

Any item or issue not on the agenda you have a question, comment or statement about please bring up under Items from the General Public.

BOARD OF COMMISSIONERS EXECUTIVE SESSION

4:45pm, CBAB, 601 State Street, 1st Floor Conf. Room, Hood River, Oregon

EXECUTIVE SESSION per ORS 192.660

If necessary, Executive Session will be held in accordance with but not limited to:

*ORS 192.660 (1) (d) Labor Negotiations, ORS 192.660 (1) (e) Property, ORS 192.660 (1)(f) Records exempt from public inspection, ORS 192.660 (1) (a) Personnel, **ORS 192.660 (1) (h) Legal Counsel***

BOARD OF COMMISSIONERS WORK SESSION AGENDA

5:15pm, CBAB, 601 State Street, 1st Floor Conf. Room, Hood River, Oregon

5:15pm Health Department Triennial Review Report – Ronit Zusman, Oregon Public Health Division
5:45pm Hardest Hit Fund Property Tax Relief Program – Sandi Borowy, Budget & Finance Director

BOARD OF COMMISSIONERS REGULAR MEETING AGENDA

CBAB, 601 State Street, 1st Floor Conf. Room, Hood River, Oregon

I. CONFLICTS OR POTENTIAL CONFLICTS OF INTEREST –

II. ADDITIONS OR DELETIONS FROM THE AGENDA –

III. UNSCHEDULED ITEMS FROM THE GENERAL PUBLIC (limit 5 minutes per person per subject)

IV. REPORTS

- *County Administrator
- *Legal Counsel
- *Commissioner Joplin
- *Commissioner Meyer
- *Commissioner Benton
- *Commissioner Perkins
- *Chair Rivers

V. CONSENT AGENDA

- *Approve minutes from the following Board of Commissioner Meetings: September 12th and September 19th, 2016
- *Approve out of state travel for Commissioner Joplin to attend the Zero to Three Annual Conference in Louisiana December 7-9, 2016 (travel dates might be one day prior and one day after).
- *Approve and sign a letter showing the Commissioners support of Duckwall Fruit’s pursuit of building permits for additional cold storage.
- *Approve closing the Gander timber sale #16-8 and return any appropriate bond(s).
- *Approve setting a public hearing on the record to hear an appeal of the planning commission decision to deny the Apollo Land Holdings, LLC industrial land use permit application for a 50 room hotel.
- *Approve a budget adjustment & resolution to move \$25,192 from various funds to the capital outlay fund in the Planning-Info Services budget FY 16/17 to cover unbudgeted phone system expenditures.
- *Approve a budget adjustment & resolution to accept the \$47,145 STOP grant, recognizing the revenue and expenditures in the Prevention budget FY 16/17.
- *Approve a tax refund over \$2,000 for account #6033 in FY 16/17 for tax year 2015.

VI. PUBLIC HEARINGS – 6pm

1. Short Term Rental Regulations
RECOMMENDATION: Conduct the public hearing.
2. Marijuana Time Place and Manner Regulations
RECOMMENDATION: Conduct the public hearing.
3. Emergency Ordinance adopting multiple amendments to the Hood River County Zoning Code (particularly: Marijuana Time Place & Manner and Short Term Rental regulations)
RECOMMENDATION: Adopt the Emergency Ordinance and all related exhibits as presented, or direct staff to bring back an amended ordinance to the Commission, affecting Article 53 and miscellaneous other article amendments of the Hood River County Zoning Code pertaining to time place and manner for marijuana business and facilities and short term rentals in Hood River County.
4. Emergency Marijuana Moratorium Ordinance
RECOMMENDATION: If the marijuana time place and manner ordinance was not adopted conduct a public hearing to renew an emergency ordinance placing a moratorium on marijuana business activities and facilities on Rural Residential (RR) zoned properties in Hood River County.

VII. ADJOURNMENT –

CALENDAR OF UPCOMING PUBLIC MEETINGS/EVENTS (note all dates and time subject to change with or without notice as required)		
Oct 17	4:00 & 6:00pm	Board of Commissioners work session & business meeting, CBAB, 601 State Street, Conf Room 1 st Floor (3 rd Mon. ea. Mo, time subject to change)
Oct 18	7:00pm	Library District Board meeting, Library, 502 State St., Conf. Room (3 rd Tues ea. mo. - subject to change)
Oct 19	3:00pm	Department Head Meeting – CBAB, 601 State Street, 1 st Floor Conf Room
Nov 2	2:00pm	HRC Water Planning Group, 601 State St, 1 st floor conf. room (1 st Wed. ea.mo. – generally)
Nov 2	2:00pm	HRC Water Planning Group, 601 State St, 1 st floor conf. room (1 st Wed. ea.mo. – generally)
Nov 7	1:00pm	Tri-County Mental Health Board, Mid Col. Center for Living-TD (1 st Mon. ea. mo.-generally)
Nov 9	5:30pm	County Planning Commission Meeting, CBAB, 601 State St Conf Rm. 1 st Fl, (2 nd & 4 th Wed. ea. mo generally)
Nov 11		VETERANS DAYS HOLIDAY – COUNTY OFFICES CLOSED
Nov 14-18		AOC Annual Conference, Eugene Oregon
Nov 15	7:00pm	Library District Board meeting, Library, 502 State St., Conf. Room (3 rd Tues ea. mo. - subject to change)
Nov 21	4:00 & 6:00pm	Board of Commissioners work session & business meeting, CBAB, 601 State Street, Conf Room 1 st Floor (3 rd Mon. ea. Mo, time subject to change)
Nov 23	3:00pm	Department Head Meeting – CBAB, 601 State Street, 1 st Floor Conf Room (subject to change)
Nov 24-25		THANKSGIVING HOLIDAY – COUNTY OFFICES CLOSED

EXECUTIVE SESSION

WORK SESSION

AGENDA REQUEST FORM

DATE: 09/21/2016 DEPARTMENT: HEALTH DEPT. HEAD SIGNATURE: Ellen Jansen

SUBJECT: Health Department triennial review FY 2015/2016

AUTHORITY: ORS OAR County Ordinance/Code (IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED: OHA performs a review of all programs at a minimum of every three years. Some programs are required to do more frequent review. OHA PHD is revamping the triennial review schedule and so the next review for HRC will be in 2017 and then on a triennial basis after that time.

FISCAL IMPACT/PROJECT ANALYSIS:

Budget Line Item _____ Account Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: Ellen Larsen
Comments:

ACKNOWLEDGEMENT BY OTHER AFFECTED PARTIES: (IF APPLICABLE)

County Counsel Finance Director Other Affected Agencies Administrator
 Safety Committee Human Resources Director Appropriate County Committee Other

RECOMMENDATION FROM DEPARTMENT HEAD:

Become informed on the most recent triennial review.

ADMINISTRATIVE COMMENTS/APPROVAL:

Receive information from staff and the Oregon Health Authority.

County Administrator _____ Dept. Head/Staff Attendance to Meeting (circle one) Yes No

ACTION OF THE BOARD:

Date _____

County Administrator _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: to R & A *Additional/Exceptional Originals to: _____

Copies (all info.): B&F (signed resolution)

Copies (ARF only):

AGENDA REQUEST FORM

DATE: 10/17/16 **DEPARTMENT:** Budget & Finance **DEPT. HEAD SIGNATURE:** Sandi Borowy

SUBJECT: State of Oregon/US Treasury – Hardest Hit Fund property tax relief program participation

AUTHORITY: ORS _____ OAR _____ County Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Oregon Affordable Housing and Community Services is participating in the US Treasury’s Hardest Hit program via the Oregon Affordable Housing Assistance Corporation (OAHAC), a public benefit not for profit organization. The program will provide funds to homeowners who are in tax foreclosure and at risk of losing their homes. *(Please see the attached description page and other information on qualifications for application to this program.)* The application process begins with the taxpayer and is handled by the OAHAC, no county involvement is required, for up to \$40,000 of assistance per qualified taxpayer. The funds awarded to the applicant are sent directly to the county for application to the taxpayer’s property tax debt. Hood River County has been grouped with Multnomah, Washington and Clackamas counties which are the last counties to have funds released for this program, on or about November 2, 2016. The funding is first come, first served, so when the last of the \$95,000,000 awarded to Oregon is distributed the program ends.

FISCAL IMPACT/PROJECT ANALYSIS:

Budget Line Item _____ Account Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: _____

Comments:

The HRC Budget & Finance office will receive the requests for tax account information for each applicant’s account. If the applicant is successful, the County will receive the Hardest Hit program funds directly, the applicant is not in the chain of cash transfer. Those funds will be treated as standard tax payments and be distributed to HRC tax districts via the normal tax distribution process. There is no other role in this program for the County.

ACKNOWLEDGEMENT BY OTHER AFFECTED PARTIES: (IF APPLICABLE)

County Counsel Finance Director Other Affected Agencies Administrator
 Safety Committee Human Resources Director Appropriate County Committee Other

RECOMMENDATION FROM DEPARTMENT HEAD:

The agenda item is designed to make the Commissioners aware of the program, the benefit to county taxpayers who may have the need for such assistance, and how/where to direct anyone who asks about this program.

ADMINISTRATIVE COMMENTS/APPROVAL:

Receive information from staff regarding a new program to provide homeowners with property tax relief.

County Administrator _____ Dept. Head/Staff Attendance to Meeting (circle one) Yes No

ACTION OF THE BOARD:

Date _____

County Administrator _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: to R & A *Additional/Exceptional Originals to: _____

Copies (all info.):

Copies (ARF only) B&F:

REPORTS

October 7, 2016

TO: Jeff Hecksel, County Administrator
FR: Sandi Borowy, Director of Budget & Finance
RE: Director's report – quarter end September 30, 2016



Pauly Rogers & Co. will start the final fieldwork of the 2015/2016 audit on Monday, October 17th and be here through Friday October 23th as needed. The Health Authority audit is underway and PR&Co. has the NORCOR audit in process. The BOC will be receiving a preliminary financial update for the June 30, 2016 year end as soon as possible. I am working through the audit prep needs and will generate the "final" in-house financials next week. I am also planning a September/October 2016 'quarter end' financial update for the BOC. Historically, I have done a four month update instead of an actual quarter end due to audit and tax preparation time demands. The 2015/2016 audit report will be ready for their review by the December BOC meeting session. At this time, I do not see any issues of note with the FY15/16 results or the first four months of FY16/17.

As you stated, the 2016/2017 tax roll will not be certified by Tax Assessment/R&A until October 11th. Tax Collection/B&F will begin tax statement production work as soon as we receive the certified roll, taxes will then be collectable for the 2016 year. B&F is targeting October 11th to send the tax statement file to the printers, this hinges on what time of day on the 11th R&A turns the certified roll over to B&F. We require time for file generation and error checking before I give the OK to the printers to begin statement production. The target mailing date is October 19th, with the delayed certification date I am not clear if we will be able to make that date. The statutory mailing deadline is October 25th; mailing earlier has been the County standard and allows more collection time. In this 2016 tax year, we are estimating 12,643 tax statements will be mailed to collect \$32,433,547 of real and personal property taxes. I have attached the September 2016 quarter-end tax collection report. We are at 98.42% collected for current year, .73% higher than this time last year. Tax collection efforts have been stepped up with the use of a variety of collection tools. Some of the tools work, but some tax payers either cannot or will not work with what we are able to offer. On the October BOC agenda there will be an item for the "Hardest Hit" property tax program offered via the State of Oregon. This program is part of the federal TARP funding package, with funds distributed to states and then by county to taxpayers who qualify for the program. The counties do not have much involvement other than agreeing to participate in providing tax account information, which we have done, and then receiving the funds. A taxpayer whose account is in delinquent status applies to the program and agrees to the program terms and conditions. The 'catch' for Hood River County is we have been grouped with Multnomah, Washington and Clackamas counties for the last round of allocations, but these funds are available on a first come, first served basis.

After starting the FY16/17 foreclosure process in August with thirty accounts, we put eleven accounts into the two year redemption period (includes two tax payers with multiple accounts). On October 3, 2016, we processed the final foreclosure action on one property deeding 2.9 acres of vacant land on Miller Road, Parkdale, to the County. Once the deed is recorded and all documents are in place, I will discuss with you a tax foreclosure sale of this property in order to recover tax district's losses and get this account back onto the tax roll after sale. I will also generate a listing for you of various tax foreclosure properties that the County has come to own over the years. Some pieces have little or no value and others should be discussed for potential sale.

I mentioned to you the strong possibility that we may have to change financial software systems due to our current provider, SunGard, advising us that IBM will discontinue their report writing package in April 2018 – IBM's Cognos/QRep is licensed by SunGard. The loss of the report writing function is a critical problem in relation to data that is provided for several financial tasks through the year, and most critical for yearend audit work. SunGard has proposed a replacement program that would cost \$30,000 to purchase, plus annual maintenance expense. Currently, we are paying only annual maintenance for Cognos. In my opinion, the \$30K cost plus maintenance is excessive for a system that would not have a broad usage base. I am reviewing options, checking in with other Oregon local governments on what systems they are running and preliminarily reviewing a couple of programs on a what-does-it-look-like basis. If a decision is made to change software, the FY17/18 budget will need to include an appropriation to accommodate the conversion with the April 2018 SunGard/IBM deadline. An RFP would be developed and systems proposed evaluated for functionality, as well as cost. I am able to say right now that I do not see a large field of viable candidates. I will be ready to make a decision by the end of this calendar year on where I feel the County should go with this situation.

Investment return with the LGIP is 1.03%. The Federal Reserve rate is at .25%-.50% and the prime rate is 1.00%. I continually look to source outside investments that are within the confines of our Investment Policy and come with reasonable cost ranges.

Please let me know if you have any questions or comments.

