



AGENDA & Notice of Planning Commission Work Session Meeting

The Planning Commission of the City of Newport will hold a work session meeting at **6:00 p.m., Monday, May 12, 2014**, at the Newport City Hall, Conference Room "A", 169 SW Coast Hwy., Newport, OR 97365. A copy of the meeting agenda follows.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder, 541-574-0613.

The City of Newport Planning Commission reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the work session.

NEWPORT PLANNING COMMISSION Monday, May 12, 2014, 6:00 P.M.

AGENDA

A. New Business.

1. Presentation by Meg Gardner (NOAA Coastal Fellow) on the Oregon Coastal Management program related to updated Goal 18 (Beaches & Dunes) Beachfront Protective Structure Eligibility Inventory.

B. Unfinished Business.

1. Consideration of public input received on whether or not the City should consider adopting reasonable limitations on the hours during which a medical marijuana facility may be operated, reasonable limitations on where a medical marijuana facility may be located, or reasonable conditions on the manner in which a medical marijuana facility may dispense medical marijuana, as allowed by Senate Bill 1531.

C. Adjournment.

Memorandum

To: Newport Planning Commission/Advisory Committee

From: Derrick Tokos, Community Development Director 

Date: May 8, 2014

Re: Beachfront Protective Structures

Statewide Planning Goal 18 prohibits the placement of beachfront protective structures (e.g. riprap, seawall, etc.) on properties developed after January 1, 1977. This is addressed under Implementation provision #5 of the goal (attached). Further, local governments are required to inventory areas where development existed on January 1, 1977 and to include the inventory in their Comprehensive Plans. Most local jurisdictions lacked the resources to complete the inventory, including the City of Newport. This means that the City has had to work with property owners to research the issue on a case-by-case basis as proposals are made to install these types of protective structures.

The Department of Land Conservation and Development (DLCD) recently completed an inventory covering the coastline within the City of Newport and Meg Gardner, a NOAA Coastal Fellow with the Department, will attend the work session to discuss the approach she took in preparing the inventory. Her methodology is also outlined in a memo dated April 24, 2014 (enclosed).

This work session is an opportunity for the Commission and Advisory Committee to ask questions of Meg and other DLCD staff about the process that they used to develop the inventory and how the information might best be used by the City. If the Commission is satisfied that the information is suitable for inclusion in the Newport Comprehensive Plan then it can initiate the process for amending the Plan at its regular session. Staff would then bring back draft Comprehensive Plan language for discussion at a future work session. The inventory will save city staff and landowners time in researching these issues; however, any code language that is pursued will need to include a process for new or alternative data to be presented if the conclusions in the inventory are disputed.

Attachments

- Statewide Planning Goal 18 – Beaches and Dunes
- Memo from Meg Gardner, NOAA Coastal Fellow, dated April 22, 2014
- Maps of Eligible and Ineligible Properties

Oregon's Statewide Planning Goals & Guidelines

GOAL 18: BEACHES AND DUNES

OAR 660-015-0010(3)

To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and

To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.

Coastal comprehensive plans and implementing actions shall provide for diverse and appropriate use of beach and dune areas consistent with their ecological, recreational, aesthetic, water resource, and economic values, and consistent with the natural limitations of beaches, dunes, and dune vegetation for development.

INVENTORY REQUIREMENTS

Inventories shall be conducted to provide information necessary for identifying and designating beach and dune uses and policies. Inventories shall describe the stability, movement, groundwater resource, hazards and values of the beach and dune areas in sufficient detail to establish a sound basis for planning and management. For beach and dune areas adjacent to coastal waters, inventories shall also address the inventory requirements of the Coastal Shorelands Goal.

COMPREHENSIVE PLAN REQUIREMENTS

Based upon the inventory, comprehensive plans for coastal areas shall:

1. Identify beach and dune areas; and
2. Establish policies and uses for these areas consistent with the provisions of this goal.

IDENTIFICATION OF BEACHES AND DUNES

Coastal areas subject to this goal shall include beaches, active dune forms, recently stabilized dune forms, older stabilized dune forms and interdune forms.

USES

Uses shall be based on the capabilities and limitations of beach and dune areas to sustain different levels of use or development, and the need to protect areas of critical environmental concern, areas having scenic, scientific, or biological importance, and significant wildlife habitat as identified through application of Goals 5 and 17.

IMPLEMENTATION REQUIREMENTS

1. Local governments and state and federal agencies shall base decisions on plans, ordinances and land use actions in beach and dune areas, other than older stabilized dunes, on specific findings that shall include at least:
 - (a) The type of use proposed and the adverse effects it might have on the site and adjacent areas;
 - (b) Temporary and permanent stabilization programs and the planned

maintenance of new and existing vegetation;

(c) Methods for protecting the surrounding area from any adverse effects of the development; and

(d) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.

2. Local governments and state and federal agencies shall prohibit residential developments and commercial and industrial buildings on beaches, active foredunes, on other foredunes which are conditionally stable and that are subject to ocean undercutting or wave overtopping, and on interdune areas (deflation plains) that are subject to ocean flooding. Other development in these areas shall be permitted only if the findings required in (1) above are presented and it is demonstrated that the proposed development:

(a) Is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; or is of minimal value; and

(b) Is designed to minimize adverse environmental effects.

3. Local governments and state and federal agencies shall regulate actions in beach and dune areas to minimize the resulting erosion. Such actions include, but are not limited to, the destruction of desirable vegetation (including inadvertent destruction by moisture loss or root damage), the exposure of stable and conditionally stable areas to erosion, and construction of shore structures which modify current or wave patterns leading to beach erosion.

4. Local, state and federal plans, implementing actions and permit reviews shall protect the groundwater

from drawdown which would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of salt water into water supplies. Building permits for single family dwellings are exempt from this requirement if appropriate findings are provided in the comprehensive plan or at the time of subdivision approval.

5. Permits for beachfront protective structures shall be issued only where development existed on January 1, 1977. Local comprehensive plans shall identify areas where development existed on January 1, 1977. For the purposes of this requirement and Implementation Requirement 7 "development" means houses, commercial and industrial buildings, and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot and includes areas where an exception to (2) above has been approved. The criteria for review of all shore and beachfront protective structures shall provide that:

(a) visual impacts are minimized;

(b) necessary access to the beach is maintained;

(c) negative impacts on adjacent property are minimized; and

(d) long-term or recurring costs to the public are avoided.

6. Foredunes shall be breached only to replenish sand supply in interdune areas, or on a temporary basis in an emergency (e.g., fire control, cleaning up oil spills, draining farm lands, and alleviating flood hazards), and only if the breaching and restoration after breaching is consistent with sound principles of conservation.

7. Grading or sand movement necessary to maintain views or to prevent sand inundation may be allowed for structures in foredune areas only if

the area is committed to development or is within an acknowledged urban growth boundary and only as part of an overall plan for managing foredune grading. A foredune grading plan shall include the following elements based on consideration of factors affecting the stability of the shoreline to be managed including sources of sand, ocean flooding, and patterns of accretion and erosion (including wind erosion), and effects of beachfront protective structures and jetties. The plan shall:

(a) Cover an entire beach and foredune area subject to an accretion problem, including adjacent areas potentially affected by changes in flooding, erosion, or accretion as a result of dune grading;

(b) Specify minimum dune height and width requirements to be maintained for protection from flooding and erosion. The minimum height for flood protection is 4 feet above the 100 year flood elevation;

(c) Identify and set priorities for low and narrow dune areas which need to be built up;

(d) Prescribe standards for redistribution of sand and temporary and permanent stabilization measures including the timing of these activities; and

(e) Prohibit removal of sand from the beach-foredune system.

The Commission shall, by January 1, 1987, evaluate plans and actions which implement this requirement and determine whether or not they have interfered with maintaining the integrity of beach and dune areas and minimize flooding and erosion problems. If the Commission determines that these measures have interfered it shall initiate Goal amendment

proceedings to revise or repeal these requirements.

GUIDELINES FOR GOAL 18

The requirements of the Beaches and Dunes Goal should be addressed with the same consideration applied to previously adopted goals and guidelines. The planning process described in the Land Use Planning Goal (Goal 2), including the exceptions provisions described in Goal 2, applies to beaches and dune areas and implementation of the Beaches and Dunes Goal.

Beaches and dunes, especially interdune areas (deflation plains) provide many unique or exceptional resources which should be addressed in the inventories and planning requirements of other goals, especially the Goals for Open Space, Scenic and Historic Areas and Natural Resources; and Recreational Needs. Habitat provided by these areas for coastal and migratory species is of special importance.

A. INVENTORIES

Local government should begin the beach and dune inventory with a review of Beaches and Dunes of the Oregon Coast, USDA Soil Conservation Service and OCCDC, March 1975, and determine what additional information is necessary to identify and describe:

1. The geologic nature and stability of the beach and dune landforms;
2. Patterns of erosion, accretion, and migration;
3. Storm and ocean flood hazards;

4. Existing and projected use, development and economic activity on the beach and dune landforms; and
5. Areas of significant biological importance.

B. EXAMPLES OF MINIMAL DEVELOPMENT

Examples of development activity which are of minimal value and suitable for development of conditionally stable dunes and deflation plains include beach and dune boardwalks, fences which do not affect sand erosion or migration, and temporary open-sided shelters.

C. EVALUATING BEACH AND DUNE PLANS AND ACTIONS

Local government should adopt strict controls for carrying out the Implementation Requirements of this goal. The controls could include:

1. Requirement of a site investigation report financed by the developer;
2. Posting of performance bonds to assure that adverse effects can be corrected; and
3. Requirement of re-establishing vegetation within a specific time.

D. SAND BY-PASS

In developing structures that might excessively reduce the sand supply or interrupt the longshore transport or littoral drift, the developer should investigate, and where possible, provide methods of sand by-pass.

E. PUBLIC ACCESS

Where appropriate, local government should require new developments to dedicate easements for public access to public beaches,

dunes and associated waters. Access into or through dune areas, particularly conditionally stable dunes and dune complexes, should be controlled or designed to maintain the stability of the area, protect scenic values and avoid fire hazards.

F. DUNE STABILIZATION

Dune stabilization programs should be allowed only when in conformance with the comprehensive plan, and only after assessment of their potential impact.

G. OFF-ROAD VEHICLES

Appropriate levels of government should designate specific areas for the recreational use of off-road vehicles (ORVs). This use should be restricted to limit damage to natural resources and avoid conflict with other activities, including other recreational use.

H. FOREDUNE GRADING PLANS

Plans which allow foredune grading should be based on clear consideration of the fragility and ever-changing nature of the foredune and its importance for protection from flooding and erosion. Foredune grading needs to be planned for on an area-wide basis because the geologic processes of flooding, erosion, sand movement, wind patterns, and littoral drift affect entire stretches of shoreline. Dune grading cannot be carried out effectively on a lot-by-lot basis because of these areawide processes and the off-site effects of changes to the dunes.

Plans should also address in detail the findings specified in Implementation Requirement (1) of this Goal with special emphasis placed on the following:

- Identification of appropriate measures for stabilization of graded areas and areas of deposition, including use of fire-resistant vegetation;
- Avoiding or minimizing grading or deposition which could adversely affect surrounding properties by changing wind, ocean erosion, or flooding patterns;
- Identifying appropriate sites for public and emergency access to the beach.



Goal 18 BPS Eligibility Inventory Project
2014 Review of Newport, OR
Meg Gardner, NOAA Coastal Fellow

General Information:

Statewide Planning Goal 18 requires that local comprehensive plans identify areas where qualifying development existed as of January 1, 1977 for the purpose of determining eligibility for a beachfront protective structure. To assist with this requirement, DLCD developed a draft GIS Goal 18 eligibility inventory for each jurisdiction along the Oregon coast. Many jurisdictions are now using the draft inventory to make beachfront protective structure eligibility determinations. However, to be consistent with Goal 18, the inventory must be adopted into the local comprehensive plan. To further assist in this effort, DLCD was successful in bringing a NOAA Coastal Fellow to the Oregon Coast to:

- Review and improve the existing inventory
- Work with local governments to insure inventory confidence
- Assist in county/city adoption if needed

The GIS Goal 18 Inventory includes a catalog of coastal tax lots, with areas identified where qualifying development existed on January 1, 1977, and therefore eligible for a beachfront protective structure (BPS) as stated in Goal 18. Qualifying development as defined in Goal 18 means houses, commercial and industrial buildings, and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot and includes areas where a Goal 18 development exception has been approved.

Review and Improvement Process

Information used to make decisions:

- 1967 and 1977 BW aerial imagery of OR coast
- 2009 & 2011 color aerial imagery of OR coast
- Lincoln County Assessor Online Maps – scanned pdf's of tax maps, subdivision plats, tax information, and surveys.
- Dates of state, county, and city subdivision laws

Tax Lots:

- All lots previously designated “undetermined” or “omitted” in the original inventory have been reviewed and a determination has been made or confirmed. It should be noted that the Lincoln County coast includes a variety of land forms including rocky shores and some areas include a mix of these landforms. To insure the analysis was comprehensive, a determination was made on all parcels along the Lincoln County coast; however, coastal areas which are exclusively rocky shores are not subject to the provisions of Goal 18. A statement to this effect will be included in the report associated with the inventory.

- Lots previously designated “ineligible” have been reviewed by random sample and when associated notes made the determination appear less routine. In almost every case, the “ineligible” development determination was confirmed.
- All lots previously designated “eligible” and “goal 18 exceptions” were not reviewed further.
- The final “Comments” attribute field contains general information used to make the final Goal 18 determination clear.

Changes

Before the 2014 Review, the Newport Goal 18 Eligibility Inventory contained several “underdetermined” tax lots (~25). The “undetermined” status means a determination was not made originally because it required more time and/or resources than was given at the time; after further review, an eligibility determination has been made on each of these lots. After the 2014 review, there are about an equal number of ineligible and eligible lots. Some lots were not given a color in this recently reviewed GIS inventory because they are completely or mostly within the ocean shores recreation area. A determination is still given to these lots (indicated in the “Comments” Field of the GIS layer), but the color is left off for ease of reading and using the maps on a day-to-day basis. There are no Goal 18 exception areas in Newport.

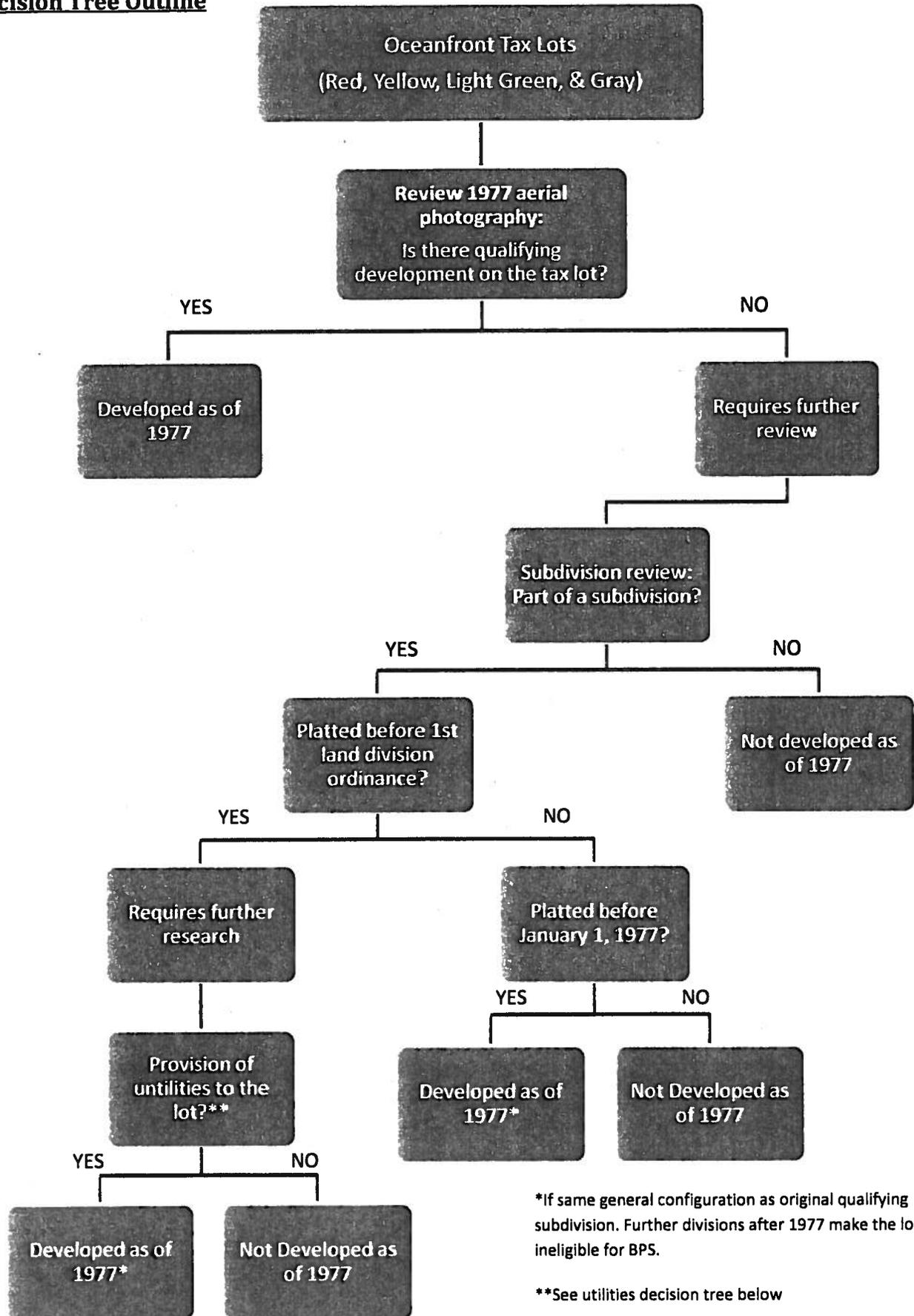
- *Examples of changes made during review:*
 - Map & Tax lot: 10-11-30-AA-01400-00
 - *Original:* No structure visible on 77 aerial. Subdivision: Agate Beach. Platted: October 20, 1913. City comments: May have had water line in NW 57th Street along TL 1400.
 - *Meg’s Research:* Not developed as of January 1, 1977. Subdivision platted in 1911 (Agate Beach). No services determined to lot in 1977. Ineligible.
 - Map & Tax lot: 10-11-32-BA-00600-00
 - *Original:* Structure not fully visible on 77 aerial. Subdivision: Andersen’s Addition. Platted: September 6, 1929. City comments: Structure visible on topo map based on aerial photo from March 1979.
 - *Meg’s Research:* Developed (residential) as of January 1, 1977. Eligible.
 - Map & Tax Lot: 11-11-05-BB-02300-00
 - *Original:* No structure visible on 77 aerial. Subdivision: Ocean View. Platted: Pre-1900. City comments: Possible utilities (sewer and water) and street improvements in NW Spring Street in front of lots in 1977
 - *Meg’s Research:* Developed as of January 1, 1977. Subdivision (Ocean View, 1884). Services determined to lot in 1977 (roads, sewer, water). Eligible.
 - Map & Tax Lot: 10-11-30-00-00300-00
 - *Original:* Goal 18 not applicable. Yaquina Head rocky shoreline.
 - *Meg’s Research:* BLM land (Yaquina lighthouse). Improvements are recreational in nature (parking lot) and do not meet the Goal 18 definition of development. Ineligible.

