.

ATTACHMENT(s):

- Attachment 1** Staff Report to Planning Commission; Planning Commission Findings and Decision Number 2016-03
- Attachment 2** Marijuana Zoning Analysis
- Attachment 3** Local Government Regulation of Marijuana in Oregon by League of Oregon Cities
- Attachment 4** House Bill 3400

ATTACHMENT 1

REPORT DATE: January 12, 2016

HEARING DATE: January 19, 2016

REQUEST: Amendments to the text of the Development Code to prohibit marijuana activities regulated by the State in residential zone districts, prohibit certain marijuana consumption activities in commercial districts, and amending development requirements for certain marijuana activities.

FILE NUMBER: 311-15-00028-PLNG

PROPERTY LOCATION: Not applicable

LEGAL DESCRIPTION: Not applicable

APPLICANT: City of Forest Grove, PO Box 326, Forest Grove, Oregon 97116

**APPLICABLE
STANDARDS
AND CRITERIA:**

City of Forest Grove Development Code:

- 10.1.700 et. seq. *Legislative Land Use Decision*
- 10.2.600 et. seq. *Development Code Text Amendment*
- 10.3.120 *Residential Zones—Use Regulations*
- 10.3.320 *Commercial Zones-Use Regulations*
- 10.3.420 *Town Center Zones-Use Regulations*
- 10.7.065 *Home Occupation Standards*
- 10.8.1100 *Medical Marijuana Dispensaries*

REVIEWING STAFF: Jon Holan, Community Development Director

RECOMMENDATION: Staff recommends approval of the proposed amendments.

I. LAND USE HISTORY

Recently passed state legislation (HB 3400 – see Attachment 4; Attachment 3 is a summary of the state requirements provided League of Oregon Cities) 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.

Medical marijuana related activities (i.e. dispensaries and grow sites for medical marijuana) are regulated by the Oregon Health Authority while the other activities are regulated by the Oregon Liquor Control Board. The significant difference from a local jurisdiction standpoint relates to dispensaries and retail outlets (i.e. recreational marijuana). Under state law, both dispensaries and retailers must be located beyond 1000 feet from a school. However, dispensaries must also be located 1000 feet from another dispensary. This separation does not apply to retail outlet or any of the other marijuana related activities.

State law also prohibits the following activities in areas zoned *exclusively* for residential use:

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

The issue for Forest Grove is that the City's Residential Zone Districts are not zoned exclusively for the residential use. Such facilities as parks and schools are allowed in these zone districts. More importantly, neighborhood commercial activities are also allowed in these zone districts. Thus, it is questionable if the state prohibition would apply to Forest Grove.

Based on the approved code amendments for medical marijuana dispensaries and current Development Code provisions (see Attachment 2 for zoning analysis), the seven marijuana related activities would be allowed in the following zone districts:

- Medical Marijuana Dispensaries: Community Commercial District.
- 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). Also likely in all residential districts except Suburban Residential.

- Medical and Commercial Marijuana Processors: General Industrial District
- Commercial Marijuana Wholesalers: General and Light Industrial districts
- Grow Operations: All residential districts except RMH and General and Light Industrial districts.

Dispensaries were addressed by the adoption of Ordinance Number 2015-02 (Development Code) and Ordinance Number 2015-03 (City Code). These codes established locational, development and operational requirements for medical marijuana dispensaries.

Subsequently, staff has held two work sessions with the City Council on September 14th and November 9th to ask direction on various marijuana related policy options. Out of those two work sessions, the Council has given the following guidance:

- There will be no ban on marijuana related activities but rather the focus will be allowed location of these activities;
- Marijuana activities regulated by the state should not be allowed in residential districts; and
- Dispensaries and retail outlets should be allowed in Town Center districts and the Community Commercial District (currently dispensaries are prohibited in the Town Center districts).

Additional issues need to be discussed concerning some issues including:

- Whether to require separation between marijuana facilities such as now required by the State for dispensaries;
- Apply additional development requirements for activities; and
- Revise the local code on sales tax.

II. PROPOSAL DESCRIPTION AND ANALYSIS

Staff is forwarding a set of proposed amendments (see Exhibit A for the proposed Development Code amendments; Attachment 1 are proposed amendments to the City Code which is not part of this review but will be considered by the City Council) to address the above direction from the Council. The reason is that staff is receiving a number of inquiries on recreational marijuana retail outlets, and grow and processing sites. The amendments are intended to preclude these operations in residential districts as well as the Neighborhood Commercial zone district. In addition, the amendments would allow dispensaries and retail outlets in the Town Center districts as well as establishing development requirements for marijuana related activities beyond medical marijuana dispensaries. Staff has also included a proposed amendment to prohibit consumption of marijuana related products in certain establishments.

A discussion of each proposed amendment is as follows:

- 1. Prohibit Marijuana Retail Sales in Residential Districts:** Currently, neighborhood stores are allowed as a conditional use in all residential zone districts except the Suburban Residential District. As part of the Council direction, this proposed amendment would explicitly prohibit recreational retail sales in the R-10, R-7, R-5, RML and RMH residential districts by amending Footnote 10 pertaining to Neighborhood Stores in Table 3-2, Residential Zones use table as follows:

[10] A neighborhood store, limited to a size of 2,000 square feet, is permitted with approval of a conditional use permit. Any retail outlet regulated by the Oregon Liquor Control Commission other than operating under an Off-Premises Sales License is not allowed in any residential zone district. Stores must be located along a collector street.

The only district not affected is the Suburban Residential District which does not allow Neighborhood stores.

As proposed, the amendment would prohibit any store requiring a license issued by OLCC other than an Off-Premises Sales License. This license pertains to the sale of sealed malt beverages, wine and cider. Thus, this amendment would prohibit any retail outlet for marijuana or hard liquor in residential areas (in the event an initiative is approved to allow hard liquor sales in stores) while allowing typical convenience store items such as beer, wine and cider.

If this amendment is viewed as an overreach, then the Commission should consider an alternative wording such as:

[10] A neighborhood store, limited to a size of 2,000 square feet, is permitted with approval of a conditional use permit. The selling of marijuana or other products containing cannabinoid are prohibited. Stores must be located along a collector street.

(Note: "Cannabinoid" is defined in state law as any chemical compounds that are the active constituents of marijuana.)

- 2. Amend the definition of "Neighborhood Stores" to explicitly exclude marijuana retail outlets in Residential Districts**

If Amendment 1 above is approved, the need for this proposed amendment is reduced. This amendment would clarify that stores for marijuana retail use is not included in the definition of a Neighborhood Store. Staff is proposing this amendment to close the loop on the matter.

- 3. Prohibit Marijuana Grow Sites within Residential Zone Districts**

Currently, the Development Code may allow marijuana grow sites (for either medical or recreational purposes) in residential districts. This proposed amendment would revise Footnote 11 on Table 3-2, Residential Zones use table, to prohibit grow sites in residential districts as follows:

[11] Agriculture uses such as truck farming and horticulture are permitted. Commercial agriculture uses including but not limited to marijuana grow site for commercial or medical purposes and buildings and the keeping of livestock and poultry (other than ordinary household pets, and domesticated fowl as identified in footnote (1±2)) are not permitted).

The revised footnote reference from 11 to 12 is to correct a clerical error.

4. Prohibit Marijuana Retail outlets in the Neighborhood Commercial District and prohibit taverns, lounges or other commercial uses intended for the on-site consumption of marijuana related products in both the Neighborhood Commercial and Community Commercial districts.

There are two Neighborhood Commercial districts in the City, the Plaid Pantry on Thatcher Road and the Lucky Market on Sunset Drive. The district in both instances are limited to the small parcels these stores are located. Beyond the parcel, the zoning and land use is essentially residential. To implement the Council's directive of precluding marijuana activities, the proposed amendment would revise Table 3-10, Commercial Zone Use Table, to preclude marijuana retail outlets in the Neighborhood Commercial District. The amendment also includes a proposed prohibition of uses intended to accommodate the consumption of marijuana. Attachment 1 provides the detailed amendment but the following is the essential changes to the footnotes of the table. A new Footnote 7 is provided to prohibit consumption in eating and drinking establishments and Footnote 8 is revised to clarified where retail outlets are allowed (Community Commercial District) and prohibited (Neighborhood Commercial District) as follows:

[7] Establishments are prohibited where a portion or all of the facility is intended for the on-site consumption of marijuana, cannabinoid concentrate or cannabinoid extract.

[8] Marijuana retailers are prohibited in the Neighborhood Commercial Zone District and permitted within the Community Commercial Zone District consistent with the locational requirements of state law and comply with the requirements of Section 10.8.1100 of this code.

5. Allow Medical Marijuana Dispensaries and Marijuana Retail activities and prohibit taverns, lounges or other commercial uses intended for the on-site consumption of marijuana related products within the Town Center Zone Districts

The amendment would be amendments to the footnotes of Table 3-12, Town Center Zones: Use Table, to allow both dispensaries and retail outlets in the Town Center districts. Also, similar to the Community Commercial District, the amendment would prohibit establishments intended to allow consumption of marijuana products.

[5] Establishments are prohibited where a portion or all of the facility is intended for the on-site consumption of marijuana, cannabinoid concentrate or cannabinoid extract.

[6 7] Medical marijuana dispensaries are ~~prohibited~~ and marijuana retailers are permitted consistent with the locational requirements of state law and comply with the requirements of Section 10.8.1100 of this code.

