



# Planning Commission Agenda

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**Planning Commissioners:**

Tim Vohs, Chair  
Nick Nelson, Vice Chair  
Steve Moe  
Greg James  
Sean Dunn  
Michael Koivula  
Andrew Landen

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The meeting location is wheelchair-accessible. For the hearing-impaired, an interpreter can be provided with 48 hours' notice prior to the meeting. For meetings in the Council Meeting Room, a "Personal PA Receiver" for the hearing impaired is available. To arrange for these services, call 541.726.3610.

**Meetings will end prior to 10:00 p.m. unless extended by a vote of the Planning Commission.**

All proceedings before the Planning Commission are recorded.

**December 15, 2015**

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**5:30 p.m. Work Session  
Jesse Maine Room**

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(Planning Commission work sessions are reserved for discussion between Planning Commission, staff and consultants; therefore, the Planning Commission will not receive public input during work sessions. Opportunities for public input are given during all regular Planning Commission meetings.)

**CONVENE AND CALL TO ORDER THE WORK SESSION OF THE SPRINGFIELD PLANNING COMMISSION**

**ATTENDANCE:** Chair Vohs \_\_\_\_\_, Vice Chair Nelson \_\_\_\_\_, Moe\_\_\_\_, James \_\_\_\_\_, Dunn \_\_\_\_\_,  
Koivula \_\_\_\_\_, Landen \_\_\_\_\_.

**WORK SESSION ITEM(S)**

- 1. Draft Land Use Regulations of Recreational Marijuana Activities including Production, Manufacturing, Wholesale and Retail Sales.**

**Staff: Greg Mott, Current Planning Manager  
Jim Donovan, Current Planning Supervisor**

**90 Minutes**

**ADJOURN WORK SESSION OF THE SPRINGFIELD PLANNING COMMISSION**

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**AGENDA ITEM SUMMARY**

**Meeting Date:** 12/15/2015  
**Meeting Type:** Work Session  
**Staff Contact/Dept.:** Greg Mott/DPW  
Jim Donovan DPW  
**Staff Phone No:** 541-726-3774  
**Estimated Time:** 1.5 Hours  
**Council Goals:** Promote and Enhance  
our Hometown Feel  
while Focusing on  
Livability and  
Environmental Quality

**SPRINGFIELD  
PLANNING COMMISSION**

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**ITEM TITLE:** Work session discussion of draft land use regulations of recreational marijuana activities including production, manufacturing, wholesale and retail sales.

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**ACTION REQUESTED:** General discussion and development of recommendations for Council deliberation on proposed land use regulations contained in Attachments 1 and 2 and as may be depicted on maps showing various setback buffers between certain existing land uses and sites proposed to be used for various licensed marijuana activities.

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**ISSUE STATEMENT:** In response to a statewide vote legalizing recreational marijuana, the City Council has determined to amend the Development Code to add regulations applicable to the production, manufacture, wholesale and retail sales of recreational marijuana. The Council directed the Planning Commission's involvement in this process at the conclusion of an 11/9/15 Work Session discussion on this subject.

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**ATTACHMENTS:** Attachment #1: PC Memorandum, Adding Medical Marijuana Dispensaries to certain zoning districts, October 21, 2014  
Attachment #2: CC Memorandum, Potential Regulation of Medical and/or Recreational Marijuana, November 9, 2015

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**DISCUSSION:** In response to voter approval of a recreational marijuana ballot measure, the Council conducted a work session on 11/9/15 to begin consideration of new land use regulation of recreational marijuana activities. This work session coincided with the release of new statewide rules for the implementation of the recreational marijuana program by the Oregon Liquor Control Commission. The Council generally supported the direction and intent embodied in the draft regulations generated by staff and contained in Attachment #2, but agreed that they wanted the Planning Commission to conduct a close review of these proposals and develop specific recommendations for Council deliberation and action as soon as resources allow. The following is a summary of the Council's direction at the conclusion of the 11/9/15 work session:

- Consider zoning for both medical and recreational activities.
  - Consider how daycare facilities might be defined and included in buffer zones. Consider applying buffers to only commercial daycare uses.
  - Consider impacts of regulated grow sites on utilities such as electrical services and stormwater systems, odors or other time, place and manner impacts.
  - Consider regulations that prohibit use of product at location of retail outlets.
  - Consider code enforcement's capabilities for regulation of land use violations.
  - Consider maps with different residential buffer zones (50, 100, 500 feet).
  - Consider safety aspects of extracts that could be flammable or explosive.
  - Consider general zoning regulations as presented in the CC agenda packet.
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**AGENDA ITEM SUMMARY**

**Meeting Date:** 10/21/2014  
**Meeting Type:** Work Session  
**Staff Contact/Dept.:** Jim Donovan DPW  
Gary M. Karp DPW  
**Staff Phone No:** 541-726-3774  
**Estimated Time:** 60 Minutes  
**Council Goals:** Enhance Public Safety

**SPRINGFIELD  
PLANNING COMMISSION**

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**ITEM TITLE:** Springfield Development Code Amendments (SDC) to Adding Medical Marijuana Dispensaries To Certain Zoning Districts – File TYP414-0003.

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**ACTION REQUESTED:** Conduct a work session on the proposed Springfield SDC amendments. Staff requests Planning Commission direction on draft revisions to proposed SDC text prior to the Planning Commission Public Hearing and Recommendation scheduled for November 18, 2014.

