



*A place where families and businesses thrive.*

**CITY COUNCIL SPECIAL MEETING AGENDA**

**THURSDAY, APRIL 28, 2016**

**7:00 PM – Special City Council 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](mailto: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](mailto:aruggles@forestgrove-or.gov), 503-992-3235, at least 48 hours prior to the meeting.

**7:00**

1. **SPECIAL CITY COUNCIL MEETING:** Roll Call

*The City Council will convene in the Community Auditorium to conduct a Special City Council Meeting to solely address the following agenda item. No other business will be addressed at this meeting.*

Jon Holan, Community Development  
Director  
Jesse VanderZanden, City Manager

2. **PUBLIC HEARING AND SECOND READING OF ORDINANCE NO. 2016-10 AMENDING FOREST GROVE CITY CODE CHAPTER 5 BY ADDING NEW CODE SECTION 5.248 PROHIBITING THE ESTABLISHMENT OF RECREATIONAL MARIJUANA PRODUCER LOCATIONS WITHIN THE CITY AND DECLARING AN IMMEDIATE EFFECTIVE DATE**

**7:30**

3. **ADJOURNMENT:**



*A place where families and businesses thrive.*

<i>CITY RECORDER USE ONLY:</i>	
AGENDA ITEM #:	<u>2</u>
MEETING DATE:	_____
FINAL ACTION:	_____

**CITY COUNCIL STAFF REPORT**

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**TO:** *City Council*

**FROM:** *Jesse VanderZanden, City Manager*

**MEETING DATE:** *April 28, 2016*

**PROJECT TEAM:** *Jon Holan, Community Development Director, Jesse VanderZanden, City Manager*

**SUBJECT TITLE:** *Adoption of Ordinance Number 2016-10 prohibiting the establishment of recreational marijuana producer locations within the City of Forest Grove*

<b>ACTION REQUESTED:</b>	<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:** Council consideration of Ordinance Number 2016-10, temporarily prohibiting the establishment of recreational marijuana producer locations within the City of Forest Grove through August 5, 2016. If adopted, the Ordinance would become effective immediately.

**BACKGROUND:** There have been a number of issues surrounding the allowance of recreational marijuana producer or “grow” operations in Forest Grove. At public hearings held on March 14<sup>th</sup> and 28<sup>th</sup> on proposed marijuana related code amendments, concerns were raised by a large business regarding the impact of marijuana facilities located in close proximity to their business. Subsequently, a proposed open grow operation has been proposed in the south Elm Street industrial area. Further, the Public Safety Advisory Committee has expressed concerns about recreational open grow within city limits, among others.

At the April 25<sup>th</sup> meeting, the Council introduced Ordinance Number 2016-10 at first reading to be considered for second reading at a special meeting on April 28<sup>th</sup>. The ordinance would establish a temporary prohibition on recreational marijuana producer locations within the City through August 5<sup>th</sup>. This would allow the City time to consider potential time, place and manner regulations before any proposed facility is approved by the City. If regulations are enacted, the City Council could repeal Ordinance 2016-10 prior to August 5<sup>th</sup>.

**FISCAL IMPACT:** There is no anticipated fiscal impact to the City.

**STAFF RECOMMENDATION:** Staff recommends City Council consideration of Ordinance Number 2016-10 as attached.

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**ORDINANCE NO. 2016-10**

**ORDINANCE AMENDING FOREST GROVE CITY CODE CHAPTER 5 BY ADDING NEW CODE SECTION 5.248 PROHIBITING THE ESTABLISHMENT OF RECREATIONAL MARIJUANA PRODUCER LOCATIONS WITHIN THE CITY OF FOREST GROVE AND DECLARING AN IMMEDIATE EFFECTIVE DATE**

**WHEREAS**, state law permits the establishment of various marijuana facilities including recreational marijuana producers;

**WHEREAS**, ORS 475B.800 expressly permits local jurisdictions to prohibit the establishment of certain marijuana facilities within their jurisdictional limits, and the City of Forest Grove desires to impose such limits pursuant to this authority;

**WHEREAS**, the City believes ORS 475B.800 is not the only source of authority for the city to prohibit the establishment of marijuana facilities;

**WHEREAS**, marijuana facilities are prohibited under federal law, and this federal preemption provides the City with an independent basis to prohibit the establishment of marijuana facilities in the City;

**WHEREAS**, the City of Forest Grove is an Oregon home-rule municipal corporation with a City Charter that grants it all the powers and authority that the constitution, statutes and common law of the United States and this State expressly or impliedly grant or allow as though each such powers were specifically enumerated; and

**WHEREAS**, the City's home rule power includes the authority to impose limitations on the establishment of marijuana facilities within the City; and

**WHEREAS**, the City finds that the public health, safety and general welfare of the City, its residents and its visitors necessitates and requires the adoption of this ordinance prohibiting the establishment and operation of recreational marijuana producers within city limits, and for it to take effect immediately upon its adoption.

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

**Section 1.** Forest Grove City Council hereby amends Forest Grove City Code Chapter 5 by adding new Code Section 5.248, titled "Marijuana Facilities" to read as follows:

**Section 5.248 Prohibition on Recreational Marijuana Producers.**

- (1) Prohibition. No person, business or entity may establish, maintain, or operate a recreational marijuana producer location within city limits. The establishment, maintenance, or operation of a recreational marijuana producer location by a person, business or any other entity within the City in violation of this subchapter is declared to be a public nuisance.

- (2) Definitions. For the purposes of this subchapter, the following mean:
- (a) Recreational Marijuana Producer Location includes any property on which a marijuana producer required to be licensed by the Oregon Liquor Control Commission is located.
- (3) Violations and Enforcement.
- (a) The establishment, maintenance or operation of a recreational marijuana producer location by a person, business or any other entity within the City in violation of the requirements of this chapter will be subject to any and all enforcement remedies available to the City under law and/or the Forest Grove City Code including but not limited to enforcement pursuant to Chapter 5 of the Forest City Code and/or the filing of an appropriate action and pursuit of an appropriate remedy in a court of competent jurisdiction.
  - (b) The City may abate a nuisance under this chapter either pursuant to Chapter 5 of the Forest Grove City Code or it may pursue any other remedies available to it, including but not limited to an action seeking declaratory relief and/or injunctive relief.
  - (c) If the City brings an action in either law or equity in any of the courts of this state (including the U.S. District Court for the District of Oregon) other than its Municipal Court for the enforcement of this chapter, the City shall be entitled to the award of its reasonable attorney fees in the event it is the prevailing party.

**Section 2.** In accordance with ORS 475B.800, the City Manager is hereby directed to provide a copy of this ordinance to the Oregon Liquor Control Commission in the form and manner that the Commission may require.

**Section 3.** Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause does not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**Section 4.** This ordinance being necessary for the preservation of public peace, health, and safety is effective immediately and will automatically repeal on August 5, 2016.

**PRESENTED AND PASSED** the first reading this 25<sup>th</sup> day of April, 2016.

**PASSED** the second reading this 28<sup>th</sup> day of April, 2016.

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Anna D. Ruggles, City Recorder

**APPROVED** by the Mayor this 28<sup>th</sup> day of April, 2016.

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Peter B. Truax, Mayor