When the Medical Marijuana Dispensaries code changes were discussed by the Planning Commission, there was a discussion about allowing dispensaries in the Town Center districts. At the Council work sessions, there was support to allow both dispensaries and retail outlets in both the Community Commercial and Town Center districts. As was discussed at the Planning Commission hearing, the essential difference is this would allow these facilities in about 1 ½ blocks when the Town Center expansion occurs. These

facilities would still be prohibited in the remaining Town Center districts due to the presence of schools in the area.

6. Prohibit Marijuana related activities as a Home Occupation

This amendment is intended to implement the direction to prohibit marijuana related activities in residential areas. New subsection J. to the Home Occupation standards (Section 10.7.065) is proposed to be added as follows:

J. All marijuana related activities are prohibited as a home occupation.

7. Revise Development Standards to apply to Marijuana retailer activities

As part of the amendments for Marijuana Dispensaries, the City adopted development standards. This amendment would revise Section 10.8.1100 to extend these requirements to marijuana retail outlets as follows:

10.8.1100 MEDICAL MARIJUANA DISPENSARIES AND MARIJUANA RETAILERS

A medical marijuana dispensary and marijuana retailer activities shall comply with the following design standards and operational requirements in addition to all other applicable City requirements:

- A. The application shall demonstrate compliance with the locational requirements of State law and must maintain State certification at all times.
- B. ~~A medical marijuana dispensary m~~May not be open to the public between the hours of 10:00 p.m. and 8:00 a.m.
- C. Entrances and off-street parking areas ~~for the medical marijuana facility~~ shall be well-lit and not visually obscured from public view / right-of-way.
- D. The facility must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor storage of merchandise, raw materials, or other material associated with the facility is prohibited.
- E. Any modification to the site or the exterior of the building housing the facility must be consistent with the Design Standards of Section 10.8.700 et. seq. Security bars or grates on windows and doors are prohibited unless integrated into the design.
- F. The dispensary or retail operation may not have facilities for drive-up use.
- G. The dispensary must provide for secure disposal or render impotent marijuana remnants or by-products, or items with marijuana residue of any kind.

The requirement for permanent facilities (Subsection D) reflects the requirement by the State for Medical Marijuana Dispensaries. However, this is not a requirement from the state for other facilities. State law allows local jurisdictions to establish appropriate time, place and manner regulations. The purpose of this requirement is to assure that a portable operation capable of being moved around is not allowed and as a public safety issue not to encourage theft at these facilities due to the all-cash nature of the operation.

8. Add new Development Standards to apply to marijuana activities other than dispensaries and retailers

Currently, there are no development standards that would apply to marijuana activities except for dispensaries and subject to approval, marijuana retail outlets. In review of the requirements, staff did not believe the development requirements for the outlets and dispensaries were appropriate for these other activities. As a result, a new Section 10.8.1110 is proposed as follows:

10.8.1110 OTHER MARIJUANA FACILITIES

The following requirements to marijuana related warehouse, processing and grow facilities.

- A. The application shall demonstrate compliance with the locational requirements of State law and must maintain State certification at all times.
- B. Entrances and off-street parking areas shall be well-lit and not visually obscured from public view / right-of-way.
- C. With the exception of outdoor grow operations including the use of removable greenhouses, the facility must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor storage of merchandise, raw materials, or other material associated with the facility is prohibited.
- D. The facility must provide for secure disposal or render impotent marijuana remnants or by-products, or items with marijuana residue of any kind.
- E. All production, processors, indoor grow operations and outdoor grow operations with greenhouses shall provide a method to control odors. Such facilities shall install and maintain enhanced ventilation systems designed to prevent detection of marijuana odor from adjacent properties or the public right-of-way. The systems shall include the following features:
 1. Installation of activated carbon filters on all exhaust outlets to the building exterior;
 2. Location of exhaust outlets a minimum of 10 feet from the property line; 3 feet from exterior walls; and 10 feet above finished grade; and
 3. Maintenance of negative air pressure within the facility; or
 4. An alternative odor control system approved by the Building Official based on a report by a mechanical engineer licensed in the State of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.

The first four of these requirements are applicable requirements established for Medical Marijuana Dispensaries which staff believed to be important for these other types of operations. They are intended to address potential public safety concerns by providing well-lit and observable parking areas, be placed in permanent facilities to minimize opportunities for theft and discourage trespass by people sorting through waste receptacles. As noted above under retail outlets, staff is also proposing to apply the permanent structure requirement for these other operations except for grow operations using portable greenhouses.

Another requirement for odor control for grow and production operations has also been added. The purpose is to minimize this potential impact from these activities to

potential affected residential areas. In a tour of a grow and processing operation in north Portland, staff observed noticeable odor from the grow operations contained in an industrial building. Staff is recommending the adoption of the proposed wording being considered by the City of Hillsboro. It provides a standard and prescriptive measure, and allows for the applicant to provide an alternative system.

9. Amend City Code provisions on marijuana activities to address all marijuana related activities

This amendment is a proposed City Code amendment (see Attachment 1) and not an amendment to the Development Code. As such, it is not an item subject to Planning Commission review.

III. APPROVAL CRITERIA AND FINDINGS

Development Code Section 10.2.630 *Review Criteria* lists two standards to be satisfied to adopt a text amendment:

- A. The text amendment is consistent with relevant goals and policies of the Forest Grove Comprehensive Plan; and

Finding: Applicable Comprehensive Plan Goals and Policies are Housing Goal 9 and Economic Development Goals 4 and 5. Housing Goal 9 states:

“Preserve the stability of residential neighborhoods through code enforcement actions intended to rid areas of nuisances.”

The proposal is not a code enforcement action resulting in the elimination of nuisances. However, the proposal is intended to promote the intended purpose of this goal by preventing potential marijuana related activities from locating in residential districts. These facilities may have the potential to de-stabilize neighborhoods through increased Police responses due to theft and other criminal activities these facilities may attract due to the all-cash nature of their operations and product they handle. Further, it reduces the exposure youth may have if these facilities are allowed to locate in residential districts.

Regarding Economic Goals 4 and 5, the proposed amendments allows for identified marijuana related activities (except for Medical Marijuana Dispensaries which were accommodated with a previously approved amendment to the Development Code) in the community within appropriate zone districts. Retail marijuana activities are allowed in commercial zone districts while marijuana grow, processing and wholesaling are allowed in industrial districts.

- B. The text amendment is consistent with relevant statewide and regional planning goals, programs and rules.

Finding: Statewide and regional planning goals, programs and rules do not specifically address marijuana facilities. They are therefore not applicable to this text amendment.

However, the proposed amendment is consistent with and relies on State laws and regulations for marijuana activities. The proposed amendments references and uses the

locational requirements established by state law by precluding facilities in residential districts.

IV. ALTERNATIVES

The Planning Commission may recommend that the City Council approve the proposal as submitted, approve it with modifications, deny it, or the Commission may continue deliberations to a date certain.

V. RECOMMENDATION

Based on the findings above, staff recommends approval of the proposal, with any amendments found appropriate by the Planning Commission.

VI. LIST OF EXHIBITS AND ATTACHMENTS

The following exhibits and attachments were received, marked, and entered into the record as evidence for this application at the time this staff report was written. Materials received after the date of this report will be marked as "Exhibit" beginning with the next consecutive letter and will be entered into the record at the time the public hearing is opened, prior to oral testimony.

Exhibit A	Proposed Development Code Amendments
Attachment 1	Proposed Municipal Code Amendments
Attachment 2	Marijuana Zoning Analysis
Attachment 3	Local Government Regulation of Marijuana in Oregon by League of Oregon Cities
Attachment 4	House Bill 3400

PLANNING COMMISSION DECISION NUMBER 16-03

**RECOMMENDATION TO CITY COUNCIL ON AMENDMENT TO THE
DEVELOPMENT CODE TO ADDRESS MARIJUANA FACILITIES**

WHEREAS, the City Council on April 28, 2015 adopted Ordinance Numbers 2015-02 and 2015-03 amending the Development and City codes to establish regulations for the development and operation of Medical Marijuana Dispensaries;

WHEREAS, the Oregon Legislature enacted House Bill 3400 (2015), which pertains to laws for regulation and control of marijuana related activities;

WHEREAS, House Bill 3400, authorizes local jurisdictions to adopt time, place and manner regulations for the operation of marijuana facilities;

WHEREAS, House Bill 3400 prohibits medical and commercial marijuana processors if processing marijuana extracts and marijuana dispensaries and commercial retail stores in exclusively zoned residential districts;

WHEREAS, staff has prepared a code analysis pertaining to the allowance by zone district, and development and operational requirements for all regulated marijuana activities regulated by the State;

WHEREAS, residential zone districts in Forest Grove may not be considered exclusively zoned residential districts because other uses such as neighborhood stores, parks and other non-residential uses are allowed in the various residential zone districts;

WHEREAS, the City Council during work sessions held on September 14, 2015 and November 9, 2015 expressed that marijuana facilities regulated by the State should not be banned in Forest Grove but should be properly placed including avoiding any facilities in residential areas;

WHEREAS, the City has prepared proposed amendments to the Development Code pertaining to the placement and requirements for marijuana activities; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed amendments to the Development Code on January 19, 2016.

Now, therefore, the Planning Commission of the City of Forest Grove recommends to the City Council four recommended revisions to the proposed Development Code amendments as follows:

1. Revise Amendment 1 to change "Any" to "No" and delete "not" for grammatical purposes:

[10] A neighborhood store, limited to a size of 2,000 square feet, is permitted with approval of a conditional use permit. Any No retail outlet regulated by the Oregon Liquor Control Commission other than operating under an Off-Premises Sales License is not allowed in any residential zone district. Stores must be located along a collector street.