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**ISSUE STATEMENT:** Oregon House Bill 3460 (2013) authorized the Oregon Health Authority (OHA) to establish and regulate a medical marijuana facility (dispensary) registration system. Under that law, registered medical marijuana dispensaries were authorized to sell medical marijuana beginning March 1, 2014. To better clarify a local government’s ability to regulate the facilities, the Oregon Legislature passed Senate Bill 1531 (2014). SB 1531 provided that cities may impose “reasonable regulations” on the hours of operation; limitations on where the facility may locate in the authorized zones; and reasonable conditions on the manner in which a facility may dispense medical marijuana. On July 21, 2014 the City Council adopted Ordinance 6324 by emergency action amending the Springfield Municipal Code (SMC) establishing standards pertaining to medical marijuana dispensary business licensing and operational requirements. Currently, the SDC does not contain medical marijuana dispensaries as a listed use in any zoning district. The proposed SDC amendments discuss land use regulations: which zoning districts these facilities can be located in; limitations on where the facility may be located in the authorized zoning districts; the planning review process for these facilities; and provides definitions of “Marijuana” and “Dispensary”.

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**ATTACHMENTS:** Attachment 1: Proposed SDC Amendments  
Attachment 2: Feedback from Marijuana Industry Representatives  
Attachment 3: Medical Marijuana Facilities – Other City Comparisons

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**DISCUSSION:** OHA regulations specify that medical marijuana dispensaries can be located in areas zoned for commercial, industrial, mixed use or agricultural land and prohibit a dispensary from locating at the same address as a grow site; within 1,000 feet of an elementary, secondary or career school; and within 1,000 feet of another dispensary. The City Council has requested staff to provide additional separation from day care facilities and residential zoning districts. Staff reviewed Ordinances from Ashland, Beaverton, Roseburg and Salem in formulating the proposed SDC amendments. Previously, as part of the review and adoption of the Springfield Municipal Code amendment, staff met with representatives from the local medical marijuana dispensary industry to discuss the suggested regulations to amend the Springfield Municipal Code and sought their feedback on each area of proposed regulation prior to the public adoption process. On October 14, 2014, staff again met with these representatives to discuss the proposed SDC amendments. Please see Attachment 2 for a summary of their comments. Maps will be presented at the work session.

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**PROPOSED**  
**SPRINGFIELD DEVELOPMENT CODE (SDC) AMENDMENTS TO ALLOW  
MEDICAL MARIJUANA DISPENSARIES IN CERTAIN ZONING DISTRICTS**

Proposed text is underlined and highlighted in **yellow**.

**Commentary.** The proposed SDC amendments contain input from staff’s meeting with marijuana dispensary industry representatives on October 14, 2014 (See Attachment 2 Feedback from Marijuana Industry Representatives).

ORS 475.314 (Medical Marijuana Facility Registration) states that medical marijuana dispensaries may be permitted in Commercial, Industrial, Mixed Use and/or Agricultural Zoning Districts. However, staff reviewed adopted, or soon to be adopted, medical marijuana dispensary zoning regulations from Ashland, Beaverton, Roseburg and Salem (see Attachment 3) and found that except for Ashland and Roseburg (see the discussion under Industrial Zoning Districts, below), this use was limited to specific commercial zoning districts because the proposed use is considered to be retail in nature where a customer comes to the dispensary to purchase merchandise (medical marijuana) for personal consumption. However, Ashland does allow medical marijuana dispensaries in their Employment 1 Zoning District as a Conditional Use that requires review by their Planning Commission and Roseburg allows the use in their Mixed Use Industrial Zoning District.

Staff is proposing to:

- 1) Allow medical marijuana dispensaries in the Community Commercial and Major Retail Commercial Zoning Districts that must comply with “Special Use” standards to ensure compliance with certain licensing requirements as specified in Chapter 7 of the Springfield Municipal Code (Ordinance 6324 adopted and effective on July 21, 2014) and specific locational standards as proposed in Subsection 4.7-177 below; and
- 2) Prohibit medical marijuana dispensaries in all mixed use and all industrial zoning districts for reasons explained below. Springfield currently does not have an Agricultural Zoning District.

**3.2-300 Commercial Zoning Districts**

**3.2-310 Schedule of Use Categories**

**Commentary.** Marijuana dispensaries are proposed to be permitted in the Community Commercial (CC) and Major Retail Commercial (MRC) Zoning Districts under Special Use standards.

Marijuana dispensaries are proposed to be prohibited in the Neighborhood Commercial (NC) and General Office Zoning Districts for the following reasons:

- 1) The NC (Neighborhood Commercial) Zoning District, while listed under “Commercial Districts”, is discussed under the Metro Plan Residential Designation where “neighborhood commercial services” are allowed as auxiliary uses. The SDC limits the NC Zoning District to not more than 3 acres in size consisting of a neighborhood market, hair salon, etc. serving the neighborhood and it is typically surrounded by residential zoning districts. The proposed locational restrictions proposed in Subsection 4.7-177 below either would be difficult to, or cannot be met.

2) The GO (General Office) Zoning District, which is considered a buffer between more intense commercial uses and residential uses does allow retail uses as a secondary use. However, retail uses are limited to no more than 10 percent of the gross floor area of the office building in which they are sited and are typically serving the primary office uses. For these reasons, staff proposes that marijuana dispensaries should not be permitted in the GO Zoning District.

