

CITY OF DUNDEE
PLANNING COMMISSION AGENDA
City Council Meeting Chambers
620 SW 5th Street
Dundee, OR 97115
P.O. Box 220

MEETING DATE: March 18, 2015
Meeting Time: 7:00pm

- I. Call Meeting to Order.**
- II. Election of 2015 Chairman and Vice-Chairman**
- III. Approval of Minutes from Previous Meetings**
 - 1) January 21, 2015
- IV. Public Comment**
- V. Public Hearing(s)**
 - 1) SP 15-03, Methven Sign Appeal
 - 2) LURA 15-07, Amendment to the Dundee Development Code to Add Regulations for Marijuana Dispensaries
- VI. Planning Issues from Commission Members**
- VII. Adjournment**

The City Council chambers are 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 Melody Osborne, Planning Secretary at 503-538-3922.

CITY OF DUNDEE

Meeting: Planning Commission Meeting
Location: City Council Meeting Chambers
620 S.W. 5th Street
Dundee, Oregon 97115
Date: January 21, 2015
Time: 7:00 p.m.

I. Planning Commission Training

The Commissioners listened to a video series on public hearing process, statewide planning goals, and legal elements of being a planning commissioner. At the end of the series, a quiz was passed out and answers were reviewed.

II. Meeting called to order.

The meeting was called to order. Commissioners present, which consisted of quorum, were Chairman Gerald Fiedler, Vice-Chairman Michelle Kropf, Commissioner Isaiah Cox, and Commissioner Francisco Soller. Also in attendance was City Planner Jessica Pelz.

III. Approval of Minutes from Previous Meeting(s)

It was moved and seconded to approve the November 19, 2014 meeting minutes. Motion passes, unanimously.

IV. Election of 2015 Chairman and Vice-Chairman

It was decided to postpone elections until the March meeting when more Commissioners would be in attendance.

V. Public Comment

There were no members of the public in attendance.

VI. Planning Issues from Commission Members

Planner Pelz informed the Commission that sign code review would be coming back to them for possible amendment. She also let them know that the TSP workshop and public hearing would occur over the next couple months. Finally, she told the Commission she would be out of the office beginning in May for maternity leave.

There was a short discussion regarding code enforcement and complaint processes.

VII. **Adjournment**

Moved and seconded to adjourn the meeting. Meeting was adjourned.

Gerald Fiedler, Chairman

ATTEST:

Melody Osborne, Planning Secretary

Memorandum

TO: Dundee Planning Commission
FROM: Jessica Pelz, AICP, Planner
CC: Rob Daykin, City Administrator
DATE: March 18, 2015
SUBJECT: Methven Sign Appeal (File No. SP 15-03)

On January 16, 2015, Allen Methven submitted an application for a sign for his new project, the “Dundee Tuscan Piazza”. The new project is a future commercial development on vacant property behind the existing dental office. Dr. Methven indicated in his sign application that the new sign would go on the dental office property adjacent to Highway 99W. The proposed sign would be approximately 60 square feet in size. There is an existing 64 square foot sign on the lot. The Development Code does permit two signs per lot when there is more than 150 feet of lot frontage, but limits the combined area of all freestanding signs along the lot to four-tenths square foot for each foot of lineal lot frontage. In this case, the dental office lot has 165 feet of lot frontage, which would permit 66 square feet of total signage [165 x 0.4 = 66]. The second proposed sign would exceed the size limits permitted for signs, as the total signage on the site would equal approximately 124 square feet. Therefore, the proposed sign does not meet this criteria. Based on this, staff denied the sign application on January 29, 2015.

Dr. Methven submitted an appeal of staff’s decision on February 6, 2015. The Dundee Development Code specifies that “all appeals and major variances regarding this chapter shall be heard by the planning commission” [DDC Section 17.306.050.B.]. Dr. Methven’s reason for the appeal is he states that he was given permission in the past to have the additional sign by a previous mayor and city officials. However, there is no documentation of this statement. In addition, decisions for new projects requiring findings to the Development Code are made using the most current adopted provisions at the time of the development application.

Staff Recommendation

Staff recommends denial of the appeal application, based on the facts found in the sign application and the existing Development Code criteria.

Attachments

1. Methven sign appeal application
2. Staff decision on File No. SP 15-03
3. Methven sign application



(For Office Use Only)

Land Use File No.

Fee \$250-

TYPE I – SIGN APPEAL APPLICATION

*Regulated by Section 17.306 of the Dundee Municipal Code

1) Applicant Information:

Name of Applicant: Allen R. Mathven Phone Number: 503 538 8800
Mailing Address: 120 SW. 7th St.
Co-Applicant / Owner: Phone Number:
Identify Decision Being Appealed: Sign Review Reversion
File Number: SP 15-03 Date of Decision 1/29/15

2) Description:

Please state the basis of appeal pursuant to Section 17.306 (Signs) of the Dundee Municipal Code:

I was given permission when I bought the property by the past mayor and city officials. They told me it would be allowed as the businesses in the back need to have their own signage. I should be grandfathered in and the new rule should not apply to me. I believe the businesses in Dundee would see it my way. When I put this property I had intentions of building and new separate sign would be needed, thus why I asked the previous city employees, and officials

I hereby certify that all information, justification, and supplemental information submitted are in all respects true and correct to the best of my knowledge.

Applicant: Allen Mathven Date: 2/6/15
Co-Applicant / Owner: Date:



SENT: 1-30-15
W@

City of Dundee, Oregon
SIGN REVIEW DECISION - SP 15-03

APPLICANT: Dundee Tuscan Plaza
 PROPERTY LOCATION: 120 SW 7th Street
 ZONING: CBD (Central Business District)
 REQUEST: Approval for one approximately 60 square foot freestanding sign on a property with an existing 64 square foot sign.
 DECISION CRITERIA: Section 17.306.030(B) of the Dundee Development Code
 FILE NO.: SP 15-03
 DATE: July 2, 2014

I. CRITERIA AND FINDINGS

17.306.030.B. Freestanding Signs

1. Nonresidential Zones.

- a. One freestanding sign shall be allowed per lot frontage. One additional freestanding sign shall be permitted for every 150 feet of lot frontage. Each sign shall be located a minimum distance of 50 feet from another freestanding sign located on the same lot.*
- b. The combined area of all freestanding signs along one lot frontage shall be a maximum of four-tenths square foot for each foot of lineal lot frontage. The maximum area of any single sign shall not exceed 50 square feet. At least 20 square feet is allowed per frontage.*
- c. The maximum height shall not exceed 12 feet.*
- d. No portion of a freestanding sign shall be in, or project over, a public right-of-way.*