Subdivision Decision Process

Qualifying development as defined in Goal 18 includes “subdivision lots which are physically improved through construction of streets and provision of utilities to the lot” which were created prior to January 1, 1977. The following assumptions were used to make eligibility determinations on subdivision lots consistent with Goal 18:

- In defining development eligible for a beachfront protective structure, subdivision lots lawfully created by the recording of a subdivision plat were identified.
- If a subdivision was created after 1977, the lots within it were determined to be ineligible for a beachfront protective structure. However, development (a qualifying structure) located within the subdivision area that was created prior to January 1, 1977 may be eligible.
- Subdivisions further divided after January 1, 1977 are not eligible. However, development (a qualifying structure) located within the subdivision area that was created prior to January 1, 1977 may be eligible.
- If a subdivision was created prior to January 1, 1977 and after the date of the first comprehensive subdivision ordinance implemented in the County (1963 in Lincoln County), vacant lots within the subdivision were determined to be physically improved through construction of streets and provision of utilities to the lot as these subdivision ordinances generally required these improvements.
- If the subdivision was created before the first County subdivision ordinance (1963), it must be more specifically demonstrated that services (road construction, water, sewer, and electric) were established to the lot line prior to January 1, 1977 in order to be eligible. This information could include: written information from applicable service districts, imagery showing road construction, other development nearby, or other documents siting construction of utilities. A decision-tree for determining services to these lots was developed as indicated below:
 - Are there roads constructed to the vacant subdivision lot by 1977 date? (use aerial imagery)
 - No roads = ineligible for BPS
 - Yes roads = next step
 - Is there existing development requiring services in close proximity (i.e. adjacent or across) to the vacant subdivision lot?
 - No = Assume ineligible for BPS unless further research (i.e. information from service district and/or assessor’s office) demonstrates services are to the lot.
 - Yes = Assume services existed to the vacant subdivision lot if houses are developed in close proximity; therefore eligible for BPS
- If a subdivision within a county is “unrecorded” and created before 1955 (the first state-wide comprehensive subdivision law), then it is considered developed if services can be determined to the lot. If the lot is considered to be within an “unrecorded” subdivision created after 1955, it is ineligible because it is not a lawfully created subdivision.

Decision Tree Outline



*If same general configuration as original qualifying subdivision. Further divisions after 1977 make the lot ineligible for BPS.

**See utilities decision tree below

Lincoln County Code (LCC) – Proposed Beachfront Protective Structure Eligibility Amendments

Draft – February 5, 2014

- Draft Comprehensive Plan language supporting Adoption of Beachfront Protective Structure Eligibility Inventory
- Draft code provisions addressing modifications of the Inventory

1) Replace Beach And Dunes Comprehensive Plan policy 4 as follows:

Policy 4 (replace existing policy with the following):

Beachfront protective structures (BPSs) may be permitted only where development existed on January 1, 1977. For the purposes of this requirement "development" means houses, commercial and industrial buildings, and vacant subdivision lots which have been lawfully created by the recording of a subdivision plat, which are physically improved through construction of streets and provision of utilities to the lot and includes areas where an exception to Statewide Planning Goal 18, Implementation requirement 2, has been adopted as part of the comprehensive plan. Lincoln County has adopted inventory maps to implement this policy which identify BPS eligibility status. These maps are included in the Inventory section of the Lincoln County Comprehensive Plan as the "Goal 18 Beachfront Protective Structure Eligibility Inventory".

2) Revise Development Guidelines Section 1.9130 to add a new subsection (3)(e) Beachfront Protective Structures as indicated below:

(e) Beachfront Protective Structures

(A) Except as provided for in subsection (3)(e)(B) of this section, beachfront protective structures shall only be permitted on a lot or parcel, or on a portion of a lot or parcel, which is identified as eligible on the Beachfront Protective Structure Eligibility Maps adopted as a part of the comprehensive plan inventory.

(B) The eligibility of a lot or parcel for the placement of a beachfront protective structure as designated in the comprehensive plan inventory may be reviewed and modified in accordance with the following requirements:

(i) An application for modification of beachfront protective structure eligibility may be submitted to the department in accordance with LCC 1.1205.

(ii) The procedure for review of an application for modification of beachfront protective structure eligibility shall be as set forth in LCC 1.1210 (2).

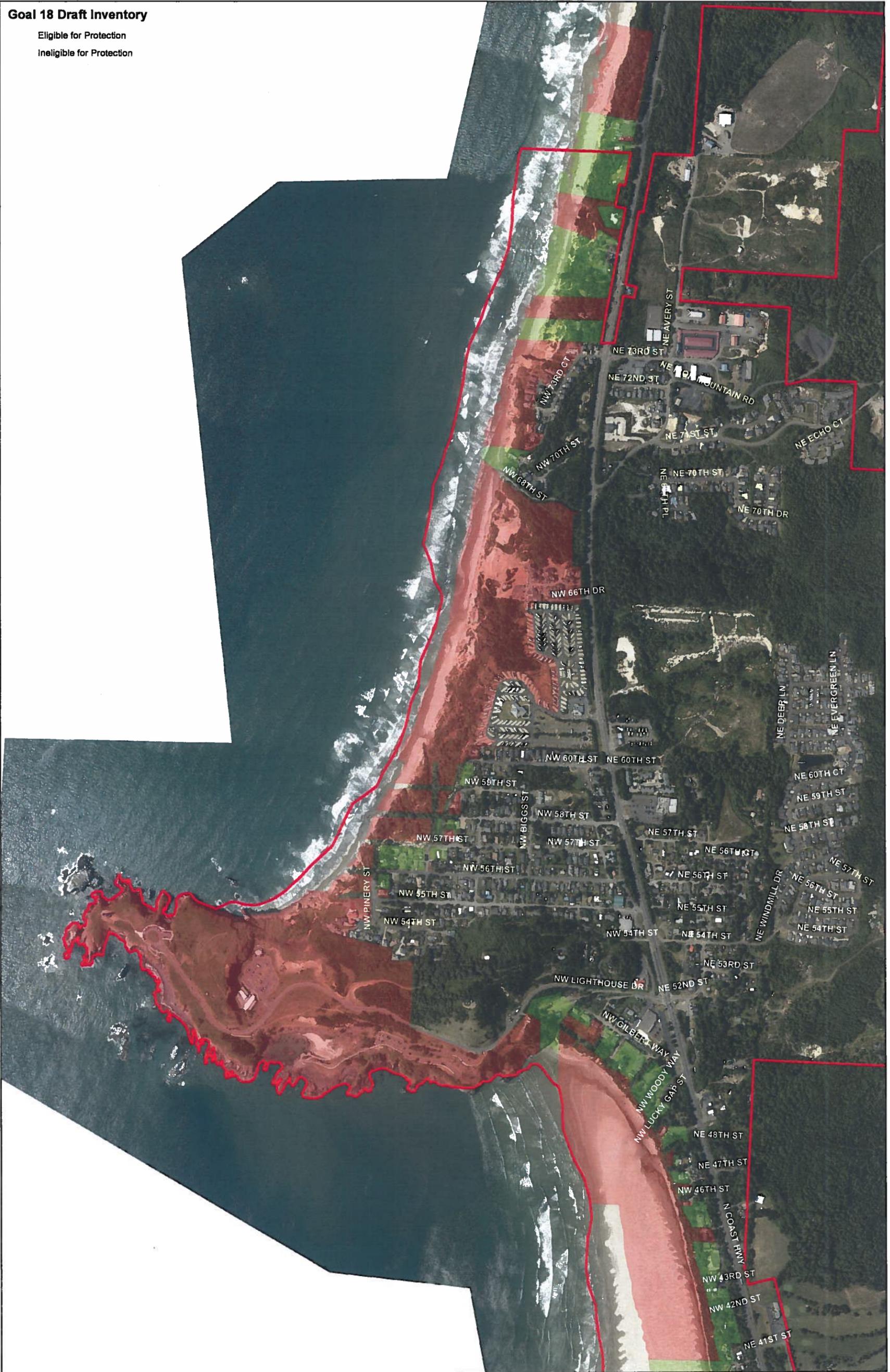
(iii) The designation of a lot or parcel or a portion of a lot or parcel in the comprehensive plan inventory as ineligible for the placement of a beachfront protective structure shall be modified to a designation of eligible upon findings, supported by substantial evidence that development existed on the subject site on January 1, 1977. As used in this subsection, "development" means houses, commercial and industrial buildings, and vacant subdivision lots lawfully created by the recording of a subdivision plat, and which are physically improved through the construction of streets and the provision of utilities to the lot.

Limitations on the Application of the Goal 18 BPS Eligibility Requirement

Goal 18 applies, by definition, to coastal dunes and beaches. Therefore, Goal 18's requirement limiting the placement of beachfront protective structures to areas where development existed on January 1, 1977 (the "eligibility requirement") applies only to those ocean shore areas that are on or immediately adjoin the beach. Other ocean shore areas exist which do not abut the beach (e.g. rocky shores; headlands) and thus are not subject Goal 18. It is important to note that in compiling this inventory, it was not possible to identify on a site-specific basis all ocean shore properties that are not subject to Goal 18. Therefore, for purposes of this inventory *all* ocean shore areas have been evaluated and designated for BPS eligibility, and this designation may include some areas (primarily rocky shores) that are not subject to Goal 18. Where it is determined through site-specific evaluation that particular properties are not subject to Goal 18, the BPS eligibility designation for these properties contained in this inventory does not apply.

Goal 18 Draft Inventory

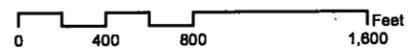
Eligible for Protection
Ineligible for Protection



NEWPORT City of Newport
Community Development Department
189 SW Coast Highway Phone: 541.574.0629
Newport, OR 97365 Fax: 541.574.0644

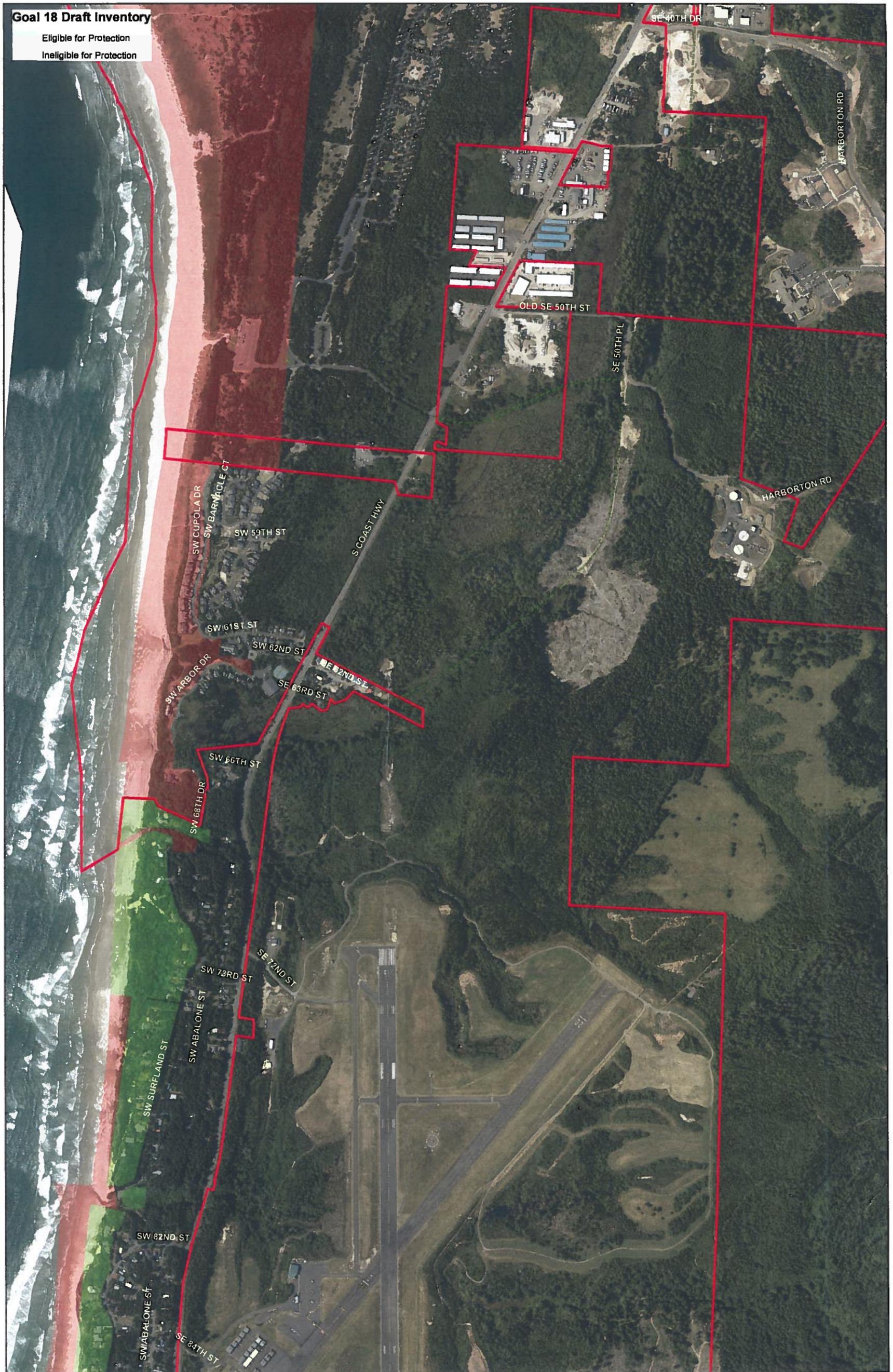
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Agate Beach to NE 41st Street
Image Taken July 2013
4-inch, 4-band Digital Orthophotos
David Smith & Associates, Inc. Portland, OR



Goal 18 Draft Inventory

Eligible for Protection
Ineligible for Protection

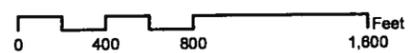


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Newport, OR 97365 Fax: 1.541.574.0844