2. Delete Amendment 2 because Amendment 1 addresses the prohibition of retail marijuana sales in residential zone district.
3. For Amendment 3, insert "as regulated by the state" to clarify it does not apply to personal growing of marijuana, as provided below:

[11] Agriculture uses such as truck farming and horticulture are permitted. Commercial agriculture uses including but not limited to marijuana grow site for commercial or medical purposes as regulated by the state and buildings and the keeping of livestock and poultry (other than ordinary household pets, and domesticated fowl as identified in footnote (112)) are not permitted}.

4. Revise Amendment 7 to reduce hours of operation from 10 pm to 8 pm to coincide with other business hours in the community as follows:

A medical marijuana dispensary and marijuana retailer activities shall comply with the following design standards and operational requirements in addition to all other applicable City requirements:

- B. ~~A medical marijuana dispensary~~ May not be open to the public between the hours of ~~10:00~~ 8:00 p.m. and 8:00 a.m.

Now, therefore, be it further resolved, the Planning Commission of the City of Forest Grove recommends to the City Council adoption of the proposed amendments to the Development Code subject to proposed revisions as shown above, making the following findings in support of the recommendation:

Section 1. The proposed amendments are consistent with and meet the provisions of Development Code Section 10.2.630 *Review Criteria* pertaining to Zoning Text amendments:

- A. The text amendment is consistent with relevant goals and policies of the Forest Grove Comprehensive Plan; and

Finding: Applicable Comprehensive Plan Goals and Policies are Housing Goal 9 and Economic Development Goals 4 and 5. Housing Goal 9 states:

“Preserve the stability of residential neighborhoods through code enforcement actions intended to rid areas of nuisances.”

The proposal is not a code enforcement action resulting in the elimination of nuisances. However, the proposal is intended to promote the intended purpose of this goal by preventing potential marijuana related activities from locating in residential districts. These facilities may have the potential to de-stabilize neighborhoods through increased Police responses due to theft and other criminal activities these facilities may attract due to the all-cash nature of their operations and product they handle. Further, it reduces the exposure youth may have if these facilities are allowed to locate in residential districts.

Regarding Economic Goals 4 and 5, the proposed amendments allows for identified marijuana related activities (except for Medical Marijuana Dispensaries which were accommodated with a previously approved amendment to the Development Code) in the community within appropriate zone districts. Retail marijuana activities are allowed in commercial zone districts while marijuana grow, processing and wholesaling are allowed in industrial districts.

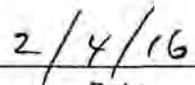
- B. The text amendment is consistent with relevant statewide and regional planning goals, programs and rules.

Finding: Statewide and regional planning goals, programs and rules do not specifically address marijuana facilities. They are therefore not applicable to this text amendment.

However, the proposed amendment is consistent with and relies on State laws and regulations for marijuana activities. The proposed amendments references and uses the locational requirements established by state law by precluding facilities in residential districts.



TOM BECK, Chair



Date

Exhibit A
Marijuana Activities
Proposed Development Code Amendments
As Recommended by the Planning Commission
File Number 311-15-000028 - PLNG

The following are proposed amendments to the Development Code pertaining to marijuana related activities:

1. Prohibit Marijuana Retail Sales in Residential Districts

Amend Footnote 10 from Table 3-2 – Residential Zones. It pertains to General Retail Sales – Oriented use in the Residential Zone Districts including R-10, R-7, R-5, RML and RMH. The amendment would be as follows:

[10] A neighborhood store, limited to a size of 2,000 square feet, is permitted with approval of a conditional use permit. Any No retail outlet regulated by the Oregon Liquor Control Commission other than operating under an Off-Premises Sales License is not allowed in any residential zone district. Stores must be located along a collector street.

Off-Premises Sales License pertains to the sale of sealed malt beverages, wine and cider. This amendment would prohibit any retail outlet for marijuana or hard liquor in residential areas (in the event an initiative is approved to allow hard liquor sales in stores) while allowing typical convenience store items such as beer, wine and cider.

~~2. Amend the definition of "Neighborhood Stores" to explicitly exclude marijuana retail outlets in Residential Districts~~

~~Amend Development Code Section 10.12.210 N1 to revise definition of "neighborhood store" to not allow retailers to locate in residential districts as follows:~~

~~N1 — Neighborhood Store. 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. Stores for marijuana retail use is not included in the definition of neighborhood store.~~

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Double Underlined – Proposed additional text by Planning Commission

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Amend Footnote 11 on Table 3-2, Residential Zones: Use Tables to prohibit grow sites in Residential Districts as follows:

[11] Agriculture uses such as truck farming and horticulture are permitted. Commercial agriculture uses including but not limited to marijuana grow site for commercial or medical purposes as regulated by the State and buildings and the keeping of livestock and poultry (other than ordinary household pets, and domesticated fowl as identified in footnote (1±2)) are not permitted).

4. Prohibit Marijuana Retail outlets in the Neighborhood Commercial District and prohibit taverns, lounges or other commercial uses intended for the on-site consumption of marijuana related products

Amend Table 3-10, Commercial Use Zones Use Table as follows:

TABLE 3-10 Commercial Zones Use Table

USE CATEGORY	NC	CC
<u>RESIDENTIAL</u>		
Household Living	L ^[1]	L ^[2]
Group Living	N	P
Transitional Housing	N	C
Home Occupation	L ^[3]	L ^[3]
Bed and Breakfast	L ^[4]	P
CIVIC / INSTITUTIONAL		
Basic Utilities	P	P
Major Utility Transmission Facilities	C	C
Colleges	N	C
Community Recreation	N	P
Cultural Institutions	P	P
Day Care	P	P
Emergency Services	C	C
Postal Services	C	P
Religious Institutions	C	P
Schools	C	C
Social/ Fraternal Clubs / Lodges	C	P
COMMERCIAL		
Commercial Lodging	N	L ^[5]
Eating and Drinking Establishments	L ^[6] L ^[7]	p ^[2]

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Entertainment – Oriented: - Major Event Entertainment	N	N
- Outdoor Entertainment	N	N
- Indoor Entertainment	N	p ^[2]
General Retail: - Sales – Oriented	p L ^[8]	p L ^[8]
- Personal Services	P	P
- Repair – Oriented	P	P
- Bulk Sales	N	P
- Outdoor Sales	L ^[79]	L ^[79]
- Animal – Related	N	P
Medical Centers	N	L ^[11 13]
Motor Vehicle Related: - Motor Vehicles Sale / Rental	N	L ^[8 10]
- Motor Vehicle Servicing / Repair	N	P
- Motor Vehicle Fuel Sales	p ^[9]	P
Non-Accessory Parking	N	P
Office	P	P
Self-Service Storage	N	C
<u>INDUSTRIAL</u>		
Industrial Services	N	N
Manufacturing and Production: - Light Industrial	N	C ^[10 12]
- General Industrial	N	N
Railroad Yards	N	N
Research and Development	N	N
Warehouse / Freight Movement	N	N
Waste – Related	N	N
Wholesale Sales	N	N
<u>OTHER</u>		
Agriculture / Horticulture	L ^[13 15]	L ^[13 15]
Cemeteries	N	N
Detention Facilities	N	N
Mining	N	N
Wireless Communication Facilities	L ^[12 14]	L ^[12 14]

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Double Underlined – Proposed additional text by Planning Commission

~~Strikeout~~ – Proposed text to be removed

P=Permitted

L=Limited

C=Conditional Use

N=Not Permitted

Footnotes:

- [1] Residential units are permitted in conjunction with a mixed-use development in the NC zone, at a minimum density of 3.48 and a maximum density of 4.35 dwelling units/net acre.
- [2] Residential units are permitted as a stand-alone use or as part of a mixed-use development in the CC zone, at a minimum density of 16.22 units/net acre and a maximum density of 20.28 units/net acre. Stand-alone residential projects shall have a minimum density of 16.22 units/net acre. There is no minimum density requirement when residential units are constructed over first floor commercial uses.
- [3] Home occupations permitted as an accessory use to residential development, subject to compliance with the home occupation standards in Article 7.
- [4] Bed & breakfast inn limited to three (3) guest rooms in the NC zone, subject to compliance with the bed & breakfast inn standards in Article 7.
- [5] Recreational Vehicle Parks require obtaining a conditional use permit and compliance with the requirements of Section 10.5.500 et. seq. All other commercial lodging uses are permitted.
- [6] Restaurants are permitted in the NC zone (drive-through service is prohibited).
- [7] Establishments are prohibited where a portion or all of the facility is intended for the on-site consumption of marijuana, cannabinoid concentrate or cannabinoid extract.
- [8] Marijuana retailers are prohibited in the Neighborhood Commercial Zone District and permitted within the Community Commercial Zone District consistent with the locational requirements of state law and comply with the requirements of Section 10.8.1100 of this code.
- [7 9] Outdoor sales in the NC zone are limited to plants and produce. Outdoor sales areas in the CC zone must be set back at least ten (10) feet from street lot lines and lot lines abutting residential zones and the setback area must be landscaped.
- [8 10] Cleaning, sales and repair of motor vehicles and light equipment is permitted outright in the CC zone; sales and rental or heavy vehicles and farm equipment and/or storage of recreational vehicles and boats permitted with conditional use approval.
- [9 11] Automobile service station in the NC zone is limited to fuel sales and incidental repair service.
- [10 12] As a conditional use pursuant to Section 10.2.200 et. seq., light industrial uses limited within a building no larger than 5,000 square feet in size with no visible emissions or odor outside the building, and with the added criteria that such use does not detract from the commercial viability of the area.

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Double Underlined – Proposed additional text by Planning Commission

~~Strikeout~~ – Proposed text to be removed

[~~11~~ 13] Medical marijuana dispensaries must be located consistent with the requirements of ORS 475.314 state law and comply with the provisions of Section 10.8.1100 of this code.