HOOD RIVER COUNTY

Department of Budget and Finance

TAX COLLECTION QUARTERLY/ANNUAL TOTALS

FYE	July-Sept 1st QTR	Oct-Dec 2nd QTR	Jan-Mar 3rd QTR	April-June 4th QTR	Total FYE
2011 Tax Collection	295,978.14	22,290,268.49	1,463,676.82	1,270,983.63	25,320,907.08
Discounts	(112.40)	633,417.03	(247.39)	1,383.94	634,441.18
Cancellations	16,372.58	112,619.85	15,054.62	7,225.34	151,272.39
Current Yr % Collected	97.45%	87.28%	92.37%	96.77%	
2012 Tax Collection	226,352.50	23,583,833.06	1,500,085.18	1,262,247.69	26,572,518.43
Discounts	(80.02)	670,308.47	(142.56)	(13.69)	670,072.20
Cancellations	17,674.37	208,014.43	48,468.66	7,522.16	281,679.62
Current Yr % Collected	97.36%	87.84%	92.70%	96.73%	
2013 Tax Collection	495,126.41	25,055,450.48	1,482,272.68	1,292,828.09	28,325,677.66
Discounts	(29.43)	713,224.83	65.33	(874.46)	712,386.27
Cancellations	11,780.73	102,554.18	38,907.64	29,992.53	183,235.08
Current Yr % Collected	97.46%	88.80%	93.60%	97.49%	
2014 Tax Collection	259,073.16	25,657,277.24	1,271,305.46	1,263,200.44	28,450,856.30
Discounts	(119.58)	737,072.26	15.54	(84.27)	736,883.95
Cancellations	14,655.23	100,644.25	13,753.55	14,587.13	143,640.16
Current Yr % Collected	97.91%	89.80%	93.85%	97.65%	
2015 Tax Collection	286,301.81	26,716,005.65	1,123,926.15	1,183,791.72	29,310,025.33
Discounts	(4.77)	770,185.92	(734.98)	15.57	769,461.74
Cancellations	915.86	51,149.72	28,634.67	7,664.74	88,364.99
Current Yr % Collected	98.05%	89.81%	94.14%	97.69%	
2016 Tax Collection	304,804.51	27,763,638.35	1,704,662.69	1,374,912.87	31,148,018.42
Discounts	(38.87)	799,994.13	(80.42)	(1,230.00)	798,644.84
Cancellations	27,846.53	100,101.84	61,636.16	5,167.45	194,751.98
Current Yr % Collected	98.15%	89.81%	94.43%	98.12%	
2017 Tax Collection	225,869.45	0.00	0.00	0.00	225,869.45
Discounts	(18.92)	0.00	0.00	0.00	-18.92
Cancellations	(5,214.05)	0.00	0.00	0.00	(5,214.05)
Current Yr % Collected	98.42%	0.00%	0.00%	0.00%	

10/3/2016



Hood River County Community Development

Planning, Building Codes, Code Compliance, Economic Development & Veterans' Services

601 State Street, Hood River OR 97031

To: Jeff Hecksel, County Administrator
From: John Roberts, Community Development Department Director
Re: Quarterly Report – First Quarter – FY 16/17
Date: October 7, 2016

COMMUNITY DEVELOPMENT: Another engaging and busy quarter for Community Development in every aspect. The entire Community Development staff continues to meet and exceed expectations. As mentioned in previous quarterly reports, we would continue to anticipate the public expressing some concerns regarding planning department timelines. This quarter by the numbers (\$\$):

- There were a total of 73 land use applications submitted this quarter; making a total of 259 for the 2016 calendar year. Thus, this represents approximately 25% more land use permits received year-to-date that in 2015.
- Planning fees for calendar year 2016 are \$100,487. Total planning fees for 2015 were \$83,506. Thus, this represents a 25% increase for the year, with 3-months remaining.
- At total of \$142,007 was generated in permit revenue this quarter; of which \$29,000 was electrical permits and \$240,000 was plumbing permits. In just one quarter that is over \$53,000 in revenue that was previously going to MCCOG building code services.

PLANNING DEPARTMENT: There were two (2) planning commission meetings conducted this quarter, which addressed: Short-Term Rental code amendment and a non-conforming triplex. The Board heard a cell tower appeal on August 22nd, which is currently being appealed to LUBA.

Project Planning: Status of Legislative Amendments & Special Projects		
Project	Description	Status
Short-Term Rental (STR) Ordinance	Managing STRs in unincorporated portions of the county	Oct. 17 th public hearing scheduled with Board.
Marijuana; Time, Place Manner regs (TPM)	Regulations to regulate marijuana related activities and facilities	Oct. 17 th public hearing scheduled with Board; possibility to renew moratorium
Westside Area Concept Plan	Integrated land use and transportation plan	Advisory Committee meetings have started
Energy Action Plan	RARE intern to development comprehensive energy strategy and implementation measures for community	RARE Energy and Sustainability Coordinator started in early September
Stream Protection Overlay (SPO) Regulations and Other	Adopt updates to Article 17 (city's zoning code) to recognize changes to the City's land use ordinances and regulations	No progress besides initiating contact with city
Update Floodplain Regulations – NFIP Communities	FEMA requirement to update floodplain development permitting procedures; Reasonable and Prudent Alternative (RPA)	Waiting for guidance from DLCD to begin to adopt interim measures
Odell and Parkdale Community Boundaries	Work with DLCD to establish unincorporated community boundaries	No progress besides conducting minimal research

BUILDING DEPARTMENT: The heavier, or busier, summer months of issuing buildings permits might be in the rearview mirror. Taking back control of electric and plumbing permits from MCCOG has really been a boon to the department, customer service to the community, and revenue. We will be assessing internally additional staff needed to sustain and manage the permit levels (e.g., need for additional permit technician). In lieu of this, this quarter additional staff was hired as “extra help” employees to fill in gaps regarding certifications or to maintain adequate staffing levels. Specifically, Tom Sheribon and Jim Park were hired to assist with structural, electrical and plumbing permits on an as need basis.

CODE COMPLIANCE: A great deal of effort this quarter was directed at getting caught up with the backlog of compliance cases. There are approximately 40 outstanding cases and six (6) were closed this quarter. Eleven (11) new compliance cases were opened.

IS: The final stages of reconfiguring the server room was completed this quarter located in the VSO office - this is a big deal. Moreover, there was a major update to the phone system and radio system in dispatch.

GIS: Transition and modernization of the county’s interactive Webmap continues. Switching over to a new provider and viewer (i.e., Geocortex used by the city instead of iVault) is being explored. The Webmap received over 7,700 visits this quarter. GIS provided critical data for the Westside Area Concept Plan planning efforts, prepared a redistricting map for the Assessor, and updated Floodplain data provided by DOGAMI.

COUNTY VETERANS SERVICE OFFICER (CVSO): CVSO office continues to work on resolving outstanding claims and has completed 116 of the 141 challenging claims and filed 17 NOD and/or requests for DRO. Work study, Eric Akin, funded through the federal VOCREHAB Program, is working in the office to help scan and modernize files and has completed 95%, consolidating files down to two-fire king filing cabinets. The CVSO hosted the State ODVA twice for training and attended a regional training in Prineville. Other highlights of notice include:

- Hosting first veteran job fair; resulting in four confirmed veteran hires, 58 veteran attendees and representation from 22 local employers.
- Nineteen (19) home visits within the county to service elderly and housebound veterans, to include assisted living facilities.
- Partnered again with the Lions and the American Legion to coordinate for the 4th of July festivities and planning.

OTHER: Other significant projects or involvement during the quarter included, but was not limited to: 1) coordinating the Community Development Block Grant application / agreements, 2) interviewing, coordinating, attaining and orienting RARE Energy Coordinator, 3) addressing FEMA floodplain requirements, and 4) participation on Urban Lumber Advisory Committee.

July-September 2016 Forestry Department Quarterly Report

Timber Sales

- Timber sale layout on 5 greenwood timber sales.
- Greenwood timber sales: Advertised & Sold 2 sales totaling 5,723 MMBF, revenue estimated at \$2,402,752.78.
- Active logging administration on 10 Timber Sales.
- Logging on all 2016 Timber Sales still on track to be completed this year.

Forest Management

- Log Markets: Local log markets are holding slightly lower than the last several years, however buyers from outside the area are willing to pay much higher prices for a good quality log. #2 DF saw log near \$585/MBF.

Timber Stand Improvement

- Contractor selected for fall release & site prep herbicide treatment of ground, helicopter and roadside application.
- Reforestation surveys to date are showing decent survival of seedlings, although last fall's drought will require a fair amount of inter-planting next spring.
- New pre-commercial thinning contract for 237.11 Acres.
- Herbicide application contract signed for planting site prep, spring release and roadside vegetation control.
- HRC signed agreement to join MEDTIC tree improvement COOP.

Forest Recreation

- One Forest Recreation Trail Committee meeting and one trail work party was held by Forestry Staff.
- Kleeway Trail: Phase 3 completion expected later this fall/winter.
- Continued to administer one ATV grant during the quarter. Availability of two seasonal staff improved maintenance production.

Budget

- Current expenditures are within planned budget.

Personnel/Training

- Manager attended 1 day MEDTIC tree improvement CO-OP meeting.
- Hired Denell McGuire as the new Forest Technician. This position will help the department keep pace with tree farm management activities demanded by the current harvest level and public trail use.

Service & Delivery

- Once fire season eased in late September, issued numerous firewood cutting permits and rock permits.

Needs & Issues

- There is a need to employ seasonal staff for a full 9 months (March-November) to maintain the full range of time trail use impacts the tree farm. 6 month positions do not adequately meet the needs in the field.

HEALTH DEPARTMENT SUMMER 2016 QUARTERLY REPORT

The health department is continuing to have adequate revenue flows, although the state has had a glitch in their system and has not made the grant payments to date. The fiscal office for Oregon Health Authority (OHA) states that the contracts were delayed in getting to their office. We are continuing to anticipate the Pathways program with the CCO coming into effect. There are grant funds available to fund this work for one year, during which I hope that we will be able to make the position self sustaining.

Our new staff, one RN and one Health Services Assistant are both working out well. They have been learning the routine and not so routine things we do. The H.S.A. will attend training to become a certified community health worker starting in October. Our Oregon Health Plan assister will also be attending this training. We have three employees attending the current Health Care Interpreter training sessions.

Work at the state and local level for Public Health Modernization continues to move forward. There will be community and BOC presentations available.

Environmental Health program continues to be very busy. There have been many system repairs needed throughout the county. Some of these systems are second or third repairs to systems. The high density usage with vacation rentals have contributed to some of these failures. EH has been working closely with the building and planning departments on consistent regulations for new projects and making headway on the old properties with ordinance issues.

Our Electronic Health Record continues to work well. We were able to empty the paper files from the cabinets, some to archiving and destroying the rest after conversion to electronic files. Over the next several years this will also relieve the need for as much space in the county archive area. The electronic charts are archived in "the cloud" permanently. There will continue to be some amount of paperwork from the health department for specific programs such as WIC.

There have been some issues with parking by non-clients in the lot adjacent to the health department. We have had to resort to placing towing and OAR information on the cars. With the amount of neighboring construction decreased the problem has eased somewhat. We have no problem with after hours and weekend use of the lot, but during business hours there is a chronic lack of parking available similar to the situation found in downtown.

The Health Department had its triennial review in late spring and all compliance issues have been dealt with. Due to changes at OHA we will be having out next "triennial" review in February and March of 2017.

HUMAN RESOURCES –QUARTERLY REPORT
July 1 through September 30, 2016

Service Delivery Status: Review all new wage adjustments and COLA updates. Schedule and post notices for 125 flexible spending Open Enrollment meetings. Track all employee renewal enrollments or signed waivers. Begin reviewing requested changes for AFSCME Contracts expiring June 2017. Review and recommend changes for all job classification descriptions with promotion II levels to adjust requirements necessary for hiring as a class II.

Public Works	Advertise, post, assist with recruitment of new Road Technician and Engineer Tech. II.
Health Dept.	
Forestry	Consult regarding limits of six months that seasonal workers are allowed under the CBA. Assist with recruiting a second seasonal worker for trails.
Sheriff	Assist with recruitment, produce offer letters and schedule F-2 physicals and drug screens for 4 new deputies. Assist Sheriff with employment separation issues.
R & A.	Consult with director to assist with immediate temporary help due to unforeseen resignation that will directly impact the efficiency of the department during a national election and tax roll time of year.
Budget & Finance	
Parole & Probation	Discussed with FOPPO president the issue of P&P officers not classed as Police & Fire by the BOC and are not eligible for PERS P&F retirement funding by HRC.
HRCCF	Consult and assist Director with new job description and recruitment of new position due to additional Federal funds being granted.
Juvenile Dept.	Work with director regarding FMLA issue.
911 Dispatch	Consult and assist with continued development of recruitment process in identifying the most likely candidates who will be successful dispatchers. Consult and recommend temporary changes to accommodate issues with time off requests during months of being at half staff levels.
District Attorney	
Community Devel.	Assist department staff with employee relations issues.

QUARTERLY REPORT- Juvenile Department

July 1- September 30, 2016

Workload: Caseloads/Referrals:

There have been 34 new referrals this quarter including six new dependency cases. This is decrease in overall referrals and a decrease in case loads as well. Two Hood River youth have been committed to the Oregon Youth Authority for placement at residential treatment facilities. There are a total of 88 current cases. Last Quarter there were 104.

Developments/Changes:

The decline in referrals is typical for the summer months where youth are not in school. Many of our referrals are the result of incidents at school or results from reports by school staff. Since school has started we have seen the expected increase in activity. While the number of referrals have decreased somewhat the complexity of the cases continue to keep staff very busy. The total numbers sometimes do not fully reflect the work being done.

Juvenile Work Crew:

The work crew continues to operate with Adult Parole and Probation work crew supervisor Don Collins and one adult probation officer supervising the youth. The crew operates two Saturdays per month with up to nine youth performing community service each of these days. The crew completed **126** hours of upkeep of public properties in Hood River County this past quarter. The cost of supervision is paid for through our department's client service budget.

Projects/Community Involvement:

Due to the resignation of Umatilla County's juvenile department director I have recently been asked to serve as the chairman of the OJDDA Annual Conference planning committee. This represents a fair amount of time but has been a worthwhile experience thus far.

Robbie and I continue to serve on the recently-formed sexual assault task force. The task force is a partnership between Hood River County Prevention, the school district, and representatives from public and private agencies as well as private citizens. The focus of the task for is raise awareness of sexual assault among young people. The task force will be organizing a week long campaign at the high school in April of 2017. The campaign will be based on the nationally-recognized "It's on us." See <http://itsonus.org/> for more information. Starting next week an "introduction" to the campaign will take place at the school. Posters with brief, informational statements about sexual assault will be placed in the bathrooms and elsewhere in the school. Each week new information will be displayed. The hope is to educate and bring awareness to the issue.

Ongoing Issues/concerns:

The case example above illustrates not only the complexities of the youth we serve but also the importance of access to detention beds. The incident in the case took place in another county which also uses NORCOR for detention services. The youth presented a danger to others and was transported by law-enforcement to The Dalles. The facility provides safe custody of youth who present a danger to the community and/or themselves

and therefore invaluable to the work we do. The long-term viability of the facility is crucial to our effectiveness with our youth and the community.