FINDING: The property is zoned CBD (Central Business District) and is currently used for a dental office, with a future use of the Dundee Tuscan Plaza on a (future) adjacent lot. The proposed sign is approximately 60 square feet and would be 12 feet tall (the sign diagram as submitted does not account for the top size of the sign; therefore, the top 12 square feet of the sign is an approximation). There is an existing 64 square foot sign on the lot. The Development Code does permit two signs per lot when there is more than 150 feet of lot frontage, but limits the combined area of all freestanding signs along the lot to four-tenths square foot for each foot of lineal lot frontage. In this case, the lot has 165 feet of lot frontage, which would permit 66 square feet of total signage [165 x 0.4 = 66]. The second proposed sign would exceed the size limits permitted for signs, as the total signage on the site would equal approximately 124 square feet. Therefore, the proposed sign does not meet this criteria. The existing sign is not within the public right-of-way, and the proposed sign would also not project into the right-of-way.

C. *Design Standards*

<i>SIGN DESIGN STANDARDS</i>
<i>These design standards apply to:</i>
<i>All signs larger than six square feet in nonresidential zones.</i>
<i>Institutional uses in residential zones if the use abuts Hwy 99W.</i>
<i>The sign design standards supersede other development code requirements for signs, including those in the Victorian overlay and DMC 17.203.040.</i>
<i>All signs must incorporate at least two of the design elements below, except signs with internally illuminated faces must include at least three of the design elements.</i>
<i>1. The sign primarily includes raised or engraved individual letters or graphics on a background wall or sign face (raised or engraved depth at least one-half inch). Letters made from neon tube lighting are one type of raised letters.</i>
<i>2. The outline or top of the sign frame (or the letters and graphics if no frame) is predominantly curved or nonrectangular.</i>
<i>3. The sign incorporates stone, masonry, sculpted metal, wrought iron, or natural wood as a frame or background (not plywood, particle board or other wood composite).</i>
<i>4. The sign is indirectly illuminated or non-illuminated.</i>
<i>5. If internally illuminated then no more than 50 percent of the face is light-colored.</i>
<i>6. Freestanding sign is no more than six feet tall.</i>
<i>7. For wall signs, total sign area is at least 20 percent below maximum allowed on that building frontage. For freestanding signs, sign area is at least 20 percent below the total area allowed for that sign.</i>
<i>8. Installing only one freestanding sign on a lot that qualifies for two or more freestanding signs.</i>

FINDING: The proposed sign is in the CBD zone. The sign meets the following design standards:

2. The top of the sign frame (or the letters and graphics if no frame) is predominantly curved or nonrectangular.
3. The sign incorporates stone, masonry, sculpted metal, wrought iron, or natural wood as a frame or background.
4. The sign is indirectly illuminated or non-illuminated.

II. DECISION AND CONDITIONS OF APPROVAL

Notice is hereby given that the City of Dundee **DENIED** the application for an additional 60 square foot freestanding sign for the property located at 120 SW 7th Street.

REASON FOR DENIAL:

The proposed sign is approximately 60 square feet and would be 12 feet tall (the sign diagram as submitted does not account for the top size of the sign; therefore, the top 12 square feet of the sign is an approximation). There is an existing 64 square foot sign on the lot. The Development Code does permit two signs per lot when there is more than 150 feet of lot frontage, but limits the combined area of all freestanding signs along the lot to four-tenths square foot for each foot of lineal lot frontage. In this case, the lot has 165 feet of lot frontage, which would permit 66 square feet of total signage [165 x 0.4 = 66]. The second proposed sign would exceed the size limits permitted for signs, as the total signage on the site would equal approximately 124 square feet. Therefore, the proposed sign does not meet this criteria and the application must be denied.

III. APPEALS

This decision shall become final on February 10, 2015, unless otherwise appealed. Appeal of this decision is to the Dundee Planning Commission. Appeals must be filed at City Hall (620 SW 5th Street, Dundee) by 5:00 PM on February 9, 2015, and accompanied by the required \$250.00 appeal fee.

Report prepared by: Jessica Pelz, AICP; City Planner



1/29/2015

Rob Daykin, City Administrator

Date



Use Office Use Only
Land Use File No.
SP 15-03

RECEIVED
JAN 16 2015
CITY OF DUNDEE

CITY OF DUNDEE SIGN PERMIT APPLICATION

*Regulated by Section 2.206 of the Dundee Development Code

1) Property and Project Description:

Please Check: New Sign Replacement Repair
 Non-Residential Residential Multi-Family Temporary Business

Site Address: 120 SW 7th ST

Zoning: _____ Lot Size: 1 1/2 acres

Lot Frontage Length: 165' Building Frontage Length: _____

Brief Description of Work Dental office / Dundee Tuscan Piazza
Eventually 6 small businesses w/ apartments
on top