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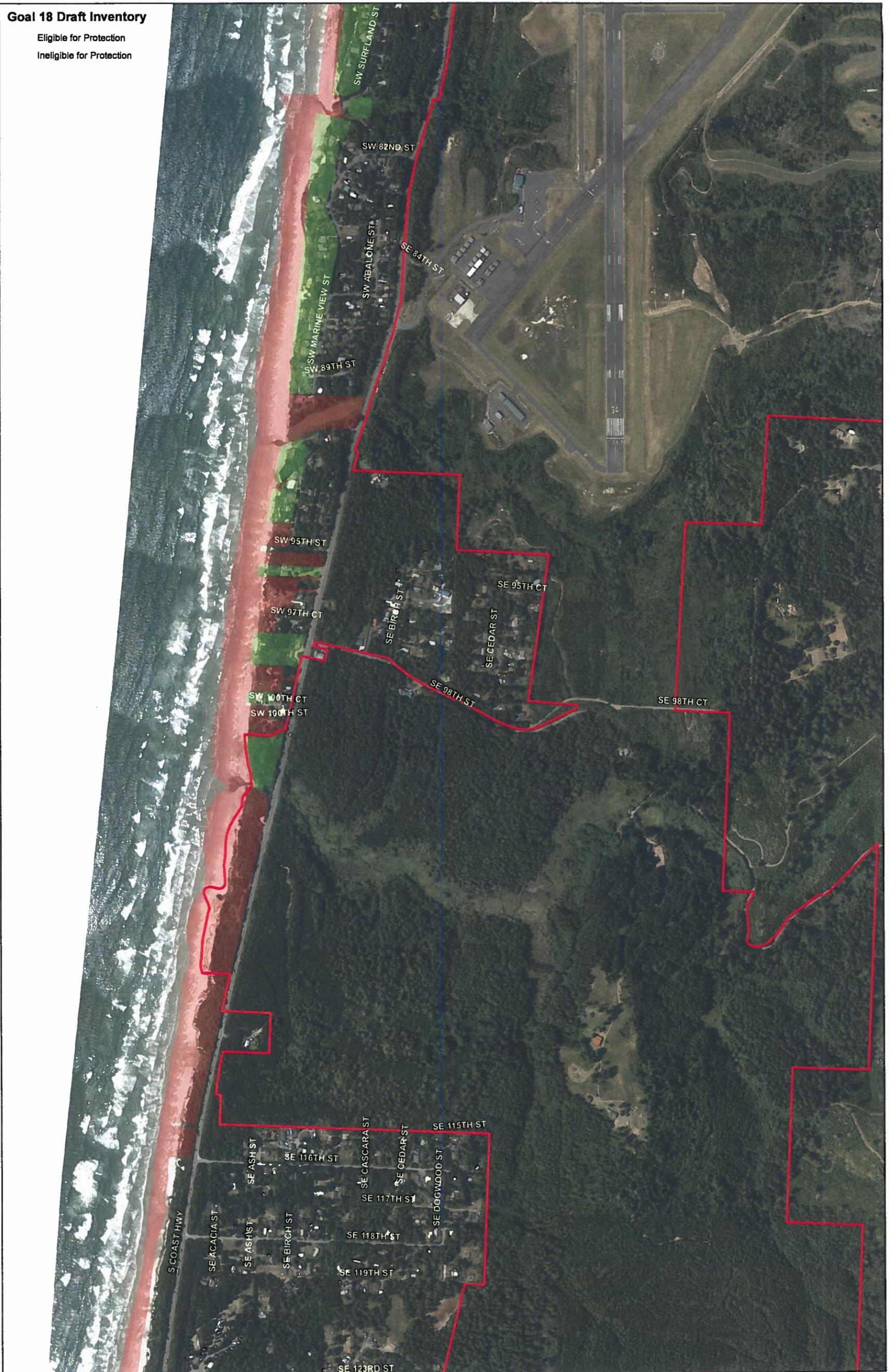
SE 40th (Harborton) Street to Airport

Image Taken July 2013
4-Inch, 4-band Digital Orthophotos
David Smith & Associates, Inc. Portland, OR



Goal 18 Draft Inventory

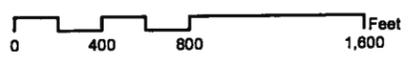
Eligible for Protection
Ineligible for Protection



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Airport South to City Limits
Image Taken July 2013
4-inch, 4-band Digital Orthophotos
David Smith & Associates, Inc. Portland, OR



Memorandum

To: Newport Planning Commission/Advisory Committee
From: Derrick Tokos, Community Development Director 
Date: May 9, 2014
Re: Local Regulatory Options for Medical Marijuana Dispensaries

Following the Commission's 4/14/14 work session, the City issued a press release to local media advising that the Planning Commission is seeking public input on whether or not the city should adopt limitations on the hours during which a medical marijuana facility may be operated, where they may be located, and conditions under which a facility may dispense medical marijuana. These options for imposing "reasonable regulations" at the local government level are specifically provided for in SB 1531, passed by the Oregon Legislature in March of this year. At this time, City staff has not received any public comment on the issue.

The Newport Police Department is interested in seeing standards put in place to enhance public safety. After meeting with the Police Chief, I would characterize the areas of concern as follows:

Background checks: Administrative rules put in place by the Oregon Health Authority require that the person responsible for the medical marijuana facility undergo a criminal background check to confirm that they have not been convicted of the manufacture or delivery of a Schedule I or Schedule II controlled substance in any state. Our Police Department would like to see comparable background checks required for employees of medical marijuana facilities.

Building access: Our Police Department believes it is imperative that they be afforded access to facilities anytime a person is present in the building.

Records: Persons responsible for medical marijuana facilities are required to maintain detailed records of their handling and sale of marijuana plants and those records must be made available to the Oregon Health Authority upon request. Our Police Department would like access to these same records.

Prohibition on Processed Items: Our Police Department is concerned about ancillary marijuana products being sold at dispensaries and would like to see the sale of such products banned. This would include food products containing marijuana or the production and sale of hash oil or similar derived products.

Security Alarms and Surveillance: Under Oregon Health Authority rules, medical marijuana facilities are required to be equipped with alarm and video surveillance systems. Our Police Department is interested in seeing language drafted to require they be contacted anytime an alarm system is triggered and that they be afforded access to video surveillance equipment and recordings.

Liability Insurance and Indemnification: Our Police Department would like to see that requirements are put in place to ensure that operators of medical marijuana facilities possess adequate liability insurance and that they indemnify the City against any challenges it may face in allowing medical marijuana facilities to locate and operate within the city limits.

The Commission should consider whether or not these types of regulations, or any other concepts put forth at the work session, are appropriate and within the scope of authority granted under SB 1531.

Enclosed, for the Commission's reference, is a copy of the Oregon Health Authority's temporary rules for medical marijuana facilities. Also, attached is a list of cities and counties that have put in place temporary moratoriums, an article about a recent hash oil explosion in Forest Grove, and an article outlining Cave Junction's lawsuit against the State of Oregon that gets at whether or not the dispensary law is constitutional.

SB 1531 was adopted in March, and I have not been able to locate examples of local regulations that other cities have adopted pursuant to the law. Many seem to be using the temporary moratorium as an opportunity to see how implementation of the law plays out in areas that have chosen to forgo a ban, to see the results of lawsuits such as the Cave Junction litigation, and to see if further legislation will be adopted at the state level.

This work session is an opportunity for the Commission members to discuss issues outlined above, or others that are relevant to the topic. Staff will be looking for direction as to what, if any, regulations the Commission believes are appropriate so that a letter can be drafted outlining the Commission's recommendations to the Council. That letter would be presented at a future Planning Commission meeting.

Attachments

- Oregon Health Authority Temporary Rules for Medical Marijuana Dispensary Program
- List of City's and County's that have adopted temporary moratoriums
- Oregonian article on Forest Grove hash oil explosion
- Oregonian article on Cave Junction lawsuit

Temporary Rules for the Medical Marijuana Dispensary Program

Apr. 4, 2014

These are the temporary rules governing medical marijuana dispensaries in Oregon. The process to make these rules permanent has begun. Rules hearings for public comment will be held in May. This version also incorporates the temporary rules based on SB 1531, Oregon Laws 2014, chapter 79. Individuals intending to file an application to register a dispensary should use these rules as a guide. Visit mmj.oregon.gov for more information.

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OREGON ADMINISTRATIVE RULES
OREGON HEALTH AUTHORITY, PUBLIC HEALTH DIVISION
CHAPTER 333

DIVISION 8

MEDICAL MARIJUANA

Medical Marijuana Facilities

333-008-1000

Applicability

- (1) A person may not establish, conduct, maintain, manage or operate a facility on or after March 1, 2014, unless the facility has been registered by the Authority under these rules.
- (2) Nothing in these rules exempts a PRF, an employee of a registered facility, or a registered facility from complying with any other applicable state or local laws.
- (3) Registration of a facility does not protect a PRF or employees from possible criminal prosecution under federal law.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1010

Definitions

For the purposes of OAR 333-008-1000 through 333-008-1290 the following definitions apply:

- (1) "Agricultural land" means land that is located within an exclusive farm use zone as that term is described in ORS 215.203.
- (2) "Attended primarily by minors" means that a majority of the students are minors.
- (3) "Authority" means the Oregon Health Authority.
- (4) "Batch" means a quantity of usable marijuana or a number of immature plants transferred at one time to a facility by a person authorized by a patient to transfer usable marijuana to a registered facility.
- (5) "Career school" means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession at a physical location attended primarily by minors.
- (6) "Conviction" means an adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction.
- (7)(a) "Designated primary caregiver" means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the Authority.
(b) "Designated primary caregiver" does not include the person's attending physician.
- (8) "Domicile" means the place of abode of an individual where the person intends to remain and to which, if absent, the individual intends to return.
- (9) "Edible" means a product made with marijuana that is intended for ingestion.

- (10)(a) "Employee" means any person, including aliens, employed for remuneration or under any contract of hire, written or oral, express or implied, by an employer.
- (b) "Employee" does not include a person who volunteers or donates services performed for no remuneration or without expectation or contemplation of remuneration as the adequate consideration for the services performed for a religious or charitable institution or a governmental entity.
- (11) "Facility" means a medical marijuana facility.
- (12) "Farm use" has the meaning given that term in ORS 215.203.
- (13) "Finished product" means a product infused with usable marijuana that is intended for use, ingestion or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.
- (14) "Grower" has the same meaning as "person responsible for a marijuana grow site."
- (15) "Grow site" means a specific location registered by the Authority and used by the grower to produce marijuana for medical use by a specific patient.
- (16)(a) "Immature marijuana plant or immature plant" means a marijuana plant that has no flowers, is less than 12 inches in height, and less than 12 inches in diameter.
- (b) A seedling or start that does not meet all three criteria in subsection (16)(a) is a mature plant.
- (17) "Macroscopic screening" means visual observation without the aid of magnifying lens(es).
- (18) "Microscopic screening" means visual observation with a minimum magnification of 40x.
- (19) "Minor" means an individual under the age of 18.
- (20) "Oregon Medical Marijuana Program or OMMP" means the program operated and administered by the Authority that registers patients, designated primary caregivers, and growers.
- (21) "Patient" has the same meaning as "registry identification cardholder."
- (22) "Person" means an individual.
- (23) "Person responsible for a marijuana grow site" means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose and has the same meaning as "grower".
- (24) "Person responsible for a medical marijuana facility or PRF" means an individual who owns, operates, or otherwise has legal responsibility for a facility and who meets the qualifications established in these rules and has been approved by the Authority.
- (25) "Pesticide" means any substance or mixture of substances, intended to prevent, destroy, repel, or mitigate any pest.
- (26) "Premises" means a location registered by the Authority under these rules and includes all areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where individuals are permitted to be present.
- (27) "Primary school" means a learning institution containing any combination of grades Kindergarten through 8 or age level equivalent.
- (28) "Random sample" means an amount of usable marijuana taken from a batch in which different fractions of the usable marijuana have an equal probability of being represented.
- (29) "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Authority.

(30) "Remuneration" means compensation resulting from the employer-employee relationship, including wages, salaries, incentive pay, sick pay, compensatory pay, bonuses, commissions, stand-by pay, and tips.

(31) "Resident" means an individual who has a domicile within this state.

(32) "Safe" means a metal receptacle with a locking mechanism capable of storing all usable marijuana at a registered facility that is rendered immobile by being securely anchored to a permanent structure of the building, or a "vault".

(33) "Secondary school" means a learning institution containing any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.

(34) "These rules" means OAR 333-008-1000 through 333-008-1290.

(35) "Usable marijuana" has the meaning given that term is ORS 475.302 and includes "finished product".

(36) "Valid testing methodology" means a scientifically valid testing methodology described in a published national or international reference and validated by the testing laboratory.

(37) "Vault" means an enclosed area that is constructed of steel-reinforced or block concrete and has a door that contains a multiple-position combination lock or the equivalent, a relocking device or equivalent, and a steel plate with a thickness of at least one-half inch.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1020

Application for Medical Marijuana Facility Registration

(1) Beginning on March 3, 2014, at 8:30 a.m. Pacific Standard Time (PST), the Authority shall begin accepting applications for the registration of a facility. An application may be submitted at any time on or after March 3, 2014, at 8:30 a.m., PST.

(2) A PRF wishing to apply to register a facility must provide to the Authority:

- (a) An application on a form prescribed by the Authority;
- (b) Any additional documentation required by the Authority in accordance with these rules;
- (c) The applicable fee as specified in OAR 333-008-1030; and
- (d) Information and fingerprints required for a criminal background check in accordance with OAR 333-008-1130.

(3) An application for the registration of a facility must be submitted by a PRF electronically via the Authority's website, <http://mmj.oregon.gov>. The documentation required in subsection (2)(b) of this rule and the information and fingerprints described in subsection (2)(d) of this rule may be submitted electronically to the Authority or may be mailed but must be postmarked within five calendar days of the date the application was submitted electronically to the Authority or the application will be considered to be incomplete. Applicable fees must be paid online at the time of application.

(4) The Authority must review each application received to ensure the application is complete, that the required documentation has been submitted, and the fee paid. The Authority shall return an incomplete application to the person that submitted the application. A person may re-submit an application that was returned as incomplete at any time.

(5) Applications will be reviewed in the order they are received by the Authority. An application that is returned as incomplete must be treated by the Authority as if it was never received.

(6) A PRF who wishes to register more than one location must submit a separate application and application fee for each location.

(7) At the time of application the PRF will be asked, by the Authority, to sign an authorization permitting the Authority to publish the location of the facility if the facility is registered.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1030

Fees

(1) The initial fees for the registration of a facility are:

(a) A non-refundable application fee of \$500; and

(b) A \$3,500 registration fee.

(2) The annual renewal fees for the registration of a facility are:

(a) A \$500 non-refundable renewal fee; and

(b) A \$3,500 registration fee.

(3) The Authority must return the registration fee if:

(a) An application is returned to the applicant as incomplete;

(b) The Authority denies an application; or

(c) An applicant withdraws an application.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1040

Application Review

(1) Once the Authority has determined that an application is complete it must review the application to determine compliance with ORS 475.314 and these rules.

(2) The Authority may, in its discretion, prior to acting on an application:

(a) Contact the applicant and request additional documentation or information; and

(b) Inspect the premises of the proposed facility.

(3) Prior to making a decision whether to approve or deny an application the Authority must:

(a) Ensure that the criminal background check process has been completed and review the results;

(b) Contact the OMMP and obtain documentation of whether the location of the facility is the same location as a registered grow site under OAR 333-008-0025;

(c) Review available records and information to determine whether the proposed facility is located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school; and

(d) Review the list of registered facilities to determine whether any registered facilities are within 1,000 feet of the proposed facility.

(4) If during the review process the Authority determines that the application or supporting documentation contains intentionally false or misleading information the Authority must return the application to the applicant as incomplete.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1050

Approval of Application

- (1) If the proposed facility appears to be in compliance with ORS 475.314 and these rules, and the PRF has passed the criminal background check and is determined to reside in Oregon, the Authority must notify the applicant in writing that the application has been approved, that the facility is registered, and provide the applicant with proof of registration that includes a unique registration number.
- (2) A facility that has been registered must display proof of registration in a prominent place inside the facility so that proof of registration is easily visible to individuals authorized to transfer usable marijuana and immature plants to the facility and individuals who are authorized to receive a transfer of usable marijuana and immature plants from the facility at all times when usable marijuana or immature plants are being transferred.
- (3) A registered facility may not post any signs at the facility that use the Authority or the OMMP name or logo except to the extent that information is contained on the proof of registration.
- (4) A facility's registration is only valid for the location indicated on the proof of registration and is only issued to the PRF that is listed on the application or subsequently approved by the Authority.
- (5) A facility's registration may not be transferred to another location.
- (6) If a proposed facility appears to be in compliance with ORS 475.314 and these rules except that the proposed facility does not yet have a security system installed and other security requirements in place, the Authority may issue a provisional registration that is valid for 60 days.
 - (a) In order to receive provisional registration a PRF must submit to the Authority at the time of application a floor plan of the facility that has marked and labeled all points of entry to the facility, all secure areas required by these rules and the proposed placement of all video cameras.
 - (b) The provisionally registered facility may not receive transfers of usable marijuana or immature plants or transfer usable marijuana or immature plants until the security system and other security requirements are in place and the Authority has approved the provisionally registered facility to begin operating.
 - (c) When the security system and other security requirements are in place the PRF must notify the Authority and if the Authority determines that the provisionally registered facility is in full compliance with these rules, the Authority must approve the facility for operation.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1060

Denial of Application

- (1) The Authority must deny an application if:
 - (a) An applicant fails to provide sufficient documentation that the proposed facility meets the qualifications for a facility in these rules; or
 - (b) The PRF has been:
 - (A) Convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years from the date the application was received by the Authority; or
 - (B) Convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II; or
 - (C) Prohibited by a court from participating in the OMMP.

