



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING

2051 KAEN ROAD OREGON CITY, OR 97045

December 3, 2015

Board of County Commissioners
Clackamas County

Members of the Board:

First Reading of Ordinance Repealing the Moratorium on Medical Marijuana Dispensaries (Chapter 6.12 of the Clackamas County Code) and Repealing Medical Marijuana Facility Regulations (Chapter 8.09 of the Clackamas County Code), and Declaring an Emergency

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Purpose/Outcomes	Ordinance repealing the Moratorium on Medical Marijuana Dispensaries and repealing Medical Marijuana Facility Regulations in Clackamas County from County Code (which will be replaced and superseded by ZDO-254 in the County Zoning and Development Ordinance, if it is adopted); and declaring an emergency to allow the repeal to go into effect immediately upon approval.
Dollar Amount and Fiscal Impact	N/A
Funding Source	N/A
Duration	N/A
Previous Board Action	The Board approved the moratorium on medical marijuana facilities April 24, 2014. The Board modified the moratorium on January 8, 2015. The Board adopted time, place and manner regulations for marijuana vending facilities on April 16, 2015. This action is related to the adoption of ZDO-254, which the Board held a study session for on November 10, 2015, and public hearings on November 23 and December 2, 2015.
Strategic Plan Alignment	1. N/A 2. Ensure safe, healthy and secure communities.
Contact Person	Nate Boderman, Assistant County Counsel – 503-655-8364
Contract No.	N/A

BACKGROUND:

On March 19, 2014, Senate Bill 1531 was signed into law, which gave local governments the authority to impose “time, place and manner” regulations on medical marijuana dispensaries. The bill provided local governments the authority to impose up to a one-year moratorium on medical marijuana dispensaries, provided the moratorium was adopted by May 1, 2014. A number of local governments around the state imposed moratoriums under this law. The Board adopted Ordinance 01-2014 in the County Code on April 24, 2014, which imposed a one-year moratorium on medical marijuana facilities in the County.

On November 4, 2014 voters approved Measure 91, legalizing the consumption and sale of recreational marijuana in Oregon.

On January 8, 2015, the Board enacted Ordinance 01-2015 in the County Code, modifying Ordinance 01-2014 to exclude from the moratorium those medical marijuana dispensaries that had obtained approval from the Oregon Health Authority prior to the adoption of the original moratorium.

On April 16, 2015, the Board adopted Ordinance 04-2015 into the County Code, regulating the time, place and manner of marijuana vending facilities.

In 2015, the State Legislature passed five bills related to the regulation and taxation of recreational and medical marijuana. The most significant of these five bills is House Bill 3400, which revised a number of the key elements of Measure 91 and clarified provisions related to local regulation of marijuana businesses.

In July, the Board directed staff to proceed with drafting new and amended land use regulations for recreational and medical marijuana facilities.

The Board is currently considering amendments to the Clackamas County Zoning and Development Ordinance (ZDO-254) to adopt regulations affecting recreational and medical marijuana-related land uses in the County. The Board recently held public hearings on ZDO-254 on November 23 and December 2, 2015. If that ordinance is approved, the repeal ordinance will be needed for the following reasons.

- **Chapter 8.09:** Repeal of Chapter 8.09 will avoid conflicts and duplication of regulations across differing sections of the County Code in the event ZDO-254 is adopted. A number of the substantive provisions that were adopted in Ordinance 04-2015 (Chapter 8.09 of the Clackamas County Code) are proposed to be relocated into Chapter 841 of the Zoning and Development Ordinance as part of the adoption of ZDO-254. ZDO-254 will also contain certain changes to the standards currently in place in Chapter 8.09 as a result of new state law requirements and certain changes resulting from the Board's consideration of time, place and manner regulations.
- **Chapter 6.12:** Repealing Chapter 6.12 will eliminate a section of the Code that is no longer operative. The moratorium authorized by Senate Bill 1531, and adopted as Ordinance 01-2014 (Chapter 6.12 of the Clackamas County Code) terminated on May 1, 2015. There has been no further authorization to extend the moratorium.