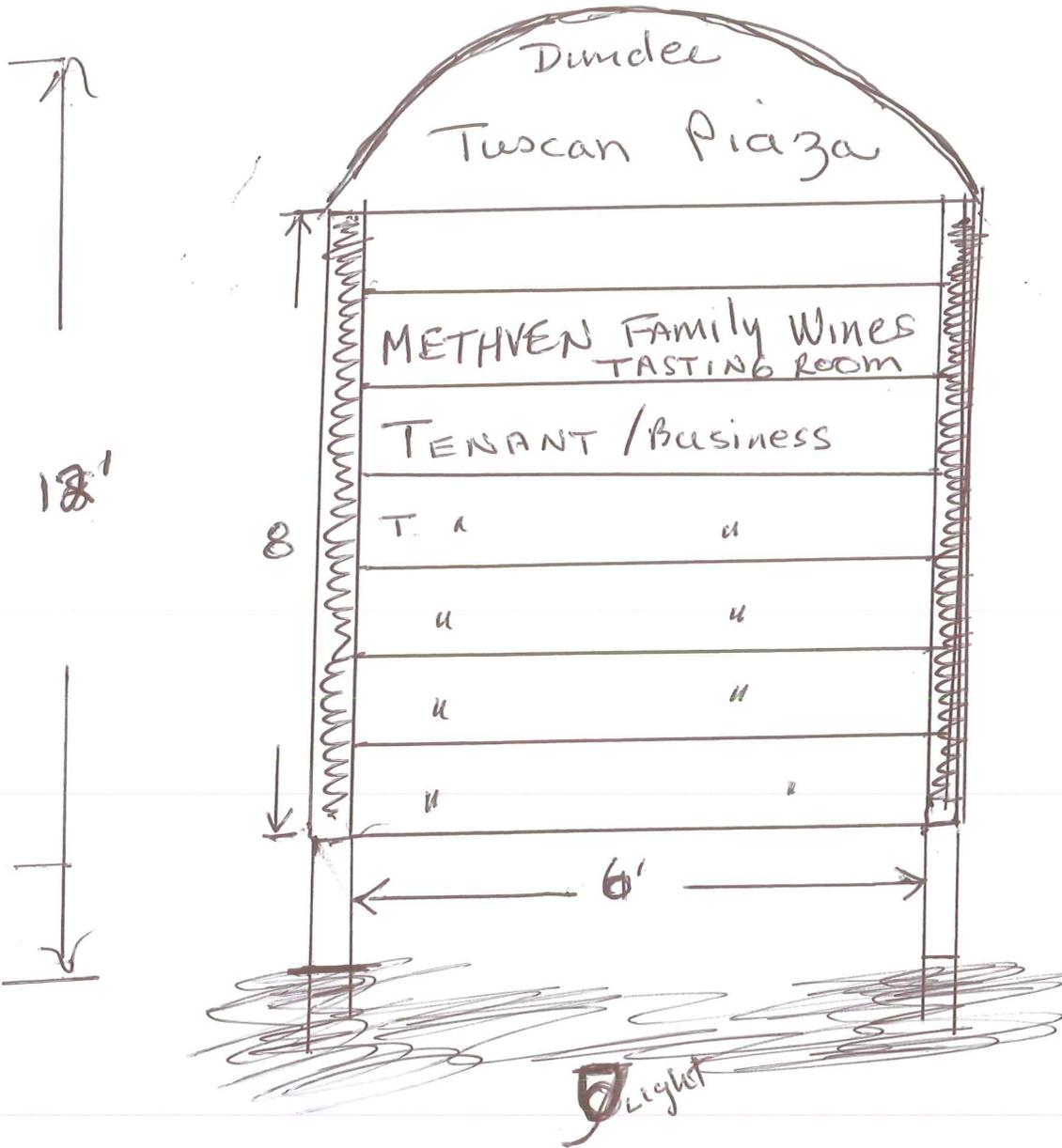
2) Applicant Information:

A) Business Name: Dundee Tuscan Piazza
 Owner: Allen Methven
 Mailing Address: 120 SW 7th ST Dundee OR
 Phone: 971-235-3145 Email: amethven@aool.com

B) Sign Company: _____
 Contact Name: To be determined
 Mailing Address: _____
 Phone: _____ Email: _____

C) Contractor/Installer: _____
 Mailing Address: To be determined
 Phone: _____ Email: _____
 CCB# _____ Exp # _____

Contractors and any persons doing business or work within the city limits of Dundee must have a current City of Dundee business license on file.



Dundee
FAMILY DENTISTRY



Allen Methven, DDS

Scott Thomas, DMD

Cosmetic & Family General Dentistry

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**Se Habla
Español**

503.538.8860

3) Proposed Signage

A) Number of Proposed Signs: 1 Type (check all that apply): Free-Standing Wall Sign Roof Sign

B) Sign #1: Location: EAST SIDE "99" OF PROPERTY OVER 100' AWAY FROM EXISTING

Size of Sign Face: (Square footage of one side.)	Height: (From ground to top of sign.)	Setback: (From property line to sign.)	Lighting Style and Wattage:
6 x 8	12'	3' on W 15' on S	<input checked="" type="checkbox"/> Indirect <input type="checkbox"/> Internal Wattage: 7

All signs must incorporate at least two (2) of the design elements listed, except signs with internally illuminated faces must include at least three (3) of the design elements.

Check all that apply:

- The sign primarily includes raised or engraved individual letters or graphics on the background wall or sign face (raised or engraved depth at least one half inch). Letters made from neon tube lighting are one type of raised letters.
- The outline or top of the sign frame (or the letters and graphics if no frame) is predominantly curved or non-rectangular.
- The sign incorporates stone, masonry, sculpted metal, wrought iron, or natural wood as a frame or background (not plywood, particle board, or other wood composite).
- Indirectly illuminated or non-illuminated.
- If internally illuminated then no more than 50% of the face is light-colored.
- Freestanding sign is no more than 6-feet tall.
- For wall signs, total sign area is at least 20% below maximum allowed on that building frontage. For freestanding signs, sign area is at least 20% below the total area allowed for that sign.
- Installing only one freestanding sign on a lot that qualifies for two or more freestanding signs.

A sketch drawn to scale showing the design, location, height, area, and type, shielding, and wattage of illumination must be attached to this application.

C) Sign #2 Location: _____

Size of Sign Face (Square footage of one side.)	Height (From ground to top of sign.)	Setback (From property line to sign.)	Lighting Style and Wattage
			<input type="checkbox"/> Indirect <input type="checkbox"/> Internal Wattage:

All signs must incorporate at least two (2) of the design elements listed, except signs with internally illuminated faces must include at least three (3) of the design elements.

Check all that apply:

- The sign primarily includes raised or engraved individual letters or graphics on the background wall or sign face (raised or engraved depth at least one half inch). Letters made from neon tube lighting are one type of raised letters.
- The outline or top of the sign frame (or the letters and graphics if no frame) is predominantly curved or non-rectangular.
- The sign incorporates stone, masonry, sculpted metal, wrought iron, or natural wood as a frame or background (not plywood, particle board, or other wood composite).
- Indirectly illuminated or non-illuminated.
- If internally illuminated then no more than 50% of the face is light-colored.
- Freestanding sign is no more than 6-feet tall.
- For wall signs, total sign area is at least 20% below maximum allowed on that building frontage. For freestanding signs, sign area is at least 20% below the total area allowed for that sign.
- Installing only one freestanding sign on a lot that qualifies for two or more freestanding signs.

A sketch drawn to scale showing the design, location, height, area, and type, shielding, and wattage of illumination must be attached to this application.

