



September 24, 2015

Board of County Commissioners  
Clackamas County

Members of the Board:

**Marijuana Land Use Issues Discussion**

<b>Purpose/Outcomes</b>	Present information about the status of the marijuana land use issues process in Clackamas County and give the Board of County Commissioners an opportunity to hear from the public.
<b>Fiscal Impact</b>	Current: None Future: Potential for additional costs related to enforcement; potential for additional revenue from the county's share of tax revenue from marijuana sales
<b>Funding Source</b>	To be determined
<b>Safety Impact</b>	---
<b>Duration</b>	Ongoing regulations
<b>Previous Action</b>	<ul style="list-style-type: none"> <li>• On April 16, 2015, the Board of County Commissioners adopted a <a href="#">time/place/manner ordinance</a> for marijuana retail dispensaries in the county</li> <li>• At a July 21, 2015 study session, the County Commission agreed to: <ul style="list-style-type: none"> <li>• Proceed with the process of considering new or amended land use regulations for recreational and medical marijuana facilities, to be effective by January 2016, and</li> <li>• Establish an advisory task force of people representing various stakeholder interests to review and discuss key land use issues related to marijuana</li> </ul> </li> </ul>
<b>Contact Person</b>	Mike McCallister, County Planning Director, 503-742-4422

**BACKGROUND**

**State Laws and Regulations:** In November 2014, Oregon voters approved [Measure 91](#), legalizing marijuana for personal recreational use. In 2015, the State Legislature approved five bills that amend and provide regulations related to recreational and medical marijuana, two of which have provisions related to land use. Recreational marijuana became legal for personal use in Oregon on July 1, 2015.

Medical marijuana is and will continue to be regulated by the [Oregon Health Authority](#) (OHA); recreational marijuana will be regulated by the [Oregon Liquor Control Commission](#) (OLCC). The OLCC is required to adopt administrative rules by Jan. 1, 2016, to administer and implement the law to regulate recreational marijuana purchase, sale, production, processing, transportation and delivery. The OLCC is required to begin accepting license applications to produce, process, wholesale and retail recreational marijuana by Jan. 4, 2016.

**County Options:** State law gives the county three options for responding to the legalization of recreational marijuana, which are not mutually exclusive.

1. **Opt out** of one or more of the six categories of the marijuana business – producer (grow), processor, wholesaler and retailer (dispensary) categories for recreational operations; processor and retailer (dispensary) for medical operations. If the county chose to opt out of one or more of the six categories, the following would apply:
  - a) There would be a temporary moratorium on the licensing or registration of new marijuana facilities that were included in the opt-out until the date of the next statewide general election. (In order for an election to take place in November 2016, the ordinance would have to be adopted no later than August 2016.)
  - b) It would not affect the personal grow, use and possession allowances set forth in state law.
  - c) It would not affect existing medical marijuana processors and dispensaries that have successfully completed local land use processes and are registered prior to the adoption date of the ordinance.
  - d) The county would be prohibited from imposing a local tax on the sale of marijuana, as provided for in the state law, and would be disqualified from receiving its share of the shared state tax revenue on marijuana sales.
  
2. **Take no action** and apply existing land use, building code and other regulations and standards to the marijuana business as would be applied to the same category (growing, processing, wholesaling and/or retailing) of any other business.
  - a. Current regulations related to growing/producing, processing, wholesaling and retailing/dispensaries would apply to the marijuana industry.
  - b. The time/place/manner ordinance adopted by the Board in April 2015 would still have to be amended to conform with state law regarding buffer distances between medical and recreational marijuana dispensaries.
  
3. **Adopt** new land use ordinances regarding regulating recreational marijuana land uses.
  - a. The county has the authority to establish “reasonable regulations” related to impacts and issues of concern such as location, set-backs, security, noise, odor, building size, traffic, etc.
  - b. It would be beneficial to have any new regulations in place by January 2016 when the state will begin accepting applications for licenses for marijuana businesses.

**County Process to Date:** On July 21, the Board of County Commissioners agreed to proceed with considering new or amended land use regulations for marijuana and also approved the establishment of a community/business task force to review and comment on some of the major policy issues.

Since then the following activities have taken place:

- July 27 - The BCC and Planning Commission met together to discuss policy issues related to marijuana land use issues.
  
- Aug. 17 - Several commissioners and staff visited two marijuana grow sites to learn more about how the growing process works.
  
- Aug. 12, 19 and 25 - the Marijuana Land Use Regulations Advisory Task Force met to learn about and discuss marijuana land use policy issues
  
- Aug. 24 - The Planning Commission held a work session to learn more about marijuana land use legislation and related policy issues.

- Sept. 9 - The BCC held a policy session to discuss marijuana land use issues and determine whether it would be appropriate for the county to send out a notice to property owners about a possible change in land use regulations that could affect them.
- Sept. 17 – Several members of the Planning Commission and staff visited a medical marijuana dispensary.
- Sept. 21 – The Planning & Zoning Division sent draft marijuana land use regulations to the Oregon Department of Land Conservation and Development, as required by law, in preparation for future Planning Commission public hearings; draft regulations posted on county website and available from [www.clackamas.us/planning/marijuana.html](http://www.clackamas.us/planning/marijuana.html).
- Sept. 21 – The Marijuana Land Use Issues Advisory Task Force and Planning Commission members were presented information about the draft regulations that had been written by Planning & Zoning Division staff.

The following meetings are scheduled in the coming months:

- Oct. 12: Planning Commission study session (no public testimony) -- 6:30 p.m., Development Services Building, Oregon City)
- Oct. 26 and, if needed, Nov. 2: Planning Commission public hearing (public testimony permitted) – 6 p.m., Abernethy Center, Oregon City
- Nov. 10: Board of County Commissioners planning session (no public testimony) -1:30-3:30 p.m., Public Services Building, Oregon City)
- Nov. 23 and Dec. 2: Board of County Commissioners public hearings (public testimony permitted) - 9:30 a.m., Public Services Building, Oregon City

## **RECOMMENDATION**

Staff respectfully recommends that the Board of County Commissioners:

- listen to public comment on marijuana land use issues at the BCC Business Meeting on September 24 and
- invite anyone who wishes to give public testimony on the draft regulations to do so either in writing (by email to [sharig@clackamas.us](mailto:sharig@clackamas.us) or by mail to Shari Gilevich, Planning & Zoning Division, 150 Beaver Creek Road, Oregon City, OR 97045) or in person at one of the upcoming Planning Commission and/or Board of County Commissioners public hearings.

Respectfully submitted,

Mike McCallister  
Planning Director