RECOMMENDATION:

Staff recommends the Board hold this public hearing and schedule a second reading of the ordinance on December 17, 2015.

Respectfully submitted,

Nate Boderman
Assistant County Counsel

Attachments:
Proposed Ordinance
County Code Chapters 6.12 & 8.09

ORDINANCE NO. _____

An Ordinance Repealing Chapters 6.12, Medical Marijuana Facility Moratorium and 8.09, Medical Marijuana Facility, of the Clackamas County Code and Declaring an Emergency

WHEREAS, on April 24, 2015, under the authority granted in Senate Bill 1531 (2014) the Board of County Commissioners enacted Ordinance 01-2014, a moratorium prohibiting the siting and operation of medical marijuana dispensaries within the jurisdictional boundaries of unincorporated Clackamas County. An emergency was declared and the moratorium was effective immediately; and

WHEREAS, on January 8, 2015, the Board of County Commissioners enacted Ordinance 01-2015 which modified the moratorium described above to exclude from the moratorium those medical marijuana dispensaries that had obtained approval from the Oregon Health Authority prior to the adoption of the moratorium; and

WHEREAS, the moratorium authorized by Senate Bill 1531, and adopted as Ordinance 01-2014 (Chapter 6.12 of the Clackamas County Code), terminated on May 1, 2015; and

WHEREAS, repealing Chapter 6.12 will eliminate a section of the Code that is no longer operative; and

WHEREAS, on April 16, 2015, the Board enacted Ordinance 04-2015 which regulated the time, place and manner of marijuana vending facilities; and

WHEREAS, in 2015, the State Legislature enacted House Bill 3400 (2015) which included provisions related to local regulation of marijuana businesses; and

WHEREAS, certain provisions enacted in Ordinance 04-2015 will be inconsistent with state law if they remain in effect after January 4, 2016; and

WHEREAS, the Board is considering amendments to the Clackamas County Zoning and Development Ordinance (ZDO-254) whereby certain provisions located in Chapter 8.09 of the Clackamas County Code (Ordinance 04-2015) will be relocated into Chapter 841 of the Zoning and Development Ordinance as part of the adoption of ZDO-254 and certain changes to the standards currently located in Chapter 8.09 will be made as a result of new state law requirements and the Board's consideration of issues related to time, place and manner regulation; and

WHEREAS, repeal of Chapter 8.09 will avoid conflicts and duplication of regulations across differing sections of the County Code in the event ZDO-254 is adopted; now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 6.12, Medical Marijuana Facility Moratorium, of the Clackamas County Code is hereby repealed.

Section 2: Chapter 8.09, Medical Marijuana Facility, of the Clackamas County Code is hereby repealed.

Section 3: Emergency Clause

The Board of Commissioners hereby finds and declares that an emergency exists inasmuch as the immediate effect of this Ordinance is necessary for the peace, health and welfare of the residents of the County. Accordingly, this Ordinance shall be effective on January 4, 2016.

ADOPTED this 17th day of December, 2015.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

File ZDO-254
Proposed Zoning and Development Ordinance Amendments
Draft Date 11/16/15

Text to be added is underlined.

841 MARIJUANA PRODUCTION, PROCESSING, AND RETAILING

841.01 APPLICABILITY

Section 841 applies to:

- A. Marijuana production in the AG/F, EFU, FF-10, RRFF-5, and TBR Districts;
- B. Marijuana processing in the AG/F, EFU, FF-10, and RRFF-5 Districts; and
- C. Marijuana retailing in the C-2, C-3, CC, NC, OC, PMU, RC, RCC, RCO, RTC, RTL, and SCMU Districts.

841.02 PROCEDURE

Marijuana production, marijuana processing, and marijuana retailing require review as Type I applications pursuant to Section 1307, *Procedures*, except:

- A. In the AG/F and EFU Districts, marijuana processing requires review as a Type II application pursuant to Section 1307; and
- B. In the FF-10 and RRFF-5 Districts, marijuana processing is a conditional use that requires review as a Type III application pursuant to Section 1307.