4) Existing Signage to Remain on Property (section must be completed)

A) Number of Existing Signs: 1 Type (check all that apply): Free-Standing Wall Sign Roof Sign

B) IF, there are no existing signs, please sign attesting to that fact: _____

C) Sign #1: Location: East side of property on 99

Size of Sign Face: (Square footage of one side.)	Height: (From ground to top of sign.)	Setback: (From property line to sign.)	Lighting Style and Wattage:
<u>8 x 8</u>	<u>12'</u>	<u>15'</u>	<input type="checkbox"/> Indirect <input checked="" type="checkbox"/> Internal Wattage: ?

A sketch drawn to scale showing the location and size of all existing signs on site must be attached to this application.

D) Sign #2: Location: _____

Size of Sign Face (Square footage of one side.)	Height (From ground to top of sign.)	Setback (From property line to sign.)	Lighting Style and Wattage
			<input type="checkbox"/> Indirect <input type="checkbox"/> Internal Wattage:

A sketch drawn to scale showing the location and size of all existing signs on site must be attached to this application.

(If there are additional signs, please attach a separate piece of paper with the above information for each.)

Prior to the review of any free-standing permit application, a site plan clearly showing the sign location in relation to property lines is required.

**In addition to the above noted submittal requirements, a structural building permit application must be submitted with two sets of detail drawings (which may require engineering calculations); a site plan with property lines, right-of-way, and the sign location clearly marked in relation to both; and, the plan review fee paid before final land use approval will be granted.

I hereby state that I have read and understand this application and the information provided is correct:

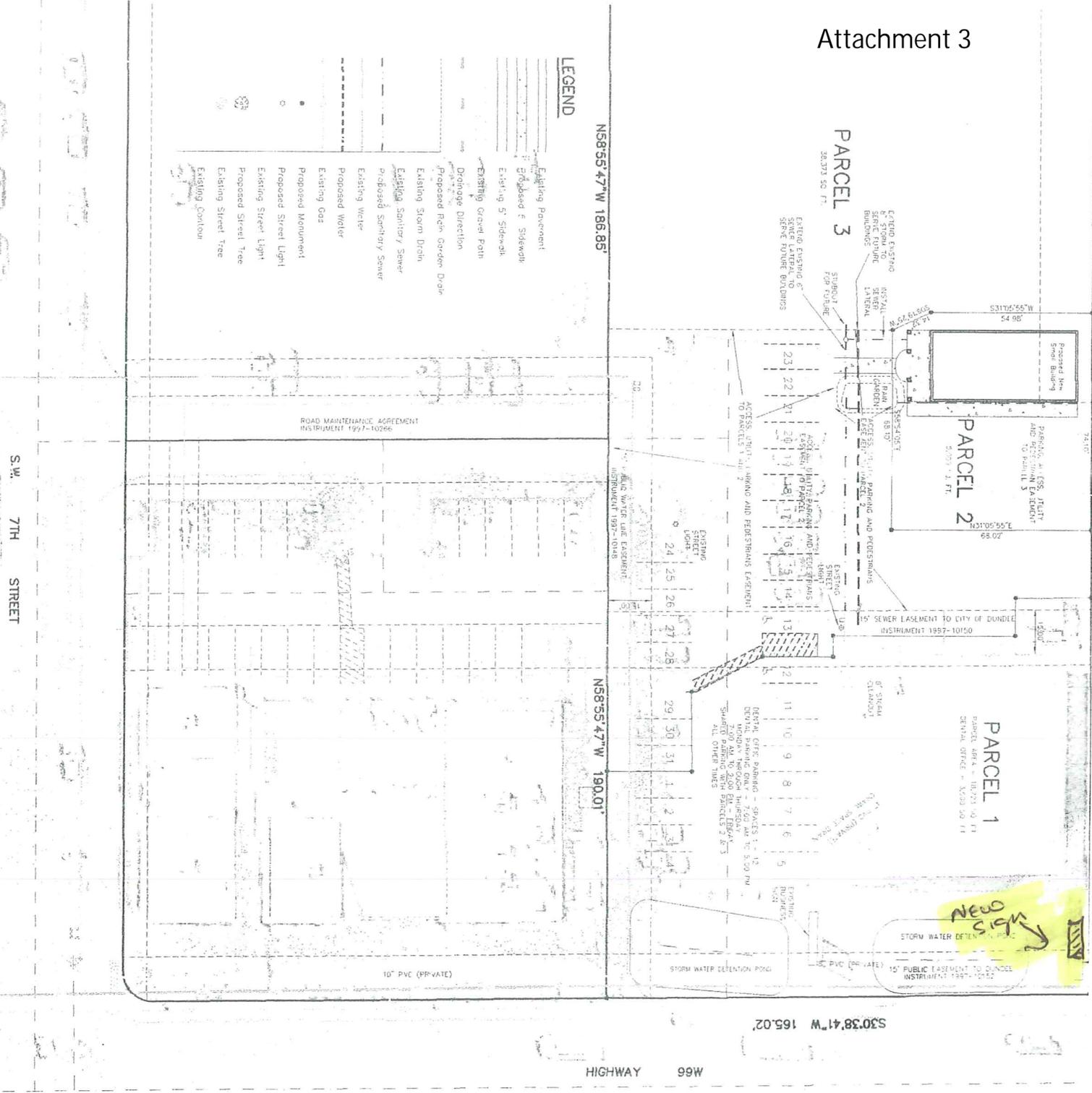
Applicant's Signature  Date 1-15-15

Property Owner's Signature  Date 1-15-15

(If property owner is unavailable to sign, a letter in lieu of may be submitted.)

LEGEND

- Existing Pavement
- Proposed 6' Sidewalk
- Existing 5' Sidewalk
- Existing Gravel Path
- Drainage Direction
- Proposed Rain Garden Drain
- Existing Storm Drain
- Existing Sanitary Sewer
- Proposed Sanitary Sewer
- Existing Water
- Proposed Water
- Existing Gas
- Proposed Monument
- Proposed Street Light
- Existing Street Tree
- Proposed Street Tree
- Existing Street Tree
- Existing Contour



S.W. 7TH STREET

HIGHWAY 666

S30°38'41"W 165.02'

NS8°55'47"W 190.01'

NS8°55'47"W 186.85'

Prepared for:
 Allen Methven
 120 S. W. 7th Street
 Dundee, Oregon 97115
 Phone: (503) 538-8860
 Fax: (503) 537-0421
 E-Mail: AMethven@AOL.com

TENTATIVE PARTITION PLAN
METHVEN FAMILY TUSCAN VILLAGE
 Parcel 2, Partition 1997-44
 Southeast Quarter of Section 26
 Township 3 South, Range 3 West of the Willamette Meridian
 City of Dundee, Yamhill County, Oregon