[~~12~~ 14] Wireless communication facilities are regulated by the standards in Article 7.

[~~13~~ 15] Domesticated fowl are allowed in conjunction with existing single-family uses and primarily for personal use. Domesticated fowl are allowed subject to these conditions.

- a. Up to 4 adult fowl over 6 months of age may be kept on any lot with a minimum area of 5,000 square feet. One additional adult fowl shall be permitted for each 2,000 square feet of additional lot area, up to a maximum of 12 fowl.
- b. No roosters shall be permitted.
- c. Animal waste matter shall not be allowed to accumulate.
- d. All animal food shall be stored in metal or other rodent-proof containers.
- e. Fencing shall be designed and constructed to confine all animals to the owner's property.
- f. All structures that house fowl shall be located at least 20 feet from all residences (except the animal owner's).
- g. All structures that house fowl shall be located at least 5 feet from any side or rear property line.

5. Allow Medical Marijuana Dispensaries and Marijuana Retail activities and prohibit taverns, lounges or other commercial uses intended for the on-site consumption of marijuana related products within the Town Center Zone Districts

Amend Table 3-12, Town Center Zones: Use Table to allow medical marijuana dispensaries and marijuana retailers to locate in Town Center Districts.

**TABLE 3-12
Town Center Zones: Use Table**

USE CATEGORY	TC-Core	TC-Transition	TC-Support
<u>RESIDENTIAL</u> Household Living	L ^[1]	L ^[1]	L ^[1]
Group Living	p ^[1]	P	P
Transitional Housing	N	C	C
Home Occupation	L ^[2]	L ^[2]	L ^[2]
Bed and Breakfast	C ^[2]	P	P
<u>CIVIC / INSTITUTIONAL</u> Basic Utilities	P	P	P

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Major Utility Transmission Facilities	C	C	C
Colleges	C	C	C
Community Recreation	N	P	P
Cultural Institutions	P	P	P
Day Care	P	P	P
Emergency Services	C	C	C
Postal Services	C	P	P
Religious Institutions	C	P	P
Schools	C	C	C
Social/ Fraternal Clubs / Lodges	C	P	P

<u>COMMERCIAL</u>	L ^[3]	L ^[3]	L ^[3]
Commercial Lodging			
Eating and Drinking Establishments	p ^[4] [5]	p ^[4] [5]	p ^[5]
Entertainment – Oriented: - Major Event Entertainment	N	N	C ^[5]
- Outdoor Entertainment	N	N	N
- Indoor Entertainment	p ^[5]	p ^[5]	p ^[5]
General Retail: - Sales – Oriented	p ^[7]	p ^[7]	p ^[7]
- Personal Services	P	P	P
- Repair – Oriented	P	P	P
- Bulk Sales	L ^[5 6]	L ^[5 6]	L ^[5 6]
- Outdoor Sales	N	N	N
- Animal – Related	N	N	N
Medical Centers	N	C ^[6 7]	C ^[6 7]
Motor Vehicle Related: - Motor Vehicles Sale / Rental	N	N	N
- Motor Vehicle Servicing / Repair	N	N	N
- Motor Vehicle Fuel Sales	N	N	N
Non-Accessory Parking	N	C	C
Office	L ^[3]	P	P
Self-Service Storage	N	N	N

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Double Underlined – Proposed additional text by Planning Commission

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<u>INDUSTRIAL</u>			
Industrial Services	N	N	N
Manufacturing and Production:			
- Light Industrial	N	C	C
- General Industrial	N	N	N
Call Centers	L ^{[7][8][9]}	L ^[7 8]	L ^[7 8]
Railroad Yards	N	N	N
Research and Development	N	N	P
Warehouse / Freight Movement	N	N	N
Waste – Related	N	N	N
Wholesale Sales	N	N	N
<u>OTHER</u>			
Agriculture / Horticulture	N	N	N
Cemeteries	N	N	N
Detention Facilities	N	N	N
Mining	N	N	N
Wireless Communication Facilities	L ^[8 10]	L ^[8 10]	L ^[8 10]
Information	L ^{[9][10]} L ^{[11][12]}	L ^[9 11]	L ^[9 11]

P = Permitted L = Limited C = Conditional Use N = Not Permitted

Footnotes:

- [1] New dwellings in the TCC zone are only permitted on or above the 2nd floor. There are no minimum density requirements when housing is part of a mixed-use building. In the TCT and TCS zones new dwellings are permitted as "stand-alone" developments or as part of mixed-use developments, but must meet density requirements.
- [2] Home occupations are permitted as an accessory use to residential uses, subject to compliance with the home occupation standards in Article 7.
- [3] Offices only permitted as part of a ground-floor retail or personal service use or as a stand-alone use above the first floor in the TC-Core zone. Recreational vehicle parks are prohibited in all districts.
- [4] Drive through service is prohibited from restaurants in the TC-Core and TC-Transition zones.
- [5] Establishments are prohibited where a portion or all of the facility is intended for the on-site consumption of marijuana, cannabinoid concentrate or cannabinoid extract.
- [5 6] Bulk sales stores with a ground floor building footprint smaller than 10,000 square feet are permitted. All merchandise must be enclosed within a building. All other bulk sales are prohibited.

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- [6 7] Medical marijuana dispensaries are prohibited and marijuana retailers are permitted consistent with the locational requirements of state law and comply with the requirements of Section 10.8.1100 of this code.
- [7 8] Permitted where there are no off premise impacts and no product is transported from the site. Centers with any offsite impacts or transport products from the site are to be located in either Light or General Industrial districts.
- [8 9] Call Centers shall not be allowed on the ground floor in the TC-Core Zone District.
- [9 10] Wireless communication facilities are regulated by the standards in Article 7.
- [10 11] Permitted where there are no off premise impacts.
- [11 12] Information business is not allowed on the ground floor in the TC-Core Zone District.

6. Prohibit Marijuana related activities as a Home Occupation

Amend Section 10.7.065, Standards to prohibit marijuana related activities as a home occupation as follows:

- 10.7.065 STANDARDS

The home occupation shall not change the residential character of the dwelling and shall meet all of the following standards and limitations:

- A. Any product produced on-site for sale must be hand manufactured or grown using only hand tools or domestic mechanical equipment. Such domestic mechanical equipment shall not exceed horsepower or other measurements of power, which would typically be used by a residential homeowner.
- B. There shall be no outdoor storage of material or products on the premises. Indoor storage of material or products shall not exceed the limitations imposed by the Building, Fire, Health and Housing Codes.
- C. The home occupation shall not generate vehicular traffic measurably in excess of that normally associated with single-family uses.
- D. No more than 20% of the floor area of the dwelling shall be used for the home occupation.
- E. One sign shall be permitted, not exceeding six (6) square feet in area, non-illuminated and professionally prepared.

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Double Underlined – Proposed additional text by Planning Commission

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- F. The home occupation shall not cause the elimination of required off-street parking.
- G. The home occupation shall not cause any external effects such as increased noise, excessive lighting, or excessive odor that is incompatible with the characteristics of the residential zone, or in violation of any applicable government code.
- H. There shall be no more than two (2) outside paid employees.
- I. A business occupancy permit is required for the home occupation.
- J. All marijuana related activities are prohibited as a home occupation.

7. Revise Development Standards to apply to Marijuana retailer activities

Amend Section 10.8.1100 to include marijuana retailers with development requirements:

10.8.1100 MEDICAL MARIJUANA DISPENSARIES AND MARIJUANA RETAILERS

A medical marijuana dispensary and marijuana retailer activities shall comply with the following design standards and operational requirements in addition to all other applicable City requirements:

- A. The application shall demonstrate compliance with the locational requirements of State law and must maintain State certification at all times.
- B. ~~A medical marijuana dispensary~~ in May not be open to the public between the hours of ~~10:00~~ 8:00 p.m. and 8:00 a.m.
- C. Entrances and off-street parking areas ~~for the medical marijuana facility~~ shall be well-lit and not visually obscured from public view / right-of-way.
- D. The facility must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor storage of merchandise, raw materials, or other material associated with the facility is prohibited.
- E. Any modification to the site or the exterior of the building housing the facility must be consistent with the Design Standards of Section 10.8.700 et. seq. Security bars or grates on windows and doors are prohibited unless integrated into the design.
- F. The dispensary or retail operation may not have facilities for drive-up use.

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- G. The dispensary must provide for secure disposal or render impotent marijuana remnants or by-products, or items with marijuana residue of any kind.

8. Add new Development Standards to apply to marijuana activities other than dispensaries and retailers

Currently, there are no development standards that would apply to marijuana activities except for dispensaries and subject to approval, marijuana retail outlets. In review of the requirements, staff did not believe the development requirements for the outlets and dispensaries were appropriate for these other activities. As a result, a new Section 10.8.1110 is proposed as follows:

10.8.1110 OTHER MARIJUANA FACILITIES

The following requirements to marijuana related warehouse, processing and grow facilities.

- A. The application shall demonstrate compliance with the locational requirements of State law and must maintain State certification at all times.
- B. Entrances and off-street parking areas shall be well-lit and not visually obscured from public view / right-of-way.
- C. With the exception of outdoor grow operations including the use of removable greenhouses, the facility must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor storage of merchandise, raw materials, or other material associated with the facility is prohibited.
- D. The facility must provide for secure disposal or render impotent marijuana remnants or by-products, or items with marijuana residue of any kind.
- E. All production, processors, indoor grow operations and outdoor grow operations with greenhouses shall provide a method to control odors. Such facilities shall install and maintain enhanced ventilation systems designed to prevent detection of marijuana odor from adjacent properties or the public right-of-way. The systems shall include the following features:

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Double Underlined – Proposed additional text by Planning Commission

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1. Installation of activated carbon filters on all exhaust outlets to the building exterior;
2. Location of exhaust outlets a minimum of 10 feet from the property line; 3 feet from exterior walls; and 10 feet above finished grade; and
3. Maintenance of negative air pressure within the facility; or
4. An alternative odor control system approved by the Building Official based on a report by a mechanical engineer licensed in the State of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.