841.03 MARIJUANA PRODUCTION AND MARIJUANA PROCESSING

Marijuana production and marijuana processing shall be subject to the following standards and criteria:

- A. Minimum Lot Size. A minimum lot size standard shall apply as follows:
 - 1. In the FF-10 and RRFF-5 Districts, the subject property shall be a minimum of five acres, except that if the majority of abutting properties are equal to or greater than two acres, the subject property shall be a minimum of two acres. Abutting properties include properties that are contiguous to the subject property, as well as properties directly across any access drive, or private, public, or county road, provided the functional classification of the road is below that of a collector.
 - 2. In the AG/F, EFU, and TBR Districts, the subject property shall be a minimum of two acres, except that if marijuana production is proposed

outside a building, the subject property shall be a minimum of five acres.

B. Minimum Yard Depth/Distance from Lot Lines. In the FF-10 and RRFF-5 Districts, the minimum front, rear, and side yard depths for any structure used for marijuana production or marijuana processing shall be 50 feet. In the AG/F, EFU, and TBR Districts, any area that is outside a fully enclosed building and is used for marijuana production shall be a minimum of 100 feet from all lot lines.

C. Indoor Production and Processing. In the FF-10 and RRFF-5 Districts, marijuana production and marijuana processing shall be located entirely within one or more completely enclosed buildings. In the AG/F, EFU, and TBR Districts, marijuana processing shall be located entirely within one or more completely enclosed buildings.

D. Maximum Building Space. The following standards apply in the FF-10 and RRFF-5 Districts:

1. A maximum of 5,000 square feet of building space may be used for all activities associated with marijuana production on the subject property.
2. A maximum of 3,000 square feet of building space may be used for all activities associated with marijuana processing on the subject property.
3. If only a portion of a building is authorized for use in marijuana production or marijuana processing, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the marijuana production or marijuana processing space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the marijuana production or marijuana processing space and the remainder of the building.

E. Access. The subject property shall have frontage on, and direct access from, a constructed public, county, or state road, or take access on an exclusive road or easement serving only the subject property. However, this standard will be waived if the property takes access via a private road or easement which also serves other properties and evidence is provided by the applicant, in the form of a petition, that all other property owners who have access rights to the private road or easement agree to allow the specific marijuana production or marijuana processing described in the application. Such evidence shall include any conditions stipulated in the agreement.

F. Lighting. Lighting shall be regulated as follows:

1. Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.

2. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
3. Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall not spill onto adjacent lots.

G. Odor. A building used for marijuana production or marijuana processing shall be equipped with an activated carbon filtration system for odor control.

1. The system shall consist of one or more fans and filters.
2. The fan(s) shall be sized for cubic feet per minute (CFM), and the filter(s) shall be rated for the applicable CFM.
3. The filtration system shall be maintained in working order and shall be in use.
4. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
5. Negative air pressure shall be maintained inside the building.
6. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.

H. Noise. The applicant shall submit a noise study by an acoustic engineer licensed in the State of Oregon. The study shall demonstrate that mechanical equipment used for heating, ventilating, air conditioning, or odor control will not produce sound that, when measured at any lot line of the subject property, exceeds 50 dB(A).

I. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with licensing requirements of the Oregon Liquor Control Commission (OLCC) or registration requirements of the Oregon Health Authority (OHA).

J. Water. The applicant shall submit:

1. A water right permit or certificate number for the proposed marijuana production or marijuana processing;
2. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
3. Proof from the Oregon Water Resources Department that the water to be used for marijuana production or marijuana processing is from a source that does not require a water right.

K. Waste Management. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.

L. Residency. In the FF-10 and RRFF-5 Districts, a minimum of one of the following shall reside in a dwelling unit on the subject property:

1. An owner of the subject property;
2. A holder of an OLCC license for marijuana production, provided that the license applies to the subject property;
3. A holder of an OLCC license for marijuana processing, provided that the license applies to the subject property;
4. A person registered with the OHA as a person designated to produce marijuana by a registry identification cardholder, provided that the registration applies to the subject property; or
5. A person registered with the OHA as a person responsible for a marijuana processing site, provided that the registration applies to the subject property;

M. Exceptions. Marijuana production or marijuana processing, provided such production or processing is done pursuant to registration with the OHA, is not required to comply with Subsections 841.03(F)(3) and (G) through (L), provided that the minimum front, rear, and side yard depths for any structure used for marijuana production or marijuana processing shall be 100 feet.