REGISTERED PROFESSIONAL
 LEONARD A. RYBELL
 ENGINEER
 OREGON
 No. 22,872
 EXPIRES 12/31/2016

W.O. No.	1429
Design	Allen Methven
Drawn	Allen Methven
Date	16 January 2015
Dwg	1429-T-PLAT.DWG
No. Description/Date By REVISIONS 1 of 1 Sheet	

Memorandum

TO: Dundee Planning Commission
FROM: Jessica Pelz, AICP, Planner
CC: Rob Daykin, City Administrator
DATE: March 18, 2015
SUBJECT: Development Code Amendments for Medical Marijuana Dispensaries

Background

On March 19, 2014, Senate Bill (SB) 1531 was signed into law. SB 1531 gives local governments the ability to impose certain regulations and restrictions on the operation of medical marijuana dispensaries (MMD), including the ability to impose a moratorium for a period of time up until May 1, 2015. The city of Dundee adopted such a moratorium, which is set to expire on May 1, 2015. City Council initiated a Development Code amendment on February 3, 2015, to impose additional regulations prior to the May 1, 2015 deadline.

Some cities have chosen to add restrictions to MMD, while others have not, and the restrictions run the gamut from operating restrictions to location restrictions. For example, Portland and Eugene do not have additional restrictions, so MMD are allowed to operate wherever state law allows. Some cities, such as Pendleton, are excluding MMD by refusing to issue business licenses if a business does not comply with federal law. Other cities, such as LaGrande, have added a requirement for MMD to be at least 1000 feet from uses such as parks. And some cities, such as Beaverton and Tigard, are adding provisions to limit operating hours. State law allows cities to enact reasonable provisions limiting the “time, place, and manner” of facilities.

State Rules

The final state rules for the MMD program include quite a few restrictions, including the following (full text of final state rules is attached as Exhibit “A”):

- MMD are permitted in commercial, industrial, mixed use, or agricultural zones. MMD are not allowed:
 - At the same address as a state-registered medical marijuana grow site
 - Within 1000 feet of a public or private elementary, secondary or career school
 - Within 1000 feet of another MMD
 - At the same address as a registered grow site
- Criminal background check is required.
- The person responsible for the facility must live in Oregon.
- MMD facilities must install a security system, including a video surveillance system, and alarm system that are all operational, and installation of a safe in accordance with OAR 333.
- MMD must have a fully operational electronic data management system & must have fully compliant packaging and labeling.
- MMD facilities have annual renewal requirements through the state.

Dundee zoning interpretation:

- A MMD is similar to a pharmacy, because customers are required to have a prescription in order to purchase. Sales are indoors, and there is no on-site use by customers.
- A pharmacy falls within the “retail sales” use category, and would be allowed in the C (Commercial) and CBD (Central Business District) zones.

- State law requires a buffer zone around schools, presumably in order to minimize adverse impacts on places where minor children congregate.
- Many parks in Dundee have outdoor play areas, and are places where minor children congregate.

City Council Discussion

Staff proposed the following code amendments for MMD in Dundee as a starting point for the discussion:

- In addition to the 1000-foot buffer around schools, add the same buffer requirement for parks. MMD would not be allowed within 1000 feet of a park or a public or private elementary, secondary or career school.
- Add a definition of MMD and career school to the Development Code.

City Council discussed the proposed amendments, and agreed they wanted the Planning Commission to consider the buffer around parks. They also wanted the Planning Commission to consider operating hours of dispensaries, and whether the amendments should be inclusive of recreational as well as medical dispensaries. The idea behind including the same rules for recreational at the same time as medical (i.e. all under “marijuana dispensary”) is that perhaps all dispensaries should be treated the same, and that would give the city some rules already in place for recreational dispensaries at such time as they are licensed and permitted by the state. It’s unclear at this point what the state rules for recreational dispensaries will look like, and they are expected to be doing rulemaking at the state level through December 2015 at the earliest. Once state rules are adopted, the city can revisit their adopted code language for dispensaries as necessary.

Proposed Development Code Amendments

Table 17.202.020: Zoning Use Table

P: Permitted Use; CU: Conditional Use; S: Special Use Requirements Apply; N: Not Permitted											
Uses	Residential			Commercial and Employment			Public and Agriculture				Special Use Requirements
	R-1	R-2	R-3	C	CBD	LI	P	PO	A	EFU	
<u>Marijuana Dispensary</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>17.203.250</u>

17.203.250 Marijuana dispensary in a commercial zone.

Marijuana dispensaries are allowed in the C and CBD zones, provided all of the following are met:

- The dispensary must be registered with the State of Oregon and must meet all provisions of Oregon law.
- The dispensary must be located at least 1000 feet from any park or a public or private elementary, secondary, or career school.
- Dispensaries may not operate past 10:00 pm at night.

17.501.020 Definitions

“Marijuana dispensary” means any facility registered by the state of Oregon and in compliance with all provisions of Oregon law.

“School, career” 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.

Staff Recommendation

At the March 18, 2015 hearing, the Planning Commission should:

1. Consider the staff memo and any public testimony.
2. Deliberate and make findings showing that the proposal is consistent with city and state policies. Tentative findings are shown in Exhibit A of the Order of Recommendation.
3. Make a recommendation that the City Council adopt the proposed Development Code amendments. The Planning Commission recommendation would return to City Council for a public hearing on April 7, 2015.

Attachments

1. Map showing 1000 foot buffer from schools and parks
2. Final State Rules for the Medical Marijuana Dispensary Program
3. Examples from other cities

Planning Commission Order of Recommendation with:

Exhibit “A”: Findings

Final Rules for the Medical Marijuana Dispensary Program

January 28th, 2015

These are the final rules governing medical marijuana dispensaries in Oregon. 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 333-008-1400 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 of a single strain 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) "Business day" means Monday through Friday excluding legal holidays.
- (6) "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.
- (7) "Conviction" means an adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction.
- (8)(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.
- (9) "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.
- (10) "Edible" means a product made with marijuana that is intended for ingestion.