(2) If the Authority intends to deny an application for registration it must issue a Notice of Proposed Denial in accordance with ORS 183.411 through 183.470.
Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1070

Expiration and Renewal of Registration

(1) A facility's registration expires one year following the date of application approval.
(2) If a PRF wishes to renew the facility's registration, the person must submit to the Authority within 60 days of the registration's expiration:
(a) An application renewal form prescribed by the Authority;
(b) The required renewal fees;
(c) Forms required for the Authority to do a criminal background check on the PRF.
Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1080

Notification of Changes

(1) A PRF must notify the Authority within 10 calendar days of any of the following:
(a) The person's conviction for the manufacture or delivery of a controlled substance in Schedule I or Schedule II;
(b) The issuance of a court order that prohibits the person from participating in the OMMP;
(c) A decision to change the PRF;
(d) A decision to permanently close the facility at that location;
(e) A decision to move to a new location;
(f) A change in the person's residency; and
(g) The location of an elementary, secondary or career school attended primarily by minors within 1,000 feet of the facility.
(2) The notification required in section (1) of this rule must include a description of what has changed and any documentation necessary for the Authority to determine whether the facility is still in compliance with ORS 474.314 and these rules including but not limited to, as applicable:
(a) A copy of the criminal judgment or order;
(b) A copy of the court order prohibiting the PRF from participating in the OMMP;
(c) The location of the school that has been identified as being within 1,000 feet of the facility; or
(d) The information required in OAR 333-008-1120 and 333-008-1130 to determine the residency of the new PRF and to perform the criminal background check.
(3) Failure of the PRF to notify the Authority in accordance with this rule may result in revocation of a facility's registration.
Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1090

Required Closures

A facility may not receive transfers of usable marijuana or immature plants or transfer usable marijuana or immature plants if:

- (1) The PRF is convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II;
 - (2) The PRF changes and the Authority has not:
 - (a) Performed a criminal background check on the proposed PRF in accordance with OAR 333-008-1130;
 - (b) Determined whether the individual is a resident of Oregon; and
 - (c) Provided written approval that the new PRF meets the requirements of ORS 475.314.
 - (3) The PRF has been ordered by the court not to participate in the OMMP; or
 - (4) An elementary, secondary or career school attended primarily by minors is found to be within 1,000 of the registered facility.
- Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1100

Business Qualifications for Medical Marijuana Facility Registration

- (1) A facility must be registered as a business or at the time of applying to register a facility have filed a pending application to register as a business with the Office of the Secretary of State.
 - (2) The Authority may not approve an application until it has verified that the facility is registered as a business with the Office of the Secretary of State.
- Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1110

Locations of Medical Marijuana Facilities

- (1) In order to be registered a facility must be located in an area that is zoned by the local governing agency for commercial, industrial or mixed use or as agricultural land.
- (2) Registration by the Authority is not a guarantee that a facility is permitted to operate under applicable land use or other local government laws where the facility is located.
- (3) A facility may not be located:
 - (a) At the same address as a registered marijuana grow site;
 - (b) Within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors; or
 - (c) Within 1,000 feet of another medical marijuana facility;
- (4) In order for the Authority to ensure compliance with this rule a PRF must submit with an initial application documentation that shows the current zoning for the location of the proposed facility.
- (5) For purposes of determining the distance between a facility and a school referenced in subsection (3)(b) of this rule, "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.
- (6) For purposes of determining the distance between a facility and another registered 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 facility.

(7) In order to be registered a facility must operate at a particular location as specified in the application and may not be mobile.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1120

Person Responsible for a Medical Marijuana Facility (PRF)

(1) A PRF must:

(a) Be a resident of Oregon. Residency may be proved by submitting to the Authority:

(A) An Oregon driver's license, an Oregon identification card that includes a photograph of the person, or a military identification card that includes a photograph of the person; and

(B) Copies of utility bills, rental receipts, mortgage statements or similar documents that contain the name and address of the domicile of the PRF.

(b) Have legal authority to act on behalf of the facility; and

(c) Be responsible for ensuring the facility complies with applicable laws, if registered.

(2) A PRF may not:

(a) Have been convicted in any state for the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years from the date of application; or

(b) Have been convicted more than once in any state for the manufacture or delivery of a controlled substance in Schedule I or Schedule II.

(3) At the time of application a PRF must submit to the Authority a copy of the information described in paragraphs (1)(a)(A) and (B) of this rule.

(4) A PRF is accountable for any intentional or unintentional action of its owners, officers, managers, employees or agents, with or without the knowledge of the PRF, who violate ORS 475.314 or these rules.

(5) If a PRF no longer meets the criteria of a PRF the Authority shall inform the PRF and the owner of the facility if different that:

(a) The PRF may no longer serve in that capacity;

(b) In order to remain certified, a change of PRF form must be submitted; and

(c) The facility may not operate until the Authority has approved a new PRF.

(6) If the Authority is notified that a change of PRF is needed, the current PRF is no longer able to serve as the PRF, or the PRF has been or will be removed by the owner of a facility, the owner of the facility must submit a change of PRF form to Authority within 10 business days of the notification or the Authority will begin proceedings to revoke the certification of the facility.

(7) If the PRF of record for the facility is no longer serving in that capacity the facility may not operate until a new PRF has been approved by the Authority.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1130

Criminal Background Checks

(1) A PRF must, at the time of application, provide to the Authority:

(a) A criminal background check request form, prescribed by the Authority that includes but is not limited to:

(A) First, middle and last name;

(B) Any aliases;

- (C) Date of birth;
 - (D) Driver's license information; and
 - (E) Address and recent residency information.
 - (b) Fingerprints in accordance with the instructions on the Authority's webpage:
<http://mmj.oregon.gov>.
 - (2) The Authority may request that the PRF disclose his or her Social Security Number if notice is provided that:
 - (a) Indicates the disclosure of the Social Security Number is voluntary; and
 - (b) That the Authority requests the Social Security Number solely for the purpose of positively identifying the PRF during the criminal records check process.
 - (3) The Authority shall conduct a criminal records check in order to determine whether the PRF has been convicted of the manufacture or delivery of a controlled substance in Schedule I or Schedule II in any state.
 - (4) The Authority must conduct a criminal background check in accordance with this rule on a PRF every year at the time of application renewal.
 - (5) If a PRF wishes to challenge the accuracy or completeness of information provided by the Department of State Police, the Federal Bureau of Investigation and agencies reporting information to the Department of State Police or Federal Bureau of Investigation, those challenges must be made through the Department of State Police, Federal Bureau of Investigation or reporting agency and not through the contested case process specified in OAR 333-008-1060(2).
- Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1140

Security for Registered Facilities

- (1) The PRF must ensure that a registered facility complies with OAR 333-008-1140 through 333-008-1180.
- (2) The PRF is responsible for the security of all usable marijuana and immature plants in the registered facility, including providing adequate safeguards against theft or diversion of usable marijuana and immature plants and records that are required to be kept.
- (3) The PRF must ensure that commercial grade, non-residential door locks are installed on every external door at a registered facility prior to opening for business and used while a facility is registered.
- (4) During all hours when the registered facility is open for business, the PRF must ensure that:
 - (a) All usable marijuana and immature plants received and all usable marijuana and immature plants available for transfer to a patient or a designated primary caregiver are kept in a locked, secure area that can only be accessed by authorized personnel.
 - (b) All areas where usable marijuana or immature plants are received for transfer by a registered facility are identified as a restricted access area by posting a sign not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height that reads, "Restricted Access Area – Authorized Personnel Only".
 - (c) All areas where usable marijuana or immature plants are available for transfer to a patient or designated primary caregiver are:

- (A) Identified as a restricted access area and clearly identified by the posting of a sign not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height that reads “Restricted Access Area – No Minors Allowed”;
 - (B) Supervised by the PRF or an employee of the registered facility at all times when a patient or designated primary caregiver is present; and
 - (C) Separate from any area where usable marijuana or immature plants are being transferred to a registered facility.
- (5) During all hours when the registered facility is not open for business the PRF must ensure that:
- (a) All entrances to and exits from the facility are securely locked and any keys or key codes to the facility remain in the possession of the PRF or authorized employees;
 - (b) All usable marijuana is kept in a safe; and
 - (c) All immature plants are in a locked room.
- (6) The PRF must ensure that:
- (a) Electronic records are encrypted, and securely stored to prevent unauthorized access and to ensure confidentiality;
 - (b) There is an electronic back-up system for all electronic records; and
 - (c) All video recordings and archived required records not stored electronically are kept in a locked storage area. Current records may be kept in a locked cupboard or desk outside the locked storage area during hours when the registered facility is open.
- Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1150

Alarm System for Registered Facilities

- (1) Prior to opening for business, a PRF must ensure that a registered facility has a security alarm system, installed by an alarm installation company, on all facility entry or exit points and perimeter windows.
 - (2) At the time of application a PRF must submit to the Authority documentation of the:
 - (a) Alarm system that is installed or proposed for installation;
 - (b) Company that installed the system or plans to install the system;
 - (c) Features of the system that meet the criteria of this rule.
 - (3) A PRF must ensure that the facility is continuously monitored by the alarm system.
 - (4) The security alarm system for the registered facility must:
 - (a) Be able to detect movement inside the registered facility;
 - (b) Be programmed to notify a security company that will notify the PRF or his or her designee in the event of a breach; and
 - (c) Have at least two “panic buttons” located inside the registered facility that are linked with the alarm system.
- Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1160

Video Surveillance Equipment for Registered Facilities

- (1) Prior to opening for business, a PRF must install a fully operational video surveillance recording system.

- (2) At the time of application a PRF must submit to the Authority documentation of the:
- (a) Video surveillance system that is installed or proposed for installation;
 - (b) Company or person that installed the system or plans to install the system;
 - (c) Features of the system that meet the criteria of this rule.
- (3) Video surveillance equipment must, at a minimum:
- (a) Consist of:
 - (A) Digital or network video recorders;
 - (B) Cameras capable of meeting the requirements of OAR 333-008-1170 and this rule;
 - (C) Video monitors;
 - (D) Digital archiving devices; and
 - (E) A color printer capable of producing still photos.
 - (b) Be equipped with a failure notification system that provides prompt notification to the PRF or employees of any prolonged surveillance interruption or failure; and
 - (c) Have sufficient battery backup to support a minimum of one hour of recording time in the event of a power outage.
- (4) All video surveillance equipment and recordings must be stored in a locked secure area that is accessible only to the PRF, authorized employees of the registered facility and the Authority.
Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1170

Required Camera Coverage and Camera Placement for Registered Facilities

- (1) A PRF must ensure that a registered facility has camera coverage for:
- (a) All secure and restricted access areas described in OAR 333-008-1140;
 - (b) All point of sale areas;
 - (c) All points of entry to or exit from secure and restricted access areas; and
 - (d) All points of entry to or exit from the registered facility.
- (2) A PRF must ensure that camera placement is capable of identifying activity occurring within 15 feet of all points of entry to the registered facility and exit from the registered facility and shall allow for the clear and certain identification of any individual and activities on the facility premises.
Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1180

Video Recording Requirements for Registered Facilities

- (1) The PRF must ensure that all camera views of all secure and restricted access areas and points of entry to or exit from the registered facility are continuously monitored by motion sensor video equipment or similar technology 24 hours a day.
- (2) A PRF must ensure that:
- (a) All surveillance recordings are kept for a minimum of 30 days and are in a format that can be easily accessed for viewing;
 - (b) The surveillance system has the capability to produce a color still photograph from any camera image;
 - (c) The date and time is embedded on all surveillance recordings without significantly obscuring the picture;

(d) Video recordings are archived in a format that ensures authentication of the recording as a legitimately-captured video and guarantees that no alterations of the recorded image has taken place; and

(e) Video surveillance records and recordings are available upon request to the Authority for the purpose of ensuring compliance with ORS 475.314 and these rules.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1190

Testing

(1) A PRF must ensure that usable marijuana and immature plants are tested for pesticides, mold and mildew in accordance with this rule prior to the usable marijuana or immature plants being transferred to a patient or a designated primary caregiver.

(2) Upon usable marijuana being transferred to a registered facility in accordance with OAR 333-008-1230, the PRF must ensure the usable marijuana is segregated into batches, that each batch is placed in an individual container or bag, and that a label is attached to the container or bag that includes at least the following information:

(a) A unique identifier;

(b) The name of the person who transferred it; and

(c) The date the usable marijuana was received by the registered facility.

(3) Sampling. A PRF must ensure that random samples from each batch are taken in an amount necessary to conduct the applicable test, that the samples are labeled with the batch's unique identifier, and submitted for testing.

(4) Testing. A PRF must ensure that each sample is tested for pesticides, mold, and mildew and for an analysis of the levels of tetrahydrocannabinol (THC) and Cannabidiol (CBD).

(a) Immature Plants. An immature plant may be tested for pesticides, mold or mildew by conducting a macroscopic or microscopic screening to determine if the plant has visible pesticide residue, mold or mildew.

(b) Flowers or other usable marijuana plant material. Usable marijuana in the form of flowers or other plant material must be:

(A) Tested for pesticides, mold and mildew using valid testing methodologies and macroscopic or microscopic screening may not be used;

(B) Tested for pesticides by testing for the following analytes:

(i) Chlorinated Hydrocarbons;

(ii) Organophosphates;

(iii) Carbamates; and

(iv) Pyrethroids; and

(C) Analyzed, using valid testing methodologies, to determine the levels of THC and CBD.

(c) Edibles, Liquids and Solid Extracts. If the usable marijuana used in the edible, liquid or solid extract has been tested in accordance with this rule and tested negative for pesticides, mold or mildew, the edible, liquid or solid extract does not need to be tested for pesticides, mold and mildew but does need to be tested for an analysis of the levels of THC and CBD. If the usable marijuana used in the edible, liquid, or solid extract was not tested in accordance with this rule, the edible, liquid or solid extract must be tested for pesticides, mold or mildew in accordance with subsection (4)(b) of this rule.

(5) Laboratory Requirements. A PRF must ensure that all testing, except for testing of immature plants, is done by a third party or in-house laboratory that:

(a) Uses valid testing methodologies; and

(b) Has a Quality System for testing of pesticides, mold and mildew that is compliant with the:

(A) 2005 International Organization for Standardization 17025 Standard; or

(B) 2009 National Environmental Laboratory Accreditation Conference Institute TNI Standards.

(6) Macroscopic or microscopic screening of immature plants must be conducted by a person who has a minimum of a bachelor's degree in horticulture, botany, plant pathology, microbiology, or an equivalent degree but is not required to be done by a laboratory.

(7) Testing Results. A laboratory must provide testing results to the PRF signed by an official of the laboratory who can attest to the accuracy of the results, and that includes the levels of pesticides, mold or mildew detected and the levels of THC and CBD.

(a) If an immature plant has visible pesticide residue, mold or mildew it must be deemed to test positive and must be returned to the person who transferred the immature plant to the registered facility.

(b) A sample of usable marijuana shall be deemed to test positive for mold and mildew if the sample has levels that exceed the maximum acceptable counts listed in Appendix A.

(c) A sample of usable marijuana shall be deemed to test positive for pesticides with a detection of more than 0.1 parts per million of any pesticide.

(8) If an immature plant or sample of usable marijuana tests positive for pesticides, mold or mildew based on the standards in this rule the PRF must ensure the entire batch from which the sample was taken is returned to the person who transferred the immature plant or usable marijuana to the registered facility and must document how many or how much was returned, to whom, and the date it was returned.

(9) A registered facility may perform its own testing as long as the testing complies with this rule.

(10) The PRF may permit laboratory personnel or other persons authorized to do testing access to secure or restricted access areas of the registered facility where usable marijuana or immature plants are stored. The PRF must log the date and time in and out of all such persons.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1200

Operation of Registered Facilities

(1) A PRF must ensure that a registered facility does not permit:

(a) A minor to be present in any area of a registered facility where usable marijuana or immature plants are present, even if the minor is a patient or an employee; and

(b) Consumption, ingestion, inhalation or topical application of usable marijuana anywhere on the premises of the registered facility, except that an employee of a registered facility who is a patient may consume usable marijuana during their work shift as necessary for his or her medical condition, in a closed room, alone if the usable marijuana is being smoked, not visible to the public or to patients or caregivers on the premises of the registered facility to receive a transfer of usable marijuana or an immature plant.

(2) A PRF must ensure that a registered facility uses an Oregon Department of Agriculture approved scale to weigh all usable marijuana.

(3) The following persons are the only persons permitted in any area of a registered facility where usable marijuana or immature plants are present, and only in accordance with these rules, as applicable:

- (a) A PRF;
- (b) An owner of a registered facility;
- (c) An employee of the registered facility;
- (d) Laboratory personnel in accordance with OAR 333-008-1190;
- (e) A contractor authorized by the PRF to be on the premises of a registered facility;
- (f) A patient, designated primary caregiver, or growers;
- (g) An authorized employee or authorized contractor of the Authority; and
- (h) Other government officials that have jurisdiction over some aspect of the registered facility or that otherwise have authority to be on the premises of the registered facility.