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Attachment 2 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.

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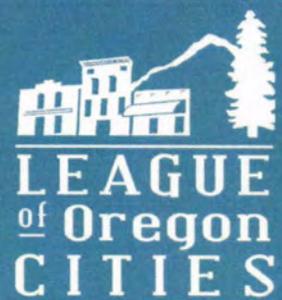


LEAGUE OF OREGON CITIES

**LOCAL GOVERNMENT
REGULATION OF
MARIJUANA IN
OREGON**

**REVISED
AUGUST 2015**

Attachment 3



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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 4

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 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 propogating, 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 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 reformatory 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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ORDINANCE NO. 2016-07**ORDINANCE AMENDING FOREST GROVE DEVELOPMENT CODE ARTICLE 3, ARTICLE 7, AND ARTICLE 8 TO ADDRESS MARIJUANA FACILITIES;
FILE NO. 311-15-00028-PLNG**

WHEREAS, the City Council on April 28, 2015, adopted Ordinance Numbers 2015-02 and 2015-03 amending the Development and City codes to establish regulations for the development and operation of Medical Marijuana Dispensaries;

WHEREAS, the Oregon Legislature enacted House Bill 3400 (ORS 475B 2015), which pertains to laws for regulation and control of marijuana related activities;

WHEREAS, House Bill 3400, authorizes local jurisdictions to adopt time, place and manner regulations for the operation of marijuana facilities;

WHEREAS, House Bill 3400 prohibits medical and commercial marijuana processors if processing marijuana extracts and marijuana dispensaries and commercial retail stores in exclusively zoned residential districts;

WHEREAS, staff has prepared a code analysis pertaining to the allowance by zone district, and development and operational requirements for all regulated marijuana activities regulated by the State;

WHEREAS, residential zone districts in Forest Grove may not be considered exclusively zoned residential districts because other uses such as neighborhood stores, parks and other non-residential uses are allowed in the various residential zone districts;

WHEREAS, the City Council during work sessions held on September 14 and November 9, 2015, expressed that marijuana facilities regulated by the State should not be banned in Forest Grove but should be properly placed including avoiding any facilities in residential areas;

WHEREAS, the City has prepared proposed amendments to the Development Code pertaining to the placement and requirements for marijuana activities; and

WHEREAS, the Planning Commission held a duly-noticed Public Hearing on the proposed amendments to the Development Code on January 19, 2016.

WHEREAS, the Planning Commission's Decision No. 16-03 recommends the City Council approve the proposed changes to the Development Code with amendments; and

WHEREAS, the City Council held a duly-noticed Public Hearing on March 14 and

continued the hearing on March 28, 2016, to consider the Planning Commission's recommendation.

NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1. The City Council adopts the Planning Commission findings dated February 4, 2016.

Section 2. Based on the findings set forth in Section 1, the City Council adopts the Planning Commission recommendation and approves the Development Code text amendment as shown on Exhibit A.

Section 3. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 4. This ordinance shall be effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading this 14th day of March, 2016.

PASSED the second reading this 28th day of March, 2016.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 28th day of March, 2016.

Peter B. Truax, Mayor

Exhibit A

Marijuana Activities

Development Code Amendments

File Number 311-15-000028 - PLNG

The following are proposed amendments to the Development Code pertaining to marijuana related activities:

1. Prohibit Marijuana Retail Sales in Residential Districts

Amend Footnote 10 from Table 3-2 – Residential Zones. It pertains to General Retail Sales – Oriented use in the Residential Zone Districts including R-10, R-7, R-5, RML and RMH. The amendment would be as follows:

[10] A neighborhood store, limited to a size of 2,000 square feet, is permitted with approval of a conditional use permit. Any No retail outlet regulated by the Oregon Liquor Control Commission other than operating under an Off-Premises Sales License is not allowed in any residential zone district. Stores must be located along a collector street.

Off-Premises Sales License pertains to the sale of sealed malt beverages, wine and cider. This amendment would prohibit any retail outlet for marijuana or hard liquor in residential areas (in the event an initiative is approved to allow hard liquor sales in stores) while allowing typical convenience store items such as beer, wine and cider.

~~2. Amend the definition of "Neighborhood Stores" to explicitly exclude marijuana retail outlets in Residential Districts~~

~~Amend Development Code Section 10.12.210 N1 to revise definition of "neighborhood store" to not allow retailers to locate in residential districts as follows:~~

~~N1 Neighborhood Store. 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. Stores for marijuana retail use is not included in the definition of neighborhood store.~~

3. Prohibit Marijuana Grow Sites within Residential Zone Districts

Underlined – Proposed additional text;

Double Underlined – Proposed additional text by Planning Commission

~~Strikeout~~ – Proposed text to be removed

Amend Footnote 11 on Table 3-2, Residential Zones: Use Tables to prohibit grow sites in Residential Districts as follows:

[11] Agriculture uses such as truck farming and horticulture are permitted. Commercial agriculture uses including but not limited to marijuana grow site for commercial or medical purposes as regulated by the State and buildings and the keeping of livestock and poultry (other than ordinary household pets, and domesticated fowl as identified in footnote (11~~2~~)) are not permitted}.

4. Prohibit Marijuana Retail outlets in the Neighborhood Commercial District and prohibit taverns, lounges or other commercial uses intended for the on-site consumption of marijuana related products

Amend Table 3-10, Commercial Use Zones Use Table as follows:

TABLE 3-10 Commercial Zones Use Table

USE CATEGORY	NC	CC
<u>RESIDENTIAL</u>		
Household Living	L ^[1]	L ^[2]
Group Living	N	P
Transitional Housing	N	C
Home Occupation	L ^[3]	L ^[3]
Bed and Breakfast	L ^[4]	P
CIVIC / INSTITUTIONAL		
Basic Utilities	P	P
Major Utility Transmission Facilities	C	C
Colleges	N	C
Community Recreation	N	P
Cultural Institutions	P	P
Day Care	P	P
Emergency Services	C	C
Postal Services	C	P
Religious Institutions	C	P
Schools	C	C
Social/ Fraternal Clubs / Lodges	C	P
COMMERCIAL		
Commercial Lodging	N	L ^[5]
Eating and Drinking Establishments	L ^[6] L^[7]	p ^[7]

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Entertainment – Oriented: - Major Event Entertainment	N	N
- Outdoor Entertainment	N	N
- Indoor Entertainment	N	p ^[7]
General Retail: - Sales – Oriented	P L ^[8]	P L ^[8]
- Personal Services	P	P
- Repair – Oriented	P	P
- Bulk Sales	N	P
- Outdoor Sales	L ^[79]	L ^[79]
- Animal – Related	N	P
Medical Centers	N	L ^[11 13]
Motor Vehicle Related: - Motor Vehicles Sale / Rental	N	L ^[8 10]
- Motor Vehicle Servicing / Repair	N	P
- Motor Vehicle Fuel Sales	p ^[9]	P
Non-Accessory Parking	N	P
Office	P	P
Self-Service Storage	N	C
INDUSTRIAL		
Industrial Services	N	N
Manufacturing and Production: - Light Industrial	N	C ^[10 12]
- General Industrial	N	N
Railroad Yards	N	N
Research and Development	N	N
Warehouse / Freight Movement	N	N
Waste – Related	N	N
Wholesale Sales	N	N
OTHER		
Agriculture / Horticulture	L ^[13 15]	L ^[13 15]
Cemeteries	N	N
Detention Facilities	N	N
Mining	N	N
Wireless Communication Facilities	L ^[12 14]	L ^[12 14]

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Double Underlined – Proposed additional text by Planning Commission

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P=Permitted

L=Limited

C=Conditional Use

N=Not Permitted

Footnotes:

- [1] Residential units are permitted in conjunction with a mixed-use development in the NC zone, at a minimum density of 3.48 and a maximum density of 4.35 dwelling units/net acre.
- [2] Residential units are permitted as a stand-alone use or as part of a mixed-use development in the CC zone, at a minimum density of 16.22 units/net acre and a maximum density of 20.28 units/net acre. Stand-alone residential projects shall have a minimum density of 16.22 units/net acre. There is no minimum density requirement when residential units are constructed over first floor commercial uses.
- [3] Home occupations permitted as an accessory use to residential development, subject to compliance with the home occupation standards in Article 7.
- [4] Bed & breakfast inn limited to three (3) guest rooms in the NC zone, subject to compliance with the bed & breakfast inn standards in Article 7.
- [5] Recreational Vehicle Parks require obtaining a conditional use permit and compliance with the requirements of Section 10.5.500 et. seq. All other commercial lodging uses are permitted.
- [6] Restaurants are permitted in the NC zone (drive-through service is prohibited).
- [7] Establishments are prohibited where a portion or all of the facility is intended for the on-site consumption of marijuana, cannabinoid concentrate or cannabinoid extract.
- [8] Marijuana retailers are prohibited in the Neighborhood Commercial Zone District and permitted within the Community Commercial Zone District consistent with the locational requirements of State laws ORS 475B (2015) and comply with the requirements of Section 10.8.1100 of this code.
- ~~[7 9]~~ Outdoor sales in the NC zone are limited to plants and produce. Outdoor sales areas in the CC zone must be set back at least ten (10) feet from street lot lines and lot lines abutting residential zones and the setback area must be landscaped.
- [8 ~~10~~] Cleaning, sales and repair of motor vehicles and light equipment is permitted outright in the CC zone; sales and rental or heavy vehicles and farm equipment and/or storage of recreational vehicles and boats permitted with conditional use approval.
- [9 ~~11~~] Automobile service station in the NC zone is limited to fuel sales and incidental repair service.
- ~~[10 12]~~ As a conditional use pursuant to Section 10.2.200 et. seq., light industrial uses limited within a building no larger than 5,000 square feet in size with no visible emissions or odor outside the building, and with the added criteria that such use does not detract from the commercial viability of the area.