- (11) “Elementary school” means a learning institution containing any combination of grades Kindergarten through 8 or age level equivalent.
- (12)(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.
- (13) “Facility” means a medical marijuana facility.
- (14) “Farm use” has the meaning given that term in ORS 215.203.
- (15) “Finished product” means a useable marijuana product, including but not limited to edible products, ointments, concentrates and tinctures. A finished product does not mean dried marijuana flowers.
- (16) “Grower” has the same meaning as “person responsible for a marijuana grow site.”
- (17) “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.
- (18)(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 (18)(a) is a mature plant.
- (19) “Macroscopic screening” means visual observation without the aid of magnifying lens(es).
- (20) “Microscopic screening” means visual observation with a minimum magnification of 40x.
- (21) “Minor” means an individual under the age of 18.
- (22) “Oregon Medical Marijuana Program” or “OMMP” means the program operated and administered by the Authority that registers patients, designated primary caregivers, and growers.
- (23) “Patient” has the same meaning as “registry identification cardholder.”
- (24) “Person” means an individual.
- (25) “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”.
- (26) “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.
- (27) “Pesticide” means any substance or mixture of substances, intended to prevent, destroy, repel, or mitigate any pest.
- (28) “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.
- (29) “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.
- (30) “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.

(31) “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.

(32) “Resident” means an individual who has a domicile within this state.

(33) “Restricted area” means a secure area where usable marijuana and immature plants are present.

(34) “Safe” means:

(a) A metal receptacle with a locking mechanism capable of storing all usable marijuana at a registered facility that:

(A) Is rendered immobile by being securely anchored to a permanent structure of the building; or

(B) Weighs more than 750 pounds.

(b) A vault; or

(c) A refrigerator or freezer capable of being locked for storing edibles or other finished products that require cold storage that:

(A) Is rendered immobile by being securely anchored to a permanent structure of the building; or

(B) Weighs more than 750 pounds.

(35) “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.

(36) “Secure area” means a room:

(a) With doors that are kept locked and closed at all times except when the doors are in use; and

(b) Where access is only permitted as authorized in these rules.

(37) “Single strain” means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

(38) “These rules” means OAR 333-008-1000 through 333-008-1400.

(39) “Usable marijuana” has the meaning given that term is ORS 475.302 and includes “finished product”.

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

(41) “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) 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) The applicable fee as specified in OAR 333-008-1030;

(c) Documentation that demonstrates the facility is registered as a business or has filed an application to register as a business with the Office of the Secretary of State;

(d) Documentation that shows the current zoning of the location of the proposed facility;

- (e) Documentation, on a form prescribed by the Authority, with the applicant's affirmation that the proposed facility is not within 1,000 feet of the real property comprising a public or private elementary, secondary or career school;
 - (f) Information and fingerprints required for a criminal background check in accordance with OAR 333-008-1130; and
 - (g) Proof that the PRF resides in Oregon in accordance with OAR 333-008-1120(1)(a).
- (2) 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 subsections (1)(c) through (g) of this rule may be submitted electronically to the Authority or may be mailed. If documentation is mailed, it 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. If documentation is submitted electronically it must be received by the Authority by 5 p.m. Pacific Standard Time (PST) within five calendar days of the date the application was submitted electronically to the Authority or the application will be considered incomplete. Applicable fees must be paid online at the time of application.
- (3) Applications will be reviewed in the order they are received by the Authority. An application is considered received as of the date and time that payment of fees is authorized by the entity that issued the credit or debit card used by the PRF to pay the fees.
- (4) 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. An application that is returned as incomplete must be treated by the Authority as if it was never received. An application is considered incomplete if:
- (a) An application does not contain all the requested information in the form;
 - (b) The applicant does not submit the required documentation described in subsections (1)(c) through (g) of this rule; or
 - (c) The application and registration fees are not paid.
- (5) A PRF who wishes to register more than one location must submit a separate application, registration fees, and all documentation described in section (1) of this rule for each location.
- (6) At the time of application the PRF will be asked, by the Authority, to sign an authorization waiving the confidentiality of the location of the facility and permitting the Authority to make the location and name of the facility public 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 will review an application to the extent necessary 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;
 - (b) Inspect the premises of the proposed facility; and
 - (c) Verify any information submitted by the applicant.
- (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 documentation submitted by the applicant to determine, based on the information provided by the applicant, whether the proposed facility is located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school;
 - (d) Review the list of registered facilities to determine whether any registered facilities are within 1,000 feet of the proposed facility; and
 - (e) Verify that the business that operates the facility is registered with the Office of the Secretary of State.
- (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.
- (5) If the proposed facility is in compliance with ORS 475.314(3)(a) through (d) and the PRF has passed the criminal background check and resides in Oregon, the Authority must notify the applicant in writing that the dispensary and PRF have met the initial criteria for registration. Within 60 days of the Authority's notification the applicant must submit a form, prescribed by the Authority, that the proposed facility and PRF are in compliance with these rules, including but not limited to:
 - (a) Installation of a security system, including a video surveillance system, and alarm system that are all operational, and installation of a safe in accordance with OAR 333-008-1140 through 333-008-1180;
 - (b) Having policies and procedures as required by OAR 333-008-1200 and training for employees on the policies and procedures;
 - (c) Identification of at least one laboratory that will perform the testing required in OAR 333-008-1190;
 - (d) Having a fully operational electronic data management system in accordance with OAR 333-008-1210; and
 - (e) Having packaging and labeling that complies with OAR 333-008-1220 and 333-008-1225.
- (6) If the Authority does not receive the form described in section (5) of this rule within 60 days of the applicant being notified that the dispensary and PRF met initial criteria for registration, the applicant's application will be returned as incomplete.

Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1050**Approval of Application**

- (1) If the Authority receives the form required to be submitted under OAR 333-008-1040(5) the Authority must perform a site visit within 30 days of receiving the form to determine whether the PRF and facility are in compliance with these rules.
- (2) If, after the site visit the Authority determines that the facility is in compliance with these rules the Authority must provide the applicant with proof of registration that includes a unique registration number, and notify the PRF in writing that the facility may operate.
- (3) If, after the site visit the Authority determines that the facility is not in compliance with these rules the Authority may:
 - (a) Give the PRF 10 business days to come into compliance;
 - (b) Propose to deny the facility's registration in accordance with OAR 333-008-1275(2); or
 - (c) Consider the application to be incomplete.
- (4) 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.
- (5) A registered facility may not use the Authority or the OMMP name or logo except to the extent that information is contained on the proof of registration on any signs at the facility, on its website, or in any advertising or social media.
- (6) 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.
- (7) A facility's registration may not be transferred to another location.

