

A. MARIJUANA LAND USE IN MULTNOMAH COUNTY: CURRENT STATUS
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1. The County Land Use Planning Division routinely receives inquiries regarding marijuana regulations, associated land use regulations, and permitting requirements.
2. The County is responsible for regulating land uses, including those related to recreational and medical marijuana, pursuant to the Multnomah County Code (MCC). Marijuana production, processing and sales are no different than any other land use when it comes to administering the zoning ordinance. As with other land uses, the appropriate zoning district(s) to locate these businesses will be based on characteristics of the business (growing, processing, wholesaling, retailing or a combination thereof). Medical marijuana-related uses also have not been regulated, but similar to recreational marijuana facilities can be located based on their characteristics. The Oregon Medical Marijuana Act was adopted in 1998, although retail dispensaries were not legalized until 2014. For recreational marijuana, the inherent conflict is that related uses may be legally permissible under the construct of the County MCC and yet cannot legally operate until such time as the OLCC issues a license for each facility.
3. The county has yet to enact regulations that address the time, place and manner of these uses.

B. NEW STATE LEGISLATION

The 2015 legislature adopted five bills related to marijuana. In addition to HB 3400, discussed at length below, only one bill is related to marijuana land use regulations.

HOUSE BILL 3400 – JUNE 2015

Amended Ballot Measure 91 and certain provisions of the Oregon Medical Marijuana Act. Details are below in sections C and D.

SENATE BILL 460A (“EARLY START”) – JULY 2015

Allows medical marijuana dispensaries an “early start” to sell limited recreational marijuana products (i.e. recreational marijuana seeds, leaves, flowers and non- flowering plants) beginning October 1, 2015. The effect of this bill brings the legal sale of recreational marijuana to the market prior to the OLCC accepting and approving licenses for recreational marijuana dispensaries in 2016. The sale of limited recreational marijuana products can only occur in licensed medical marijuana dispensaries that are already authorized under the County’s time, place and manner regulations. Therefore, no additional land use regulations are necessary before October 1, 2015 to allow the sale of limited recreational marijuana products.

HOUSE BILL 2041A (RETAIL TAXATION) – JULY 2015

Imposes a 17% point of sale state tax on recreational marijuana products, with a net distribution formula of:

- 40% to the Common School Fund,
- 25% to substance abuse treatment and prevention,
- 15% to the Oregon State Police, and
- 10% to cities to help enforce Measure 91
- 10% to counties to help enforce Measure 91

The bill also disqualifies a county or city from receiving any tax distributions if the county or city prohibits any one or more of the six categories - recreational (producer, processor, wholesaler, retailer) and medical (processor and dispensary) of marijuana business licensees. Additionally, the bill imposes a 25% “early start” point of sale tax from January 4, 2016 to December 31, 2016, on all recreational marijuana sales taking place in medical marijuana dispensaries

SENATE BILL 844A (MISCELLANEOUS) – JULY 2015

The bill contained miscellaneous provisions to establish a research task force and other operative provisions for medical marijuana caregivers and cardholders

SENATE JOINT MEMORIAL 12 – JULY 2015

Urged the US Congress to declassify marijuana so issues relating to research and banking can be addressed

C. RECREATIONAL MARIJUANA (BALLOT MEASURE 91/HOUSE BILL 3400)

Definitions:

- a. Household: a housing unit, including any place in or around the housing unit at which the occupants of the housing unit are producing, processing, keeping or storing homegrown marijuana or homemade marijuana products
- b. Marijuana: the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae
- c. Immature Marijuana Plant: a marijuana plant that is not flowering
- d. Mature marijuana plant: a marijuana plant that is not an immature marijuana plant
- e. Marijuana items: marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts
- f. Marijuana processor: a person who processes marijuana items in this state
- g. Marijuana producer: a person who produces marijuana in this state
- h. Marijuana retailer: a person who sells marijuana items to a consumer in this state
- i. Marijuana wholesaler: a person who purchases marijuana items in this state for resale to a person other than a consumer
- j. Processes: the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts. Processes does not include packaging and labeling.
- k. Produces: the manufacture, planting, cultivation, growing or harvesting of marijuana
- l. Public place: 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 apartment designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and areas used in conjunctions with public passenger transportation.

Overview:

Measure 91, approved by Oregon voters in November 2014 -- the *Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act* -- was approved in Multnomah County by a vote of 71.38% in favor (213,137) to 28.62% in opposition (85,474), with a voter turnout of 68.59%. HB 3400, which amends Measure 91, was adopted by the 2015 state legislature. The following information summarizes the original act as amended by HB 3400.

- a. The purpose of the law is to permit persons licensed, controlled, regulated and taxed by this state to legally manufacture and sell marijuana to persons 21 year of age and older.
- b. Though the original Act does not include any specific land use regulations, HB 3400 does.
- c. Though the original Act does not amend the Oregon Medical Marijuana Act, HB 3400 does.

- d. The Act clarifies that marijuana does not include industrial hemp, as defined in ORS 571.300, or industrial hemp commodities or products. (Growing industrial hemp is considered to be an agricultural product / farm use (OAR 571.305(1)). Industrial hemp facilities must be licensed by the Oregon Department of Agriculture (ODA).)

Recreational Marijuana for Personal Use:

The production, processing and storage of homegrown marijuana and marijuana products is often referred to as the Personal Use Allowance. The personal allowance authorized for recreational marijuana per household is a right to possess marijuana; it is not a land use issue and will not be regulated by the MCC.