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[~~11~~ 13] Medical marijuana dispensaries must be located consistent with the requirements of ORS 475.314 State laws ORS 475B (2015 and comply with the provisions of Section 10.8.1100 of this code.

[~~12~~ 14] Wireless communication facilities are regulated by the standards in Article 7.

[~~13~~ 15] Domesticated fowl are allowed in conjunction with existing single-family uses and primarily for personal use. Domesticated fowl are allowed subject to these conditions.

- a. Up to 4 adult fowl over 6 months of age may be kept on any lot with a minimum area of 5,000 square feet. One additional adult fowl shall be permitted for each 2,000 square feet of additional lot area, up to a maximum of 12 fowl.
- b. No roosters shall be permitted.
- c. Animal waste matter shall not be allowed to accumulate.
- d. All animal food shall be stored in metal or other rodent-proof containers.
- e. Fencing shall be designed and constructed to confine all animals to the owner's property.
- f. All structures that house fowl shall be located at least 20 feet from all residences (except the animal owner's).
- g. All structures that house fowl shall be located at least 5 feet from any side or rear property line.

5. Allow Medical Marijuana Dispensaries and Marijuana Retail activities and prohibit taverns, lounges or other commercial uses intended for the on-site consumption of marijuana related products within the Town Center Zone Districts

Amend Table 3-12, Town Center Zones: Use Table to allow medical marijuana dispensaries and marijuana retailers to locate in Town Center Districts.

**TABLE 3-12
Town Center Zones: Use Table**

USE CATEGORY	TC-Core	TC-Transition	TC-Support
<u>RESIDENTIAL</u> Household Living	L ^[1]	L ^[1]	L ^[1]
Group Living	P ^[1]	P	P
Transitional Housing	N	C	C
Home Occupation	L ^[2]	L ^[2]	L ^[2]
Bed and Breakfast	C ^[2]	P	P

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<u>CIVIC / INSTITUTIONAL</u>	P	P	P
Basic Utilities			
Major Utility Transmission Facilities	C	C	C
Colleges	C	C	C
Community Recreation	N	P	P
Cultural Institutions	P	P	P
Day Care	P	P	P
Emergency Services	C	C	C
Postal Services	C	P	P
Religious Institutions	C	P	P
Schools	C	C	C
Social/ Fraternal Clubs / Lodges	C	P	P

<u>COMMERCIAL</u>	L ^[3]	L ^[3]	L ^[3]
Commercial Lodging			
Eating and Drinking Establishments	p ^[4] [5]	p ^[4] [5]	p ^[5]
Entertainment – Oriented: - Major Event Entertainment	N	N	C ^[5]
- Outdoor Entertainment	N	N	N
- Indoor Entertainment	p ^[5]	p ^[5]	p ^[5]
General Retail: - Sales – Oriented	p ^[7]	p ^[7]	p ^[7]
- Personal Services	P	P	P
- Repair – Oriented	P	P	P
- Bulk Sales	L ^[5 6]	L ^[5 6]	L ^[5 6]
- Outdoor Sales	N	N	N
- Animal – Related	N	N	N
Medical Centers	N	C ^[6 7]	C ^[6 7]
Motor Vehicle Related:			
- Motor Vehicles Sale / Rental	N	N	N
- Motor Vehicle Servicing / Repair	N	N	N
- Motor Vehicle Fuel Sales	N	N	N
Non-Accessory Parking	N	C	C
Office	L ^[3]	P	P
Self-Service Storage	N	N	N

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Double Underlined – Proposed additional text by Planning Commission

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<u>INDUSTRIAL</u>			
Industrial Services	N	N	N
Manufacturing and Production:			
- Light Industrial	N	C	C
- General Industrial	N	N	N
Call Centers	L ^{[7][8][9]}	L ^[7 8]	L ^[7 8]
Railroad Yards	N	N	N
Research and Development	N	N	P
Warehouse / Freight Movement	N	N	N
Waste – Related	N	N	N
Wholesale Sales	N	N	N
<u>OTHER</u>		N	N
Agriculture / Horticulture	N		
Cemeteries	N	N	N
Detention Facilities	N	N	N
Mining	N	N	N
Wireless Communication Facilities	L ^[8 10]	L ^[8 10]	L ^[8 10]
Information	L ^{[9][10][11][12]}	L ^[9 11]	L ^[9 11]

P = Permitted L = Limited C = Conditional Use N = Not Permitted

Footnotes:

- [1] New dwellings in the TCC zone are only permitted on or above the 2nd floor. There are no minimum density requirements when housing is part of a mixed-use building. In the TCT and TCS zones new dwellings are permitted as "stand-alone" developments or as part of mixed-use developments, but must meet density requirements.
- [2] Home occupations are permitted as an accessory use to residential uses, subject to compliance with the home occupation standards in Article 7.
- [3] Offices only permitted as part of a ground-floor retail or personal service use or as a stand-alone use above the first floor in the TC-Core zone. Recreational vehicle parks are prohibited in all districts.
- [4] Drive through service is prohibited from restaurants in the TC-Core and TC-Transition zones.
- [5] Establishments are prohibited where a portion or all of the facility is intended for the on-site consumption of marijuana, cannabinoid concentrate or cannabinoid extract.

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- [5 6] Bulk sales stores with a ground floor building footprint smaller than 10,000 square feet are permitted. All merchandise must be enclosed within a building. All other bulk sales are prohibited.
- [6 7] Medical marijuana dispensaries are prohibited and marijuana retailers are permitted consistent with the locational requirements of State laws ORS 475B (2015) and comply with the requirements of Section 10.8.1100 of this code.
- [7 8] Permitted where there are no off premise impacts and no product is transported from the site. Centers with any offsite impacts or transport products from the site are to be located in either Light or General Industrial districts.
- [8 9] Call Centers shall not be allowed on the ground floor in the TC-Core Zone District.
- [9 10] Wireless communication facilities are regulated by the standards in Article 7.
- [10 11] Permitted where there are no off premise impacts.
- [11 12] Information business is not allowed on the ground floor in the TC-Core Zone District.

6. Prohibit Marijuana related activities as a Home Occupation

Amend Section 10.7.065, Standards to prohibit marijuana related activities as a home occupation as follows:

- 10.7.065 STANDARDS

The home occupation shall not change the residential character of the dwelling and shall meet all of the following standards and limitations:

- A. Any product produced on-site for sale must be hand manufactured or grown using only hand tools or domestic mechanical equipment. Such domestic mechanical equipment shall not exceed horsepower or other measurements of power, which would typically be used by a residential homeowner.
- B. There shall be no outdoor storage of material or products on the premises. Indoor storage of material or products shall not exceed the limitations imposed by the Building, Fire, Health and Housing Codes.
- C. The home occupation shall not generate vehicular traffic measurably in excess of that normally associated with single-family uses.
- D. No more than 20% of the floor area of the dwelling shall be used for the home occupation.
- E. One sign shall be permitted, not exceeding six (6) square feet in area, non-illuminated and professionally prepared.

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- F. The home occupation shall not cause the elimination of required off-street parking.
- G. The home occupation shall not cause any external effects such as increased noise, excessive lighting, or excessive odor that is incompatible with the characteristics of the residential zone, or in violation of any applicable government code.
- H. There shall be no more than two (2) outside paid employees.
- I. A business occupancy permit is required for the home occupation.
- J. All marijuana related activities are prohibited as a home occupation.

7. Revise Development Standards to apply to Marijuana retailer activities

Amend Section 10.8.1100 to include marijuana retailers with development requirements:

10.8.1100 MEDICAL MARIJUANA DISPENSARIES AND MARIJUANA RETAILERS

A medical marijuana dispensary and marijuana retailer activities shall comply with the following design standards and operational requirements in addition to all other applicable City requirements:

- A. The application shall demonstrate compliance with the locational requirements of State laws ORS 475B (2015) and must maintain State certification at all times.
- B. ~~A medical marijuana dispensary in~~ May not be open to the public between the hours of ~~10:00~~ 8:00 p.m. and 8:00 a.m.
- C. Entrances and off-street parking areas ~~for the medical marijuana facility~~ shall be well-lit and not visually obscured from public view / right-of-way.
- D. The facility must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor storage of merchandise, raw materials, or other material associated with the facility is prohibited.
- E. Any modification to the site or the exterior of the building housing the facility must be consistent with the Design Standards of Section 10.8.700 et. seq. Security bars or grates on windows and doors are prohibited unless integrated into the design.
- F. The dispensary or retail operation may not have facilities for drive-up use.

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- G. The dispensary must provide for secure disposal or render impotent marijuana remnants or by-products, or items with marijuana residue of any kind.

8. Add new Development Standards to apply to marijuana activities other than dispensaries and retailers

Currently, there are no development standards that would apply to marijuana activities except for dispensaries and subject to approval, marijuana retail outlets. In review of the requirements, staff did not believe the development requirements for the outlets and dispensaries were appropriate for these other activities. As a result, a new Section 10.8.1110 is proposed as follows:

10.8.1110 OTHER MARIJUANA FACILITIES

The following requirements to marijuana related warehouse, processing and grow facilities.