841.04 MARIJUANA RETAILING

Marijuana retailing shall be subject to the following standards and criteria:

- A. Hours. A marijuana retailer may only sell to consumers between the hours of 7:00 a.m. and 10 p.m. and may only permit consumers to be present in the building space occupied by the marijuana retailer between the hours of 7:00 a.m. and 10 p.m.
- B. Odor. A building used for marijuana retailing shall be equipped with an activated carbon filtration system for odor control.
 1. The system shall consist of one or more fans and filters.
 2. The fan(s) shall be sized for cubic feet per minute (CFM), and the filter(s) shall be rated for the applicable CFM.
 3. The filtration system shall be maintained in working order and shall be in use.

4. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
5. Negative air pressure shall be maintained inside the building.
6. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.

C. Window Service. The use shall not have a walk-up window or drive-thru window service.

D. Waste Management. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.

E. Minors. No one under the age of 21 shall be permitted to be present in the building space occupied by the marijuana retailer, except as allowed by state law.

F. Co-Location of Related Activities and Uses. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.

G. Minimum Separation Distances. Minimum separation distances shall apply as follows:

1. The use shall be located a minimum of 1,000 feet from a public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.020, including any parking lot appurtenant thereto and any property used by the school; or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
2. If the use is licensed by the Oregon Liquor Control Commission (OLCC) pursuant to [insert reference from Oregon Laws], it shall be located a minimum of 1,000 feet from any other marijuana retailer so licensed by the OLCC.
3. If the use is registered with the Oregon Health Authority (OHA) pursuant to [insert reference from Oregon Laws], it shall be located a minimum of 1,000 feet from any other marijuana retailer so registered with the OHA.
4. For purposes of Subsection 841.04(G)(1), distance shall be measured from the lot line of the affected school property to the closest point of the building space occupied by the marijuana retailer. For purposes of Subsections

841.04(G)(2) and (3), distance shall be measured from the closest point of the building space occupied by one marijuana retailer to the closest point of the building space occupied by the other marijuana retailer.

5. A change in use to another property to a use identified in Subsection 841.04(G) after a complete Type I application for marijuana retailing has been filed shall not result in the marijuana retailer being in violation of Subsection 841.04(G).
6. Subsection 841.04(G) does not apply to any marijuana retailer that obtained full, unconditional approval of a registration from the OHA on or before March 31, 2015, that is operating in a building space where marijuana retailing activities approved by the OHA have been continuously occurring in that building space since May 31, 2014, except during the effective dates of the Medical Marijuana Facility Moratorium adopted pursuant to Clackamas County Ordinance 01-2014.
7. In case of a conflict under Subsection 841.04(G)(2) or (3), any person who has received approval of a Type I land use permit for marijuana retailing, shall be deemed to have established marijuana retailing at the approved location, so long as the marijuana retailer begins operation within one year of the date of the County's final decision on the Type I land use permit application. If more than one Type I application is in process with the County at one time, the County shall issue decisions in the order in which complete applications were filed.

841.05 APPROVAL PERIOD

- A. Approval of a permit under Subsection 841.03 is valid for four years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.
 1. Implemented means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained. A major development permit is:
 - a. A building permit for a new primary structure that was part of the approved development; or
 - b. A permit issued by the County for parking lot or road improvements required by the approved development.

B. Approval of a permit under Subsection 841.04 is valid for one year from the date of the County's final decision. During this one-year period, the approval shall be implemented, or the approval will become void. Implemented means that the marijuana retailer has begun operation. Notwithstanding this one-year implementation period, a complete application for a marijuana retailing license shall be filed with the Oregon Liquor Control Commission, or a complete application for a medical marijuana dispensary registration shall be filed with the Oregon Health Authority, within three months of the date of the County's final decision, or the approval will become void.