Jim Patterson, Director

Prevention Department 1st Quarter Report

- We were awarded the Federal STOP grant, Sober Truth on Preventing Underage Drinking Act, from Substance Abuse and Mental Health Services Administration, SAMHSA. This is a four (4) year grant.
- We were also awarded a Planning Grant from SAMHSA for Underage Drinking.
- Attendance at the 1st Annual Clear Alliance Conference in Redmond, Oregon by Luz Oropeza, Belinda Ballah and four (4) other community partners.
- Sgt. Jermaine Galloway, "Tall Cop Says Stop", will present to schools and community on April 12-13, 2017. He presented at Clear Alliance Conference and does a phenomenal job of presenting accurate and up to date information on drug culture and prevention.
- Community Anti-Drug Coalitions of America, CADCA, Mid Year conference was attended by Luz Oropeza, two (2) Health Media Club students and two (2) community partners.
- Belinda Ballah attended the Youth Suicide Prevention conference where the "Zero Suicide" commitment to suicide prevention in health and behavioral health care systems was presented.
- Knight Cancer Research Grant Tier Two, Smoking Cessation in the Gorge" continues to gain acceptance and interest from a number of medical groups due to Jane Palmer's diligent work.
- We applied for a Tier Three Knight Cancer Research Grant that will allow us to continue the work from the Tier Two Grant. Awards will be announced in November.
- In collaboration with the Juvenile Department and The Next Door, Inc., a full time Youth Outreach worker was hired for HRVHS.
- Three (3) OLCC server/bartender trainings were funded by the Prevention Department and conducted by Diane Barta.
- Monthly Prevention newsletters in Spanish and English have been published and distributed.
- Monthly radio prevention programs at El Rio and Radio Tierra by Luz Oropeza. Bimonthly at KHR by Belinda Ballah.
- Monthly Alcohol, Tobacco and Other Drug Prevention Coalition meetings were held.
- Three (3) Steering Committee meetings for the Odell Hispanic Coalition were held.
- Health Media Clubs have begun at middle/high schools
- Annual booth at the Hops Fest was manned by a number of community members, including Jeff Hecksel and his wife. This was a great opportunity to educate the public on over consumption of alcohol.
- Sponsored "Screenagers" documentary at Wy'East Middle School with Spanish subtitles. The number of attendees is not in yet. They hope to have one (1) more showing in the near future.
- "It's On Us Hood River" taskforce, formerly known as Sexual Assault/Teen Dating Violence, has received permission from the Hood River County School District Superintendent to move forward with a 17 week "soft launch" utilizing one liners to raise awareness and start the conversation around these issues. This will culminate in a weeklong event in April that will include community involvement.
- Marijuana Taskforce meetings have continued to discuss raising awareness of marijuana use in regards to developing brains and community safety.
- Luz is representing our office at the Mayor's Latino Advisory Council and Mocha Board.
- Belinda continues to serve on the Wellness Committee and the Prevention/Collaboration Sub-committee.
- Belinda is serving on the State Tobacco Retail Evaluation User Panel for the next year. She is also on the Executive Board for the Oregon Coalition of Prevention Professionals and the State Coalition for Clear Alliance.

Respectfully submitted,

Belinda Ballah
Hood River County Prevention Department

FY 2016-17 QUARTERLY REPORT – PUBLIC WORKS DEPARTMENT
1st QUARTER; JULY 1 – SEPTEMBER 30

ADMINISTRATION

- The department has had 911 consecutive injury/accident free days and 854 consecutive injury/time-loss free days. One safety meeting was held this Quarter.
- Twelve employee evaluations were completed and all are current.
- An offer was accepted for the Engineering Technician II position and has a start date of November 1st.
- A Road Technician retired after 28 years of service, a replacement was hired, and another Road Tech completed their Trial Period. Currently, five out of ten on the road crew have worked for the County for less than three years; two of which are still within their Trial Periods.
- Lift Operator training was scheduled and all new employees were certified on the forklift. Since the department is short staffed this was the first year the County Engineer and Director were included.
- After about 15 years Public Works started having an annual picnic again. This year's was held in July at Toll Bridge Park.

Director/County Issues

- The county will not be pursuing Oregon Clean Power Cooperative's solar panel project for the Health Department since the terms of the program keep changing as well as the investment required by the County.
- After further consideration the Catholic Church has decided not to pursue acquiring the county cemetery property.
- Staff from ODOT's T2 Center evaluated the intersection of Frankton/Multnomah Road with Belmont Drive and recommended increasing the size of several road signs. In their opinion the three accidents that occurred in June at the intersection were caused by distracted drivers and not due to a dangerous intersection.
- Significant time was spent on a Right-of-Way exchange along Toll Bridge Road and investigating septic system issues within the parks. The Right-of-Way exchange was completed but the septic issues are ongoing.
- The BOC approved a one-time expenditure of road funds to make minor repairs to Barker Road. Potholes along the south and middle portions will be filled and a few asphalt patches will be laid in October.
- Escrow closed on the county property along WaNaPa Street in July. The parcel was purchased by the Port of Cascade Locks.
- The Gorge Pickleball Association asked to have lines put on a tennis court at Oak Grove Park so they can play pickleball regularly. It was allowed on a temporary basis to see if the courts can serve multiple uses and resulted in an immense amount of feedback.

ROADS

- Paved Baseline Road from Hwy 35 to Toll Bridge Road, Neal Creek Mill Road from Hwy 35 to Stadleman Drive, and Brookside Drive from Indian Creek Road eastward to the first corner; in all totaling about 2.3 miles.
- Approximately twelve miles of roads were chip sealed and included both single and double shot treatments.
- All chip sealed roads were swept and the recovered rock was stored to use later as winter sand.
- All thermo-plastics were installed on this season's paved and chip sealed roads (stop bars, crosswalks, etc.).
- Traffic markings were re-painted on all county roads.
- Crews began reconstructing the bridge deck on Lippman Road at Odell Creek. Adjacent pavement sections were removed and will be repaved the first week of October. All work will be complete by the end of the month.
- Roadside brushing was done whenever staff and time were available. Brushing has become more of a problem and difficult to keep up with yet is extremely important for winter drainage. Having the road crew perform roadside spraying has helped immensely but still requires a lot of work.

FY 2016-17 QUARTERLY REPORT – PUBLIC WORKS DEPARTMENT
1st QUARTER; JULY 1 – SEPTEMBER 30

MAINTENANCE

- A new paver was purchased in time for this year's paving season. It performed well but will be returned in the fall for minor upgrades. The equipment it replaced was 30 year old (1986 Cedar Rapids Paver) and beyond repair.
- The oil distributor broke down in the middle of paving when the engine fan fell off. Several other parts were damaged yet all were repaired within two days.
- The paint truck was serviced and ran for several weeks before having issues. The rear air compressor is failing so a new one was ordered for \$5,200 and will be installed at the end of the season. The truck is a 2002 model and the compressor runs nonstop while painting.
- Both Equipment Mechanics drove haul trucks for the road crew this season. This has been the practice for several years as the road crew doesn't have enough people to staff a paving project, however this was the first year both maintenance shops had to be closed while paving was done.
- Two new vehicles were ordered for Public Works. One is a rotational replacement for the road crew and the other will replace an office staff vehicle with a failed transmission. Both are due for delivery in October.
- Three Sheriff's Interceptors and a Forest Patrol 4X4 were ordered. All are due for delivery by the end of 2016.
- Numerous options were looked at for replacing one of the brush beaters. A replacement will be ordered the first of October and delivered in spring 2017.
- Staff continued to solicit bids for a "turn-key" 100KW backup generator at Hood River Public Works. The generator will be diesel-powered and supply enough power to operate the Public Works shop and office. Expected cost is just under \$50,000. Electrical work for backup power at Parkdale Public Works was scheduled as well. When complete, the generator in Hood River will be relocated to Parkdale and provide backup power to the shop and/or fuel pumps. All work is expected to be complete before winter.
- The removal of lead-based paint at Public Works has been postponed until either October (weather permitting) or spring 2017. The lead paint was left on the building several years ago and is now flaking off.
- Winter tires and chains were ordered for fleet vehicles and winter equipment checks will start in October.
- The equipment repair budget is on track and the fuel budget is about 10% expended.

ENGINEERING

- 64 permits were issued for either new driveways, underground utility work, or oversized trucks on county roads.
- Bids were received for chip seal asphalt and prices were about 20% less than last year, however bids received last quarter for hot mix asphalt were about the same as last year at \$55-\$60 per ton.
- Significant time was spent working with the road crew with paving and chip seal projects.
- Permits were re-submitted to Oregon Department of State Lands and the Army Corps of Engineers to address review comments for the Evans Creek Culvert Replacement project. So far Public Works has committed roughly \$11,000 additional dollars towards project design that was expected to be paid by the CTWS.
- Repairs were nearly completed on the Lippman Road bridge deck at Odell Creek. Engineering worked very closely with the road crew to replace all bridge stringers, deck planks, and railings.
- Interviews were held for the Engineering Technician II position and an offer was made in September. The position starts November 1st and should help us catch up on several projects. It was last filled in 2007.

SURVEY

- 19 surveys were filed during the quarter. Review times have slowed due to the number of subdivisions submitted.
- There were several instances of local construction projects either destroying or damaging protected monuments so the County Surveyor requested the City provide project review plans in the future. So far the need has been limited but it's shown good coordination between the two departments.

FY 2016-17 QUARTERLY REPORT – PUBLIC WORKS DEPARTMENT
1st QUARTER; JULY 1 – SEPTEMBER 30

- Work continued on the AGA Road legalization project but is already behind schedule due to the surveyor spending more time on subdivision reviews.
- Costs for the Surveyor IGA with Wasco County are on track at 25%.

PARKS

- Attendance at the campgrounds was very high this summer and problems continued with homeless people trespassing; mostly at Tucker Park. Portions of the Administrative Code and other park policies need to be updated with regards to stay limits, enforcement of non-payment, orderliness, allowed uses, etc. so staff have a clear direction on how to address these types of situations.
- Seasonal help was reduced to one employee who will work through the end of the camping season. Park management was very challenging this year due to having limited staff and it relied heavily on volunteer hosts. Parks had three volunteers this year. One was released early for personnel reasons however the other two were a tremendous help and resolved many complaints quickly. Parks will continue to consider contracting hosts in the future and provide a small monetary incentive for good hosts to return.
- The septic system in Tucker Park's west loop failed due to extreme use and all sites in the west loop were closed. The closure resulted in a loss of revenue of approximately \$15,000 and generated numerous complaints. A proposal for temporary repairs was approved by the Health Department but contingent on applying for a Water Pollution Control Facility (WPCF) Permit through DEQ in the future. The temporary repairs will cost around \$9,000 and a fully repaired septic system will probably be in the \$100,000 range.
- Bell Design Company was contracted to design the replacement restroom for Tucker Park's east loop which will be partially funded by an OPRD grant; however through investigating the park septic systems this summer it's been determined that the east loop system that will serve the building is also failing.
- Test pits were dug for the Toll Bridge RV Loop septic system project and results were good. Soil classification didn't result in the project getting smaller but it's the first good news the project has had. Public Works discussed the septic problems with the BOC in August and will be preparing a capital proposal by its November meeting.
- Western Rivers Conservancy organized a celebration in July to acknowledge the conveyance of Punchbowl Falls Park. An agreement with Trailkeepers of Oregon was also signed allowing them to coordinate volunteer trail building over the next 1-2 years.
- The online reservation system for Toll Bridge Park was generally successful. A few complaints were received but can all be addressed by revising several Park Department policies.

BUILDINGS

- NW Natural replaced the gas meter at CBAB which had been leaking for at least a year. While replacing it they also repaired several leaks on the County's side of the meter at no cost.
- Staff spent a significant amount of time getting quotes to replace the ADA hardware on the east front door of the courthouse. The parts are needed to be able to install a walk-through metal detector acquired by the Sheriff's Department. The work will cost about \$7,300 and if approved would be paid from the Courthouse Security Fund.
- A power outage occurred on August 30th and the back-up generator at the courthouse worked as planned. The generator hasn't worked in at least five years and was repaired last quarter.
- Parking at the courthouse continues to be a problem. At the request of the Sheriff's Department the spaces in the east lot were marked RESERVED and permit-required signs were ordered. The plan is to manage the lot similar to what has been done with the CBAB lot on State Street and should be implemented by the end of next Quarter.
- The HVAC system for R&A made it through the summer with minimal problems. It was the first summer the unit didn't fail repeatedly and likely benefited from having film applied to the windows earlier this year.

FY 2016-17 QUARTERLY REPORT – PUBLIC WORKS DEPARTMENT
1st QUARTER; JULY 1 – SEPTEMBER 30

WEED & PEST

- The Weed & Pest Control Board continued its *Weed of the Month* informational program. Selections for July, August and September were Knapweed, Puncturevine, and Knotweed.
- Integrated Resource Management was contracted to perform a site survey for Purple Loosestrife. Field work was completed in September and a report is due October.
- Two fruit tree violation complaints were received. One was for an orchard on Multnomah Road that has been poorly managed but doesn't pose an immediate threat. The other is for an area along I-84 that had its trees removed several years ago.
- An Abatement Agreement was prepared regarding an orchard on Old Parkdale Road. The owner has verbally agreed to remove about 50 acres of unmanaged trees before the end of 2016.
- There has been no resolve on a 2015 Abatement Agreement in which the owner didn't fulfill their obligations. Staff continued to consult with legal council to determine proper action; however there were no complaints or pest problems reported for the orchard this season.
- Staff worked with Wasco County to dispose of an assortment of unused spray chemicals. The supply had been approved for disposal at a hazardous collection event but Wasco's noxious weed program was able to use them which ultimately may benefit both counties.
- The Weed & Pest Technician position has not been staffed for the past 21 months. As more violations are reported it is becoming difficult to address them in a timely manner and the responsibilities are being carried out by the Director.

MUSEUM

- The 2016 Cemetery Tales production was held in September. This was the third year the event was coordinated solely by the Heritage Council.
- Several upcoming events were prepared for including Show Boat Night (Oct. 7) at Springhouse Cellars and a volunteer appreciation trip to the Museum at Warm Springs (Oct. 14).
- The Council secured a contractor to renovate the Henderson paddle wheel. Work was completed in September and included replacing the wooden slats that had deteriorated.
- A third Addendum to the HRC/Council Agreement was approved to allow the Council to set its own fee schedule. The Addendum also specified the County reserves the right to use the facility as needed for emergencies.
- The Port of Hood River had a new electrical service installed at the museum. Lighting for the flagpole and parking lot has previously been provided by the Port but will now be the County's responsibility.
- The Council updated its Deaccession Policy and will be approaching the BOC next month to discuss disposing of artifacts.

**Records and Assessment
Departmental Quarterly Report; July - September 2016
October 7, 2016**

Department Projects

Records and Elections

- The Oregon Secretary of State in cooperation with the Oregon Association of County Clerks will be unveiling a new election night reporting program for the November General Election.
- Voter registration is at 13,265 which is more than a 7% increase from the previous quarter.
- We processed 316 passport applications, 1,173 recordings and 113 marriage licenses. Passports are up 29%, recordings are down 6.5%, and marriage licenses are up 49% over the last quarter.