- A. The application shall demonstrate compliance with the locational requirements of State laws ORS 475B (2015) and must maintain State certification at all times.
- B. Entrances and off-street parking areas shall be well-lit and not visually obscured from public view / right-of-way.
- C. With the exception of outdoor grow operations including the use of removable greenhouses, the facility must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor storage of merchandise, raw materials, or other material associated with the facility is prohibited.
- D. The facility must provide for secure disposal or render impotent marijuana remnants or by-products, or items with marijuana residue of any kind.
- E. All production, processors, indoor grow operations and outdoor grow operations with greenhouses shall provide a method to control odors. Such facilities shall install and maintain enhanced ventilation systems designed to prevent detection of marijuana odor from adjacent properties or the public right-of-way. The systems shall include the following features:
 - 1. Installation of activated carbon filters on all exhaust outlets to the building exterior;
 - 2. Location of exhaust outlets a minimum of 10 feet from the property line; 3 feet from exterior walls; and 10 feet above finished grade; and
 - 3. Maintenance of negative air pressure within the facility; or

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4. An alternative odor control system approved by the Building Official based on a report by a mechanical engineer licensed in the State of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.

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A place where families and businesses thrive.

February 23, 2016
NewsTimes
Legal Ads/Public Notice:
To be published: Wednesday, March 9, 2016

NOTICE OF PUBLIC HEARING FOR THE CITY OF FOREST GROVE

NOTICE IS HEREBY GIVEN that the Forest Grove City Council will hold a Public Hearing on **Monday, March 14, 2016**, at 7:00 p.m. or thereafter, at the Forest Grove Community Auditorium, 1915 Main Street, to consider the following proposal:

Proposal: Amendments to the text of the City Code to establish operational requirement for all marijuana related activities. The following City Code sections are affected by this proposal: 7.850 (Statement of Purpose), 7.855 (Definitions), and 7.860 (Requirements).

Applicant: City of Forest Grove

File Number: 311-15-00028-PLNG

All persons will be given a reasonable opportunity to give testimony about this proposal responding to the review criteria. If an issue is not raised in the hearing (by person or letter) or if the issue is not explained in sufficient detail to allow the City Council to respond to the issue, then that issue cannot be used for an appeal to the Land Use Board of Appeals. If additional documents or evidence are provided in support of the application, any party shall be entitled to a continuance of the hearing. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. A copy of the report is 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, Jon Holan. Community Development Director, jholan@forestgrove-or.gov.

Anna D. Ruggles, CMC, City Recorder
Published: March 9, 2016

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ORDINANCE NO. 2016-08**ORDINANCE AMENDING FOREST GROVE CITY CODE CHAPTER 7 BY RENAMING CODE SECTIONS 7.850 THROUGH 7.865 FROM "MEDICAL MARIJUANA DISPENSARIES" TO "MARIJUANA ACTIVITIES"; AMENDING CODE SECTIONS 7.850 THROUGH 7.860 TO ADDRESS MARIJUANA FACILITIES; AND REPEALING PORTIONS OF ORDINANCE NO. 2015-03; FILE NO. 311-15-00028-PLNG**

WHEREAS, the City Council on April 28, 2015, adopted Ordinance Numbers 2015-02 and 2015-03 amending the Development and City codes to establish regulations for the development and operation of Medical Marijuana Dispensaries;

WHEREAS, the Oregon Legislature enacted House Bill 3400 (ORS 475B 2015), which pertains to laws for regulation and control of marijuana related activities;

WHEREAS, House Bill 3400, authorizes local jurisdictions to adopt time, place and manner regulations for the operation of marijuana facilities;

WHEREAS, House Bill 3400 prohibits medical and commercial marijuana processors if processing marijuana extracts and marijuana dispensaries and commercial retail stores in exclusively zoned residential districts;

WHEREAS, staff has prepared a code analysis pertaining to the allowance by zone district, and development and operational requirements for all regulated marijuana activities regulated by the State;

WHEREAS, residential zone districts in Forest Grove may not be considered exclusively zoned residential districts because other uses such as neighborhood stores, parks and other non-residential uses are allowed in the various residential zone districts;

WHEREAS, the City Council during work sessions held on September 14 and November 9, 2015, expressed that marijuana facilities regulated by the State should not be banned in Forest Grove but should be properly placed including avoiding any facilities in residential areas;

WHEREAS, the City has prepared proposed amendments to the Development Code pertaining to the placement and requirements for marijuana activities; and

WHEREAS, the City Council held a duly-noticed Public Hearing on March 14 and continued the hearing on March 28, 2016, to consider the Planning Commission's recommendation.

NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1. Forest Grove City Council hereby amends Forest Grove City Code Chapter 7 by renaming Title of Code Sections 7.850 through 7.865, from “Medical Marijuana Dispensaries” to “Marijuana Activities” and amends Code Sections 7.850 through 7.860 as shown on Exhibit A.

Section 2. The applicable existing Code Sections in Ordinance No. 2015-03 are hereby repealed.

Section 3. This ordinance shall be effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading this 14th day of March, 2016.

PASSED the second reading this 28th day of March, 2016.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 28th day of March, 2016.

Peter B. Truax, Mayor

Exhibit A

Marijuana Activities

City Code Amendments

File Number 311-15-000028 - PLNG

The following are proposed amendments to the Development Code pertaining to marijuana related activities:

Amend City Code provisions on marijuana activities to address all marijuana related activities

Amend City Code Sections 7.850, 7.855 and 7.860 to establish regulations for all marijuana related activities and prohibit the use of marijuana related products in a commercial establishment.

MEDICAL MARIJUANA DISPENSARIES ACTIVITIES

7.850 Statement of Purpose.

The purpose of sections Forest Grove Municipal Code Sections 7.850 to 7.865 is to promote the public health, safety and general welfare by establishing standards in the City of Forest Grove for the operation of medical marijuana dispensaries related activities as allowed by state law in the City of Forest Grove.

7.855 Definitions.

~~Medical Marijuana Dispensary. A facility for selling marijuana and marijuana-related products to medical marijuana card holders and that is registered with the Oregon Health Authority under ORS 475.314.~~

Marijuana Related Activities. An activity involved with the growing, processing, wholesaling or selling of marijuana, cannabinoid product, cannabinoid concentrate, or cannabinoid extract regulated by Oregon Health Authority or the Oregon Liquor Control Commission.

7.860 License Requirements.

- A. ~~A medical marijuana dispensary~~ related activity must comply with all applicable requirements of State laws ORS 475B (2015).

Underlined – Proposed additional text;

~~Strikeout~~ – Proposed text to be removed

- B. A ~~medical marijuana dispensary~~ related activity must obtain a City Business License pursuant to Code Sections 7.000 to 7.070 prior to opening.
- C. A medical marijuana dispensary or marijuana retailer may not be open to the public between the hours of 10:00 p.m. and 8:00 a.m.
- D. All products and paraphernalia sold to the public or members of a club or organization must be enclosed in an opaque bag or container upon exiting ~~the~~ a dispensary or retail facility.
- E. A ~~medical marijuana dispensary~~ related activity must provide secure disposal for marijuana remnants or by-products, including any item with marijuana residue.
- F. Commercial establishments are prohibited where a portion or all of the facility is intended for the on-site consumption of marijuana, cannabinoid concentrate or cannabinoid extract.

Underlined – Proposed additional text;
~~Strikeout~~ – Proposed text to be removed



<i>CITY RECORDER USE ONLY:</i>	
AGENDA ITEM #:	<u>13.</u>
FINAL ACTION:	_____

A place where families and businesses thrive.

CITY COUNCIL STAFF REPORT

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

MEETING DATE: *March 14, 2016*

PROJECT TEAM: *Paul Downey, Director of Administrative Services; Mike Nolop, Information Technology Manager*

SUBJECT TITLE: *MACC Grant Budget Resolution – Firewall Replacement*

ACTION REQUESTED:

	Ordinance	X	Resolution		Motion		Informational
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X all that apply

ISSUE STATEMENT: The City has received grant funding from the Metropolitan Area Communications Commission (MACC) for the purchase of a backup and disaster recovery file server. The expenditure of these funds needs to be appropriated before the funds can be spent.

BACKGROUND: The City applied for and received a \$49,210 grant from MACC to replace the City's aging firewall server with a new firewall that has more features than the City's current firewall. The grant was for purchase, installation, and conversion services for the new firewall.

FISCAL IMPACT: The grant funds means the City will not have to find the additional funds that would have been necessary to purchase this more advanced firewall. The City will accumulate replacement funds to accumulate the necessary funds for the eventual replacement of the firewall similar to all other information technology assets.

STAFF RECOMMENDATION: Staff recommends the City Council approve the attached resolution.

ATTACHMENT(s):
 Resolution Authorizing Expenditure of MACC Grant PCN Funds



RESOLUTION NO. 2016-20

**RESOLUTION AUTHORIZING THE EXPENDITURE OF MACC PCN GRANT FUNDS
IN THE INFORMATION SYSTEMS FUND FOR FIREWALL REPLACEMENT
FOR THE CITY'S COMPUTER NETWORK SYSTEM**

WHEREAS, the Local Budget Law (ORS 294.326(3)) allows the expenditure of proceeds from grant or gifts to be made during the current fiscal year after the enactment of a resolution or ordinance; and

WHEREAS, the City of Forest Grove (City) has applied for and received a Metropolitan Area Communications Commission (MACC) PEG/PCN grant for equipment and consulting services to replace the City's current firewall for the City's computer network system; and

WHEREAS, the City has received \$49,210 in funding from MACC; and

WHEREAS, the expenditure of the additional grant funds needs to be appropriated before the funds can be expended.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE
AS FOLLOWS:**

Section 1. In the Information Systems Fund, MACC PCN Connection Grant Revenue (revenue line item 710-12-30-430651) will be increased by \$49,210 and appropriations expenditure account titled Office Furniture and Equipment (expenditure line item 710-12-30-550051) will be increased by \$49,210 for the purchase and installation of the firewall. Total Information Systems Fund appropriations are increased to \$423,441.