Categories/Uses	Commercial Districts			
	NC	CC	MRC	GO
Marijuana Uses (Section 4.7-177)				
Medical Marijuana Dispensaries	<b>N</b>	<b>S</b>	<b>S</b>	<b>N</b>

**Commentary.** As stated above, Beaverton and Salem opted not to permit marijuana dispensaries within industrial zoning districts. The proposed marijuana dispensary use is similar to a retail use, as explained above. The LMI (Light Medium Industrial) and HI (Heavy Industrial Zoning) Districts do not permit retail uses as a primary use, which includes, but is not limited to: manufacturing; warehousing; and research, development and testing laboratories. While these zoning districts do allow secondary uses serving or related to the primary industrial uses, they are limited to those serving the employees of the primary industrial use. There are no secondary retail uses in these zoning districts. In addition, the SHI (Special Heavy Industrial) Zoning District is located outside of the Springfield city limits and is therefore not eligible for marijuana dispensaries, which are required to be located only within Springfield’s city limits due to the operational requirements contained in the Springfield Municipal Code Chapter 7. The Springfield Municipal Code does not apply outside of the city limits.

**Section 3.2-400 Industrial Zoning Districts**

**3.2-410 Schedule of Use Categories**

Use Categories/Uses	Industrial Districts		
	LMI	HI	SHI
Marijuana Uses (Section 4.7-177)			
Medical Marijuana Dispensaries	<b>N</b>	<b>N</b>	<b>N</b>

**Commentary.** While the CI (Campus Industrial) Zoning District does allow certain retail uses, these uses are also intended to be secondary to the permitted primary Campus Industrial uses. The purpose of these permitted secondary retail uses is to serve the employees of the CI Zoning District. A medical marijuana dispensary will serve customers from all over the metropolitan area and, therefore, is not considered secondary to permitted primary uses specified in SDC Subsection 3.2-415. Staff proposes adding marijuana dispensaries to the CI prohibited use list.

**3.2-415 Schedule of Campus Industrial Use Categories**

<i>Prohibited Uses</i>	
Heavy industrial uses that involve the primary manufacturing of large volumes of raw materials into refined materials including, but not limited to processing from trees to lumber, wood products or paper; from ores to primary metals; and animal or fish processing in packing plants	<b>N</b>
Any use that cannot meet the operational performance standards specified in Section 3.2-	<b>N</b>

425	
Any retail uses, unless permitted as a secondary use as specified in Section 3.2-415	N
Stand-alone industrial/commercial warehousing, unless permitted as a secondary use as specified in Section 3.2-410	N
Mini-warehouse storage facilities	N
Drive-through facilities	N
Medical and dental practitioner offices	N
Medical marijuana dispensaries	N
Motor freight terminals	N
Moving and storage facilities	N
Truck and auto repair and painting facilities	N
Truck and car washes	N
Gas stations	N
Motels	N

**Commentary.** As stated above, Beaverton and Salem opted not to permit marijuana dispensaries within mixed use zoning districts. However, Roseburg does allow marijuana dispensaries in the Mixed Use Industrial Zoning District.

Note: Springfield has two sets of mixed-use zoning district. One applies to Glenwood Phase 1 only; the other to the rest of the City.

All the zoning in Glenwood Riverfront Mixed-Use Plan District is either Employment Mixed-Use, Commercial Mixed-Use, Office Mixed-Use or Employment Mixed-Use. Any permitted retail uses in these zoning districts were limited to prevent conflicts with retail uses in downtown Springfield. The purpose of these permitted secondary retail uses in Glenwood is to serve either the residents or employees, not the general public. Therefore, medical marijuana dispensaries would not be considered secondary to the primary uses in these zoning districts.

**3.4-200 Glenwood Riverfront Mixed-Use Plan District**

**3.4-255 Prohibited Uses**

The following uses shall be prohibited within the Glenwood Riverfront Mixed-Use Plan District:

Agricultural machinery rental/sales/service

Auto parts, tires, batteries, and accessories

Auto/truck sales/rental/service

Warehouse commercial retail sales (big box stores)(1)

Car and truck washes

Drive-through facilities (2)



All equipment rental/sales/service facilities

Exterior display and storage of merchandise (3)

Freestanding wireless communication towers

Key/card lock fuel facilities

Light manufacturing uses that cannot meet the operational performance standards specified in Section 3.4-270

Manufactured dwelling sales/service/repair

**Medical marijuana dispensaries**

Mini-warehouse storage facilities

Motels

Motor freight terminals

Moving and storage facilities

Recreational vehicle and heavy truck sales/rental/service

Service stations and gas stations

Tires, sales/service

Transit park and ride facility

Truck and auto repair and painting facilities....

**Commentary.** As stated above, Beaverton and Salem opted not to permit marijuana dispensaries within mixed use zoning districts. However, Roseburg does allow marijuana dispensaries in the Mixed Use Industrial Zoning District. The MUC (Mixed Use Commercial ) Zoning District allows residential uses, sometimes in the same building and it would be difficult to regulate any separation between the marijuana dispensary and the residential uses. The MUE (Mixed Use Employment Zoning District) is primarily an industrial zoning district that allows only a limited number of retail uses that serve the permitted industrial uses, however, currently there is no MUE zoned land in Springfield. The MUR (Mixed Use Residential) Zoning District is primarily a residential zoning district and medical marijuana dispensaries are not permitted in residential zoning districts.

**Section 3.2-600 Mixed Use Zoning Districts**

**3.2-610 Schedule of Use Categories**

Categories/Uses	Districts		
	MUC	MUE	MUR
Marijuana Uses (Section 4.7-177)			
Medical Marijuana Dispensaries	N	N	N

**Commentary.** SDC 4.7-100 currently contains “special use” standards for a number of permitted uses in various zoning districts. These “special use” standards typically involve increased setbacks for schools and churches or specific standards, such as, for home occupations and RV parks. The proposed Subsection provides specific standards for permitting a medical marijuana dispensary in the Community Commercial and Major Retail Commercial Zoning Districts based upon regulations contained in: ORS 475.300-346; OAR Chapter 333 Division 8; and proposed and/or adopted marijuana dispensary regulation in Ashland, Beaverton and Salem.