Assessment

- In August, Brian became the President of the Oregon Association of County Assessors for 2016-17.
- The ratio study for Hood River County was accepted and approved by the Department of Revenue. The ratio study is used to verify that the Real Market Values assigned to properties are in line with the sales that are taking place in Hood River County.
- The appraisers completed their reappraisal areas and are working on setup for next year's reappraisal.
- The tax roll for 2016-17 will soon be certified. The taxable assessed value for Hood River County went from 2,101,401,710 in 2015-16 to 2,188,224,996 in 2016-17 or an increase of just over 4%. The total tax amount calculated for Hood River County went from 3,081,226 to 3,186,156 or an increase of almost 3.5%. The total tax to collect for all districts went from 31,640,942 to 32,443,547 or an increase of about 2.5%.
- The Oregon Supreme Court issued a decision in the Comcast case reversing the decision of the Tax Court and confirming that Comcast should be Centrally Assessed by the Department of Revenue. Although the Supreme Court issued a decision about who has appraisal responsibility they sent the case back to Tax Court to address the other issues in the case regarding the value. Due to the pending valuation issue in the Tax Court; taxes will continue to be deferred for communication companies under appeal.
- ORS 305.286 requires a quarterly report to the governing body with the status of deferred billing credits and the appeals to which they relate. Currently, I have issued a deferred billing credit for six years of Charter Communications tax (236,661.73) and four years of Dish Network (31,804.74) and DirecTV (19,836.79) tax. The status of the appeals is referenced in the above paragraph.

Fiscal Status

- The budgeted amount for material and services appears to be adequate.

Personnel Supervision

- Daniel Changar resigned in September citing the wage level for his position.
- Kim and Duane both had performance evaluations completed this quarter.

Services Delivery Status

- Customers receive excellent response times for both phone and counter traffic.

Needs & Issues

- Employee turnover in the R&A Clerk position due to the wage level needs to be addressed.

CONSENT

Any item or issue not on the agenda you have a question, comment or statement about please bring up under Items from the General Public.

BOARD OF COMMISSIONERS SPECIAL MEETING AGENDA
6:00pm, CBAB, 601 State Street, 1st Floor Conf. Room, Hood River, Oregon

MINUTES

Chair Rivers called the special meeting to order. Present: Commissioner Perkins, Commissioner Benton, Commissioner Meyer, Commissioner Joplin, County Counsel Carey and Administrator Hecksel.

CONFLICTS OR POTENTIAL CONFLICTS OF INTEREST –

None

ADDITIONS OR DELETIONS FROM THE AGENDA –

None

UNSCHEDULED ITEMS FROM THE GENERAL PUBLIC (limit 5 minutes per person per subject)

None

REPORTS

Commissioner Joplin reported that she toured the state penitentiary in Salem today. It was very interesting.

PUBLIC HEARINGS –

Short Term Rental Regulations

ACTION: Accepted the proposed legislative amendments contained in Exhibit A and incorporate changes identified by the Board on 09/12/16. The proposed text amendments to the Hood River County Zoning Ordinance will be adopted October 17th in conjunction with the proposed text amendments to regulate marijuana businesses. This hearing is technically continued to October 17th, 2016 at 6:00pm at which time no more public testimony will be accepted on short term rentals.

Chair Rivers stated that he will take public testimony tonight but only from anyone who has not already provide written or oral testimony to the Commission on this subject.

Chair Rivers opened the hearing and asked for a staff report.

John Robert, Community Development Director - the goal tonight is to dicuss final tweaks and changes to the proposed legislation and to take public testimony.

John relooked at the EcoNorthwest report and gleaned some information about the number of homes identified as a short term rental (STR), where they are located as far as zoning, value etc. The reported shows 3 ways STR owners need to be compliant – land use permit issued, paying TRT and reporting for personal property tax. None of the identified STR's are compliant in all three areas. The report showed 70 known STR's with 42% of those being on resource zoned land. 34% is on EFU of that 29% is high value farm (HVF), meaning 1 out of 10 rentals are on HVF. Not sure how the Commission wants to use that information but perhaps it shows that farmers are using STR's to supplement their income. There are 5 STR's on the F1zone. 18% are on RR2.5, and 15% are on UR1. Average acreage size is 6.5 acres, median acres is 2.5. A quarter were on 5 acres or larger-which could give the notion of a working farm. Only 6 were above 20 acres or 8.7%. 9 were on 10 acres and over and 8 were shown located on acres ranging from 5-10. Ownership: mailing addressed were used to and 40% are out of the county addresses with 16% being out of state. Average year built was 1969, median year built is 1979. Average sq footage is 2400, with the median sq footage being 2300. Bedrooms – median was 3. The Commission asked for an estimated total RMV – the average RMV is \$465K, with the median being \$435K. John thanked Mike Schrankel, GIS Coordinator for helping gather some of this information.

Benton asked if UR1 is in the UGB. John replied affirmatively. Benton asked how those would be regulated; he thought they would be regulated by the City. Meyer asked if UR1 was in Odell. John said no that is just UR zone.

Other matters may be discussed as deemed appropriate by the Board.

John pointed to Exhibit A – as he was going through the comments from the last hearing he was made aware of some clerical errors that he will take care of.

Page 3 – talking about the cap. The goal is to not have the majority of your housing stock in STR's. Page 4 – changes to language regarding notification to adjacent property owners, adjacent property owners consent to STR application. John apologized if his editor's notes came on too strong. On the surface requiring the adjacent property owners consent on the STR application feels it is good in practice but a nightmare to enforce and feels that it will create some situations that we would recommend against – feels it provides a power to the neighbor that could be taken advantage of. Feels that if it is left in, you are essentially prohibiting STR's on EFU lands.

Perkins asked if the neighboring properties would be notified in the CUP process. John concurred – the Type II application is the CUP process.

John noted a Commission asked about proof of insurance at the last meeting and that provision has been added as a requirement.

Page 6 – Resource Lands – Section A – the blue highlight is what staff heard the Commission saying at the last two hearings. Home Occupations and what is allowed and what is not was brought up at the last hearing. There are several options listed for the Commission to consider. Option 1 speaks to residency; staff can work with that language. State law was considered when drafting this option, but it was fine turned to meet the counties needs. We feel this is clearer and more limiting than allowed by statutes. We cannot be less lenient than that statute.

John spoke with DLCD today about the language and where we are at in the process and they are good with us using option 1 if that is what is decided. They understand how things get applied. We are not shielded by state law and that is why we can go back and directly apply but we feel option 1 meets the intent of the law.

Benton asked for clarification – if you owned a property and applied for a STR would you be able to use a short term rental company to advertise?

Counsel Carey stated there is nothing that prohibits you from using an outside source for advertising, you are talking about operating the business and if the owners decide they need outside assistance for logistics he doesn't believe there is anything that precludes that. Perkins asked how far that extends. Carey said you cannot use a property management company for the bookings, payments etc. Carey stated as the owner you have to do the scheduling, booking etc., but using someone to advertise your home for availability he believes is allowed. Perkins asked would that preclude using Air BNB because they will schedule the rental and take the payment. Benton said he sees the local management companies being cut out by the language.

John pointed out that B&B language in the code is very similar to what is being recommended for the STR's. John located the B&B approval requirements in the code, read those and noted it is less restrictive than the language being proposed for STR's.

Meyer asked about requiring a permitted STR to use a registry number when advertising and pointed out that requirement was struck in this draft. John stated it can be added back if that is what the commission wants.

Discussion about residency requirement and how that will be monitored and enforced.

Chair Rivers asked if there is anyone that has not previously provided testimony on this subject wanted to speak. Jennifer Euwer asked if she could ask a question as a Planning Commissioner. Chair Rivers allowed.

Jennifer asked what happens when a property changes hands – does the new owner have to reapply and if there is a waiting list because of a cap does that person go to the bottom of the list or are they handled differently because the property had been previously approved.

Perkins stated he feels they would go to the bottom of the list. The application and permit is non-transferrable. Euwer stated that is not clear in the regulations.

Unidentified speaker in the audience asked about regulations applied to houses in the UGB. John stated the county administers land use in the UGB however the standards used are the cities and that is what would be applied.

Hearing no other comments, Chair Rivers closed the public hearing and asked for the Commissioner deliberations.

Meyer said that since it was a clarification and not a deliberation in the hearing he wants to talk about the registry number for each permitted STR. He feels this should be required it will assist staff in research and easily identifying permitted STR's.

Other matters may be discussed as deemed appropriate by the Board.

Chair Rivers stated he is on record as opposing STR's on resource land and he still feels that way for many reasons. Noted that just today his wife saw two people with loads of pears in their arms coming out of their orchard, they were stealing. She was able to get their license number and it came back to a company in Tualatin. It is just not a good fit; it is a crack that will be the demise of agriculture as we know it and sees it filled with holes.

Perkins stated he sees the same things, but these are happening now and without some sort of regulations it will continue and not be regulated. Chair Rivers stated with the regulations in place it will require inspections but it doesn't change his mind. Perkins is interested in following his concerns. We need to get a handle on the enforcement end of this issue. Asked if he is willing to take funds from another department and put it towards enforcement. If we do not have a process that allows for revenue it must be taken from the general fund. Feels we all struggle with the same thing. None of this means anything unless you enforce the regulations.

Meyer said when enforcement is just complaint driven it kind of worked but about 8 years ago folks stopped complaining and we put a civil code in place and were moving in that direction.

Meyer said he would like to consider accepting John's recommendation on item C, page 5 to remove the adjacent owner sign off requirement, feels it is functionally erroneous. Perkins said whatever we do needs to be implemented. You get an application in and adjacent owners object to the application, what does that do to the staff, what do you do with the application, how does that play into the decision making of staff. John said it can go one of three ways: you recognize it is a frivolous objection and you go on and if the adjacent owner appeals then you have that. Benton agrees with Meyer but would say that Joplin offered an option at the last hearing that would cap the number of STR's in resource zones. Meyer stated he could go for that even though he opposed it in the last meeting. Joplin said it could be added to Section A. Her suggestion was to cap STR's at 100 of which no more than 25 could be on resource lands. Noted there are currently 29 on resource lands.

Discussion about option 1 and DLCD comments about STR's not disrupting resource zoned lands and that EFU zones were not used for commercial purposes. John stated you could add to the language STR's would not interfere with other uses allowed and permitted in the area. The Commissioners felt that would be good to add.

Perkins wants to talk more about how this is going to phase in - are we giving a year or 6 months to get into compliance. John stated that if the regulations are adopted and DLCD recognizes them, the earliest the rules would be in affect is Nov 30 and we could have letters out to existing known STRs by December. Some applications will be farmed out. Feels we should see their application by June 2017 and processed by December 2017. Benton feels there are two lines - we need to say here is the date when you will be fined for not being permitted. Meyer said if someone makes application they can continue to operate while their app is being permitted.

John went through the changes he heard from the Commission:

- Require permit number
- Clarification changes to intro provisions
- Keep STR as CUP Type II in resource zones
- Cap 100 with up to 25 of those being on resource zone
- Eliminate adjacent property owner sign off
- Option 1 on Resource lands - add language: no interference with other uses in zone property located

Benton asked about the line in the sand date for the applications. John said that is not something you want to put in the code. But as the process gets flushed out the date will be known.

John said these changes will be brought back at the Oct 17th meeting for final adoption.

Commissioner Benton made a motion to accept the proposed legislative amendments contained in Exhibit A and to incorporate changes identified by the Board on 09/12/16. The proposed text amendments to the Hood River County Zoning Ordinance will be adopted October 17th in conjunction with the proposed text amendments to regulate marijuana businesses. This hearing is technically continued to October 17th, 2016 at 6:00pm at which time no more public testimony will be accepted on short term rentals. Commissioner Joplin seconded the motion.

Vote on the motion was as follows:

- Commissioner Perkins - yea
- Commissioner Benton - yea

Other matters may be discussed as deemed appropriate by the Board.

Commissioner Meyer – yea
Commissioner Joplin – yea
Chair Rivers – yea

Motion carried.

ADJOURNMENT – Chair River adjourned the meeting at 7:30pm

CALENDAR OF UPCOMING PUBLIC MEETINGS/EVENTS (note all dates and time subject to change with or without notice as required)

Aug 29	6:00	Board of Commissioners Special Meeting, CBAB, 601 State Street, Conf Room 1 st Floor
Sept 5		LABOR DAY, COUNTY OFFICES CLOSED
Sept 5	1:00pm	Tri-County Mental Health Board, Mid Col. Center for Living-TD (1 st Mon. ea. mo.-generally)
Sept 7	2:00pm	HRC Water Planning Group, 601 State St, 1 st floor conf. room (1 st Wed. ea.mo. – generally)
Sept 14	5:30pm	County Planning Commission Meeting, CBAB, 601 State St Conf Rm. 1 st Fl, (2 nd & 4 th Wed. ea. mo generally)
Sept 19	4:00 & 6:00pm	Board of Commissioners work session & business meeting, CBAB, 601 State Street, Conf Room 1 st Floor (3 rd Mon. ea. mo)
Sept 20	7:00pm	Library District Board meeting, Library, 502 State St., Conf. Room (3 rd Tues ea. mo. - subject to change)
Sept 21	3:00pm	Department Head Meeting – Courthouse, 309 State Street, 1 st Floor Conf Room
Sept 27	2:00pm	Safety Committee Meeting, Courthouse, 309 State Street, 1 st Floor (4 th Tues. ea. mo.)
Sept 28	5:30pm	County Planning Commission Meeting, CBAB, 601 State St Conf Rm. 1 st Fl, (2 nd & 4 th Wed. ea. mo generally)
Oct 3	1:00pm	Tri-County Mental Health Board, Mid Col. Center for Living-TD (1 st Mon. ea. mo.-generally)
Oct 5	2:00pm	HRC Water Planning Group, 601 State St, 1 st floor conf. room (1 st Wed. ea.mo. – generally)
Oct 12	5:30pm	County Planning Commission Meeting, CBAB, 601 State St Conf Rm. 1 st Fl, (2 nd & 4 th Wed. ea. mo generally)
Oct 17	4:00 & 6:00pm	Board of Commissioners work session & business meeting, CBAB, 601 State Street, Conf Room 1 st Floor (3 rd Mon. ea. mo)
Oct 18	7:00pm	Library District Board meeting, Library, 502 State St., Conf. Room (3 rd Tues ea. mo. - subject to change)
Oct 19	3:00pm	Department Head Meeting – CBAB, 601 State Street, 1 st Floor Conf Room

Any item or issue not on the agenda you have a question, comment or statement about please bring up under Items from the General Public.

BOARD OF COMMISSIONERS WORK SESSION AGENDA

4:15pm, CBAB, 601 State Street, 1st Floor Conf. Room, Hood River, Oregon

MINUTES

Chair Rivers opened the work session. Present: Commissioner Perkins, Commissioner Benton, Commissioner Meyer, Commissioner Joplin, Counsels Carey and Davies and Administrator Hecksel.

Crystal Springs Water District Property Acquisition for Mid-Valley Reservoir – Doug Thiesies, Forest Manager

Doug Introduced Fred Schatts Jr Superintendent with Crystal Springs Water District. Fred handed out the same information that is in the commissioner's packet. Noted they just completed 2 years of planning and during the process the greater needs of the valley kept coming up while. From the health authority standpoint they need to be able to keep the water pressure up. In fixing that issue they fix the fire flow need as well. They were approached by several folks in the Odell area wanting to do industrial projects but they are currently not able to meet the fire flow needs. The fruit processors are at the point of pursuing expansion opportunities or thinking about it and they will have additional flow needs. The district has identified multiple reservoir sites and the primary one is on county forest property. It allows for feed from multiple directions. They are looking to the Oregon revolving fund to help with their estimated \$4.5M project, which includes putting in 18,600 ft of 10 in pipe to tie the existing reservoir to the new reservoir and a secondary feed into Odell. They have in the past run into some fire feed issues such as with the bin fire a few years back. They are looking for verbal support for the financial piece of their project as they move forward and then they want to talk about an exchange for a few acres of ground for the reservoir and the piping. Sees this as a benefit to the County which would help allow for industrial property to be developed and the needs of the users will be met.