CHAPTER 6.12

6.12 MEDICAL MARIJUANA FACILITY MORATORIUM

6.12 MEDICAL MARIJUANA FACILITY MORATORIUM

- A. **MORATORIUM DECLARED.** The County of Clackamas hereby issues a moratorium prohibiting the operation of any medical marijuana facility in any area subject to the jurisdiction of Clackamas County. As used in this section, "medical marijuana facility" includes any facility that dispenses marijuana pursuant to ORS 475.314 or any other provision of Oregon law. This subsection shall not apply to any medical marijuana facility, located within the Metro Urban Growth Boundary and which obtained full, unconditional approval by the Oregon Health Authority on or before April 23, 2014; provided, however, that medical marijuana facilities may only operate between 10:00 a.m. and 9:00 p.m., and that marijuana may not be consumed on the premises.
- B. **ENFORCEMENT.** The Sheriff is charged with enforcement of the moratorium.
- C. **EFFECTIVE DATE.** The moratorium imposed hereby is effective from and after the enactment of this ordinance and continues until May 1, 2015, unless otherwise lawfully rescinded or extended.
- D. **REMEDIES NOT EXCLUSIVE.** The remedies available under Senate Bill 1531 (2014) for a violation of the moratorium imposed by this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law. It is within the discretion of the Sheriff of Clackamas County to seek cumulative remedies for a violation of the moratorium imposed by this ordinance.
- E. **SEVERABILITY.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.
- F. **OREGON HEALTH AUTHORITY NOTICE.** A copy of this Ordinance shall be forwarded to the Oregon Health Authority by regular mail and by any other such means as required by rule of the Oregon Health Authority.

(Added by Ord. 01-2014, 4/24/14; Amended by Ord. 01-2015, 1/8/15)

Chapter 8.09

8.09 MEDICAL MARIJUANA FACILITY

8.09.010 Purpose.

The purpose of this chapter is to minimize any adverse public safety and public health impacts that may result from allowing Medical Marijuana Facility in the County by adopting particular time, place and manner requirements.

[Adopted by Ord. 04-2015, 4/16/15]

8.09.020 Definitions.

- A. "Facility" means a medical marijuana facility.
 - B. "Marijuana" means all parts of the plant of the Cannabis 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, as may be defined by Oregon Revised Statutes or as they currently exist or may from time to time be amended. 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 predation of the mature stalks (except the resin extracted there from), fiber oil, or cake, or the sterilized seed of the plant which is incapable of germination.
 - C. "Medical Marijuana" refers to marijuana dried, produced, kept, stored, delivered, transferred, dispensed or otherwise provided for the exclusive benefit of and use by a person to mitigate the symptoms or effects of a person's debilitating medical condition as defined in ORS 475.302.
 - D. "Medical Marijuana Facility" means a facility that is registered by the Oregon Health Authority under ORS 475.300-475.346 and that sells, distributes, transmits, gives, dispenses or otherwise provides medical marijuana to medical marijuana qualifying patients.
 - E. "Minor" means any person under 21 years of age who is not a medical marijuana card holder.
 - F. "Marijuana Vending Facility" means a marijuana facility selling cannabis products and operating under the "Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act" or a Medical Marijuana Facility.
 - G. "Playground" means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of minors, including, but not limited to, sliding boards, swing sets, and teeterboards.
 - H. "Premises" means a location registered by the State of Oregon as a Medical Marijuana Facility and includes all areas at the location that are used in the business operated at the location, including offices, kitchens, restrooms, storerooms, and including all public and private areas where individuals are permitted to be present. Premises does not include the parking areas or the
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landscaped areas located outside of the building or buildings which accommodate the primary activities of the Medical Marijuana Facility.

- I. "Sensitive Use - Class I" means a public or private elementary, secondary or career school attended primarily by minors, including any parking lot appurtenant thereto and any property used by the school.
- J. "Sensitive Use - Class II" means a public park or public playground, a public library, recreational center, licenses treatment center, light rail transit station, adult foster care facility or a housing facility owned by a public housing authority.
- K. "Sensitive Use - Class III" means a licensed day care facility or licensed preschool including any parking lot appurtenant thereto and any property used by the facility or preschool.