**Section 4.7-177 Medical Marijuana Dispensaries**

**A.** Medical marijuana dispensaries shall be:

1. Registered in accordance with ORS 475.300-ORS 475.346 and meet the requirements of OAR Chapter 333 Division 8 Medical Marijuana Facilities;
2. Licensed and regulated as specified in Chapter 7 of the Springfield Municipal Code;
3. Located on and take access from an arterial or collector street; and
4. Fully contained in a permanent building in the Community Commercial or Major Retail Commercial Zoning Districts as specified in Subsection 3.2-310 of this Code. Outdoor storage of merchandise, raw materials, or any other material associated with the medical marijuana dispensary is prohibited.

**B.** Where permitted by this Code, medical marijuana dispensaries shall not be located:

**Commentary.** Subsections 1.-3. Are based upon OHA requirements.

1. At the same address as a registered marijuana grow site;
2. Within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors (“within 1,000 feet” means a straight line measurement in a radius extending for 1,000 feet or less in every direction from any point on the boundary line of the real property comprising an existing public or private elementary, secondary or career school primarily attended by minors);
3. Within 1,000 feet of another medical marijuana facility (“within 1,000 feet” means a straight line measurement in a radius extending for 1,000 feet or less in every direction from any point on the boundary line of the real property comprising a registered dispensary);

**Commentary.** These proposed standards are not listed in ORS 475.314; the intent was to provide additional

protection of children. See also the Cole Memorandum<sup>1</sup>. Both the Planning Commission and the City Council should consider the Cole memorandum in their review of the proposed SDC amendments. Staff reviewed adopted, or soon to be adopted medical marijuana dispensary zoning regulations from Ashland, Beaverton and Salem and found that addressed parks, pre-schools and certified day care facilities. See Attachment 3 Medical Marijuana Dispensaries – Other City Comparisons. Staff originally proposed 1,000 feet of separation between parks, pre-schools and certified day care centers. However, based upon input from the marijuana industry representatives, a 250 foot from parks was proposed. Pre-schools and day care facilities located in residential zoning districts will be addressed in the proposed residential setback locational standard below.

- 4. Within 250 feet of parks (“within 250 feet” means a straight line measurement in a radius extending for 250 feet or less in every direction from any point on the boundary line of the real property compromising a registered dispensary); and**

**Commentary.** Setbacks from residential zoning districts. These standards are not listed in ORS 475.314; the intent is to provide additional protection of children. This topic was discussed at the July 14 City Council Work Session regarding amending the Springfield Municipal Code to regulate licensing medical marijuana dispensaries in the City. A number of options were mentioned from 1,000 feet to 100 feet and possible distanced in between. Staff reviewed adopted, or soon to be adopted, medical marijuana dispensary zoning regulations from Ashland, Beaverton and Salem regarding setbacks from residential zoning districts. Staff found Ashland proposed a 200 foot setback, Salem proposed a 100 foot setback and Beaverton has no setback. Please note that when zoning was first applied along Main Street, commercial zoning included a 200 foot-wide swath that created a number of lots that were split zoned Community Commercial and residential. The linear pattern of Main Street also would prohibit the establishment of any medical marijuana dispensaries in this area if a 1,000 or even 200 foot setback was to be imposed. Staff prepared maps showing a proposed 50 foot and 100 foot setback from residential properties along Main Street and in other areas of Springfield where Community Commercial and Major Retail Commercial zoning occurs. However, based on input from the marijuana dispensary industry representatives a 50 foot setback was proposed that would also apply to pre-schools and day care facilities in the residential zoning districts. No separate setback for pre-schools or day care facilities that are not located in a residential zoning district is proposed. The Planning Commission is asked to provide staff with feedback on the proposed residential setback.

- 5. Within 50 feet of any residential zoning district (“within 50 feet” means a straight line measurement in a radius extending for 50 feet, including public right-of-way, in every direction from any point of the property containing a registered medical marijuana dispensary).**

**C. Additional Regulations. The medical marijuana dispensary shall:**

<sup>1</sup> In a memorandum to all United States Attorneys dated August 29, 2013, James M. Cole, Deputy Attorney General distributed information on Guidance Regarding Marijuana Enforcement. The memorandum states in part: “...the Department (Justice Department) in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government.... Preventing the distribution of marijuana to minors.... The Department’s guidance in this memorandum rests on tis expectation that states and local governments that have enacted [and/or are proposing to] laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests....” The Oregon Legislature has adopted Medical Marijuana regulations enacted by Senate Bill 1531 (2014) which grants Springfield the authority to adopt ordinances within the city limits that impose reasonable regulations on the operation of medical marijuana facilities registered under ORS 475.314 that are consistent with the latest directive.

1. Not have a drive-up window; and
2. Provide for secure disposal of marijuana remnants or by-products, which shall not be placed within the dispensary's exterior refuse containers.

**Commentary.** The intent of this Subsection is to not penalize medical marijuana dispensaries that have been: 1) approved prior to these proposed amendments ; or 2) if a school, park another protected use locates within a proposed locational standard area after a medical marijuana dispensary has been approved under these proposed regulations.

- D.** A future use which may be sited that affects a licensed dispensary existing at the time of the siting of the future use, shall not make the existing licensed dispensary in violation of the locational standards specified in Subsection B., nor shall it be grounds to refuse to renew a license.
- E.** In the event that a dispensary is existing on [INSERT EFFECTIVE DATE OF ORDINANCE HERE], that existing dispensary is unaffected by the requirements of this Subsection B. However, in the event the dispensary is discontinued for 6 months or more or is not occupied, it shall be deemed abandoned and the provisions of Subsection B. shall no longer apply.