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 application, supporting documentation provided by the PRF, or other information obtained by the Authority shows that the qualifications for a facility in ORS 475.314 or these rules have not been met; 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 PRF that is identified in the application is not qualified to be a PRF, the Authority will permit a change of PRF form to be submitted in accordance with OAR 333-008-1120, along with

the applicable criminal background check fee. If the proposed PRF is not qualified to be a PRF, the Authority must deny the application in accordance with section (1) of this rule.

(3) 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 calendar 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.

(3) A PRF that does not submit timely renewal documentation in accordance with section (2) of this rule may not operate the facility if the previous registration expires prior to the Authority issuing a renewed registration. The facility will remain registered until a renewal is either issued or denied, but the facility may not operate with an expired registration.

(4) If a PRF does not submit a renewal form and the required renewal fees prior to the registration's expiration, the registration is expired and is no longer valid, and the PRF may reapply for registration.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1080

Notification of Changes or Events

(1) A PRF must notify the Authority within 10 calendar days of any of the following:

(a) The PRF'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 PRF 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 ownership;

(g) A change in the person's residency;

(h) The location of a public or private elementary, secondary or career school attended primarily by minors within 1,000 feet of the facility;

(i) Any structural changes within the facility that will result in a change to the secure or restricted areas, or entrances or exits to the facility; and

(j) The theft of usable marijuana or immature plants.

(2) The notification required in section (1) of this rule must include a description of what has changed or the event 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;
 - (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; or
 - (e) A copy of the police report documenting that the theft of usable marijuana or immature plants was reported to law enforcement.
- (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) A public or private 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**

A facility must maintain a current registration as a business with the Office of the Secretary of State in order to receive or maintain registration.

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) For purposes of implementing ORS 475.314(3)(c), the Authority will consider a location to be a school if it has at least the following characteristics:

(a) Is a public or private elementary, secondary or career school as those terms are defined OAR 333-008-1010;

(b) There is a building or physical space where students gather together for education purposes on a regular basis;

(c) A curriculum is provided;

(d) Attendance at the location meets Oregon's mandatory attendance law, ORS 339.010 or an exemption under ORS 339.030(1)(a); and

(e) Faculty is present to teach or guide student education.

(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 any direction from the closest point anywhere on the boundary line of the real property comprising an existing public or private elementary, secondary or career school to the closest point of the premises of a facility. If any portion of the premises of a proposed or registered facility is within 1,000 feet of a public or private elementary, secondary or career school it may not be registered.

(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 the closest point anywhere on the premises of a registered facility to the closest point anywhere on the premises of a proposed facility. If any portion of the premises of a proposed facility is within 1,000 feet of a registered facility it may not be registered.

(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) A valid Oregon driver's license, a valid Oregon identification card that includes a photograph of the person, a valid passport, or a valid 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) 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.

(4) 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 registered, a change of PRF form must be submitted along with a criminal background check fee of \$35; and
- (c) The facility may not operate until the Authority has approved a PRF.

(5) 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 the Authority within 10 business days of the notification or the Authority will begin proceedings to revoke the registration of the facility.

(6) 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 being registered a PRF must ensure that the facility has a fully operational security alarm system, installed by an alarm installation company, on all facility entry or exit points and perimeter windows.

(2) 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 operational “panic buttons” located inside the registered facility that are linked with the alarm system that notifies a security company.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1160**Video Surveillance Equipment for Registered Facilities**

(1) Prior to being registered a PRF must ensure that a fully operational video surveillance recording system is installed in the facility.

(2) 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.

(3) 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) Prior to being registered a PRF must ensure that the 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 cameras are placed so that they capture clear and certain images of any individual and activity occurring:

(a) Within 15 feet both inside and outside of all points of entry to and exit from the registered facility; and

(b) Anywhere within secure or restricted areas 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) A PRF must ensure that all cameras are continuously monitored by motion sensor video equipment or similar technology 24 hours a day when usable marijuana or immature plants are on the premises of the facility.
- (2) A PRF must ensure that:
 - (a) All surveillance recordings are kept for a minimum of 30 calendar 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) Prior to being registered a PRF must have documentation that identifies at least one laboratory that will do the testing in accordance with these rules and identify who will do the testing for immature plants.
- (2) 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. A PRF may accept test results from a grower or other individual for flowers or other usable plant material if:
 - (a) The grower or other individual provides a copy of the test results;
 - (b) The PRF can demonstrate that the grower or other individual took random samples from the batch to be tested; and
 - (c) The PRF can demonstrate that the batch from where samples were taken were sealed and not tampered with from the time samples for testing were taken and when they were delivered to the facility.
- (3) 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.

- (4) 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.
- (5) 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. Testing for mold and mildew on immature plants must be done at least every 30 calendar days.
- (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) Finished Products. If a facility receives a transfer of a pre-packaged finished product the facility may, in lieu of testing the finished product, obtain from the individual who transferred the finished product, lab results that show the usable marijuana in the finished product was tested in accordance with this rule, and that the finished product was tested for levels of THC and CBD.
- (6) 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.
- (7) 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, or microbiology but is not required to be done by a laboratory.
- (8) 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 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.
- (9) 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.

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

(11) 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 his or her work shift on the premises of the registered facility as necessary for his or her medical condition, if the employee is:

(A) Alone and in a closed room if the usable marijuana is being smoked;

(B) Not visible to patients or caregivers on the premises of the registered facility to receive a transfer of usable marijuana or an immature plant; and

(C) Not visible to the public outside the facility.

(2) A PRF must ensure that a registered facility uses an Oregon Department of Agriculture licensed and certified 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;

(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; and

(i) A governmental official authorized by the Authority to be on the premises if accompanied by an Authority representative and the facility has been provided notice and has agreed to permit the governmental official access.

(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 333-008-1245;
 - (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 by 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 333-008-1245;
 - (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) Flowers or other usable plant material:

(A) Percentage of THC and CBD;

(B) Weight in grams;

(C) Testing batch number and date tested;

(D) Who performed the testing ; and

(E) Description of the product (strain).

(b) Finished product:

(A) THC and CBD potency;

(B) The weight or volume of useable marijuana in the packaged finished product in grams, milligrams, or milliliters, as applicable;

(C) Testing batch number and date tested;

(D) Who performed the testing; and

(E) Warning label in accordance with section (2) of this rule.

(2) If the registered facility transfers a finished product, the PRF must ensure that the finished product 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:

(A) 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) 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 flowers or other usable marijuana plant material 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) The following are violations of ORS 475.314 or these rules:

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

- (b) The submission by a PRF, employee, or owner of a facility of false or misleading information to the Authority;
- (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 flowers or other usable marijuana plant material in accordance with OAR 333-008-1230(10);
- (h) Failing to submit a plan of correction in accordance with OAR 333-008-1275;
- (i) Failing to comply with an emergency suspension or final order of the Authority, including failing to pay a civil penalty; or
- (j) 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 business 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 business 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.