Perkins asked how this plays into the cost and recovery for the fire protection. Does the district get compensated for providing that. Fred said no they do not. It doesn't have to be in their charter in order to provide the fire protection. It works best if they are working for water quality and fire protection. Long run they are looking at this for compliance reasons but it is getting more difficult to keep the 20 psi requirement for fire flows, so it is helpful for the users as well.

He would like to continue to work with staff and administration to find a solution for land acquisition for the reservoir.

Chair Rivers asked how many households the district serves. Fred reported approximately 5300. The district covers from approximately 8 miles above Parkdale, and down to China gorge - about a quarter of the population.

Meyer suggested giving the project a bit more visibility early than not. Doug said they are still negotiating how the land transaction will take place. Doug said Crystal Springs wants to be on Middle Mtn. Feels there are a few ways to make it work. His initial reaction is to go the land exchange route but since we are talking about just a few acres at mpst perhaps we are better using a lease. Perkins said that to keep the project cost down seems the lease option would be better.

Fred said the District would prefer the lease option but if we were looking at a larger piece of ground then a transfer would make sense.

Meyer suggests making the project more widely known so folks are not caught off guard; he also suggested getting on the CEDS list.

Tree Seed Opportunity through Northwest Tree Improvement Co-op (NTIC) and Medford Tree Improvement Cooperative (MEDTIC) – Doug Thiesies, Forest Manager - introduced Dr. Keith with OSU and the NWTIC

This opportunity could provide better tree seeds and Doug wanted to share the information with the Commission.

Dr. Keith said their program works similarly to how orchardists look for variety and better seeds for fruit tree, MEDTIC and NWTIC they do the same thing with forest trees. They go out into the woods and find good looking trees and propagate them, get quality seeds and keep the process going for multiple cycles.

Their seeds are creating about 75M trees a year that are planted in the PNW. Over a Billion trees have been planted over the last 25

years. They have Douglas fir, hemlock, and other types of seeds.

They are on the second generation of testing the seed qualities in some location and having good results. Test sites are mainly in the western part of Oregon and Washington.

The MEDTIC - would be a second generation program. Even though they have not had a test site in our area the weather, humidity, heat and cold is comparable to the Medford area and feels the seeds will work well in our forest.

Doug said that to join this program it would be \$4900 and that would get us into the MEDTIC and NWTIC that is the yearly cost. We would need to acquire seed. We would need to contact some of the existing cooperators to see if they have any extra and it would cost \$1000 per pound but that could grow about 30,000 trees so it could cost us about \$7,000 per year in seed. In order to get into the MEDTIC and the second generation - if we were joined it would cost a bit less. Each cooperators pays per acres of what they have for Douglas Fir. He has presented this to the Forest Advisory Committee and they said it seemed like a good thing to do for our tree farm to improve our growth. It takes time and cost up front but when you can see short term visual improvements of the growth of trees feels it is worth the initial investment.

Bob asked if the county currently nurseries any of our own trees. Doug said we purchase or collect our own seed and have someone grow it for us. We do bid the service out so it is not always the same folks. Les asked about survivalists based on drought. Doug said that is not the reason he would choose to do this but if you are getting a genetic influence from farther south it would make sense that it would benefit us if drought continues to be an issue in our area. You are always going to have some mortality - but if you continue to plant the cost is part of what we already do and the overall cost is small generally. Doug said we are still focusing on breeding the sub local but we would be able to cross test from the MEDTIC seeds and there is testing involved before you plant it. With trees the testing takes decades.

Joplin asked about the genetically altered seed is there any issue with the quality of wood. Perkins said we are not genetically modifying seeds we are breeding. There are no quality issues or market restrictions. Doug said that you can select for a lot of different characteristics such as wood quality, snow break, etc. There are 70M trees a year being planted from this program and it is not affecting the market that he has heard of. If you only focus on tree size then it could affect the outcome so it is something that you want to watch.

Meyer asked about mass timber - Doug said he feels it could only really help that. But if you were only going for one type of characteristic it might not be good. But to grow wood faster it could help us. Feels that our wood would be a great candidate for mass marketing. Meyer asked if we can use this to fill our yield hole. Doug said it will help - it still will take time but it will take less time.

It was noted that Weyerhaeuser is also looking at joining MEDTIC/NWTIC.

RARE AmeriCorp Program Energy and Sustainability Coordinator-Marla Harvey introduction -

Kate McBride representing the City of Hood River here to introduce Marla Harvey who is the new RARE worker focusing on energy and sustainability. The application was a joint effort by the Cities of Hood River, Cascade Locks, the Ports of Hood River and Cascade Locks and the County. Energy Trust of Oregon is also a partner.

Marla stated she is happy to be here and the main purpose of the position is to organize the energy movement in the county and head everyone in one direction. She just started last week and is still getting to know the area and the players. A steering committee is going to be looked into and they will work with Marla on what the community really wants, needs. Looking for some feedback as to who should sit on the committee.

Marla noted she graduated from Witman College and has some experience working in the NW, when she worked with Wallowa Resources for one summer.

County Park Infrastructure – Mikel Diwan, Public Works Director

Tucker Park received a new restroom on the west end of the campground in 2013 and just this year that septic system failed requiring a shutdown of that restroom facility and a 1/3 of the campsites for the last two months. All of the septic systems are severely undersized for the volume of visitors we are getting. We are seeing a 60-70 percent increase in usage just this year.

He has been working with Mike Matthews on what can be done and the sanitarian at both Tucker and Tollbridge and it is obvious we need to do some fairly sizable improvements. This past year we received funding to replace one of the septic systems at Tollbridge and that work has started.

Mikel noted the majority of funds coming from the parks gets rolled back into the general fund. He would like to see a large portion of that money go back into the parks department in order to fix the septic system problems and general maintenance on the parks that has not been done for many years. We need working restrooms and shower facilities or we will not have visitors, which results in no revenue.

Mike Matthews said there are systems we can get to make it work. We need to have a good overall look at where these systems can provide the most benefit for the long term. The strength of the waste going into the systems is much stronger than that of a single family dwelling, which is what the current systems are sized for. We are looking at a treatment system as well as a septic system. Because of the size of the facility needed we will need to work with DEQ.

Benton asked if these is a Park Management Plan. Diwan stated there is not but we are really starting it now with the conversations about the septic systems. Two years ago during the last budget cycle a county building maintenance plan was started, he is doing that for PW equipment replacement and now it is time to start that process for the Parks as well. A capital improvement and maintenance plan needs to be developed. Meyer asked how much money we are talking about to upgrade the existing septic systems. Mikel estimates between \$500K-\$1M for both Tucker and Tollbridge Parks. That would cover the five other systems that need to be addressed outside of the one in the works that received grant funding.

Perkins asked if it is possible to increase the capacity to add more campsites to increase revenue over time. Diwan said that is possible but we are looking at constructing systems for what we have right now. The focus would need to shift a bit to increase the system size to handle more for future development. He sees Tollbridge being able to increase campsites but not sure about Tucker. Perkins said that incrementally if you build more than you need on the front end seems to make sense.

Benton said he feels this can be figured out. Rivers asked if there are grants this could fit in. Mikel stated yes there are but you have to be awarded the grant first. He would like to see some of the funds we are receiving from fees be used for maintenance of the parks.

Meyer said we could do some sort of inter fund load to get things going and payback within a period of time.

Meyer asked about Oregon Travel Experience are there funds there. Mike Matthews said there are fixture changes you can do to use less water, but that costs as well.

Mikel would like to also have a discussion in the future for putting the revenues back into the park system and not just for the septic systems. Chair Rivers said the group hears him and would like to see some sort of management plan and program of how to move forward with the parks department to continue to make improvements. Mikel stated we are making these parks run with 1.5 FTE employees. It has been difficult to recruited seasonal workers. Perkins said perhaps this is good opportunity to work with the city, port and county on maintenance. It seems like it can be done more efficiently. He realizes each entity is different but there are similarities. Mikel said with the upturn of usage in the parks he would like to see the running of them stay with the county. He is not asking for anything tonight he wants to make the commissioners aware of the situation regarding the septic systems.

Chair Rivers asked if there is anything else.

Mike Matthews, Environmental Health Supervisor – brought up a waste water issue regarding the City of Hood River. The City recently passed a Resolution that prohibits hooking into the city sewer unless the property is located in the city limits. Mike has been working with a home owner on Avalon, which is in the UGB, they have a failing system and the city sewer run in front of their home but cannot get a permit to hook in. The lot is small and there is no room for a typical system. He wanted the Commisison to be aware of this because there are several other houses in the Avalon area that either do have or will have failing systems and it seems now there is no way for them to get hooked onto the city sewer. Mike has met with his city counterparts on this issue and they are reluctant even though there are clauses that allow for hardships but this one he is working on Avalon they are not allowing them to hook in. The city says they have to annex in but they have to get their neighbors to annex as well. The neighbors are already on the city sewer.

Jeff said the city is using this situation as leverage to get the neighbors to annex in. Not sure what leverage that provides but that is their stance.

The resolution was passed just last month by the city. The homeowner was ready to get hooked up to the city sewer months ago and by the time they had the money for the work and got a contractor lined up the city passed the resolution and will not issue a permit.

BOARD OF COMMISSIONERS REGULAR MEETING AGENDA
6:00pm, CBAB, 601 State Street, 1st Floor Conf. Room, Hood River, Oregon

MINUTES

Chair Rivers opened the work session. Present: Commissioner Perkins, Commissioner Benton, Commissioner Meyer, Commissioner Joplin, Counsels Carey and Davies and Administrator Hecksel.

CONFLICTS OR POTENTIAL CONFLICTS OF INTEREST –

None

ADDITIONS OR DELETIONS FROM THE AGENDA –

Supplemntal consent agenda was added: timber sale and a liquor license sign off.

UNSCHEDULED ITEMS FROM THE GENERAL PUBLIC (limit 5 minutes per person per subject)

REPORTS

County Administrator – Jeff stated the Prevention department was awarded the STOP grant applied for a few months back, this is a four year grant.

Commissioner Joplin- cultural of health prize was awarded \$25,000.

Commissioner Benton - attended the NORCOR meeting in Ron's place and discussion surrounded funding options. 3 options were kicked around: 1 being a permanent rate up to \$1.00 per thousand and a majority of NORCOR counties would need to pass it in order for it to pass. Benton asked Will to explain how that would work. Will Carey said that he thinks all four counties had to pass it but the way it was explained was each county could determine how they want to fund NORCOR and if 3 said a bond is the way to do it they could do that. There was the permanent rate and that would be the majority of the 4 county populations would need to pass it before it would go into effect - NORCOR would go out for that rate. NORCOR going out for a levy or each individual county would go out and if it passed then you would have that money to help with your portion. Benton stated the sales tactic that your tax dollars would not increase because we would roll over the current levy to this one is not going to work because that levy will retire at the end of September and it is to late to get the operating levy on a ballot and in place. So the taxes will go down and then you would have to have a new levy.

Meyer asked what Sheriff English thought about this. Benton said English was not there. Benton said that NORCOR Board needs to decide if they will go out as the entity or if they want to leave it up to each member county to do their own thing. Counsel Carey said that Doug Goe is the Bond Counsel that is being consulted. He put the NORCOR Bond together 20 years ago and is very well regarded.

Commissioner Perkins - attending CREA meetings for FID and the County. There is a lot of things happening with big utilities and PERPA which could have implications to any big projects that we might look at in the future. One company in the last year has gone after PERPA in the western states to drive down costs etc. He feels it is about 40 percent of his job right now dealing with CREA and PERPA issues. It is good, but consuming.

CONSENT AGENDA

- *Approve minutes from the following Board of Commissioner Meetings: August 22nd and August 29th, 2016
- *Adopt a Proclamation regarding Min Yasui as a tribute to what would have been his 100th Birthday in October 2016.
- *Authorize Chair Rivers to sign off on a state liquor license for Cooper Spur Mountain Resort.
- *Confirm the e-mail poll approval from September 7, 2016 that authorized out of state travel for Commissioner Joplin to attend the Behavioral Health and Justice Leadership Academy in Maryland September 20-23, 2016 (includes travel days).
- *Approve contracting with Davies Dunn, PC for general legal counsel, Annala, Carey, Thompson, Baker for land use counsel and Bruce Bischof for personnel counsel, authorizing the County Administrator to sign the Agreements.
- *Approve and sign the final plat for the Pine Crest Planned Unit Development, Phase 2 as presented.

*Authorize the Forestry Department to submit a County Opportunity Grant to the Oregon Parks & Recreation Department for development, design and engineering of plans for a new campground and day use at Kingsley Reservoir, authorize the Administrator to sign the grant application and approve and sign a Resolution showing the Commissions support of the grant application.

*Approve a 15 foot Easement to the East Fork Irrigation District for installation of a 15 inch PVC pressure irrigation pipeline.

*Approve and sign the Sub Lease between the Hood River County School District and the Hood River Valley Recreation District as the Master Lessor of Golden Eagle Park, and approve and authorize Chair Rivers to sign a sewer easement for the project once drafted and or approved by legal counsel.

Supplemental consent:

*Award the Ichabod timber sale #17-4 to the highest bidder: Boise Cascade Wood Products, LLC – La Grande

*Authorize Chair Rivers to sign off on the OLCC application for Draper Girls Cider Company.

Commissioner Benton made a motion to approve the consent and supplemental consent agenda as presented. Commissioner Perkins seconded the motion.

Vote on the motion was as follows:

Commissioner Perkins –yea

Commissioner Benton – yea

Commissioner Meyer – yea

Commissioner Joplin – yea

Chair Rivers – yea

Motion carried.

ITEMS FROM THE WORK SESSION

Crystal Springs Water District Property Acquisition for Mid-Valley Reservoir

Perkins feels we need to get them a support letter for their funding application. Reading the report opened his eyes about the fire support and there is no compensation to Crystal Springs to supply that. They are required to provide the service and keep it at a certain size but there are no funds for maintenance.

Tree Seed Opportunity through Northwest Tree Improvement Co-op (NWTIC) and Medford Tree Improvement Cooperative (MEDTIC) Agreement

Meyer made a motion to move forward and sign the MOU with MEDTIC AND NWTIC. Commissioner Perkins seconded the motion.

Vote on the motion was as follows:

Commissioner Perkins –yea

Commissioner Benton – yea

Commissioner Meyer – yea

Commissioner Joplin – yea

Chair Rivers – yea

Motion carried.

County Park Infrastructure

No formal action. Consensus to have Staff provide some sort of park plan.