(4) A PRF must have written detailed policies and procedures and training for employees on the policies and procedures that at a minimum, cover the following:

- (a) Security;
- (b) Testing;
- (c) Transfers of usable marijuana and plants to and from the facility;
- (d) Operation of a registered facility;
- (e) Required record keeping;
- (f) Labeling; and
- (g) Violations and enforcement.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1210

Record Keeping

(1) A PRF must ensure that the following information is documented and maintained electronically in a manner that can easily be shared with the Authority or accessed by the Authority:

- (a) All Authorization to Transfer forms, including the date on which a form was received;
- (b) Any written notifications from a patient with regard to any change in status as required by ORS 475.309(7)(a)(B) or (10)(a);
- (c) Any revocation of an Authorization to Transfer form;
- (d) All transfer information required in OAR 333-008-1230 and 333-008-1240;
- (e) Documentation of the costs of doing normal and customary business used to establish the reimbursement amounts for transfers of usable marijuana or immature plants, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.
- (f) The amount of money paid by a registered facility to a grower for each transfer of usable marijuana or immature plants;
- (g) The amount of money paid by each patient or designated primary caregiver for a transfer of usable marijuana or an immature plant;
- (h) The laboratory reports of all testing and other information required to be documented in OAR 333-008-1190; and
- (i) All other information required to be documented and retained in these rules.

(2) The PRF must ensure that information required to be documented pursuant to section (1) of this rule is maintained in a safe and secure manner that protects the information from unauthorized access, theft, fire, or other destructive forces, and is easily retrievable for inspection by the Authority upon request, either at the registered facility or online.

(3) A PRF must ensure that a registered facility uses an electronic data management system for the recording of transfers of usable marijuana and immature plants. The system must meet the following minimum requirements:

(a) Record the information required to be documented in this rule and OAR 333-008-1230 and 333-008-1240;

(b) Provide for off-site or secondary backup system;

(c) Assign a unique transaction number for each transfer to or from the registered facility;

(d) Monitor date of testing and testing results;

(e) Track products by unique transaction number through the transfer in, testing and transfer out processes;

(f) Generate transaction and other reports requested by the Authority viewable in PDF format;

(g) Produce reports, including but not limited to inventory reports; and

(h) Provide security measures to ensure patient and grower records are kept confidential.

(4) Documents and information required to be maintained in these rules must be retained by the PRF for at least one year.

(5) A PRF must provide the Authority with any documentation required to be maintained in these rules upon request, in the format requested by the Authority, or permit the Authority access to such documentation on-site.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1220

Labeling

(1) Prior to transferring usable marijuana a PRF must ensure that a label is affixed to the usable marijuana that includes but is not limited to:

(a) The amount of THC and CBD in the usable marijuana;

(b) If pre-packaged, the weight or volume of the packaged usable marijuana in metric units;

(c) The amount of usable marijuana in a finished product in metric units;

(d) Potency information; and

(e) Who performed the testing.

(2) If the registered facility transfers usable marijuana in a form that is edible, the PRF must ensure that the usable marijuana has a warning label on the outside of the packaging that includes the following: "WARNING: MEDICINAL PRODUCT – KEEP OUT OF REACH OF CHILDREN" in bold capital letters, in a font size that is larger than the type-size of the other printing on the label such that it is easy to read and prominently displayed on the product.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1225

Packaging

(1) For purposes of this rule:

(a) "Child-resistant safety packaging" means:

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(A) Tamper-proof, child-proof containers designed and constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly;
(B) Opaque so that the product cannot be seen from outside the packaging;
(C) Closable for any product intended for more than a single use or containing multiple servings;
and

(D) Labeled in accordance with OAR 333-008-1220.

(b) "Container" means a sealed, hard or soft-bodied receptacle in which a tetrahydrocannabinol-infused product is placed prior to being transferred to a patient or caregiver.

(c) "Packaged in a manner not attractive to minors" means the tetrahydrocannabinol-infused product is not in a container that is brightly colored, depicts cartoons or images other than the logo of the facility, unless the logo of the facility depicts cartoons, in which case only the name of the facility is permitted.

(2) A registered facility may not transfer any tetrahydrocannabinol-infused product that is meant to be swallowed or inhaled, unless the product is:

(a) Packaged in child-resistant safety packaging; and

(b) Packaged in a manner that is not attractive to minors.

Stat. Auth.: ORS 475.314

Stats. Implemented: ORS 475.314

333-008-1230

Transfers to a Registered Facility

(1) A patient may authorize usable marijuana or immature marijuana plants to be transferred to a registered facility by signing an Authorization to Transfer form prescribed by the Authority. A patient may authorize transfers to more than one registered facility. A separate form must be provided for each registered facility. The Authorization must include, but is not limited to, the following information:

(a) The patient's name, OMMP card number and expiration date and contact information;

(b) The name and contact information of the individual who is authorized to transfer the usable marijuana or immature marijuana plants to the registered facility and that individual's OMMP card number and expiration date;

(c) The name and address of the registered facility that is authorized to receive the usable marijuana or immature marijuana plants; and

(d) The date the authorization expires, if earlier than the expiration date of the patient's OMMP card.

(2) Only a patient, the patient's designated primary caregiver, or the patient's grower may be authorized to transfer usable marijuana or immature plants to a registered facility.

(3) The original Authorization to Transfer form must be provided to the registered facility to which a transfer may be made by the patient or person authorized to transfer the usable marijuana or immature plants. The patient should retain a copy of the Authorization to Transfer form for his or her records and provide a copy to the person authorized to transfer the usable marijuana or immature plants.

(4) An Authorization to Transfer form automatically expires on the date the patient's OMMP card expires, unless the patient has specified an earlier expiration date. If the patient renews his or her OMMP card the patient may execute a new Authorization to Transfer form in accordance with this rule.

- (5) Once usable marijuana or an immature plant is transferred to a registered facility pursuant to a valid Authorization to Transfer form, the usable marijuana or immature plant is no longer the property of the patient unless the usable marijuana or immature plants are returned by the registered facility.
- (6) Prior to a registered facility accepting a transfer of usable marijuana or immature plants the PRF must ensure that:
- (a) It has a valid Authorization to Transfer form on file that authorizes the individual that is transferring the usable marijuana or immature plants to make the transfer; and
 - (b) The individual transferring the usable marijuana or immature plants is the individual authorized to make the transfer.
- (7) A PRF must ensure that when a registered facility accepts a transfer of usable marijuana or an immature plant the batch of usable marijuana and each immature plant are segregated in accordance with the testing rule, OAR 333-008-1190 and that the following information is documented, as applicable:
- (a) The unique identifier;
 - (b) The weight in metric units of all usable marijuana received by the registered facility;
 - (c) The number of immature plants received by the registered facility;
 - (d) The amount of a finished product received by the registered facility, including, as applicable, the weight in metric units, or the number of units of a finished product;
 - (e) A description of the form the usable marijuana was in when it was received, for example, oil or an edible product;
 - (f) Who transferred the usable marijuana or the immature plant, the individual's OMMP card number and expiration date of the card, a copy of the individual's picture identification, the date the usable marijuana or an immature plant was received, and the name of the patient who authorized the transfer; and
 - (g) The amount of reimbursement paid by the registered facility.
- (8) Nothing in these rules requires a PRF or a registered facility to accept a transfer of usable marijuana or immature plants.
- (9) A PRF must ensure that:
- (a) From the time that a batch or plant has been received by the registered facility until it is tested in accordance with these rules, the usable marijuana and immature plants are segregated, withheld from use, and kept in a secure location so as to prevent the marijuana or plants from becoming contaminated or losing efficacy, or from being tampered with or transferred except that samples may be removed for testing; and
 - (b) No usable marijuana or immature plants are transferred to a patient or designated primary caregiver until testing has been completed, the registered facility has received a written testing report, and the usable marijuana and immature plants have tested negative for pesticides, mold and mildew.
- (10) Usable marijuana and immature plants must be kept on-site at the facility. The Authority may cite a PRF for a violation of these rules if during an inspection it cannot account for its inventory or if the amount of usable marijuana at the registered facility is not within five percent of the documented inventory.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1245

Transfers to a Patient or Designated Primary Caregiver

- (1) A registered facility may not transfer a tetrahydrocannabinol-infused product that is manufactured in a manner that is attractive to minors. For purposes of this section a product is considered to be manufactured in a manner that is attractive to minors if it is:
- (a) Brightly colored; or
 - (b) In the shape of an animal or any other commercially recognizable toy or candy.
- (2) Prior to a registered facility transferring usable marijuana or an immature plant to a patient or a designated primary caregiver the PRF must ensure that:
- (a) The usable marijuana or an immature plant has not tested positive for mold, mildew or pesticides as specified in OAR 333-008-1190; and
 - (b) The identity and cardholder status of the person requesting usable marijuana or an immature plant is verified by viewing the person's OMMP card and picture identification and making sure the two match.
- (3) The PRF must ensure that for each transfer of usable marijuana or an immature plant to a patient or a designated primary caregiver the following information is documented:
- (a) The name, OMMP card number and expiration date of the card of each person to whom the registered facility transfers usable marijuana or an immature plant;
 - (b) A copy of the person's picture identification;
 - (c) The amount of usable marijuana transferred in metric units, if applicable;
 - (d) The number of immature plants transferred, if applicable;
 - (e) The amount of a finished product transferred in metric units, or units of the finished product, if applicable;
 - (f) A description of what was transferred;
 - (g) The date of the transfer; and
 - (h) The amount of money paid by a patient or a designated primary caregiver to a registered facility for the transfer of usable marijuana or an immature plant.
- (4) The PRF must ensure that a registered facility does not transfer at any one time more usable marijuana or immature plants than a patient or designated primary caregiver is permitted to possess under ORS 475.320(1)(a). A PRF is not responsible for determining whether a patient or designated primary caregiver is limited in the amount of usable marijuana he or she can possess under 475.320(1)(b).

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

333-008-1250

Inspections

- (1) The Authority must conduct an initial inspection of every registered facility within six months of approving an application to ensure compliance with these rules, and must conduct a routine inspection of every registered facility at least every year.
- (2) The Authority may conduct a complaint inspection at any time following the receipt of a complaint that alleges a registered facility is in violation of ORS 475.314 or these rules.
- (3) The Authority may conduct an inspection at any time if it believes, for any reason, that a registered facility or a PRF is in violation of ORS 475.314 or these rules.

(4) A PRF and any employees, contractors, or other individuals working at a registered facility must cooperate with the Authority during an inspection.

(5) If an individual at a registered facility fails to permit the Authority to conduct an inspection the Authority may seek an administrative warrant authorizing the inspection pursuant to ORS 431.262.

Stat. Auth.: ORS 431.262, 475.314, 475.338

Stats. Implemented: ORS 431.262, 475.314

333-008-1260

Violations

(1) A registered facility is in violation of ORS 475.314 or these rules for:

(a) A PRF or an employee of a facility failing to cooperate with an inspection;

(b) The submission by a PRF of false or misleading information to the Authority in support of an application or in seeking to retain registration;

(c) Transferring usable marijuana or immature plants to an individual who is not a patient or a designated primary caregiver;

(d) Accepting a transfer of usable marijuana or immature plants without a valid authorization from the patient;

(e) Possessing a mature marijuana plant at the registered facility;

(f) Failing to document and maintain information in the manner required by these rules;

(g) Failing to account for usable marijuana or immature plants on the premises of the registered facility, taking into account a five percent loss;

(g) Failing to submit a plan of correction in accordance with OAR 333-008-1270;

(h) Failing to comply with a final order of the Authority, including failing to pay a civil penalty; or

(i) Failing to comply with ORS 475.314 or any of these rules.

(2) It is a violation of ORS 475.314 and these rules to operate a facility without being registered by the Authority.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1275

Enforcement

(1)(a) Informal Enforcement. If, during an inspection the Authority documents violations of ORS 475.314 or any of these rules, the Authority may issue a written Notice of Violation to the PRF that cites the laws alleged to have been violated and the facts supporting the allegations.

(b) The PRF must submit to the Authority a signed plan of correction within 10 business days from the date the Notice of Violation was mailed to the person. A signed plan of correction will not be used by the Authority as an admission of the violations alleged in the Notice.

(c) A PRF must correct all deficiencies within 10 days from the date of the Notice, unless an extension of time is requested from the Authority. A request for such an extension shall be submitted in writing and must accompany the plan of correction.

(d) The Authority must determine if a written plan of correction is acceptable. If the plan of correction is not acceptable to the Authority it must notify the PRF in writing and request that the

plan of correction be modified and resubmitted no later than 10 working days from the date the letter of non-acceptance was mailed.

(e) If the registered facility does not come into compliance by the date of correction reflected on the plan of correction, the Authority may propose to revoke the registration of the facility or impose civil penalties.

(f) The Authority may conduct an inspection at any time to determine whether a registered facility has corrected the deficiencies in a Notice of Violation.

(2) Formal Enforcement. If, during an inspection or based on other information the Authority determines that a registered facility or PRF is in violation of ORS 475.314 or these rules the Authority may issue:

(a) A Notice of Proposed Revocation in accordance with ORS 183.411 through 183.470; or

(b) A Notice of Imposition of Civil Penalties in accordance with ORS 183.745. Civil penalties may be issued for any violation of ORS 475.314 and these rules, not to exceed \$500 per violation per day.

(3) The Authority must determine whether to use the informal or formal enforcement process based on the nature of the alleged violations, whether there are mitigating or aggravating factors, and whether the PRF or the registered facility has a history of violations.

(4) The Authority must issue a Notice of Proposed Revocation if the:

(a) Facility no longer meets the criteria in ORS 475.314(3)(a) to (d); or

(b) PRF is not a resident of Oregon, has disqualifying criminal convictions as described in OAR 333-008-1120, or a court has issued an order that prohibits the PRF from participating in the OMMP under ORS 475.300 through 475.346 unless a new PRF is approved by the Authority.

(5) The Authority may maintain a civil action against a facility that is operating but not registered in accordance with ORS 475.314 and these rules.

(6) The Authority may revoke the registration of a facility for failure to comply with an ordinance adopted by a city or county pursuant to Oregon Laws 2014, chapter 79, section 2, if the city or county:

(a) Has provided the facility with due process substantially similar to the due process provided to a registration or license holder under the Administrative Procedures Act, ORS 183.413 to 183.470; and

(b) Provides the Authority with a final order that is substantially similar to the requirements for a final order under ORS 183.470 that establishes the facility is in violation of the local ordinance.

(7) The Authority must post a final order revoking the registration of a facility on the Authority's website and provide a copy of the final order to the OMMP.

(8) To the extent permitted by law, if the Authority discovers violations that may constitute criminal conduct or conduct that is in violation of laws within the jurisdiction of other state or local governmental entities, the Authority may refer the matter to the applicable agency.

(9) If the registration of a facility is revoked the PRF must make arrangements to return the usable marijuana and immature plants in amounts still possessed by the facility, to the person who transferred the usable marijuana or immature plants and must document the same.

Stat. Auth.: ORS 431.262, 475.314 & 475.338

Stats. Implemented: ORS 431.262 & 475.314

333-008-1280

Confidentiality

- (1) Any criminal background information received by the Authority about a PRF during the criminal background check process is confidential and is not subject to disclosure without a court order.
 - (2) The name of a PRF and the address of a registered facility is confidential and is not subject to disclosure without a court order, except as provided in section (5) of this rule, or unless a PRF has authorized disclosure.
 - (3) If an application has been denied, the information submitted to the Authority in an application for registration of a facility is not confidential and may be subject to disclosure under ORS 192.410 through 192.505.
 - (4) A final order revoking the registration of a facility is not confidential and may be posted on the Authority's website or otherwise made public by the Authority.
 - (5) Authorized employees of state and local law enforcement agencies may verify with the Authority at all times whether:
 - (a) A location is the location of a registered facility; or
 - (b) A person is listed as the PRF of a registered facility.
- Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: ORS 475.314, 475.331

333-008-1290

Change of Location

- (1) A registered facility that changes location must submit a new application that complies with OAR 333-008-1020.
 - (2) A facility may not operate at a new location unless it is registered by the Authority.
- Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: ORS 475.314

333-008-1400

Moratoriums

- (1) For purposes of this rule, "moratorium" means an ordinance, adopted by the governing body of a city or county by May 1, 2014, that specifically suspends the operation of registered medical marijuana facilities within the area subject to the jurisdiction of the city or county, for a period of time that does not extend past May 1, 2015.
- (2) If a city or county adopts a moratorium it must notify the Authority and provide a copy of the ordinance.
- (3) An applicant applying for registration of a facility proposing to operate in an area subject to a moratorium may submit a request, in writing, to withdraw the application and may request a refund of the fees.
- (4) A PRF of a registered facility located in an area subject to a moratorium may submit a request, in writing, to surrender its registration and request a refund of the fees.
- (5) Upon receipt of a request to withdraw an application or surrender a registration under sections (3) or (4) of this rule the Authority shall determine whether the ordinance falls within the definition of moratorium and inform the applicant or PRF in writing whether:
 - (a) The application is considered withdrawn and the fees refunded; or
 - (b) The registration has been surrendered and the fees refunded.