(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.

- (c) An Order of Emergency Suspension pursuant to ORS 183.430.
 - (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.
 - (10) The Authority is not required to accept the surrender of a registration and may proceed with an enforcement action even if a PRF has surrendered the facility's registration.
- 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 ORS 475.331(2) and 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.

(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 yeast and mold (mold and mildew)
Unprocessed materials*	10 ⁴
Processed materials*	10 ⁴
CO₂ and solvent based extracts	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 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) An applicant who falls within one of the categories listed in subparagraph (i) or (ii) of this paragraph and who provides a copy of the applicable determination from the United States Department of Veteran's Affairs (VA), is entitled to a reduced application fee of \$20:

(i) Receives service-connected compensation from the VA based on a finding by the VA of 100% service-connected disability; or

(ii) Receives a needs-based pension from the VA based on a finding by the VA of non-service connected disability.

(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.

(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

The following summary of other jurisdictions was excerpted from a City of Tigard staff report:

Washington County

- Limited to hours between 8:00am and 10:00pm.
- Allowed in specified commercial and industrial districts, with square footage limited to 3,000 square feet within the Industrial (IND), General Commercial (GC), and Rural Commercial (R-COM) Land Use Districts.
- Minimum 2,000 feet between dispensaries.
- Minimum 1,500 feet from any light rail platform.
- Entrances and off-street parking areas must be well lit and not visually obscured from public view.

City of Salem

- Limited to hours between 10:00am and 8:00pm.
- Cannot be located within:
 - Central Business Zoning District.
 - Within a residence or mixed-use property that includes a residence.
 - Within 500 feet of a public park or public playground.
 - Within 100 feet of a residentially zoned property unless the location abuts a major arterial or parkway.
 - Within 100 feet of a certified child care facility.
- Drive-through windows prohibited.
- All odors must be contained to premises.

City of Beaverton:

- Limited to hours between 7:00am and 10:00pm.
- Limited to three zones: GC (General Commercial), CS (Community Service), and CC (Corridor Commercial).

City of Ashland

- Limited to hours between 9:00am and 7:00pm.
- Limited to properties adjacent to a boulevard, and prohibited within the Downtown Design Standards Zone.
- Design standards
 - Must be located within a permanent building.
 - Drive-through windows prohibited.
 - Security bars and grates prohibited.
 - Establishes off-site odor standards.

City of McMinnville

- Limited to hours between 10am and 7pm.
- Minimum 1,000 foot buffer from a preschool, public library, aquatic center, and community center.

City of Albany

- Minimum 300 foot distance buffer from any property zoned residential, mixed-use, Office Professional, or Neighborhood Commercial.
- Restrictions do not apply to property zoned Industrial Park, Light Industrial, or Heavy Industrial.

ORDER OF RECOMMENDATION
DUNDEE PLANNING COMMISSION
FILE NO. LURA 15-07

AN ORDER RECOMMENDING THAT CITY COUNCIL ADOPT AMENDMENTS TO THE DUNDEE DEVELOPMENT CODE
TO ADD REGULATIONS FOR MARIJUANA DISPENSARIES

RECITALS:

1. On March 19, 2014, Senate Bill (SB) 1531 was signed into law. SB 1531 gives local governments the ability to impose certain regulations and restrictions on the operation of medical marijuana dispensaries, including the ability to impose a moratorium for a period of time up until May 1, 2015. The city of Dundee adopted such a moratorium, which is set to expire on May 1, 2015. City Council initiated a Development Code amendment on February 3, 2015, to impose additional regulations prior to the May 1, 2015 deadline.
2. The proposed amendments would permit marijuana dispensaries in the Commercial (C) and Central Business District (CBD) zones, would place a limit on operating hours, would extend the 1000 foot buffer regulation to parks as well as schools, and would add definitions for marijuana dispensaries and career schools.
3. Notice of the Planning Commission hearing was published in the Newberg Graphic on March 4, 2015.

THE DUNDEE PLANNING COMMISSION ORDERS AS FOLLOWS:

1. The Planning Commission recommends that the Dundee City Council adopt the following Development Code amendments. Proposed additions to the Code are shown as underlined.

Table 17.202.020: Zoning Use Table

P: Permitted Use; CU: Conditional Use; S: Special Use Requirements Apply; N: Not Permitted											
Uses	Residential			Commercial and Employment			Public and Agriculture				Special Use Requirements
	R-1	R-2	R-3	C	CBD	LI	P	PO	A	EFU	
<u>Marijuana Dispensary</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>17.203.250</u>

17.203.250 Marijuana dispensary in a commercial zone.

Marijuana dispensaries are allowed in the C and CBD zones, provided all of the following are met:

- A. The dispensary must be registered with the State of Oregon and must meet all provisions of Oregon law.
- B. The dispensary must be located at least 1000 feet from any park or a public or private elementary, secondary, or career school.
- C. Dispensaries may not operate past 10:00 pm at night.

Exhibit A: Findings (LURA 15-07 – Marijuana Dispensaries)

Amendments are required to be consistent with all applicable local and state laws including the Dundee Comprehensive Plan and Statewide Planning Goals.

Dundee Comprehensive Plan

Economy. Goal: To maintain a level of economic development adequate to meet public need. Objective (2): To assure that commercial and industrial developments preserve and enhance the aesthetic character and livability of Dundee.

Finding: The Development Code amendments would permit marijuana dispensaries in the Commercial and Central Business District zones of Dundee. Dispensaries are largely regulated by the state of Oregon, but Dundee has opted to add additional regulations aimed at preserving and enhancing its livability, including restricting dispensaries around parks and incorporating limits on operating hours. Therefore, Dundee is complying with the new state law permitting dispensaries, which could create an opportunity for economic development within the city, while also adding regulations to preserve livability of the city for residents.

Statewide Planning Goals

Goal 9: Economic Development (OAR 660-015-0000(9)) – To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.

Finding: Dundee’s Development Code does not currently permit marijuana dispensaries. The proposed Development Code amendments would permit marijuana dispensaries in the Commercial and Central Business District zones of Dundee. This would create an opportunity for an additional economic activity in the city of Dundee, therefore helping to promote economic development at the local level.