CURRENT BUSINESS

Community Development

Emergency Marijuana Moratorium Ordinance

RECOMMENDATION: Approve setting a date for a public hearing on October 17, 2016 at 6:00pm to consider an emergency ordinance regarding marijuana businesses and facilities in the county.

County Counsel Carey - the planning department is recommending we advertise for a public hearing to pass an ordinance providing a moratorium on marijuana for Oct 17th. The current ordinance expires on the 15th but that is a Saturday. So when that happens you get to use the following week day which is Oct 17th. After the hearing the commission would decide if you want to pass a new Ordinance restoring the moratorium or not. That could have something to do with how you feel about the draft ordinance. What we have done with the moratorium is to hold things off until we were able to get the regular ordinance in place.

The BOC feels it makes sense to have a hearing to consider the emergency ordinance it will provide time for the regular ordinance to be fully reviewed.

Commissioner Meyer made a motion to approve setting a public hearing on Monday, October 17, 2016 at 6:00pm to consider an emergency ordinance placing a moratorium on marijuana businesses in Hood River County. Commissioner Benton seconded the motion.

Vote on the motion was as follows:

Commissioner Perkins –yea
Commissioner Benton – yea
Commissioner Meyer – yea
Commissioner Joplin – yea
Chair Rivers – yea

Motion carried.

EXECUTIVE SESSION per ORS 192.660

None

ADJOURNMENT – Chair Rivers adjourned the meeting at 6:30pm.

CALENDAR OF UPCOMING PUBLIC MEETINGS/EVENTS (note all dates and time subject to change with or without notice as required)

Sept 19	4:15 & 6:00pm	Board of Commissioners work session & business meeting, CBAB, 601 State Street, Conf Room 1 st Floor (3 rd Mon. ea. mo)
Sept 20	7:00pm	Library District Board meeting, Library, 502 State St., Conf. Room (3 rd Tues ea. mo. - subject to change)
Sept 21	3:00pm	Department Head Meeting – CBAB, 601 State Street, 1 st Floor Conf Room
Sept 27	2:00pm	Safety Committee Meeting, Courthouse, 309 State Street, 1 st Floor (4 th Tues. ea. mo.)
Sept 28	5:30pm	County Planning Commission Meeting, CBAB, 601 State St Conf Rm. 1 st Fl, (2 nd & 4 th Wed. ea. mo generally)
Oct 3	1:00pm	Tri-County Mental Health Board, Mid Col. Center for Living-TD (1 st Mon. ea. mo.-generally)
Oct 5	2:00pm	HRC Water Planning Group, 601 State St, 1 st floor conf. room (1 st Wed. ea.mo. – generally)
Oct 12	5:30pm	County Planning Commission Meeting, CBAB, 601 State St Conf Rm. 1 st Fl, (2 nd & 4 th Wed. ea. mo generally)
Oct 17	4:00 & 6:00pm	Board of Commissioners work session & business meeting, CBAB, 601 State Street, Conf Room 1 st Floor (3 rd Mon. ea. mo)
Oct 18	7:00pm	Library District Board meeting, Library, 502 State St., Conf. Room (3 rd Tues ea. mo. - subject to change)
Oct 19	3:00pm	Department Head Meeting – CBAB, 601 State Street, 1 st Floor Conf Room

AGENDA REQUEST FORM

DATE: 10/17/16 **DEPARTMENT:** Admin **DEPT. HEAD SIGNATURE:** _____

ISSUE: Out of State Travel – Commissioner Joplin

STATUTORY AUTHORITY: OAR _____ County Ordinance _____

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Commissioner Joplin is requesting out of state travel to attend the 2016 Annual Conference of Zero to Three – Building Powerful Connections in Louisiana. The conference will provide beneficial information that can be used with Commissioner Joplin’s work with NORCOR.

FISCAL IMPACT: Budget Line Item: _____ Account Balance: _____

PROJECT ANALYSIS:

Staff Contact: _____ Estimated Hours Spent to Date: _____
Estimated Completion Date: _____ Comments: _____

ACKNOWLEDGEMENT BY OTHER AFFECTED PARTIES:

County Counsel Finance Director Other Affected Agencies Administrator
 Safety Committee Human Resources Director Appropriate County Committee Other

RECOMMENDATION FROM DEPARTMENT HEAD:

ADMINISTRATIVE COMMENTS/APPROVAL:

Approve out of state travel for Commissioner Joplin to attend the Zero to Three Annual Conference in Louisiana December 7-9, 2016 (travel dates might be one day prior and one day after).

County Administrator _____

ACTION OF THE BOARD:

County Administrator _____

FOLLOW-UP:*Ord./Res./Agmt./Order Originals: to R & A

*Additional Originals to: _____

Copies (all info.): _____ Copies (ARF only): _____

Heidi DeHart

From: Karen Joplin
Sent: Sunday, September 25, 2016 7:42 PM
To: Heidi DeHart
Cc: Jeff Hecksel
Subject: Annual Conference 2016 —Building Powerful Connections • ZERO TO THREE

Heidi,

I'd like to attend this conference; there is a speaker on working with children of incarcerated individuals that I'm really interested in for this region. I've asked around but I don't think I can get it sponsored so I'm asking the county cover the costs.

Please put the request in an agenda or email poll.

Thank you,

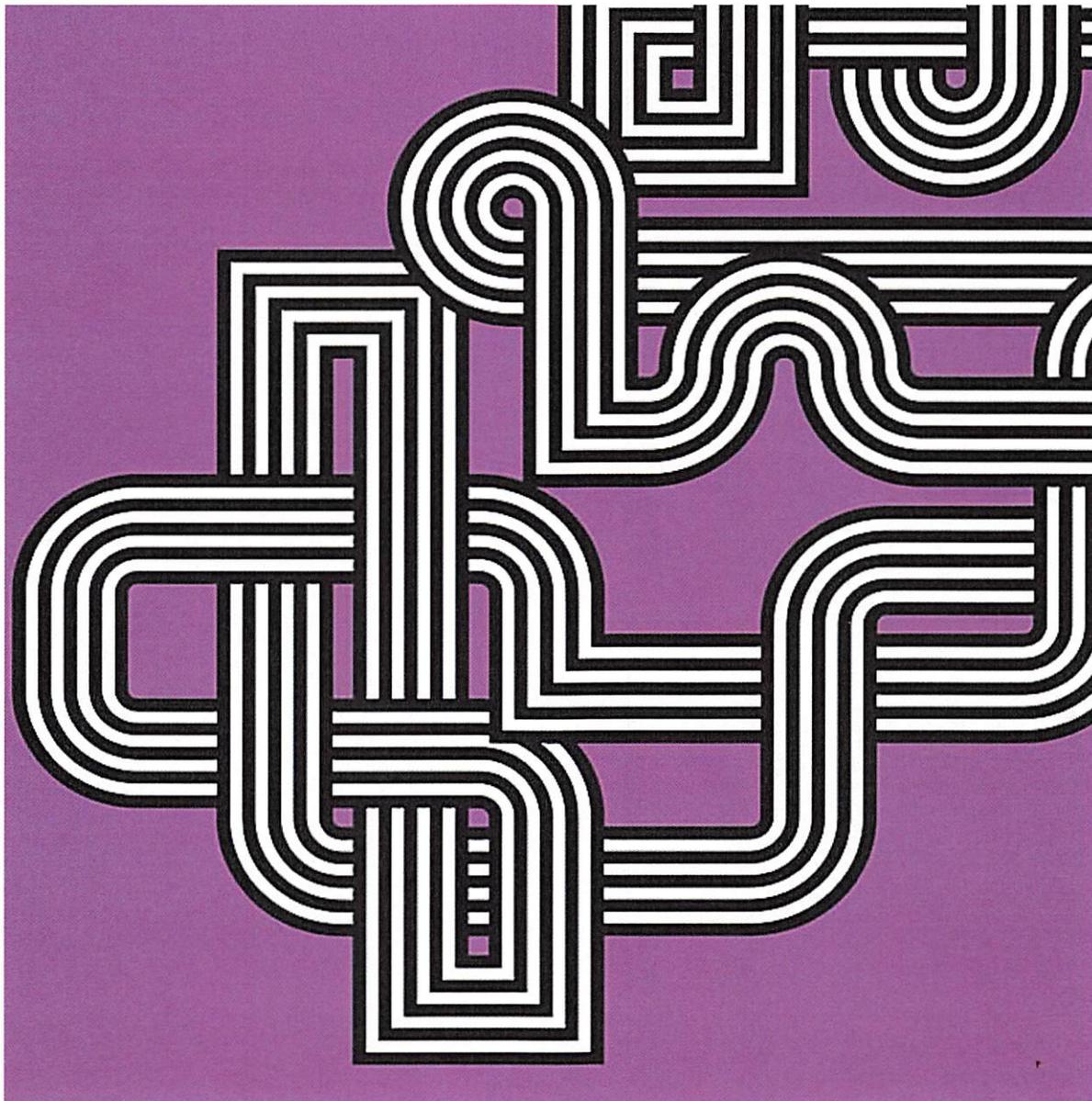
<https://www.zerotothree.org/events/2-annual-conference-2016-building-powerful-connections#overview>

Karen Joplin 
Hood River County Commissioner
District 1
[\(541\)308-5526](tel:(541)308-5526)
karen.Joplin@co.hood-river.or.us



Annual Conference 2016 —Building Powerful Connections

ZERO TO THREE's annual multidisciplinary education and networking event (formerly NTI) for early childhood professionals is taking place December 7–9 in New Orleans.



Overview

(<http://annualconference.zerotothree.org/>)



(<http://annualconference.zerotothree.org/>)

(<http://annualconference.zerotothree.org/>)

Our connections have power: the power to calm, the power to heal, the power to transform. Join ZERO TO THREE this December in New Orleans as we help you Build the Powerful Connections you need to support young children and their families in reaching their full potential.

ZERO TO THREE’s Annual Conference is your one-of-a-kind opportunity to be informed by the experts and inspired by your colleagues—make plans to attend today.

LEARN MORE
([HTTP://ANNUALCONFERENCE.ZEROTOTHREE.ORG/](http://annualconference.zerotothree.org/))

REGISTER NOW
([HTTPS://MY.ZEROTOTHREE.ORG/NC__EVENT?ID=A0L1A000001RPUZAA4](https://my.zerotothree.org/nc__event?id=A0L1A000001RPUZAA4))

Registration Fees

Registration Period	For Members	For Non-Members
Regular from September 16-October 31	\$480	\$555
Late/Onsite begins November 1	\$530	\$605
Pre-Conference Forums Conference registration not required	\$225	\$225

Discounts are available for groups of 10 or more. Contact us at annualconference@zerotothree.org or 855-868-1192 for more information.

Contact Us

For more information email annualconference@zerotothree.org or call 855-868-1192.

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begins November 1

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\$530 for Members

\$605 for Non-Members

Pre-Conference Forums

Separate registration and fee



Additional \$225

For Attendees and Non-Attendees

Group Discounts

Discounts are available for groups of 10 or more. Contact us at annualconference@zerotothree.org or 855-868-1192 for more information.

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AGENDA REQUEST FORM

DATE: 10/17/16 **DEPARTMENT:** Admin **DEPT. HEAD SIGNATURE:** _____

ISSUE: Letter of support – Duckwall Fruit Storage

STATUTORY AUTHORITY: OAR _____ County Ordinance _____

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Duckwall Fruit is applying for building permit from the Corp of Engineers and the Department of State Lands for construction of additional controlled atmosphere storage facility(ies) on their property to accommodate their storage need. Duckwall Fruit has requested a letter of support for the project from the Commission. A copy of a letter is in the packet for your consideration.

FISCAL IMPACT: Budget Line Item: _____ Account Balance: _____

PROJECT ANALYSIS:

Staff Contact: _____ Estimated Hours Spent to Date: _____
Estimated Completion Date: _____ Comments: _____

ACKNOWLEDGEMENT BY OTHER AFFECTED PARTIES:

County Counsel Finance Director Other Affected Agencies Administrator
 Safety Committee Human Resources Director Appropriate County Committee Other

RECOMMENDATION FROM DEPARTMENT HEAD:

ADMINISTRATIVE COMMENTS/APPROVAL:

Approve and sign a letter showing the Commissions support of Duckwall Fruits’ pursuit of building permits for additional cold storage.

County Administrator _____

ACTION OF THE BOARD:

County Administrator _____

FOLLOW-UP:*Ord./Res./Agmt./Order Originals: to R & A

*Additional Originals to: _____

Copies (all info.): _____ Copies (ARF only): _____

Heidi DeHart

From: Fred Duckwall [FDuckwall@duckwallfruit.com]
Sent: Thursday, October 06, 2016 4:11 PM
To: Heidi DeHart
Subject: Emailing - SKMBT_C45216100703070.pdf
Attachments: SKMBT_C45216100703070.pdf

Hi Heidi—attached is copy of the letter we'd like the Commission to approve. The situation is that for the last 5 years, depending on the crop size, we have been forced to rent between 4000 and 15,000 bins of outside storage space from other local packers to house our crops. The availability of this rental space is shrinking as these same packers reclaim their facilities for their own increasing crops. We are simply forced to build additional CA space to take care of our existing grower base.

We are required to apply for building permits from the Corps of Engineers on the national level and the Department of State Lands on the state level and thought like that having a positive letter from the County Commissioners in the packet might be a nice touch to share with these 2 other governmental bodies.

Let me know if you have any question – thanks

Fred

HOOD RIVER COUNTY BOARD OF COMMISSIONERS



JEFF HECKSEL, COUNTY ADMINISTRATOR

601 State Street • Hood River, OR 97031 • (541) 386-3970 • FAX (541) 386-9392

BOARD OF COMMISSIONERS

RON RIVERS - CHAIR
KAREN JOPLIN - DISTRICT NO. 1
MAUI MEYER - DISTRICT NO. 2
BOB BENTON - DISTRICT NO. 3
LES PERKINS - DISTRICT NO. 4

October 17, 2016

To Whom It May Concern:

We are writing to express our support of Duckwall Fruit's controlled atmosphere storage building project. Pear production is not an insignificant industry in Oregon ranking as the number one tree fruit crop and number two fresh pear producing State in the U.S.

Duckwall Fruit for several years, due to the increase of crop sizes, have been forced to rent outside storage space from other local packers to house their crop. As these same packers reclaim their facilities for their own increasing crops the availability of rental space is dwindling making it necessary for Duckwall Fruit to add more storage for their use.

The Hood River County Board of Commissioners is supportive of Duckwall Fruits' pursuit of needed permits to continue with their project to construct additional storage for their crop.

Sincerely,

Hood River County
Board of Commissioners

Ron Rivers, Chair

Karen Joplin, Commissioner

Maui Meyer, Commissioner

Robert Benton, Commissioner

Les Perkins, Commissioner

A Small County with a big mission:
Providing Quality of Life for all.