**Commentary.** In addition to meeting the proposed locational standards, establishment of a medical marijuana dispensary will require the following applicable planning review process.

- F. Planning Review.**
1. When the proposed dispensary is a change of use in an existing building, Minimum Development Standards (MDS) as specified in Section 5.15-100 will apply.
  2. When the facility is proposed in a new building, Site Plan Review standards as specified in Section 5.17-100 will apply.
  3. MDS or Site Plan Review approval by the Director will require, in addition to any other conditions of approval, a copy of the Oregon Health Authority registration approval and a copy of the Springfield medical marijuana facility business license. These documents shall be required prior to occupancy.

**Commentary.** The proposed definition of "medical marijuana dispensary" is the same as the definition in Chapter 7 of the Springfield Municipal Code.

## **Section 6.1-110 Meaning of Specific Words and Terms**

### **Medical Marijuana Dispensary.**

- A.** Marijuana. As defined under ORS 475.005.
- B.** Dispensary. A Medical marijuana facility registered by the Oregon Health Authority under ORS 475.314.



## FEEDBACK FROM MARIJUANA INDUSTRY REPRESENTATIVES 10.14.14

### **Background:**

Staff met with medical marijuana industry representatives prior to the public review and adoption of the Springfield Municipal Code (SMC) regulations regarding the licensing and operation of medical marijuana dispensaries in Springfield in July. Staff has again contacted industry representatives prior to the Planning Commission work session scheduled on October 21 on the proposed SDC amendments. These regulations focus on land use regulations, e.g.: which zones dispensaries may be permitted and/or prohibited; special use (locational) standards that include setbacks from schools, parks, residential zoning districts; and application processing procedures.

### **Attendees:**

Seven industry representatives (Kris McAlister, Nicholas Saulsberry, Eagan Orr, Jayson Thomas, James Hugo, Ethan Felcher, and Bret Kenyon), three City staff (James Donovan, Gary Karp and Lauren King CAO) and Councilor Dave Ralston were in attendance.

### **Discussion Topics:**

Prior to the staff presentation, there was a conversation about the upcoming election on November 4 on the legalization of marijuana in Oregon (BM 91). The industry representatives were concerned about the results of a yes vote having an effect on existing and proposed regulation of their industry by Springfield. Staff explained that the industry needed to be regulated locally as of result of allowing the dispensaries to be licensed by the Oregon Health Authority (OHA) and that has been/and is currently being accomplished. Upon passage of BM 91, the State would need to prepare model Ordinance regulations and local jurisdictions would have up to 18 months to adopt local regulations pertaining to BM 91. Staff stated that the adoption of those regulations could include amendments to existing local regulations (the SMC and the SDC).

Staff discussed a table that compared what other jurisdictions (Ashland, Beaverton, Roseburg, and Salem) have adopted compared to what Springfield was proposing. It included OHA mandated regulations as well as additional regulations adopted by these other jurisdictions. Springfield's proposed SDC amendments do not exceed the most stringent standards adopted by these other jurisdictions. The industry representatives had concerns about "over regulation" and felt that marijuana dispensaries should be compared to pharmacies which have no locational regulations and/or liquor stores which are regulated by OLCC.

Staff then presented the proposed SDC amendments and discussed both the staff commentary and the proposed text.

The first topic was “What zoning districts would allow or prohibit marijuana dispensaries?” Staff referred to maps prepared for the meeting and the table that compared what Springfield was proposing to the other jurisdictions cited above. Staff stated that the proposed SDC amendments would allow dispensaries in the Community Commercial and Major Retail Commercial Zoning Districts under Special Use Standards (locational standards and application processing). Staff explained why dispensaries would be prohibited in the Neighborhood Commercial, General Office, Light Medium Industrial, Heavy Industrial, Special Heavy Industrial, Campus Industrial and all Mixed Use Zoning Districts. The reasons ranged from proximity of some of these zoning districts to residential zones, limitations of retail uses as secondary uses that serve the primary use in the zoning district and the fact that retail uses are not permitted in certain industrial zoning districts.

The industry representatives generally concurred with staff’s rationale on permitted and prohibited zoning districts. There was some discussion on caps on the number of dispensaries that other jurisdictions have adopted, but they realized that allowing dispensaries in only two zoning districts would be self-limiting based upon compliance with the locational standards. A question was posed: How many dispensaries can Springfield allow without impacting those already approved? Staff responded that allowable zoning was preferable to specific caps.

The next topic was the proposed Special Use Standards. Staff stated that the proposed locational standards (distances from schools, other dispensaries, etc.) were based upon OHA regulations and that (distance from parks, residential zones and day care facilities) were based upon what other jurisdictions have adopted. This research was done at City Council request. The industry representatives were especially concerned about setbacks from parks, residential zones and day care facilities. After a discussion on this topic, a 50 foot setback from residential zones and day care facilities and 250 foot setback from parks was proposed. It was also stated that bike paths should be excluded from “park setback” standard. Staff reminded the industry representatives about the Cole memorandum, a Federal document, which stressed the protection of children and that the Planning Commission and Council would need to consider how that memorandum may affect how locational standards may be applied.

The discussion on the Planning Review process focused on the “Minimum Development Standards”, a staff review process that applies when there is a change in use in a building (e.g., from a shoe store to a medical marijuana dispensary). For example, this review process may require, paved parking, additional landscaping, etc. The industry representatives were aware of this process and appreciated its simplicity. They were told that construction of a new dispensary would require Site Plan Review. They understood why this level of review would be required for a new building. Industry representatives reported that MDS procedures were working satisfactorily for changes of use.