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(6) The Authority may refund all fees, including the non-refundable registration fee.

(7) Notifications or requests described in sections (2) to (4) of this rule may be submitted to the Authority:

(a) By mail at P.O. Box 14116, Portland, OR 97293; or

(b) By electronic mail to medmj.dispensaries@state.or.us.

Stat. Auth.: Oregon Laws 2014, Chapter 79, Section 3

Stats. Implemented: Oregon Laws 2014, Chapter 79, Section 3

333-008-1190

Appendix A

Mold and Mildew limits for cannabis products (CFU/g)

	Total viable aerobic bacteria (mildew)	Total yeast and mold
Unprocessed materials*	10 ⁵	10 ⁴
Processed materials*	10 ⁵	10 ⁴
CO₂ and solvent based extracts	10 ⁴	10 ³

*Unprocessed materials include minimally processed crude cannabis preparations such as inflorescences, accumulated resin glands (kief), and compressed resin glands (hashish). Processed materials include various solid or liquid infused edible preparations, oils, topical preparations, and water-processed resin glands ("bubble hash").

Source: American Herbal Pharmacopoeia Monograph, December 18th, 2013

**Oregon Medical Marijuana Program proposed revised rules
333-008-0010**

Definitions

For the purposes of OAR 333-008-0000 through 333-008-0120, the following definitions apply:

- (1) "Act" means the Oregon Medical Marijuana Act.
- (2) "Applicant" means a person applying for an Oregon Medical Marijuana registry identification card on a form prescribed by the Authority.
- (3) "Attending physician" means a Doctor of Medicine (MD) or Doctor of Osteopathy (DO), licensed under ORS chapter 677, who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.
- (4) "Authority" means the Oregon Health Authority.
- (5) "Debilitating medical condition" means:
 - (a) Cancer, glaucoma, agitation incident to Alzheimer's disease, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to the treatment of these medical conditions;
 - (b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:
 - (A) Cachexia;
 - (B) Severe pain;
 - (C) Severe nausea;
 - (D) Seizures, including but not limited to seizures caused by epilepsy; or
 - (E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis;
 - (c) Post-traumatic stress disorder; or
 - (d) Any other medical condition or side effect related to the treatment of a medical condition adopted by the Authority by rule or approved by the Authority pursuant to a petition submitted under OAR 333-008-0090.
- (6) "Delivery" means the actual, constructive or attempted transfer, other than by administering or dispensing, from one person to another of a controlled substance, whether or not there is an agency relationship, but does not include transfer of marijuana from one patient to another patient if no consideration is paid for the transfer.
- (7) "Designated primary caregiver" means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the Authority. "Designated primary caregiver" does not include the person's attending physician.
- (8) "Food stamps" means the Supplemental Nutrition Assistance Program as defined and governed by ORS 411.806 through 411.845.
- (9) "Grow site" means a specific location registered by the Authority used by the grower to produce marijuana for medical use by a specific patient.
- (10) "Grow site registration card" means the card issued to the patient and displayed at the grow site.
- (11) "Grower" has the same meaning as "person responsible for a marijuana grow site."
- (12) "Immature plant" has the same meaning as "seedling or start."
- (13) "Marijuana" means all parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt,

derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(14) "Mature plant" means a marijuana plant that does not fall within the definition of a seedling or a start.

(15) "Medical marijuana facility" is a facility, registered by the Authority, under OAR 333-008-1050.

(16) "Medical use of marijuana" means the production, possession, delivery, or administration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his or her debilitating medical condition.

(17) "Oregon Health Plan (OHP)" means the medical assistance program administered by the Authority under ORS chapter 414.

(18) "OMMP" refers to the office within the Authority that administers the provisions of the OMMA, and all policies and procedures pertaining thereto, as set forth in these rules.

(19) "Parent or legal guardian" means the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age.

(20) "Patient" has the same meaning as "registry identification cardholder."

(21) "Person responsible for a marijuana grow site" means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose.

(22) "Person responsible for a medical marijuana facility" has the meaning given that term in OAR 333-008-1010.

(23) "Primary responsibility" as that term is used in relation to an attending physician means that the physician:

(a) Provides primary health care to the patient; or

(b) Provides medical specialty care and treatment to the patient as recognized by the American Board of Medical Specialties; or

(c) Is a consultant who has been asked to examine and treat the patient by the patient's primary care physician licensed under ORS chapter 677, the patient's physician assistant licensed under ORS chapter 677, or the patient's nurse practitioner licensed under ORS chapter 678; and,

(d) Has reviewed a patient's medical records at the patient's request and has conducted a thorough physical examination of the patient, has provided or planned follow-up care, and has documented these activities in the patient's medical record.

(24) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(25) "Registry identification card" means a document issued by the Authority that identifies a person authorized to engage in the medical use of marijuana, and the person's designated primary caregiver, if any.

(26) "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Authority.

(27) "Replacement registry identification card" means a new card issued in the event that a registry identification cardholder's card, designated primary caregiver identification card, grower

identification card, or grow site registration card is lost or stolen, or if a registry identification cardholder's designation of primary caregiver, grower, or grow site has changed.

(28) "Seedling or start" means a marijuana plant that has no flowers, is less than 12 inches in height, and less than 12 inches in diameter. A seedling or start that does not meet all three criteria shall be considered a mature plant.

(29) "Supplemental Security Income (SSI)" means the monthly benefit assistance program administered by the federal government for persons who are age 65 or older, or blind, or disabled and who have limited income and financial resources.

(30) "Usable marijuana" means the dried leaves and flowers of the plant Cannabis family Moraceae and any mixture or preparation thereof, that are appropriate for medical use. "Usable marijuana" does not include the seeds, stalks and roots of the plant.

(31) "Written documentation" means a statement signed and dated by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person's relevant medical records, maintained in accordance with standard medical record practices.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

333-008-0020

New Registration Application and Verification

(1) A person may apply for a registry identification card on forms prescribed by the Authority. In order for an application to be considered complete, an applicant must submit the following:

(a) An application form signed and dated by the applicant;

(b) Copies of legible and valid U.S. state or federal issued photographic identification that includes last name, first name, and date of birth from the applicant, the designated primary caregiver, and grower, as applicable. Acceptable forms of current U.S. state or federal issued photographic identification include but are not limited to:

(A) Driver's license;

(B) State identification card;

(C) Passport; or

(D) Military identification card.

(c) Written documentation, which may consist of relevant portions of the applicant's medical record, signed by the applicant's attending physician within 90 days of the date of receipt by the Authority, which describes the applicant's debilitating medical condition and states that the use of marijuana may mitigate the symptoms or effects of the applicant's debilitating medical condition;

(d) If applicable, a completed and notarized "Declaration of Person Responsible for Minor" form for any person under 18 years of age, signed and dated by the person responsible for the minor;

(e) The name of a designated primary caregiver, if any;

(f) The name of a designated grower (either the patient or another person), if any and the location of the grow site; and

(g) An application fee and grow site registration fee, if applicable, in the form of cash, bank check, money order, or personal check.

(2) The Authority shall process an application prior to issuing registry identification cards to assure that the application is complete and information provided has been verified.

(a) The Authority shall only accept applications that are mailed or are hand-delivered.

(b) If an applicant does not provide all the information required and the application is considered incomplete, the Authority shall notify the applicant of the information that is missing, and shall allow the applicant 14 days to submit the missing information.

(c) If an applicant does not provide the information necessary to declare an application complete, or to complete the verification process within the timelines established in subsections (2)(b) and (3)(e) of this rule, the application shall be rejected as incomplete. An applicant whose application is rejected as incomplete may reapply at any time. If an applicant submits an application fee and the application is subsequently denied or rejected, the application fee may be applied toward a new application submitted within one year of the denial or rejection date.

(d) The Authority may reject an application if the application or supporting documents appear to be altered (for example, writing is whited out). An application shall be denied in accordance with OAR 333-008-0030 if an application or supporting documents are determined to have been falsified.

(e) The Authority may verify information on each application and accompanying documentation, including:

(A) Contacting each applicant by telephone or by mail. If proof of identity is uncertain, the Authority may require a face-to-face meeting and may require the production of additional identification materials;

(B) Contacting a minor's parent or legal guardian;

(C) Contacting the Oregon Medical Board to verify that an attending physician is licensed to practice in the state and is in good standing;

(D) Contacting the attending physician to request further documentation to support a finding that the physician is the applicant's attending physician. The Authority shall notify the applicant of the intent to review the medical records and request the applicant's authorization to conduct the review. Failure to authorize a review of medical records may result in the application being declared incomplete, or denial of an application. If the Authority is unable to verify that the applicant's attending physician meets the definition under OAR 333-008-0010(3) the applicant will be allowed 30 days to submit written documentation or a new attending physician's declaration from a physician meeting the requirements of these rules. Failure to submit the required attending physician documentation is grounds for denial under ORS 475.309 and OAR 333-008-0030;

(E) Contacting the Division of Medical Assistance Programs, Department of Human Services-Self Sufficiency, or the Social Security Administration (SSA) to verify eligibility for benefits; and

(F) Conducting a criminal records check under ORS 181.534 of any person whose name is submitted as a grower.

(3) Application fees.

(a) A non-refundable application fee of \$200 is required at the time of application.

(b) If applicable as specified in OAR 333-008-0025, a non-refundable grow site registration fee of \$50 is required at the time of application.

(c) An applicant who can demonstrate current receipt of SSI benefits, current eligibility for OHP benefits or current receipt of food stamp benefits through the Oregon SNAP program qualifies for a reduced non-refundable application fee.

(A) An applicant demonstrating receipt of SSI benefits by providing a copy of a current monthly SSI benefit card showing dates of coverage is entitled to a reduced application fee of \$20.

- (B) An applicant demonstrating current eligibility for OHP benefits by providing a copy of the applicant's current eligibility statement is entitled to a reduced application fee of \$50.
 - (C) An applicant demonstrating receipt of current food stamp benefits, verified by enrollment in Oregon's Food Stamp Management Information System database system and by providing current proof of his or her food stamp benefits, is entitled to a reduced application fee of \$60.
 - (d) The Authority shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. Upon receipt by the Authority of a notice of non-sufficient funds (NSF) or stop payment, an applicant will be allowed 14 days to submit payment in the form of a bank check or cash. Application fees paid in the form of cash must be hand-delivered. Applicants are advised not to make payments in cash through the United States mail or private delivery services. The Authority will not accept responsibility for payments of cash that are lost in the mail or stolen in transit.
 - (e) The Authority shall notify an applicant who submits a reduced application fee for which the applicant is not eligible and will allow the applicant 14 days from the date of notice to pay the correct application fee and submit a current valid proof of eligibility.
 - (f) The application fees established in paragraphs (3)(c)(B) and (C) of this rule are effective for applications received on or after October 1, 2013.
- (4) The application forms referenced in this rule may be obtained by contacting the Oregon Medical Marijuana Program (OMMP) at PO Box 14450, Portland, OR 97293-0450 or by calling 971-673-1234.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

333-008-0025

Marijuana Grow Site Registration

- (1) A patient may register a marijuana grow site with the Authority. The address of a medical marijuana facility may not be listed by a patient on the grow site application as the location of the marijuana grow site. The Authority will register only one grow site per patient, and will only register grow sites in Oregon.
- (2) To register a marijuana grow site, an applicant or patient must submit to the Authority an application, prescribed by the Authority, that includes:
 - (a) The name of the grower;
 - (b) The date of birth of the grower;
 - (c) The physical address of the marijuana grow site where marijuana is to be produced;
 - (d) The mailing address of the grower;
 - (e) The registry identification card number of the patient, if known, for whom the marijuana is being produced; and
 - (f) A non-refundable grow site registration fee of \$50 in the form of cash, bank check, money order, or personal check. If the grower is the applicant, he or she is not required to pay the grow site registration fee. The Authority shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. Upon receipt by the Authority of a notice of non-sufficient funds (NSF) or stop payment, an applicant will be allowed 14 days to submit payment in the form of a bank check or cash. Application fees paid in the form of cash must be hand-delivered. Applicants are advised not to make payments in cash through the United States mail or private delivery services. The Authority will not accept responsibility for payments of cash that are lost in the mail or stolen in transit.

- (3) The Authority shall conduct a criminal background check on the grower as authorized under ORS 475.304.
- (a) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offense occurred on or after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder for five years from the date of conviction.
- (b) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offenses occurred after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.
- (c) The Authority shall notify a patient by certified mail that the grower is ineligible and the patient will be allowed the opportunity to identify another grower.
- (4) The Authority shall issue a marijuana grow site registration card to a patient who has met the requirements of section (2) of this rule, unless the grower is disqualified under section (3) of this rule.
- (5) A grower must display a marijuana grow site registration card for each patient for whom marijuana is being produced, at the marijuana grow site at all times.
- (6) All usable marijuana, plants, seedlings and seeds, associated with the production of marijuana for a patient by a grower, are the property of the patient and must be provided to the patient, or, if the marijuana is usable marijuana or an immature marijuana plant, transferred to a registered medical marijuana facility, upon request.
- (7) All marijuana produced for a patient must be provided to the patient or designated primary caregiver when the grower ceases producing marijuana for the patient.
- (8) A grower must return the grow site registration card to the patient to whom the card was issued when requested to do so by the patient or when the grower ceases producing marijuana for the patient.
- (9) A patient or the designated primary caregiver of the patient may reimburse the grower for the costs of supplies and utilities associated with production of marijuana for patient. No other costs associated with the production of marijuana for the patient, including the cost of labor, may be reimbursed.
- (10) A grower may produce marijuana for no more than four patients or designated primary caregivers concurrently.
- (11) The Authority may not register a grow site if the location of the grow site is the same location as a medical marijuana facility.
- Stat.Auth.: ORS 475.338
Stats. Implemented: ORS 475.300 - 475.346

333-008-0045

Interim Changes

- (1) A patient shall notify the Authority within 30 calendar days of any change in the patient's name, address, telephone number, attending physician, designated primary caregiver, grower or grow site address.
- (2) A patient shall notify, as applicable, the designated primary caregiver, the grower, and the person responsible for a medical marijuana facility of any changes in status including, but not limited to:

- (a) The assignment of another individual as the designated primary caregiver for the patient;
 - (b) The assignment of another individual as a grower for the patient;
 - (c) The revocation of an Authorization to Transfer form under OAR 333-008-1230; or
 - (d) The end of eligibility of the patient to hold a registry identification card.
- (3) If the Authority is notified by the patient that a designated primary caregiver or a grower has changed, the Authority shall notify the designated primary caregiver or the grower by mail at the address of record confirming the change in status and informing the caregiver or grower that their card is no longer valid and must be returned to the Authority within seven calendar days.
- (4) A patient who has been diagnosed by an attending physician as no longer having a debilitating medical condition or whose attending physician has determined that the medical use of marijuana is contraindicated for the patient's debilitating medical condition shall return the registry identification card and all associated OMMP cards to the Authority within 30 calendar days of notification of the diagnosis or notification of the contraindication. If, due to circumstances beyond control of the patient he or she is unable to obtain a second medical opinion about the patient's continuing eligibility to use medical marijuana before the 30-day period has expired, the Authority may grant the patient additional time to obtain a second opinion before requiring the patient to return the registry identification card and all associated cards.
- (5) Change forms may only be submitted to the Authority via mail or in person at the OMMP office.
- (6) If a patient's designated primary caregiver, grower or grow site has changed, the non-refundable fee to receive a replacement card is \$100. If the patient qualifies for the reduced application fee of \$20, the non-refundable fee to receive a replacement card is \$20.
- (7) If a patient is registering a new grow site at any time other than when submitting a new application or a renewal application, a grow site registration fee will not be charged.
- Stat. Auth.: ORS 475.309 & 475.312
Stats. Implemented: ORS 475.309 & 475.312

333-008-0050

Confidentiality

- (1) The Authority shall create and maintain either paper or computer data files of patients, designated primary caregivers, growers, and grow site addresses. The data files shall include all information collected on the application forms or equivalent information from other written documentation, plus a copy of OMMP registry identification cards, effective date, date of issue, and expiration date. Except as provided in section (2) of this rule, the names and identifying information of registry identification cardholders and the name and identifying information of a pending applicant for a card, a designated primary caregiver, a grower, and a marijuana grow site location, shall be confidential and not subject to public disclosure.
- (2) Names and other identifying information made confidential under section (1) of this rule may be released to:
- (a) Authorized employees of the Authority as necessary to perform official duties of the Authority, including the production of any reports of aggregate (i.e., non-identifying) data or statistics;
 - (b) Authorized employees of state or local law enforcement agencies when they provide a specific name or address. Information will be supplied only as necessary to verify:
 - (A) That a person is or was a lawful possessor of a registry identification card;