AGENDA REQUEST FORM

DATE: September 29, 2016 DEPARTMENT: Forestry DEPT. HEAD SIGNATURE: _____

SUBJECT: Gander Timber Sale #16-8 Closure

STATUTORY AUTHORITY: ORS _____ OAR _____ County Ordinance _____

=====
BACKGROUND/SUMMARY OR ALTERNATIVES CONSIDERED: Timber Sale requirements have been met and purchaser, Boise Cascade Wood Products, LLC requests closure. Sale was approved on May 16, 2016 with estimated volume of 1,448 MBF @ \$468.98/MBF for Douglas-fir; and 165 MBF @ \$215/MBF for White Fir and other conifers. Final volume removed was 2,191.45 MBF for actual revenue of \$950,907.55. This sale included approximate \$25767.83 in road construction and improvements.

=====
FISCAL IMPACT: Budget Line Item _____ Account Balance _____
Budget Line Item 406-1802-395.10-90 Account Balance \$950,907.55

=====
PROJECT ANALYSIS: Staff Contact: _____
Estimate Hours Spent To Date: _____ Estimated Completion Date: _____
Comments:

=====
ACKNOWLEDGMENT BY OTHER AFFECTED PARTIES: (If applicable)
 County Counsel Finance Director Other Affected Agencies Administrator
 Safety Committee Human Resources Director Appropriate County Committee Other

=====
RECOMMENDATION FROM DEPARTMENT HEAD: Close as requested by purchaser and authorize return of appropriate bonds.

=====
ADMINISTRATIVE RECOMMENDATION:
Approve closing the Gander timber sale # 16-8 and return appropriate bonds.

County Administrator _____ Department Head/staff attendance to meeting (circle one): Yes No

=====
DATE: _____ ACTION OF BOARD:

County Administrator _____

=====
FOLLOW-UP:
* Ord./Res./Agmt./Order Originals: _____ *Additional/Original to: _____
Copies (all info): _____ *Agreement/ordinance/resolution book
Copies (ARF only): _____ *Copy for agreement tracking book

Boise Wood Products
1917 Jackson Avenue La Grande, OR 97850
T 541-962-2042 F 541-962-2002



September 29, 2016

HRC Forestry Department
Attn: Doug Thiesies, Ellen Davis
Eucalyptus T.S.

Dear Mr. Thiesies:

Boise Cascade Wood Products, LLC, has been notified that all final project work has been completed and accepted on the Gander T.S. With all of the contract work completed, we are requesting that the sale be officially closed. Thank you for your time and I look forward to hearing from you in a timely manner.

Sincerely,

Jordan Lanman
Purchaser's Representative
Boise Cascade Wood Products

AGENDA REQUEST FORM

DATE: 10-7-16 **DEPARTMENT:** Community Development **DEPT. HEAD SIGNATURE:** //John Roberts//

SUBJECT:

A request that the Board of County Commissioners schedule a public hearing to consider an appeal of the Planning Commission's decision to deny Apollo Land Holdings LLC's industrial land use permit application to establish a 50 room hotel located on a portion of their 32.64 acre Industrial (M-1) zoned property located at the former Dee Mill site.

AUTHORITY: ORS: _____ OAR _____ County Ordinance/ Code: Hood River County Zoning Ordinance

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

On February 24, 2016, the County Planning Department approved, with conditions, the above-referenced application. On March 10, 2016, the Planning Department's Decision was appealed by the Hood River Valley Residents Committee. On May 25, 2016, the County Planning Commission held a public hearing to consider the appeal. After receiving a staff summary and public testimony, and due deliberations, the Planning Commission voted 5-2 to overturn the Planning Department's decision and deny the application. On July 15, 2016, the applicant filed an appeal of the Planning Commission's decision.

FISCAL IMPACT/PROJECT ANALYSIS:

Budget Line Item _____ Account Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: Eric Walker, Principal Planner
Comments: Fiscal impacts associated with this appeal are limited to staff time.

ACKNOWLEDGEMENT BY OTHER AFFECTED PARTIES: (IF APPLICABLE)

County Counsel Finance Director Other Affected Agencies Administrator
 Safety Committee Human Resources Director Appropriate County Committee Other
(Planning Commission)

RECOMMENDATION FROM THE PLANNING COMMISSION:

It is recommended that the Board of County Commissioners schedule a public hearing for November 21, 2016 to consider the above appeal.

ADMINISTRATIVE COMMENTS/APPROVAL:

Approve setting a public hearing for November 21, 2016 at 6pm, or soon thereafter to consider an appeal of the Planning Commission decision regarding the Apollo Land Holdings, LLC industrial land use application for a 50 room hotel.

County Administrator _____ Dept. Head/Staff Attendance to Meeting (circle one) Yes No

ACTION OF THE BOARD:

Date _____

County Administrator _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: to R & A *Additional/Exceptional Originals to: _____
Copies (all info.):
Copies (ARF only):

AGENDA REQUEST FORM

DATE: 10/17/16 **DEPT:** Community Development **DEPT. HEAD SIGNATURE:** // John Roberts //

SUBJECT: Budget Adjustment – Community Development – Information Services / FY 16/17

AUTHORITY: ORS _____ OAR _____ County Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED: The county’s phone system and aspects of its data management use Cisco technology. In FY 16/17 \$37,500 was budgeted to cover upgrades and maintenance of the Cisco systems. Cisco (through Technology Integration Group) is charging the county \$62,550.36 for the upgrades creating a \$25,192 gap. The General Fund Community Development – Planning increase in fee revenue, Information Services reallocation of approved expenditures, plus the General Fund – Budget & Finance use of surplus beginning fund balance are the sources presented to cover the \$25,195 gap or shortage.

The upgrades are part of Cisco improving its platform and needing to update the voice server system because the hardware gets out dated and they can’t maintain it anymore. The 2901 router upgrades are due to the fact that the old 1760 routers, which they will be replacing, are over 12-years old and are incompatible with the new voice server system. The \$25,000 shortage was unanticipated and we did not expect to be put in this position. If there isn’t compliance the entire phone system would be jeopardized. With that said, the situation did enable future maintenance, upgrade and support agreement costs to be reevaluated and renegotiated. As a result the county will be in a much better position in the forthcoming years. For example, equipment costs will go from approximately \$37,500 annually to \$15,000. The next big support cost will come in about 7-years and be approx. \$60,000.

FISCAL IMPACT/PROJECT ANALYSIS:

Budget Line Item _____ Account Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: _____

Comments: \$25,195K presented to cover the Capital – Computer Equipment shortfall.

ACKNOWLEDGEMENT BY OTHER AFFECTED PARTIES: (IF APPLICABLE)

County Counsel Finance Director Other Affected Agencies Administrator
 Safety Committee Human Resources Director Appropriate County Committee Other

RECOMMENDATION FROM DEPARTMENT HEAD: Request the Board of County Commissioners approve the Budget Adjustment as presented.

ADMINISTRATIVE COMMENTS/APPROVAL:

Approve the budget adjustment & resolution to cover unanticipated phone system upgrade expenses (\$addtl \$25,195) added to capital outlay in the information services budget FY 17/18.

County Administrator _____ Dept. Head/Staff Attendance to Meeting (circle one) Yes No

ACTION OF THE BOARD:

Date _____

County Administrator _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: to R & A *Additional/Exceptional Originals to: _____
Copies (all info.):

**HOOD RIVER COUNTY
BUDGET ADJUSTMENT
FYE 6/30/17**

FUND GENERAL FUND NO. 101 DEPT INFO SVCS/PLANNING

ACCOUNT TITLE	ACCOUNT NUMBER	<u>RESOURCES</u>		<u>EXPENDITURES</u>	
		DEBIT (DECREASE)	CREDIT INCREASE	DEBIT INCREASE	CREDIT (DECREASE)
BEGINNING FUND BALANCE	101-0301-300.01-01		7,420		
PLANNING PERMITS	101-3901-332.10-08		10,000		
APPEAL FEES	101-3901-341.10-45		1,775		
COMPUTER MAINTENANCE	101-3902-419.35-03				6,000
COMPUTER EQUIPMENT	101-3902-419.35-01				37,500
CAPITAL - MACH & EQUIP	101-3902-419.70-05			62,695	
	- - - - -				
	- - - - -				
	- - - - -				
	- - - - -				
	- - - - -				

REASON FOR BUDGET ADJUSTMENT:

The county's phone system and aspects of its data management use and rely on Cisco integrated technology. In FY 16/17 \$37,500 was budgeted to cover upgrades and maintenance of the Cisco systems. Unexpectedly Cisco is charging the county \$62,550.36 for the upgrades created a \$25,192 gap. General Fund Community Development - Planning Department increase in fee revenue, Information Services reallocation of approved expenditures, plus the General Fund - Budget & Finance use of surplus beginning fund balance are the sources presented to cover the \$25,195 gap. Staff did not expect to be put in this situation; however, it is imperative to comply with phone system requirements.

DEPARTMENT HEAD

10.5.16
DATE

APPROVAL: FINANCE DIRECTOR _____ DATE: _____

POSTED TO COMPUTER BY: _____ DATE: _____

**BEFORE THE BOARD OF COMMISSIONERS
HOOD RIVER COUNTY, OREGON**

**IN THE MATTER OF A BUDGET)
ADJUSTMENT FISCAL YEAR 16/17)
GENERAL FUND - INFORMATION SERVICES,) RESOLUTION # _____
PLANNING, BUDGET & FINANCE)**

WHEREAS, the county’s phone system and aspects of its data management use and rely on Cisco integrated technology; and

WHEREAS, in FY 16/17 \$37,500 was budgeted to cover upgrades and maintenance of the Cisco systems; Cisco (through Technology Integration Group) is charging the county \$62,550.36 for the upgrades creating a \$25,192 gap; and

WHEREAS, General Fund Community Development – Planning increase in fee revenue, Information Services reallocation of approved expenditures, plus the General Fund – Budget & Finance use of surplus beginning fund balance are the sources presented to cover the \$25,195 shortage;

THEREFORE, BE IT RESOLVED that the following budget adjustment be made:

GENERAL FUND

Community Development - Information Services
Community Development - Planning
Budget & Finance

Beginning Fund Balance	101-0301-300.01-01	\$7,420	Increase
Planning Permits	101-3901-332.10-08	\$10,000	Increase
Appeal Fees	101-3901-341.10-45	\$1,775	Increase
Computer Maintenance	101-3902-419.35-03	\$6,000	Decrease
Computer Equipment	101-3902-419.35-01	\$37,500	Decrease
Capital – Mach & Equip	101-3902-419.70-05	\$62,695	Increase

ADOPTED THIS 17th DAY OF OCTOBER, 2016

CHAIR, RON RIVERS

COMMISSIONER, KAREN JOPLIN

COMMISSIONER, MAUI MEYERS

COMMISSIONER, ROBERT BENTON

COMMISSIONER, LES PERKINS

Deal ID / Name: 23552570 / Hood River County UC Upgrade W/ Mig. Lic.
 Estimate / Name: NE55688020ZY/UC Upgrade w/ Migration Licenses
 Customer Name: Hood River County
 Quote Date: 16 Sep 2016
 Expiration Date: 16 Oct 2016
 Account Executive: Nancy Tillick
 Engineer: Tony Arduesser
 State ID: Pricing offered under NVP Contract# AR-233 (14-19) OR PA #4723



Item Name	Description	Duration	Sale Price	Qty	Ext/Sale Price
BE6M-M4-K9=	Cisco Business Edition 6000M Svr (M4), Export Restricted SW		5,734.00	2	11,468.00
CAB-N5K6A-NA	Power Cord, 200/240V 6A North America		0.00	2	0.00
BE6K-SW-10X11X-K9	Cisco Business Edition 6000 - Software App Version 10.X 11.X		0.00	2	0.00
VMW-VS5-HYP-K9	Cisco UC Virt. Hypervisor 5.x (2-socket)		0.00	2	0.00
VMW-VS5-SNS	Cisco UC Virt. Hypervisor 5.x - SnS		0.00	2	0.00
CIT-A03-D300GA2	300GB 8Gb SAS 10K RPM SFF HDD/hot plug/drive sled mounted		0.00	12	0.00
CIT-CPU-E52630D	2.40 GHz E5-2630 v3/85W 8C/20MB Cache/DDR4 1866MHz		0.00	2	0.00
CIT-MR-1X162RU-A	16GB DDR4-2133-MHz RDIMM/PC4-17000/dual rank/x4/1.2v		0.00	4	0.00
CIT-MRAID12G	Cisco 12G SAS Modular Raid Controller		0.00	2	0.00
CIT-MRAID12G-1GB	Cisco 12Gbps SAS 1GB FBWC Cache module (Raid 0/1/5/6)		0.00	2	0.00
CIT-PSU1-770W	770W AC Hot-Plug Power Supply for 1U C-Series Rack Server		0.00	2	0.00
R2XX-RAID5	Enable RAID 5 Setting		0.00	2	0.00
C2901-CME-SRST/K9	2901 Voice Bundle w/PVDM3-16,FL-CME-SRST-25,UC Lic,FL-CUBE10		2,070.95	5	10,354.75
PWR-2901-AC	Cisco 2901 AC Power Supply		0.00	5	0.00
CAB-AC	AC Power Cord (North America), C13, NEMA 5-15P, 2.1m		0.00	5	0.00
FL-CUBEE-5	Unified Border Element Enterprise License - 5 sessions		0.00	10	0.00
ISR-CCP-EXP	Cisco Config Pro Express on Router Flash		0.00	5	0.00
PVDM3-16	16-channel high-density voice DSP module		0.00	5	0.00
SL-29-IPB-K9	IP Base License for Cisco 2901-2951		0.00	5	0.00
SL-29-UC-K9	Unified Communication License for Cisco 2901-2951		0.00	5	0.00
FL-CME-SRST-25	Communication Manager Express or SRST - 25 seat license		0.00	5	0.00
MEM-2900-512MB-DEF	512MB DRAM for Cisco 2901-2921 ISR (Default)		0.00	5	0.00
MEM-CF-256MB	256MB Compact Flash for Cisco 1900, 2900, 3900 ISR		0.00	5	0.00
HWIC-BLANK	Blank faceplate for HWIC slot on Cisco ISR		0.00	15	0.00
S29UK9-15403M	Cisco 2901-2921 IOS UNIVERSAL		0.00	5	0.00
FL-SRST	Cisco Survivable Remote Site Telephony License		0.00	5	0.00
FL-CME-SRST-5	Communication Manager Express or SRST - 5 seat license		103.70	5	518.50
VIC2-2FXO	Two-port Voice Interface Card - FXO (Universal)		266.40	5	1,342.00
R-UCL-UCM-UPG-K9	Top Level Sku For 11.X and Later User License - Migration		0.00	1	0.00
EXPWY-VE-E-K9	Cisco Expressway-E Server, Virtual Edition		0.00	1	0.00
EXPWY-VE-C-K9	Cisco Expressway-C Server, Virtual Edition		0.00	1	0.00
SW-EXP-8.X-K9	Software Image for Expressway with Encryption, Version X8		0.00	1	0.00
CUCM-VERS-11.0	CUCM Software version 11.0		0.00	1	0.00
UC-7.X-OR-EARLIER	UC 7.X or earlier Version Migration		0.00	1	0.00
DBUPGRADE	Royalty option for IBM database upgrade		0.00	237	0.00
LIC-EXP-AN	Enable Advanced Networking Option		0.00	1	0.00
LIC-EXP-SERIES	Enable Expressway Series Feature Set		0.00	2	0.00
LIC-EXP-E	Enable Expressway-E Feature Set		0.00	1	0.00
LIC-SW-EXP-K9	License Key Software Encrypted		0.00	2	0.00
LIC-EXP-GW	Enable GW Feature (H323-SIP)		0.00	2	0.00
LIC-EXP-TURN	Enable TURN Relay Option		0.00	1	0.00
UPG-CUCM-USR-A	Upgrade to UC Manager Enhanced		51.85	233	12,081.05
UPG-CUCM-ESS-USR-A	Upgrade to UC Manager Essential		9.15	4	36.60
JABBER-DESKTOP	Jabber for Desktop for PC and Mac		0.00	1	0.00
JAB-IPH-CLNT-UCM	Jabber for iPhone UCM Only		0.00	1	0.00
JAB-ADR-CLNT-UCM	Jabber for Android UCM Only		0.00	1	0.00
JABBER-TABLET	Jabber for iPad and Android Tablet		0.00	1	0.00
JABBER-IM-ADDON	Jabber for Everyone Additional IM Users		0.00	1	0.00
JAB-ADR-RTU	Jabber for Android Right to Use		0.00	1	0.00
JABBER-TABLET-RTU	Jabber for Tablet Right to Use		0.00	1	0.00
JAB-IPH-RTU	Jabber for iPhone Right to Use		0.00	1	0.00
JABBER-DSK-K9-RTU	Jabber for Desktop Right to Use		0.00	1	0.00
JABBER-IM-RTU	Jabber for Everyone Right to Use		0.00	1	0.00
R-UCM11-UPG-XU-K9	Upgrade and Migration from Unity / Unity Cxn to Unity Cxn11x		0.00	1	0.00