The final topic discussed was protections for existing marijuana dispensaries: 1) the status of approved licensed dispensaries when a future school or other use regulated by locational standards located within the locational standard. Staff stated that the new use “shall not make the existing licensed dispensary in violation of the locational standards, nor shall it be the grounds to refuse to renew a license; and 2) existing dispensaries at the time of adoption of these SDC amendments would be unaffected by the

locational standards, except if the use was discontinued or unoccupied for 6 or more months. In that case, the use would be considered abandoned and the locational and other proposed standards would apply.

The industry representatives were appreciative of staff working with them; staff stated that their comments would be included in the draft SDC amendments to be reviewed by the Planning Commission work session and that another meeting would be scheduled prior to the Planning Commission public hearing on this topic scheduled for November 18<sup>th</sup>.





**MEDICAL MARIJUANA DISPENSARIES - OTHER CITY COMPARISONS<sup>1</sup>**

<b>Springfield Proposed Locational Standards</b>	<b>Ashland</b>	<b>Beaverton</b>	<b>Roseburg</b>	<b>Salem</b>
<b>Permitted Zoning Districts:</b> Community Commercial and Major Retail Commercial	Permitted Zoning Districts: C-1 and Retail Commercial	Permitted Zoning Districts: General Commercial and Corridor Commercial	Permitted Zoning Districts: C2 and C3 and Mixed Use Industrial	Permitted Zoning Districts: Allowed in zones where retail sales are allowed – generally commercial zones
<b>No change</b>				
<b>Prohibited Zoning Districts:</b> All Residential Zoning Districts, all Industrial Zoning Districts and all Mixed Use Zoning Districts	Prohibited Zoning Districts: All Residential Districts, the Downtown Design Standards Zone and all Industrial Zoning Districts; Except in the Employment District as a Conditional Use and if at least 200 feet from residential Zoning Districts	Prohibited Zoning Districts: All Residential Districts and all Industrial Zoning Districts	Prohibited Zoning Districts: All Residential Districts and all other Industrial Districts	Prohibited Zoning Districts: All Residential Districts, Mixed Use Zones and the Central Business Zone District
<b>No change</b>				
<b>Locational Standard:</b> 1,000 feet from public or private schools attended primarily by minors as measured from the property line* <b>No change</b>	Same as proposed	Same as proposed	Same as proposed	Same as proposed
<b>Locational Standard:</b> Within 1,000 feet of another medical marijuana dispensary as measured from the property line* <b>No Change</b>	Same as proposed	Same as proposed	Same as proposed	Same as proposed
<b>Locational Standard:</b> Within 1,000 feet of parks as measured from the property line <b>Change to 250 feet</b>	No regulation	1,000 feet from a public recreational center or public library	No regulation	1,000 feet of parks
<b>Locational Standard:</b> Within 100 or 50 feet of a Residential Zoning District as measured from the property line <b>Select 50 feet</b>	200 feet	No regulation	200 feet	100 feet
<b>Locational Standard:</b> Within 100 or 50 feet of a Day Care Facility in residential zoning districts as measured from the property line <b>Select 50 feet</b>	No regulation	No regulation	No regulation	100 feet
<b>Locational Standard:</b> Fronting on and taking access from an arterial or collector street <b>No change</b>	Located on a property with a boundary adjacent to a boulevard	No regulation	No regulation	No regulation

\*Required by Oregon Administrative Rule Chapter 333 Division 8 Medical Marijuana Facilities



**MEMORANDUM**

City of Springfield

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**Date:** 11/9/2015  
**To:** Gino Grimaldi, City Manager  
**From:** Mary Bridget Smith, City Attorney  
**Subject:** Potential Regulations of Medical and Recreational Marijuana

**COUNCIL  
BRIEFING  
MEMORANDUM**

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**ISSUE:** Discuss whether and how the City should regulate marijuana? This discussion will include consideration of a marijuana tax; marijuana business license; and marijuana land use regulations.

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**COUNCIL GOALS:**

Promote and Enhance our Hometown Feel While Focusing on Livability and Environmental Quality

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**BACKGROUND:**

In 1998, Oregon voters passed Ballot Measure 67 which established the Oregon Medical Marijuana Act (OMMA). In 2013, Oregon House Bill 3460 authorized the Oregon Health Authority (OHA) to establish and regulate a medical marijuana facility (dispensary) registration system. Under that law, registered medical marijuana dispensaries are authorized to sell medical marijuana to medical marijuana cardholders.

In November 2014, Oregon voters approved Measure 91, the Control and Regulation of Marijuana Act, which legalized the growth, sale, and use of marijuana for recreational purposes.

Most recently, the 2015 Legislature adopted HB 3400, an omnibus bill that amends OMMA and Ballot Measure 91. Additionally, the Legislature adopted HB 2041 (2015), which revised the tax structure for recreational marijuana and SB 460 (2015), which authorizes early sale of recreational marijuana by medical marijuana dispensaries.

On July 1, 2015, some provisions of HB 3400 went into effect, including the right of adults in Oregon to grow, possess, and use limited amounts of marijuana and marijuana product. OLCC will begin accepting applications for recreational marijuana business licenses beginning on January 4, 2016.

On October 1, 2015, SB 460 went into effect. SB 460 allows medical marijuana dispensaries to sell limited amounts of certain marijuana product (up to four seeds, four mature plants, and one-quarter ounce of dried “usable marijuana” per person, per day). This option is only temporarily available to medical marijuana dispensaries, and will sunset on December 31, 2016.