- (B) That a person is or was a person responsible for a registered medical marijuana facility;
 - (C) That the address is or was a documented grow site, and how many people are authorized to grow at that grow site;
 - (D) How many people a person was or is authorized to grow for; or
 - (E) That an address is or was the location of a registered medical marijuana facility.
- (c) Other persons (such as, but not limited to, employers, lawyers, family members) upon receipt of a properly executed release of information signed by the patient, the patient's parent or legal guardian, designated primary caregiver or grower. The release of information must specify what information the Authority is authorized to release and to whom.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

333-008-0120

System to Allow Verification of Data at All Times

- (1) The Authority shall establish an interactive method to allow authorized employees of state and local law enforcement agencies to use the Oregon State Police Law Enforcement Data System (LEDS) to query an OMMP data file in order to verify at any time whether a particular patient, designated primary caregiver, grower, person responsible for a medical marijuana facility, grow site location, or medical marijuana facility is listed or registered with the Authority.
- (2) LEDS access will only allow a yes or no answer to the query and the information obtained may not be used for any other purpose other than verification.
- (3) The Authority may allow the release of reports related to verification if it is without identifying data.
- (4) The Authority shall have staff available by phone to verify law enforcement agency employee questions during regular business hours in case the electronic verification system is down, and in the event the system is expected to be down for more than two business days, the Authority shall ensure program staff are available by phone for verification purposes.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 – 475.346

**CITY AND COUNTY MORATORIUMS
UPDATED 05/07/14**

#	DATED	CITY	COUNTY	ORDINANCE NUMBER	EXPIRATION DATE
1	04/09/2014	ADAMS		244	05/01/2015
2	04/02/2014	AMITY		636	05/01/2015
3	04/09/2014	ARLINGTON		412	05/01/2015
4	04/16/2014	ASHLAND		3093	05/01/2015
5	04/10/2014	ATHENA		720	05/01/2015
6	04/14/2015	AUMSVILLE		627	05/01/2015
7	04/08/2014	BAKER CITY		3333	05/01/2015
8	03/24/2014	BANDON		1611	07/22/2014
9	04/08/2014	BANKS		2014-04-01	05/01/2015
10	04/23/2014	BEAVERTON		4638	12/31/2014
11	04/15/2014	BOARDMAN		01-2014	05/01/2015
12	03/31/2014	BROWNSVILLE		743	05/01/2015
13	04/30/2014	CANBY		1400	05/01/2015
14	04/23/2014	CANNON BEACH		14-01	11/01/2014
15	04/22/2014	CANYONVILLE		624	05/01/2015
16	04/14/2014	CARLTON		703	05/01/2015
17	04/28/2014	CASCADE LOCKS		433	05/01/2015
18	04/10/2014	CENTRAL POINT		1986	05/01/2015
19	04/29/2014	CHILOQUIN		515	07/28/2014
20	04/02/2014	CLATSKANIE		671	05/01/2015
21	04/08/2014	COBURG		A-228	05/01/2015
22	04/15/2014	COOS BAY		457	05/01/2015
23	04/17/2014	COQUILLE		1492	05/01/2015
24	04/07/2014	CORNELIUS		2014-07	05/01/2015
25	04/21/2015	CRESWELL		478	05/01/2015
26	04/14/2014	THE DALLES		14-562	05/01/2015
27	04/21/2014	DAMASCUS		2014-54	05/01/2015
28	04/07/2014	DAYTON		618	10/03/2014
29	04/15/2014	DEPOE BAY		300	05/01/2015
30	04/08/2014	DETROIT		232	05/01/2015
31	04/08/2014	DONALD		155-2014	05/01/2015
32	04/14/2014	DRAIN		422	05/01/2015
33	04/24/2014	DUNDEE		530-2014	05/01/2015
34	04/29/2014	DUNES CITY		227	05/01/2015
35	04/22/2014	DURHAM		257-14	05/01/2015
36	04/07/2014	EAGLE POINT		2014-01	05/01/2015
37	04/17/2014	ECHO		368-14	05/01/2015
38	04/28/2014	ELGIN		TITLE 17, CHAPTER 17.40.140	05/01/2015
39	04/14/2014	ENTERPRISE		574	05/01/2015
40	04/14/2014	ESTACADA		3	05/01/2015

**CITY AND COUNTY MORATORIUMS
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41	04/16/2014	FAIRVIEW		10 2014	05/01/2015
42	03/19/2014	FLORENCE		ORDINANCE 2, SERIES 2014	03/17/2015
43	04/28/2014	FOREST GROVE		2014-04	05/01/2015
44	04/17/2014	GATES		200	05/01/2015
45	04/30/2014	GEARHART		878	05/01/2015
46	04/03/2014	GERVAIS		14-002	05/01/2015
47	04/08/2014	GLADSTONE		1447	05/01/2015
48	04/22/2014	GOLD BEACH		652	05/01/2015
49	04/07/2014	GRASS VALLEY		2014-4	05/01/2015
50	04/15/2014	GRESHAM		1738	05/01/2015
51	04/08/2014	HALSEY		2014-401	05/01/2015
52	04/21/2014	HAPPY VALLEY		447	05/01/2015
53	03/26/2014	HARRISBURG		918	05/01/2015
54	04/14/2014	HEPPNER		574-14	05/01/2015
55	04/15/2014	HILLSBORO		6078	05/01/2015
56	04/08/2014	IONE		1 2014	05/01/2015
57	04/18/2014	IRRIGON		226-14	05/01/2015
58	04/29/2014	JEFFERSON		680	05/01/2015
59	04/22/2014	JOHN DAY		14-161-02	05/01/2015
60	04/08/2014	JORDAN VALLEY		184	05/01/2015
61	04/03/2014	JOSEPH		2014-01	05/01/2015
62	03/25/2014	JUNCTION CITY		1220	05/01/2015
63	04/07/2014	KEIZER		2014-686	05/01/2015
64	03/05/2014	KING CITY		O-2014-01	12/31/2014
	03/05/2014	KING CITY		O-2014-02	05/01/2015
65	04/23/2014	LA PINE		2014-04	05/01/2015
66	04/10/2014	LAFAYETTE		621	05/01/2015
67	04/15/2014	LAKE OSWEGO		2641	05/01/2015
68	03/25/2014	LAKESIDE		14-278	05/01/2015
69	04/29/2014	LAKEVIEW		848	05/01/2015
70	04/09/2014	LEBANON		2014-2-2850	05/01/2015
71	04/08/2014	LEXINGTON		40804	05/01/2015
72	04/28/2014	LINCOLN CITY		2014-11	01/01/2015
73	04/10/2014	LONG CREEK		100	05/01/2015
74	04/22/2014	LOWELL		285	05/01/2015
75	04/28/2014	LYONS		G 1-2014	05/01/2015
76	04/22/2014	MADRAS		858	05/01/2015
77	04/15/2014	MANZANITA		14-03	05/01/2015
78	04/23/2014	MAUPIN		296	05/01/2015
79	03/25/2014	MEDFORD		2014-30	05/01/2015
80	04/08/2014	MERRILL		2014-0408	05/01/2015

**CITY AND COUNTY MORATORIUMS
UPDATED 05/07/14**

81	04/14/2014	MILL CITY		374	05/01/2015
82	02/25/2014	MILWAUKIE		2076	12/31/2014
	04/15/2014	MILWAUKIE		2077	05/01/2015
83	03/26/2014	MOLALLA		2014-05	05/01/2015
84	03/18/2014	MONMOUTH		1342	05/01/2015
85	04/01/2014	MORO		259	05/01/2015
86	04/07/2014	MT ANGEL		740	05/01/2015
87	04/29/2014	MT VERNON		04-29-14-01	05/01/2015
88	04/09/2014	MYRTLE CREEK		794	05/01/2015
89	04/14/2014	NEHALEM		2014-02	05/01/2015
90	04/10/2014	NEWBERG		2014-2772	05/01/2015
91	04/07/2014	NEWPORT		2063	05/01/2015
92	03/21/2014	NORTH BEND		3150	08/11/2014
93	04/30/2014	NORTH POWDER		2014-1	05/01/2015
94	03/24/2014	NYSSA		637-14	05/01/2015
95	04/22/2014	OAKRIDGE		905	05/01/2015
96	04/07/2014	ONTARIO		2689-2014	05/01/2015
97	04/02/2014	OREGON CITY		14-1005	05/01/2015
98	04/03/2014	PENDLETON		3846	05/01/2015
99	04/14/2014	PHILOMATH		788	05/01/2015
100	03/03/2014	PHOENIX		945	06/23/2014
101	04/21/2014	PORT ORFORD		2014 01	05/01/2015
102	04/23/2014	POWERS		2014-03	05/01/2014
103	04/22/2014	PRINEVILLE		1202	05/01/2015
104	04/22/2014	RAINIER		1063	05/01/2015
105	04/15/2014	REDMOND		2014-10	05/01/2015
106	04/07/2014	REEDSPORT		2014-1032	05/01/2015
107	04/14/2014	RIVERGROVE		86-2014	05/01/2015
108	04/30/2014	ROCKAWAY BEACH		14-424	05/01/2015
109	03/25/2014	ROSEBURG		3427	05/01/2015
110	04/09/2014	RUFUS		2014.4.9	05/01/2015
111	04/28/2014	SALEM		4 14	10/27/2014
112	04/07/2014	SANDY		2014-06	05/01/2015
113	04/21/2014	SCAPPOOSE		831	05/01/2015
114	04/14/2014	SCIO		596	05/01/2015
115	04/14/2014	SEASIDE		2014 03	05/01/2015
116	04/03/2014	SHADY COVE		267	05/01/2015
117	04/09/2014	SHERIDAN		2014-03	05/01/2015
118	04/04/2014	SHERWOOD		2014-008	05/01/2015
119	04/14/2014	SILETZ		196	05/01/2015
120	04/07/2014	SILVERTON		14-03	05/01/2015
121	04/10/2014	SISTERS		441	05/01/2015

**CITY AND COUNTY MORATORIUMS
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122	04/17/2014	SODAVILLE		14-02	05/01/2015
123	04/02/2014	ST HELENS		3173	05/01/2015
124	04/15/2014	STANFIELD		409-2014	05/01/2015
125	04/07/2014	STAYTON		967	05/01/2015
126	04/14/2014	SUTHERLIN		1036	05/01/2015
127	04/02/2014	TALENT		14-873-O	12/31/2014
128	04/22/2014	TIGARD		14-08	05/01/2015
	02/11/2015	TIGARD		14-04	12/31/2014
129	04/18/2014	TILLAMOOK		1287	05/01/2015
130	04/21/2014	TROUTDALE		821	05/01/2015
131	04/28/2014	TUALATIN		1368-14	12/31/2014
	04/28/2014	TUALATIN		1373-14	05/01/2015
132	04/10/2014	TURNER		14-101	05/01/2015
133	04/08/2014	UKIAH		48	05/01/2015
134	04/01/2014	UMATILLA		788	05/01/2015
135	04/08/2014	VALE		867	05/01/2015
136	04/21/2014	VERNONIA		894	05/01/2015
137	04/08/2014	WARRENTON		1189-A	05/01/2015
138	04/14/2014	WEST LINN		1620	05/01/2015
139	04/09/2014	WESTON		109	05/01/2015
140	04/21/2014	WILSONVILLE		740	05/01/2015
141	04/07/2014	WINSTON		662	05/01/2015
142	04/08/2014	WOOD VILLAGE		03-2014	05/01/2015
143	04/08/2014	WOODBURN		2514	05/01/2015
144	04/09/2014	YAMHILL		O-502	05/01/2015
145	04/08/2014	YONCALLA		419	05/01/2015
1	04/24/2014		CLACKAMAS	01-2014	05/01/2015
2	04/09/2014		COLUMBIA	2014-5	05/01/2015
3	04/17/2014		COOS	14-03-002L	05/01/2015
4	04/16/2014		CROOK	269	05/01/2015
5	03/21/2014		DESCHUTES	2014-008	05/01/2015
6	04/02/2014		DOUGLAS	2014 03 01	05/01/2015
7	04/17/2014		GILLIAM	2014-02	05/01/2015
8	04/23/2014		GRANT	2014-02	05/01/2015
9	04/21/2014		HOOD RIVER	322	10/18/2014
10	04/04/2014		JACKSON	2014-3	05/01/2015
	03/20/2014		JACKSON	2014-2	05/01/2015
11	04/02/2014		JOSEPHINE	2014-002	05/01/2015
12	04/22/2014		KLAMATH	36-06	05/01/2015
13	04/16/2014		LAKE	102	05/01/2015
14	04/07/2014		LINCOLN	475	05/01/2015

**CITY AND COUNTY MORATORIUMS
UPDATED 05/07/14**

15	04/16/2014		LINN	2014-080	05/01/2015
16	04/02/2014		MALHEUR	206	05/01/2015
17	04/30/2014		MARION	1337	05/01/2015
18	04/23/2014		MORROW	2014-2	05/01/2015
19	04/16/2014		POLK	14-03	05/01/2015
20	04/16/2014		SHERMAN	01 2014	05/01/2015
21	04/16/2014		TILLAMOOK	76	05/01/2015
22	04/02/2014		UMATILLA	2014-02	05/01/2015
23	04/29/2014		WASCO	14-001	05/01/2015
24	04/22/2014		WASHINGTON	781	05/01/2015
25	04/02/2014		WHEELER	2014-01	05/01/2015
26	05/01/2014		YAMHILL	889	05/01/2015
	02/20/2014		YAMHILL	888	05/01/2015



Forest Grove hash oil explosion leaves man in critical condition, police say

Hash oil fire Forest Grove

A fire blamed on cooking hash oil was reported shortly before 4 a.m. Friday in the 1900 block of 22nd Avenue, causing extensive damage to a home and displacing five people. (Samantha Swindler/Forest Grove Leader)

Rebecca Woolington | rwoolington@oregonian.com By Rebecca Woolington | rwoolington@oregonian.com

Email the author | Follow on Twitter

on January 10, 2014 at 12:45 PM, updated January 10, 2014 at 4:50 PM

A man burned in a hash oil explosion at a **Forest Grove** home early Friday, Jan. 10, is in critical condition at a local hospital, according to police.

The man, who is in his 20s, along with two other people were injured in the incident, which occurred at a home in the **1900 block of 22nd Avenue**, said Capt. Mike Herb a **Forest Grove police** spokesman. The others suffered injuries that are not life-threatening while trying to escape the fire. One person reportedly jumped from a second-story window, Herb said.

Police have not released the names of those involved.

The first explosion occurred at 3:45 a.m., Herb said. An additional explosion occurred at 4:03 a.m. A nearby surveillance camera captured the second-alarm fire, which authorities say was caused from cooking hash oil, a concentrated form of marijuana.

Forest Grove hash oil explosion critically injures man, police say

Early Friday, Jan. 10, police and fire crews responded to a fire caused from cooking hash oil at a home located at 22nd Avenue and Main Street in Forest Grove, authorities say. Three people were injured in the incident, including one man who reportedly suffered significant burns. He is in critical condition, according to the police.

Manufacturing hash oil, according to Herb, requires extracting a highly flammable gas.

At 7:30 a.m., the fire started again in the attic, and firefighters had to extinguish the flare up, delaying the police investigation, Herb said. No arrests have been made.

The blaze was reported shortly before 4 a.m. and caused extensive damage to the home, which is located at the corner of **22nd Avenue and Main Street**. The residence is the M.E. Dilley House, once owned by the founder of the Dilley Community.

Five people were displaced by the fire, officials said.

Seven fire engines and a ladder responded to find heavy fire coming out of the front door and a resident suffering from burns outside.

Forest Grove police and members of the **Washington County Interagency Narcotics Team** are investigating.

Among those rescued from the first-floor fire: a snake.

This is the second hash oil house fire in Forest Grove within the past year. Last March, police and fire responded to the 1900 block of C Street, where occupants were attempting to make hash oil.

Five people were injured in that incident.

Samantha Swindler of the Forest Grove Leader contributed to this report.

-- Rebecca Woolington and Kimberly A.C. Wilson

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Cave Junction wants judge to decide if medical marijuana stores OK under constitutions

marijuana.jpg

The city of Cave Junction in southern Oregon has asked a judge to decide if an Oregon law authorizing the sale of medical marijuana through dispensaries complies with the state and federal constitutions. (*The Associated Press*)

The Associated Press By The Associated Press

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on May 01, 2014 at 9:10 AM, updated May 01, 2014 at 9:16 AM

GRANTS PASS — A city in the heart of southern Oregon's marijuana-growing country is asking a judge to decide whether the new state law authorizing the sale of medical marijuana through dispensaries complies with the state and U.S. constitutions.

A lawsuit was filed Wednesday in Josephine County Circuit Court by the city of Cave Junction. It names as defendants the state of Oregon, the governor and the Oregon Health Authority.

Cave Junction city attorney Ryan Kirchoff said the city wants to resolve the conflict between federal law, which prohibits the sale of marijuana, and the state law authorizing the sale of medical marijuana. He notes that like many other cities, Cave Junction prohibits issuing a business license to anyone violating federal law.