- a. Effective July 1, 2015, the making, processing and storage of homegrown marijuana and marijuana products is not to exceed four plants, eight ounces of useable marijuana, 16 ounces in solid form, 72 ounces in liquid form and 16 ounces of concentrates per household at any time
- b. The delivery of marijuana is not to exceed more than one ounce of homegrown marijuana, 16 ounces of solids, 72 ounces of liquids and 16 ounces of concentrates at a time by a person 21 years of age or older to another person 21 years of age or older for non-commercial purposes.
- c. No consumption is allowed in public.
- d. No person may produce, process, keep or store homegrown marijuana or homemade marijuana products if the products can be readily seen by normal unaided vision from a public place.

Oregon Liquor Control Commission (OLCC):

The Oregon Liquor Control Commission (OLCC) is responsible to adopt laws (Oregon Administrative Rules) to implement and administer Measure 91 and HB 3400. The duties of the OLCC include:

- a. To regulate the purchase, sale, production, processing, transportation and delivery of marijuana items.
- b. On or before January 1, 2016, to adopt rules and regulations as deemed necessary for the implementation and administration of the Act.
- c. On or before January 4, 2016, to begin receiving applications for the licensing of persons to produce, process, wholesale and retail marijuana. (The Act states that OLCC may not unreasonably delay decisions on a license, but does not specify a time limit.)

RECREATIONAL MARIJUANA LICENSES

Type: Licenses approved by the OLCC are required for four types of commercial recreational marijuana facilities:

- a. producers;
- b. processors;
- c. wholesalers, and
- d. retailers.

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. The following information is excerpts from HB 3400 regarding each license

PRODUCTION LICENSE: Sections 12 and 13 of HB 3400 identify the requirements for a marijuana production license:

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

- (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.*

PROCESSOR LICENSE: Section 14 of HB 3400 identifies the requirements for a marijuana processor license:

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

- (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.

STAFF COMMENT: Paragraph 2(c) prohibits a marijuana processor who processes marijuana extracts from being "... located in an area zoned exclusively for residential use." [emphasis added] There is no zoning district in unincorporated Multnomah County that is exclusively zoned for residential use. All of the residential zones also allow uses such as parks, churches, schools and other uses. Staff can only surmise that this provision is intended to prohibit marijuana processors in districts primarily zoned for residential use, which includes Rural Residential and Orient Rural Center Residential.

WHOLESALE LICENSE: Section 15 identifies the requirements for a marijuana wholesale license:

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

(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, 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.*

RETAIL LICENSE: Sections 16 and 17 identify the requirements for a marijuana retail license:

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

- (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.

REASONABLE REGULATIONS: Section 33 of HB 3400 authorizes the County to impose reasonable regulations on the operation of licensed recreational marijuana businesses.

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

(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.

STAFF COMMENT: The word “reasonable” is not defined by HB 3400. Depending on the result of discussion with County Counsel about statutory construction, a dictionary definition of “reasonable” may be relevant.

Enforcement: Section 30 of HB 3400 authorizes the Oregon Liquor Control Commission the authority 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.

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

STAFF COMMENT: It appears that the OLCC will not conduct inspections and investigations of a primary residence therefore it is worth consideration if the MCC should allow the production, processing, wholesaling and retail sales of marijuana as home occupations.

FARM USE: Section 34 explicitly applies various farm-related provisions of state law to marijuana and requires a land use compatibility statement from the County as part of the Oregon Liquor Control Commission's marijuana business licensing process.

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.

STAFF COMMENT: It appears that marijuana production is permitted outright in the Exclusive Farm Use (EFU) District. In addition, the definition of farm use at ORS 215.203 permits wholesaling and certain levels of processing (i.e., 10,000- square-foot maximum processing space with a minimum of 25% of processed crops grown onsite). ORS 30.930 prohibits the county from regulating farm practices as nuisances or trespass on land zoned for farm use. This may in fact limit the degree to which farming practices associated with marijuana may be restricted by the county. Outside of the EFU zone, HB 3400 provides less clarity. However, the use of the word “may” (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.) strongly suggests that the County is not required to permit marijuana production in its forest and rural residential zones. However, these zones currently permit a broad range of farm uses, including horticulture, raising of crops, and marketing of farm products. In some cases, processing of farm products is permitted.

D. MEDICAL MARIJUANA

Definitions (HB 3400)

- a. Registry identification cardholder: a person to whom a registry identification card has been issued under ORS 475.309
- b. Marijuana grow site: a location registered under ORS 475.304 where marijuana is produced for use by a registry identification holder.
- c. Person designated to produce marijuana by a registry identification card holder: 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 plants are produced.

The Oregon Medical Marijuana Act (OMMA) is codified in ORS 475.300-475.346. The Oregon Health Authority (OHA) adopted Oregon Administrative Rules (OAR 333, Division 8) necessary for the implementation and administration of the Oregon Medical Marijuana Act. The County is not responsible for administering the OAR's relative to medical marijuana. Registration is required through the Oregon Health Authority for production and processing of medical marijuana and for medical marijuana dispensaries.

GROW SITE POSSESSION LIMITS: Section 82 of HB 3400 establishes limits on the number of plants and amount of marijuana that may be at a grow site.

SECTION 82. ORS 475.320 is amended to read:

- (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.*

STAFF COMMENT: Medical marijuana grows are not addressed under the Multnomah County Code.

MEDICAL MARIJUANA PROCESSORS:

Section 85 of HB 3400 provides, in pertinent part:

- (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;*

MEDICAL MARIJUANA DISPENSARIES:

Section 86 of HB 3400 provides, in pertinent part:

- (3) *To qualify for registration under this section, a medical marijuana dispensary:*
- (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 an application to register as a business, with the office of the Secretary of State;*
 - (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 dispensary;*

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.

REASONABLE REGULATIONS: Section 89 of HB 3400 authorizes the County to impose reasonable regulations on the operation of medical marijuana uses.

- (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.*