**DISCUSSION:**

Under HB 3400 and home rule authority the city has a number for options for regulating marijuana. Whether to regulate is a local choice. This memo considers three different forms

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of regulating marijuana—tax, business license, and land use. The memo examines the types of marijuana business activities authorized by state statute and the restrictions state law places on each type of activity. Through this discussion, Council can then identify where gaps may exist between what state law allows and what the City wishes to further restrict.

Under Oregon law, medical and recreational marijuana are regulated separately. For the purposes of this memo, the discussion assumes that Council will also distinguish the two types of marijuana and adopt distinct regulations for medical and recreational. However, Council may determine that identical regulations should apply for both medical and recreational under any one of the forms of regulation.

The following table identifies the seven marijuana business activities that require registration or license from the state.

<b>Marijuana Type</b>	<b>Grow</b>	<b>Make Products</b>	<b>Wholesale</b>	<b>Transfer to User</b>
Medical <i>OHA Registration</i>	<b>Marijuana Grow Site:</b> Location for planting, cultivating, growing, trimming or harvesting marijuana or drying marijuana leaves or flowers. <i>Register under ORS 475.304</i>	<b>Marijuana Processing Site:</b> Location for compounding or converting marijuana into medical products, concentrates or extracts. <i>Register under Section 85 of HB 3400</i>	None	<b>Medical Marijuana Dispensary:</b> Transfer usable marijuana, immature marijuana plants, seed, and medical products, concentrates and extracts to patients and caregivers <i>Register under ORS 427.314</i>
Recreational <i>OLCC License</i>	<b>Producers:</b> Manufacture, plant, cultivate, grow, harvest. <i>Obtain license under section 12 of HB 3400</i>	<b>Processors:</b> 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>	<b>Wholesalers:</b> Purchase marijuana items for resale to a person other than a consumer. <i>Obtain a license under section 15 of HB 3400</i>	<b>Retailers:</b> Sell marijuana items to a consumer. <i>Obtain license under section 16 of HB 3400</i>

## **MARIJUANA TAX**

In January 2016, the state will begin taxing recreational marijuana sold at retail stores. The Marijuana Tax is imposed at the rate of 17%. Additionally, during the limited time that recreational marijuana may be sold at medical dispensaries it will be taxed at a rate of 25%. The Oregon Marijuana Account is separate from the General Fund and will distribute the funds as follows: 40% to the Common School Fund; 20% to the Mental Health and Alcoholism and Drug Services; 15% to the State Police Account; 10% to cities and 10% to counties “to assist local law enforcement in performing its duties;”<sup>1</sup> and 5% to Oregon Health Authority for the establishment, operation, and maintenance of alcohol and drug abuse prevention. OLCC estimates \$10.7 million in state revenue for the 2015-2017 biennium.

In October 2014, the City Council adopted Ordinance No. 6329 that established a gross receipts tax on the sale of marijuana in the City of Springfield. The Ordinance authorized the City to tax medical and/or recreational marijuana. The City has not yet set a rate to administer this tax.

### **Recreational Marijuana Tax**

HB 3400 provided that the authority to impose a local option tax on recreational marijuana retail sales is only authorized after a referral to the electors and requires that the tax or fee may not be in excess of 3%. Although the City likely has authority to enforce the tax previously enacted under Ordinance No. 6329, in order to avoid litigating this point, we recommend that if the City wishes to move forward with taxing recreational marijuana a measure is referred to the voters. A local option tax must be referred to voters during the next statewide general election; which is November 2016. Additionally, the local option tax may only be imposed on the sale of marijuana items that are sold within the City’s jurisdiction.

### **Medical Marijuana Tax**

It is unclear as to whether HB 3400 requires cities to refer a tax on medical marijuana to voters. It is worth noting, that the City does not currently tax other types of medicine and as such pursuing a tax on medical marijuana is most likely inconsistent with City policy.

**Recommendation:** In order to consider whether a local option tax is appropriate, we recommend additional analysis as to the revenue potential of the existing state tax without the local option tax. Additionally, the City should pursue further analysis as to whether the City would be required to collect the local option tax directly or if there are opportunities for the state to collect on the City’s behalf. Understanding the potential revenue available without a local tax and the potential costs of implementing a tax and administering and enforcing regulations related to this new use will help the City make an informed decision.

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<sup>1</sup> Prior to July 1, 2017, the local government distribution will be based on the population. After July 1, 2017, the distribution will be based on the proportion of licenses based on city.

## **MARIJUANA BUSINESS LICENSE**

HB 3400 provides that local governments may impose reasonable regulations on time, place and manner of operation of marijuana businesses.

### **Medical Marijuana Business License**

In July 2014, the Springfield City Council adopted Ordinance No. 6324 (implemented in SMC 7.600) which required medical marijuana dispensaries to obtain a business license. This license remains in effect as it applies to medical marijuana dispensaries.

Under state law, medical dispensaries are able to temporarily sell recreational marijuana to individuals beginning October 1, 2015. This temporary authority to sell recreational marijuana is likely consistent with the Springfield Municipal Code's operational requirements for medical marijuana dispensaries. However, if the City wishes to further regulate the sale of recreational marijuana, SB 460 allows local governments to adopt ordinances prohibiting or regulating the sale of recreational product at medical dispensaries.

**Recommendation:** Council should consider amending the currently adopted medical marijuana business license to remove operational requirements regarding labeling and exclusion of minors from waiting area. These areas are currently regulated by the OHA and are creating confusion for the purposes of local code enforcement.