"It's not about the politics of marijuana," Kirchoff said. "It's about the rule of law and the status of cities and counties and institutions, many of which are home-rule entities that would like to manage this themselves, but are stuck with the inevitable conflict."

Like Cave Junction, many local governments have federal grants and city charters requiring them to comply with federal law and ordinances denying business licenses to anyone violating federal law, Kirchoff said.

The lawsuit argues that federal law pre-empts state law, under the Supremacy Clause of the U.S. Constitution, so the city does not have to follow the state law on marijuana dispensaries. The state law also lacks specific language pre-empting local law, which is required by the state constitution, the lawsuit adds.

"It's a striking conflict for which there is no clear answer than the constitution itself," Kirchoff said.

The Oregon Department of Justice has not seen the lawsuit and had no comment, spokeswoman Kristina Edmunson said.

The law allowing the dispensaries took effect March 1. It gave local governments until Thursday to adopt up to a one-year moratorium on the dispensaries. So far, at least 23 counties and 128 cities have adopted moratoriums. Three more cities have adopted permanent bans, but their legality is in doubt.

The Cave Junction City Council voted Monday night against adopting a moratorium, preserving its legal standing to sue over the dispensary law.

One application for a dispensary business license in Cave Junction has been tabled pending resolution of the lawsuit, Kirchoff said.

Cave Junction lies at the tip of the Emerald Triangle region of northwestern California and southwestern Oregon, where the climate and sparse population have made it a prime marijuana-growing region. Josephine County has had one of the highest per-capita concentrations of medical marijuana cards in the state.

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AGENDA & NOTICE OF PLANNING COMMISSION MEETING

The Planning Commission of the City of Newport will hold a meeting at **7:00 p.m. Monday, May 12, 2014**, at the Newport City Hall, Council Chambers, 169 SW Coast Hwy., Newport, OR 97365. A copy of the meeting agenda follows.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder, 541-574-0613.

The City of Newport Planning Commission reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the meeting.

NEWPORT PLANNING COMMISSION Monday, May 12, 2014, 7:00 p.m. AGENDA

- A. Roll Call.**
- B. Approval of Minutes.**
 - 1. Approval of the Planning Commission regular session meeting minutes of April 28, 2014.
- C. Citizens/Public Comment.**
 - 1. A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.
- D. Consent Calendar.**
- E. Action Items.**
 - 1. Confirm Mayor's appointment of Michael Franklin as new Planning Commission member.
- F. Public Hearings.**
- G. New Business.**
- H. Unfinished Business.**
- I. Director Comments.**
- J. Adjournment.**

Draft Minutes
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, April 28, 2014

Commissioners Present: Jim Patrick, Rod Croteau, Mark Fisher, Gary East, Bill Branigan, and Bob Berman.

Commissioners Absent: Jim McIntyre.

City Staff Present: Community Development Director Derrick Tokos and Executive Assistant Wanda Haney.

A. Roll Call. Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 7:00 p.m. On roll call, Berman, Croteau, Patrick, Fisher, East, and Branigan were present. McIntyre was absent.

B. Approval of Minutes.

1. Approval of the Planning Commission work session and regular session meeting minutes of April 14, 2014.

MOTION was made by Commissioner Fisher, seconded by Commissioner East, to approve the Planning Commission minutes as presented. The motion carried unanimously in a voice vote.

C. Citizen/Public Comment. No comments on non-agenda items.

D. Consent Calendar. Nothing on the consent calendar.

E. Action Items. No action items.

F. Public Hearings.

Patrick opened the public hearing portion of the meeting at 7:01 p.m. by reading the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, bias, ex parte contacts, or site visits. Croteau, Branigan, East, and Fisher all declared visits to the site at some point. Patrick asked for objections to any of the Commissioners or the Commission as a whole hearing this matter; and none were heard.

1. **File No. 2-CUP-14.** Consideration of a request submitted by Oregon Brewing Co., Inc. (Dennis Bartoldus, authorized representative) (Port of Newport, property owner) for approval of a conditional use permit in order to add approximately 10,600 square feet of warehouse and barrel fabrication space to an existing building currently being used for warehouse, barrel fabrication, and distillation. The request involves property located at 2150 SE Marine Science Drive (Tax Map 11-11-17 portion of Tax Lot 111), which is located in a W-2/"Water-Related" zone.

Patrick opened the public hearing for File No. 2-CUP-14 at 7:03 p.m. by reading the summary of the file from the agenda and then called for the staff report. Tokos noted that before the Commission was the complete record of a conditional use application. Tokos read through the criteria found in the NMC. He noted that the staff report contains full analysis of how the application addresses the criteria and conditions the Planning Commission should impose to insure that the application satisfies the criteria. He said, looking at the site plan, the conditions are related to a few different things. One fire access or driveway on the east side of the building is an area that is no longer needed by the Fire Department. It's not a safe condition in terms of how close it is to the edge of the building. This driveway needs to be decommissioned. It is suitable for bike and pedestrian use. Tokos had a discussion with the applicant about all of the conditions and understands that they are agreeable with these conditions. There is a safety consideration with the proximity of the addition extending into the drive area. Another entry point in the far northwest corner is blocked and needs to remain blocked. The plan now is that it will be removed and be combined with the landscaped area. The last one has to do with the parking area, which is bookended with loading bays. The city is recommending wheel stops be provided to provide a clear sense of where those parking spaces are and prevent pass-through traffic in the loading area. They could do something more substantial, but wheel stops could be removed should the use change. Tokos said that also the Commissioners saw the letter from the City Engineer about effluent monitoring. The City has had some issues with effluent discharge from the distillery and wants to position itself to assure there is adequate handling of the effluent discharge. Tokos noted also that findings and a final order have been prepared so if the Planning Commission agrees with the application you would be free to go ahead and take formal action and approve the permit tonight. Patrick asked where the sampling vault is located. Tokos said it's not depicted on the site plan; and we haven't received the utility plan yet. But it would need to be installed where it's reasonably accessible by the City; and there is certainly ample area. Tokos summed up that this application is to accommodate a 10,608 square-foot addition to the existing distillery building in which there is the warehouse and barrel fabrication area and certainly to expand the distillation. Branigan asked

how big the sampling vault is; and Tokos didn't know. Berman asked if this was automated monitoring; and Tokos confirmed that. Berman asked what actions the City would take if the specs are out of range; does the City have enforcement tools available to it? Tokos said he would expect that Public Works would use the monitoring information to engage and work with the brewery to insure discharges are safe and what they can handle. There will be a period of adjustment. Berman asked, the City wouldn't turn around and shut them down. Tokos said if it's bad enough, the City could do that; but what he sees is a collaborative effort. When it's exceeding permissible limits, Public Works would engage the brewery about changing their practices. Berman asked if Rogue would also have the same readout at the distillery; would they have access to the same information. Tokos didn't know if they would have access to the vault. Those are details he is not as familiar with as the City Engineer. Croteau asked about the effluent piping; and Tokos confirmed that the infrastructure is adequate there. Berman had a question about condition number 2; which seems to him that there is no reason to have that there because every business needs to comply with all applicable codes. So why specifically add that in here? Tokos said that actually is something we use as a boilerplate for conditional use permits to insure post-conditional use that information is provided that it all adheres to those codes. Otherwise it would become a nuisance. He said it's just a reminder more than anything else.

Proponents: Dennis Bartoldus, PO Box 1510, Newport, representing Oregon Brewing Co. in this matter, and Jim Kline of Oregon Brewing Co. came forward. Bartoldus noted that Jim Dahl and Kevin Lindstrom with the construction company were also in attendance. He noted that Kevin Greenwood from the Port of Newport, the property owner, was also present. Bartoldus said that Oregon Brewing has to make peace with the Port and meet what requirements they have since they lease the property from the Port. Oregon Brewing has covered the concept with the Port as well as the City. Bartoldus said that Tokos' staff report is very complete. The applicant has agreed to the conditions set forth in the final order that has been drafted and is before the Commission. Bartoldus wanted to elaborate on a couple of things so that the Commissioners have an understanding of the project. Bartoldus distributed several photographs of the property and wanted to run through those. The first photo shows the existing building that they will be attaching to. Historically, it is the Serven Marine Building. Looking at the photo, he said the area in front is where the parking spaces will be. The new addition will be to the right of the building in this photo. The second photo shows the area where the building will be located. By means of comparison, Bartoldus said that this build will be 10-11 thousand square feet. The last addition over by the brewery was about 20 thousand square feet. This will be about half the size of that building added on to the brewery about two conditional uses ago. When the brewery was originally approved in the early 90s, it was done as a conditional use permit; and for anything they do, even though they may think it's something that's allowed such as a warehouse, they come before the City to have the plans reviewed and obtain approval on that. Photo three is of the driveway that exists behind to the east side of the Serven Marine Building. The corner of the building is right there on the left. The white paint mark there represents where the corner of the new building is going to be located. Originally they were talking about taking that driveway out. They thought a better use would be to convert that to a bicycle and pedestrian path for those coming in the east entrance from the Port property that come up to events like the Seafood and Wine Festival and the amusement rides with Loyalty Days. Bartoldus handed out the aerial photograph of the property. He said from that photo, you see there really is no access from the pathway that runs along Marine Science Drive up to the parking area. There is a change in elevation there and there is no access without going through the landscaping and up the slope. So it seems logical to turn this driveway into a bicycle and pedestrian path. You can go up to the upper level if you park to the north by just coming to this roadway here and take the path up the driveway to where you can walk up to the parking area. One concern was vehicles not being able to use it; so they are going to put bollards at both ends; two on the north and one on the south. The request is to use bollards similar to what is along the pathway along Marine Science Drive; kind of a rock-looking bollard. The Port is requesting they put a curb three feet from the southeast corner of the building to make sure bicyclists are not running into the building. They will wrap it around the corner and put a curb about three feet out there. This will make the width at the south end about six feet or so and then it will widen out. He said the other reason it makes sense to make it a bicycle and pedestrian path is that there are utilities under there and you risk having a problem with some utilities. Bartoldus has talked to Tim Gross about that, and he has no problem with it. He asked Gross about where he wants the pathway cut over, and he had no opinion. They would like it close to the roadway on the north end so they can just cut it over; so they are looking at a paved path and head up that driveway. Berman asked where the south end is. Bartoldus said it about at the corner of the building here in the photo. Using the aerial photograph, he showed Berman. Bartoldus said that the landscaping will wrap around the corner of the building. He said that he heard a question about where the monitoring vault would be placed. Bartoldus talked to Tim Gross, and he didn't have an exact location. Gross wants it to be owned by the City and where the City could have access. Bartoldus said that is fine. Those details would be worked out. On the aerial photo, he pointed out to the Commissioners a general area. It will be on public right-of-way, which is what Gross wanted. Photo 4 shows another shot of the driveway. He noted that you can see a manhole there. This is where the pedestrian and bicycle access will run. Photo 5 shows the north end of the driveway at the intersection of Marine Science Drive into the Port property. He said that somewhere right there is where the crossover would take place from the Marine Science path to the other path. Photo 6 is another shot of that area; only looking south. He noted that you can see a bollard there in the pathway; and they would install one similar to that in nature. Photograph 7 shows the access into the Port property from the east off SE Marine Science Drive. He said that you will note the absence of sidewalks going in there, which is another good reason to have the pedestrian and bicycle path. Photo 8 represents the area in the northwest corner where two islands will be left and will be enlarged. There is a lane to the right of the concrete block; and that is the one that is to be left open. Photo 9 shows a close-up of that drain that is existing and is to be carved out of the island extension. Bartoldus said that he understood that the Commissioners received a copy of the revised final order. He said that he appreciated Tokos working with them on that so that if the Commission does approve this application, the final order can be adopted tonight as well because the Rogue and the contractor are hopeful that they can begin work shortly. He noted that the building permit was submitted and the plans have been sent over to Eugene for review; and they will sit down with them and make sure they don't have any questions. The process is under way. In regards to Berman's comment about

the need for condition number 2, Bartoldus said they know the conditional use does not give them an excuse not to follow other laws. He said in regards to the overall conclusion and conditions set forth on the very last page of the findings and on the back of the final order, they are agreeable to meeting those conditions. He has talked to the City about that. For condition number 6, the applicant will have to continue with the Public Works department to address their concerns and install that in a location where the City wants it installed. Bartoldus said that he thought the Commissioners were familiar with this operation. He said some have sat through seven hearings and have probably heard a lot of this before.

Jim Kline, 2320 SE Marine Science Drive, Newport, added that he appreciated the Commission's consideration. He said their intent is to comply and make sure everything works well in the community, especially in South Beach. They are working with the Aquarium and the Port on the decoration of the building so that they all have input.

Branigan asked if they actually make the barrels in the barrel shop. Kline said yes, it's a cooperage facility. They prefer to make their own barrels. He said that no one else in the US is doing this. It is a first for their industry and Newport. They use all Oregon products; Oregon white oak. Branigan asked if when the still is increased there will be more effluent. Kline said when the additional still is installed, there will be more effluent. That is why they need to be aware of the monitoring system. It's not as electronic now. The City takes effluent samples three to four times a week; and if there are any issues, Rogue gets a call right away. He said the City is aware that they will be adding to the distillation. Bartoldus said they understand that they will have to work with Public Works to address their concerns. Branigan said Gross's letter mentions high pH and asked if Kline knew what the pH level was; but Kline didn't recall.

There were no other proponents or opponents present wishing to testify; so rebuttal was waived.

Patrick closed the hearing at 7:29 p.m. for Commission deliberation. Branigan felt that the proposal and the staff report were exceptionally thorough. All possible bases have been covered. He understood that the Port has signed off on this. Branigan said based on that and what they are proposing, he would recommend approval. East said that as long as Rogue has confirmed that they are willing to meet the conditions and the Port is happy and the City Engineer is happy, he agreed that the Commission should move forward with this. Fisher said that the track record of Rogue speaks for itself. They have always been a quality tenant for the Port and always a good citizen for the City. They have gone out of their way to be a positive influence in the community. Fisher thought this was a reasonable request and that the Commission should grant it. Croteau thought that it's an appropriate request. It is consistent with past land use decisions by the Planning Commission. He thought this is suitable for approval with the six conditions noted. He said that he would hope that the truck access, driveway, and parking issues would be carefully laid out. He said this area of South Beach is actually becoming an attractive part of the City with all the landscaping and beautification. He hopes that they continue in that trend. Berman appreciated the efforts they are willing to make in order to conform to what is existing; the bollards and the landscaping. He said that's a big plus. He was fine with the conditions, except maybe number 2. Berman thought the Commission should go ahead. Patrick agreed. He felt that the application meets the criteria for a conditional use permit; and with the conditions he thought it was a go.

MOTION was made by Commissioner Croteau, seconded by Commissioner Fisher, to approve File No. 2-CUP-14 as written with the conditions indicated in the final order. The motion carried unanimously in a voice vote.

Fisher asked if this action needed to be declared an emergency in order to approve the final order. Tokos noted that the Commission has done approval of final orders both ways; either waiting two weeks until the next meeting or, if it's not an objectionable action, at the same meeting.

MOTION was made by Commissioner Fisher, seconded by Commissioner Croteau, to adopt the final order. The motion carried unanimously in a voice vote.

Bartoldus expressed their appreciation for Tokos getting the final order to the Commission tonight.

G. New Business. No new business.

H. Unfinished Business. No unfinished business.

I. Director's Comments.

1. Tokos noted that the preliminary budget is posted; and the Budget Committee is getting into deliberations. He will have more to add on that.
2. Tokos noted that the Nye Beach committee met for a second time. They covered the boundaries and got into uses a little bit but ran out of time. They will be picking up with use changes again at their next meeting. A date has not yet been set for that meeting. They will be recommending some changes to the boundary. He said the changes make sense; and he appreciated the thought they put into it. The Planning Commission can expect some modifications of some sort.

J. Commissioner Comments.

1. Fisher noted that this month completes his second term on the Planning Commission. At month-end on April 30th, Fisher is resigning his position immediately. He will be giving a letter to the Mayor tomorrow morning.
2. Croteau asked Tokos where things stand on the business license situation. Tokos said there was discussion with the City Council about making this a more formal work group; and there was agreement that would be done. There has not been a new meeting notice; potentially because of the budget. The Council thought it was an appropriate issues list the work group presented to them. However, Busby wanted to leave that door open since he didn't have a chance to participate in the last meeting. The group will be meeting in formal capacity in the future; but we don't have a date yet.
3. Berman asked about the status of the UGB expansion. Tokos said the County finally had a hearing and adopted it. Staff has two boxes of paper that will be sent off to DLCD for their final blessing; and the 350 acres will be done. Berman asked if the road agreements were done. Tokos said just an MOU at this point. Tokos said we should be able to initiate annexation of the city property in two to four weeks probably.

J. Adjournment. Having no further business to discuss, the meeting adjourned at 7:35 p.m.

Respectfully submitted,

Wanda Haney,
Executive Assistant