[Adopted by Ord. 04-2015, 4/16/15]

8.09.030 Rules and Regulations.

Any Medical Marijuana Facility must comply with the following requirements, in addition to any other state or local requirements:

- A. The Medical Marijuana Facility may not operate in violation of applicable land-use, building and fire codes.
 - B. There shall be no manufacture or production of any extracts, oils, resins or similar derivatives of marijuana on the Premises of a Medical Marijuana Facility and no open flames shall be used in the preparation of any products.
 - C. Marijuana and tobacco products must not be smoked, ingested or otherwise consumed on the Premises of the Medical Marijuana Facility.
 - D. Operating hours for a Medical Marijuana Facility must be no earlier than 10:00 a.m. or later than 9:00 p.m. on the same day.
 - E. The Medical Marijuana Facility must not be co-located on the same property or within the same building with any marijuana social club or smoking club.
 - F. The Medical Marijuana Facility must utilize an air filtration and ventilation system that confines all objectionable odors associated with the Facility to the Facility Premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
 - G. The Medical Marijuana Facility must not permit any minor to be present anywhere on the Premises, unless accompanying a parent or guardian who is a cardholder to the waiting area as allowed by state law.
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- H. Registration and Compliance with Oregon Health Authority Rules. The facility's registration as a medical marijuana facility under ORS 475.314 must be in good standing with the Oregon Health Authority, and the facility must comply with all applicable laws and regulations administered by the Oregon Health Authority for facilities.
- I. Secure Disposal. The facility must provide for secure disposal of marijuana remnants or by-products; marijuana remnants or by-products shall not be placed within the facility's exterior refuse containers.
- [Adopted by Ord. 04-2015, 4/16/15]

8.09.040 Standards.

- A. A Marijuana Vending Facility may only operate where retail uses are permitted by the Clackamas County Zoning and Development Ordinance.
- B. A Marijuana Vending Facility shall not be located:
1. In any industrial or residential zoning district or outside of the Metro Urban Growth Boundary.
 2. Within a residence.
 3. Within:
 - a. 2500 feet of another Marijuana Vending Facility.
 - b. 2000 feet from a Sensitive Use - Class I.
 - c. 1500 feet from a Sensitive Use - Class II.
 - d. 500 feet from a Sensitive Use - Class III.
 - e. 100 feet of a residentially zoned property, however, this provision shall not apply to any parcel which fronts on a state highway or major arterial.
- C. For purposes of subsection B. all distances shall be measured from the property line of the affected property, (for example, a school) to the closest point of the space occupied by the facility.
- D. A change in use (including a rezone) to a neighboring property to a use identified in this section after a license has been issued for a Marijuana Vending Facility shall not result in the facility being in violation of this section.
- E. The provisions of Section 9.09.040(B) shall not apply to any Medical Marijuana Facility which applied for a registration with the Oregon Health Authority on or before March 3, 2014, and which subsequently obtained full, unconditional approval on or before May 31, 2014.
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- F. A Medical Marijuana Facility which falls under Section 8.09.040(B) may relocate to another location in the same building.
- G. In case of a conflict under Section 9.09.040(B)(3)(a), any person who has submitted a complete building permit application after first obtaining final approval from the relevant state licensing agency, shall be deemed to have established a facility at the licenses location, so long as the facility begins operation within 180 days of submittal of the building permit application.
- H. Home Occupation. A facility may not be operated as a home occupation, may not have a walk-up window or drive through, and may not operate from a non-fixed location.

[Adopted by Ord. 04-2015, 4/16/15]

8.09.050 Remedy for Noncompliance and Administrative Appeals.

- A. A building or structure established, operated, or maintained contrary to this chapter is a public nuisance and may be abated as provided for in Chapter 6.08.
- B. The remedy provided in this section is not exclusive and shall not prevent the County from exercising any other remedy available under the law, nor shall the provisions of this chapter prohibit or restrict the County or other appropriate prosecutor from pursuing criminal charges under state law or County ordinance.

[Adopted by Ord. 04-2015, 4/16/15]