### **Recreational Marijuana Business License**

As discussed above, under Oregon's recreational marijuana law there are four distinct types of OLCC licenses: producers (growers); processors; wholesalers; and retailers. A business could obtain more than one type of license for the same premise but still must comply with state and local land use regulations.

**Recommendation:** Requiring local business licenses is a useful tool for identifying certain types of businesses that are operating within the community. Recommend adopting a recreational business license for individuals licensed by OLCC with two categories: 1) retailers and 2) producers; processors; and wholesalers. The reason staff recommends separating based on these categories is because for the purposes of code enforcement and land use regulation it is useful tracking tool to ensure that the businesses are located in the proper zone. Additionally, should the City adopt a local tax, the business license process will help the City identify all potential taxing entities. Staff recommends dividing the business license into these two categories because these categories are consistent with the land use regulations recommended below whereby the retailers are permitted in certain zones (commercial) and producers, growers, and wholesalers are permitted in other zones (industrial).

## **MARIJUANA LAND USE REGULATIONS**

Currently, the Springfield Development Code has no land use regulations for medical or recreational marijuana. Until the City adopts provisions in the Development Code, the State law is the only regulatory authority with regards to *where* medical and recreational marijuana businesses can locate.

## **Medical Marijuana Land Use Regulations**

HB 3400 amended ORS 475.314 to provide that a medical marijuana dispensary may not be located in an area that is zoned for residential use;<sup>2</sup> may not be located at the same address as a marijuana grow site; may not be located within 1,000 feet of another dispensary; and may not be located within 1,000 feet of a public or private elementary, secondary or career school.

HB 3400 does not restrict where medical marijuana grow sites can locate. However, ORS 475.320 is amended to provide that a person responsible for a medical marijuana grow site located within city limits in an area zoned for residential use may only possess 12 medical marijuana mature plants and in areas not zoned for residential use may possess up to 48 medical marijuana mature plants.<sup>3</sup> This limitation does not affect the number of recreational plants allowed but the two “types” must be kept separate.

HB 3400 also prohibits medical marijuana processors from locating in an area that is zoned for residential use if the marijuana processing site processes cannabinoid extracts.

## **Recreational Marijuana Land Use Regulations**

As discussed above, there are four types of OLCC licenses as it relates to recreational marijuana: producers; processors; wholesalers; and retailers. Under HB 3400, there are no land use regulations on producers (where marijuana can be grown). Processing, including drying or other activities that make marijuana usable, cannot occur in an area zoned exclusively for residential zones if the process is creating extracts (e.g., butane hash oil). If the processor does not create extracts, there are no land use regulations. Wholesalers, which includes buying marijuana for resale to a non-consumer, cannot be in an area zoned exclusively for residential use. Retailers cannot be in an area zoned exclusively for residential use and cannot be within 1,000 feet of a school.

OLCC’s Temporary Rules also provide some additional restrictions. Under OAR 845-025-1230, no production, processing, wholesale or retail of recreational marijuana can occur at the same physical location or address as a medical marijuana grow or processing site unless they are registered under HB 3400 “Opt-in” provision. Additionally, no production, processing, wholesale or retail of recreational marijuana can occur at a medical marijuana dispensary or at any liquor store.

Before the OLCC grants a license, the applicant must request a land use compatibility statement from the city that expressly authorizes the use in that zone. The statement must demonstrate that the requested license is allowable within the zoning designation where the land is located. The OLCC cannot issue a permit if the city’s compatibility statement shows that the use is prohibited in the requested zone. When a city receives a request for a land use compatibility statement, the city must act within 21 days of the receipt of request if the land

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<sup>2</sup> Prior to HB 3400, state law provided that dispensaries had to be located in areas zoned for commercial, industrial, mixed use or agriculture land. The Legislature revised that provision to remove the list of allowable zones and replace it with a restriction—no dispensaries may be located in residential zones.

<sup>3</sup> It is worth noting that there are certain exceptions for existing medical marijuana growing 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.



use is outright permitted, or within 21 days of the final permit approval if the use is to be allowed as a conditional use. In order to meet the State’s timeline for issuing a land use compatibility statement, the City should adopt clear regulations as to where each license type of recreational marijuana (producer; processor; wholesaler; and retailer) may be located.

**Recommendation:** The following table reflects staffs’ recommendation for land use restrictions of recreational marijuana. These recommendations are based on considering other comparable uses and the appropriate land use requirements of those uses. The Council may also want to direct staff to investigate further land use regulations such as buffers between recreational retailers and parks or other siting requirements.

	<b>Producers (Growers)</b>	<b>Processors</b>	<b>Wholesalers</b>	<b>Retailers (Direct sale)</b>
<b>Recreational Marijuana</b>				
<b>State Land Use Regulations Required</b>	NONE; only regulate grow canopies	No exclusively residential zone if the processor creates extracts; NONE if processor does not create extracts	No exclusively residential zone	No exclusively residential zone AND Cannot be within 1,000 feet of a school
Recommended City Zoning	Industrial	Industrial	Industrial and Commercial	Commercial
<b>Medical Marijuana</b>				
<b>State Land Use Regulations Required</b>	NONE; only limit number of plants	No exclusively residential zone if the processor creates extracts; NONE if processor does not create extracts	N/A	No exclusively residential zone; Cannot be within 1,000 feet of a school or another medical marijuana dispensary; May not be located at same address as a marijuana grow site
Recommended City Zoning District	Industrial	Industrial	N/A	Commercial

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**RECOMMENDED ACTION:** Council is asked to provide staff with direction as to whether and how to regulate marijuana with regards to a local option tax; business license; and land use restrictions. In any regulatory area, Council should consider whether the regulations will apply both medical and recreational marijuana or only one type of marijuana.

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