Section 2. This resolution is effective immediately upon its enactment by the City Council.

PRESENTED AND PASSED this 14th day of March, 2016.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 14th day of March, 2016.

Peter B. Truax, Mayor



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CITY MANAGER'S REPORT TO COUNCIL

March 11, 2016

Dates to Remember:

- March:** CEP Applications Available, Due 5 pm on March 31
- Mar 31:** State of County Address, 7:30 AM, Intel Ronler Acres
- April 13:** CEP Committee Meeting, 6 pm, CEP Presentations and Discussions, Community Auditorium
- April 15:** If I Were Mayor Contest Entries Due
- April 18:** Joint Work Session with Cornelius Council and FG School Board, ?PM, Community Auditorium

CITY MANAGER:

- Attended NLC Congressional City Conference March 5-9. Will report at Council Meeting.

ADMINISTRATIVE SERVICES:

- Times-Litho Redevelopment: Staff is working to fill in minor details of the Disposition and Development Agreement (DDA) with Tokola Properties prior to the execution of the agreement. Staff and a surveying firm are working on tax lot adjustments and the legal description of the property to be sold as part of Phase 1.
- CEP Process: Grant applications for the FY 2016-17 CEP are available and due by 5:00 p.m. on March 31, 2016.
- Senior Center: Staff has three quotes to replace the roof on the Senior Center and will be awarding the contract within the next week. The whole roof will be replaced. The project will be funded by a combination of Major Facility Maintenance Funds and Administrative Department repairs funds (General Fund).
- FY 2016-17 Budget Preparation: Requested budgets are due from department by March 25, 2016. Finance staff will assemble the requests and internal budget reviews will begin in early April.
- Accounting/Utility Billing System Replacement Reviews: Staff is reviewing the contract with Tyler Technologies to replace the accounting and human resources system and hopes to complete the contract this month.
- Police Facility: The request for proposal (RFP) for architectural and other design services from pre-design through final construction was issued on March 11, 2016, and proposals are due on April 11, 2016.
- Recruitments underway include: Police Officer, Code Enforcement Officer, Police Reserve Officer, Parks Supervisor, Building Inspector, and IT Manager. Recruitments will commence soon to replace: Youth Services Librarian, Adult Services Librarian, and Part-Time L&P Administrative Specialist.

PARKS and AQUATICS:

- Parks staff is working with Public Works and Engineering to repair damage to a section of trail in Forest Glen Park. The stream that runs next to the trail eroded the bank and has begun to impact the trail.
- Staff attended the first of several Stakeholder Advisory meetings last Friday regarding the Chehalem Ridge Natural Park Master Plan. Metro has included a number of local agencies and citizen to move the plan forward.
- After a long permitting process, the bid documents for the Old Town Loop trail will be released in the next two weeks. Construction is planned to begin early July 2016.
- The Aquatic Center will be closed for the final swim meet of the year March 18 and 19. The pool will reopen Monday, March 21, at 6 a.m. with extra Public Swim times for Spring Break.
- The Aquatic Center is taking registration for Spring Swimming Lessons that begin March 28.

LIBRARY:

- Thanks to a generous donation from a patron, the library has a new self-service office supply center for in-house use by patrons. Located behind the copy machine, supplies include a stapler, tape dispenser, pens, rulers and many other items often requested from staff by patrons. Patrons can also purchase envelopes, manila folders, ear buds and flash drives.
- Thanks to the Friends of the Library, reference staff are now equipped with a Tech Bundle. This bundle includes an iPad mini, Kindle Fire tablet, and a Samsung Galaxy Tab 4 (courtesy of WCCLS). Staff will be using this bundle for staff and patron training, providing roaming reference on the floor, and in emergencies such as internet and power outages while the library is still open.
- The Friends will soon be starting an ongoing, in-library book sale. A Friends volunteer will monitor and maintain the sale. Library staff will collect the funds. The Friends are purchasing a new book cart and will try it in various locations around the library to determine where it is most successful.
- The Library Foundation received a \$1,000 donation from the Forest Grove Elkettes. Other recipients of the Elkettes generosity were Valley Art, Theater in the Grove, and Habitat for Humanity.

POLICE:

- The 2016 Citizen's Academy graduated participants this date. The Forest Grove News-Times covered the event.
- The department effectively and professionally handled the world-wide media attention regarding the "mysterious noise" in Forest Grove. Captain Herb spoke with multiple news outlets and shows including "Inside Edition" and the "Carson Daly Morning Show."
- Sgt. Foster retired from the department March 7. Recruitment and selection efforts are underway in a very competitive hiring environment with 400 vacant law enforcement related positions currently in Oregon.
- Police administrators met with Pacific University administrators on several issues facing both entities revealing the need to work closer together and improve communication.
- Police administrators met with school district officials regarding mandatory reporting requirements and improving communication.
- Chief Schutz was again the guest speaker at the last state police academy graduation ceremony.
- Chief Schutz attended the Northwest Leadership Seminar and was the back-up speaker at the event. She is scheduled to be lead speaker in 2017's seminar.

LIGHT & POWER:

- Engineering staff attended PEAC (Power and Energy Automation Conference) in Spokane, Mar 8 – Mar 10. This conference allows Light and Power to stay up to date on new industry products, strategies and build relationships with colleagues.
- Protection relays, BPA metering PTs and CTs have been specified and ordered.
- Attended pre-application meeting for an expansion at Old Trapper and the redevelopment of 3412-3438 Pacific Avenue.
- Current preliminary designs being routed for review include: David Hill Rd extension.
- Project review of additions to Forest Grove Storage was received and is being evaluated.
- Work is ongoing replacing the failing high voltage underground cable at Grove Mobile Row D.
- Several poles on the City's electrical system are being replaced due to age and condition.
- Temporary power lines have been installed for lighting and construction power on the Hwy 47 / Verboort Rd project. Contractor expects by late March they will have enough of a new roadbed installed that our crews can return and build the new main line circuits.
- Crews are continuing to replace approximately 240 rental security lights throughout the system with LED's.

ECONOMIC DEVELOPMENT:

- New Brew Pub Ridgewalker has bought a vacant building on 24th Ave. Used Business Incentive Program.
- Continued working on re-authorization application of the Forest Grove Enterprise Zone, which is set to expire on June 30th of this year.
- Received notice of \$325,000 Washington County CDBG grant application for Senior Center Kitchen Improvements approved. Began grant administration.
- Offering scholarships to two small business training programs that begin in April. Met with local small businesses.
- Working with local hotel on new expansion project.
- Will hold a kick off meeting on April 5 with 8 local food and beverage processors to develop a consortium approach to better address their workforce training and recruitment needs
- Contract signed to begin advertising program with Oregon Public Broadcasting (OPB) including radio and digital ads promoting Forest Grove as good place to do business.
- Working with staff and local businesses to determine impacts of new marijuana laws in industrial and commercial areas.
- Assisting two property owners of large lot industrial land in the UGB to improve marketability and bring sites into City.
- Continued to make progress on industrial expansion project for food processor on 24th Ave. Pre-app held. If remaining barrier is resolved, could be 60,000 sf of new construction.

COMMUNITY DEVELOPMENT:

- Staff recently reviewed the final infrastructure analysis from the consultants for the David Hill and Purdin Road areas. A meeting will be scheduled with the Technical Advisory Committee after some revisions are made. Subsequently, a work session will be scheduled with the Planning Commission sometime in April. Upon completion of those tasks, a land use plan and infrastructure program will be prepared for public hearing.
- Marijuana project – Staff has received an inquiry to place a marijuana grow operation in the Matsushita industrial building on Heather Street. The facility is located across the street from Fern Hill Elementary and in close proximity to Echo Shaw Elementary and Neil Armstrong Middle schools. Staff has required the developer to conduct a neighborhood meeting, sending invitations to parents of students in those three schools and surrounding property owners. The developer has been working with the Forest Grove School District on sending out notices to parents and finding a site to hold the meeting. The meeting will be held at Echo Shaw Elementary on Wednesday, March 16, beginning at 6:00 pm.

ENGINEERING / PUBLIC WORKS:

- OR8/OR47 Quince Intersection: Staff is working on finalizing the tree mitigation plan. ODOT on schedule for construction this fall.
- FEMA: Staff mailed out notice to adjacent property owners regarding FEMA Open House for updated flood insurance rate maps. The open house is from 6-8 pm on March 17 at the Washington County Public Services Building, 155 N. First Avenue, Hillsboro.
- Silverstone Subdivision: Engineering staff is currently reviewing the construction drawings for Phase 1 (45 lots) of this 201 lot subdivision. This phase includes the extension of Main Street.
- Timber Harvest: Activity in the watershed has moved slowly with the wet weather and the temporary loss of Scoggins Valley road. The road is now back open and our logging operations is progressing and reaching the final stages. As soon as the weather clears up we need to schedule a tour.
- Deep Creek Road: Engineering staff is preparing the documents necessary for the Deep Creek road decommission project. This project schedule is constrained by a relatively small instream work window. The work is expected to in July and August of this year.