TIG CONFIDENTIAL

UPG-UCXN11-USR	Upgrade Unity 4.x or later or UnityCxn 1.x to UnityCxn 11.x	18.30	218	3,989.40
UNITYCN11-PAK	Unity Connection 11.x PAK	0.00	1	0.00

Products SubTotal 39,790.30

Maintenance				
CON-SNT-BE6M4M4K	SNTC-8X5XNBD Cisco Business Edition 6000M Svr (M4), E	12.0 month(s)	258.30	2 516.60
CON-SNT-2901CMST	SNTC-8X5XNBD 2901 Voice Bundle w/ UC License PAK	12.0 month(s)	257.48	5 1,287.40
CON-ECMU-UPGCUCMG	SWSS UPGRADES Upgrade to UC Manage	12.0 month(s)	27.06	233 6,304.98
CON-ECMU-UPGCUCMA	SWSS UPGRADES Upgrade to UC Manage	12.0 month(s)	4.92	4 19.68
CON-ECMU-RUUMUPGK	SWSS UPGRADES Top Level Sku For 9.X and Later User Lic	12.0 month(s)	0.00	1 0.00
CON-ECMU-UPGUCXNR	SWSS UPGRADES Upgrade Unity 4.x or later or UnityCxn 1	12.0 month(s)	12.30	218 2,681.40
CON-ECMU-RUCXNXUK	SWSS UPGRADES Migration from Unity 4.x or Unity Cxn 1	12.0 month(s)	0.00	1 0.00
Maintenance SubTotal				10,810.06

Professional Services				
1 Professional Services	Professional Services per Statement of Work			0 11,950.00
				0
				0
				0
				0
Professional Services SubTotal				11,950.00

Totals	
Product:	\$ 39,790.30
Other Product:	\$ -
Maintenance:	\$ 10,810.06
Professional Services Estimate:	\$ 11,950.00
Estimated Tax:	\$ -
Estimated Shipping:	0.
GRAND TOTAL	\$ 62,550.36

Special Terms & Conditions
 This quotation includes special pricing provided by the manufacturer, Cisco Systems Inc. Any changes to this bill of materials may alter pricing and the entire quote must be ordered from

IF TAX EXEMPT, CERTIFICATE MUST BE PROVIDED AT TIME OF PURCHASE (Does not apply to Govt. Customers or GSA procurement).
 All prices are subject to change without notice and will be established when a purchase order has been issued by the client and accepted by TIG. Order acceptance by TIG occurs at time forth in TIG Invoices. Products quoted were selected by TIG based upon client specifications and are not warranted either expressed or implied for fitness for a particular purpose. Product
 * Applicable taxes will be calculated at time of shipment and must be included on the client's purchase order.

Signature: _____	Date: _____
Print Name: _____	P.O.: _____

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AGENDA REQUEST FORM

DATE: October 5, 2016 **DEPARTMENT:** HRCPD **DEPT. HEAD SIGNATURE:** _____

ISSUE:

Hood River County Prevention Department Budget Adjustment Fiscal Year 2016-2017 STOP (Sober Truth on Preventing Underage Drinking Act) Grant revenue (\$47,145) from Department of Health & Human Services Substance Abuse & Mental Health Services Administration (SAMHSA) and expenditures.

STATUTORY AUTHORITY: ORS _____ OAR _____ County Ordinance

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Add revenue and adjust Personnel, Materials & Services, and Youth Program Passthru expenditures to reflect grant requirements

FISCAL IMPACT: Budget Line Item: _____ Account Balance: _____

See attached Budget Adjustment and Resolution.

PROJECT ANALYSIS:

Staff Contact: _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Comments: _____

ACKNOWLEDGEMENT BY OTHER AFFECTED PARTIES:

County Counsel Finance Director HRCPD Administrator
 Safety Committee Human Resources Director ATOD Prevention Coalition Health Dept.

RECOMMENDATION FROM DEPARTMENT HEAD:

Approve attached budget adjustment and resolution adding \$47,145 to the HRCPD budget from SAMHSA

ADMINISTRATIVE COMMENTS/APPROVAL:

Approve the budget adjustment & resolution to accept a \$47,145 STOP grant revenue and expenditures into the Prevention budget FY 16/17.

County Administrator _____ Dept. Head Attendance to Meeting (circle one) Yes No

ACTION OF THE BOARD:

Date _____

County Administrator _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: to R & A *Additional Originals to: _____

Copies (all info.):

Copies (ARF only): B&F w/signed resolution

**HOOD RIVER COUNTY
BUDGET ADJUSTMENT
FYE 6/30/17**

FUND 445 FUND NO. 2401 DEPT HRCPD

ACCOUNT TITLE	ACCOUNT NUMBER	RESOURCES		EXPENDITURES	
		DEBIT (DECREASE)	CREDIT INCREASE	DEBIT INCREASE	CREDIT (DECREASE)
HM0102 CCF Main					
HRCCCF Grants	3 3 8 . 1 0 - 3 7		\$ 47,145.00		
HM0102 CCF Main					
Office Manager	4 4 4 . 1 0 - 6 0			\$ 2,515.00	
HM0102 CCF Main					
Director	4 4 4 . 1 1 - 1 7			\$ 2,605.00	
HM0102 CCF Main					
Prevention Specialist	4 4 4 . 1 2 - 7 1			\$ 1,760.00	
HM0102 CCF Main					
Prevention Education	4 4 4 . 1 3 - 0 1			\$ 8,349.00	
HM0102 CCF Main					
FICA	4 4 4 . 1 5 - 0 1			\$ 1,165.00	
HM0102 CCF Main					
Workers Comp	4 4 4 . 1 5 - 0 2			\$ 34.00	
HM0102 CCF Main					
PERS / Retirement	4 4 4 . 1 5 - 0 3			\$ 1,844.00	
HM0102 CCF Main					
Medical-Dental-Life	4 4 4 . 1 5 0 4			\$ 5,840.00	
HM0102 CCF Main					
SUTA	4 4 4 . 1 5 0 5			\$ 15.00	
HM0102 CCF Main					
PERS IN LIEU	4 4 4 . 1 5 9 0			\$ 943.00	
HM0102 CCF Main					
Meetings & Conferences	4 4 4 . 4 5 3 2			\$ 3,200.00	
HM0102 CCF Main					
Printing	4 4 4 . 4 5 - 4 4			\$ 1,500.00	
HM0102 CCF Main					
Office Supplies	4 4 4 . 5 0 - 0 6			\$ 2,200.00	
HM0102 CCF Main					
Program Supplies	4 4 4 . 5 0 - 0 7			\$ 6,500.00	
HM0102 CCF Main					
Youth Program Passthru	4 4 4 . 9 5 - 9 8			\$ 8,675.00	
TOTAL		\$ -	\$ 47,145.00	\$ 47,145.00	\$ -

REASON FOR BUDGET ADJUSTMENT: Add revenues from Substance Abuse Mental Health Services Administration (SAMHSA) grant. Expenditures reflect the additional expenses in the Personnel, Materials & Services and Passthru categories.

DEPARTMENT HEAD _____ DATE _____

APPROVAL: FINANCE DIRECTOR _____ DATE _____

POSTED TO COMPUTER BY: _____ DATE _____

**HOOD RIVER COUNTY
BUDGET ADJUSTMENT
FYE 6/30/17**

FUND 445 FUND NO. 2401 DEPT HRCPD

ACCOUNT TITLE	ACCOUNT NUMBER	RESOURCES		EXPENDITURES	
		DEBIT (DECREASE)	CREDIT INCREASE	DEBIT INCREASE	CREDIT (DECREASE)
HO0202 AD70					
Prevention Education	4 4 4 . 1 3 - 0 1			\$ 1,099.00	
HO0202 AD70					
FICA	4 4 4 . 1 5 - 0 1			\$ 84.00	
HO0202 AD70					
Workers Comp	4 4 4 . 1 5 - 0 2			\$ 3.00	
HO0202 AD70					
PERS / Retirement	4 4 4 . 1 5 - 0 3			\$ 141.00	
HO0202 AD70					
Medical-Dental-Life	4 4 4 . 1 5 0 4			\$ 650.00	
HO0202 AD70					
SUTA	4 4 4 . 1 5 0 5			\$ 1.00	
HO0202 AD70					
PERS IN LIEU	4 4 4 . 1 5 9 0			\$ 67.00	
HO0202 AD70					
Youth Program Passthru	4 4 4 . 9 5 9 8				\$ 2,045.00
HD0102 DFC					
Prevention Education	4 4 4 . 1 3 - 0 1			\$ 1,099.00	
HD0102 DFC					
FICA	4 4 4 . 1 5 - 0 1			\$ 84.00	
HD0102 DFC					
Workers Comp	4 4 4 . 1 5 - 0 2			\$ 3.00	
HD0102 DFC					
PERS / Retirement	4 4 4 . 1 5 - 0 3			\$ 141.00	
HD0102 DFC					
Medical-Dental-Life	4 4 4 . 1 5 0 4			\$ 650.00	
HD0102 DFC					
SUTA	4 4 4 . 1 5 0 5			\$ 1.00	
HD0102 DFC					
PERS IN LIEU	4 4 4 . 1 5 9 0			\$ 67.00	
HD0102 DFC					
Youth Program Passthru	4 4 4 . 9 5 9 8				\$ 2,045.00
TOTAL		\$ -	\$ -	\$ 4,090.00	\$ 4,090.00

REASON FOR BUDGET ADJUSTMENT: Adjust expenditure categories in HD0102 DFC and HO0202 AD70 Projects due to addition of SAMHSA (STOP) grant Prevention Education Specialist. Expenditures reflect adjustments in Personnel and Passthru catagories.

DEPARTMENT HEAD _____ DATE _____

APPROVAL: FINANCE DIRECTOR _____ DATE _____

POSTED TO COMPUTER BY: _____ DATE _____

BEFORE THE BOARD OF COMMISSIONERS

HOOD RIVER COUNTY, OREGON

IN THE MATTER OF ADJUSTING THE)
 HRC PD PROJECTS BUDGET)
 ADJUSTMENT FISCAL YEAR 2016-7) RESOLUTION NO. _____

WHEREAS, the Hood River County Prevention Department has received additional grant resources, and

WHEREAS, Personnel, Materials & Services and Other Requirements reflect grant requirements, and

THEREFORE, BE IT RESOLVED that the following budget adjustments be made:

REVENUE

Account Title	Account Number	Debit (Decrease)	Credit (Increase)
HM0102 CCF Main HRCCCF Grants	445-2401-338.10-37		47,145
		TOTAL	47,145

EXPENDITURES

Account Title	Account Number	Debit (Increase)	Credit (Decrease)
HM0102 CCF Main Office Manager	445-2401-444.10-60	2,515	
HM0102 CCF Main Director	445-2401-444.111-17	2,605	
HM0102 CCF Main Prevention Specialist	445-2401-444.12-71	1,760	
HM0102 CCF Main Prevention Education (TBD)	445-2401-444.13-01	8,349	
HM0102 CCF Main FICA	445-2401-444.15-01	1,165	
HM0102 CCF Main Workers Comp	445-2401-444.15-02	34	
HM0102 CCF Main PERS / Retirement	445-2401-444.15-03	1,844	
HM0102 CCF Main Medical-Dental-Life	445-2401-444.15-04	5,840	
HM0102 CCF Main SUTA	445-2401-444.15-05	15	
HM0102 CCF Main PERS IN LIEU	445-2401-444.15-90	943	
HM0102 CCF Main Meetings & Conferences	445-2401-444.45-32	3,200	
HM0102 CCF Main Printing	445-2401-444.45-44	1,500	
HM0102 CCF Main Office Supplies	445-2401-444.50-06	2,200	

Account Title	Account Number	Debit (Increase)	Credit (Decrease)
HM0102 CCF Main Program Supplies	445-2401-444.50-07	6,500	
HM0102 CCF Main Youth Program Passthru	445-2401-444.95-98	8,675	
HT0102 CCF Tobacco Office Manager	445-2401-444.10-60		2,515
HT0102 CCF Tobacco Director	445-2401-444.111-17		2,605
HT0102 CCF Tobacco Prevention Specialist	445-2401-444.12-71		1,760
HT0102 CCF Tobacco Prevention Education (TBD)	445-2401-444.13-01	7,251	
HT0102 CCF Tobacco FICA	445-2401-444.15-01	112	
HT0102 CCF Tobacco Workers Comp	445-2401-444.15-02	6	
HT0102 CCF Tobacco PERS / Retirement	445-2401-444.15-03	291	
HT0102 CCF Tobacco Medical-Dental-Life	445-2401-444.15-04	4037	
HT0102 CCF Tobacco SUTA	445-2401-444.15-05	1	
HT0102 CCF Tobacco PERS IN LIEU	445-2401-444.15-90	92	
HT0102 CCF Tobacco Tobacco Passthru	445-2401-444.95-97		4,910
HO0202 AD70 Prevention Education (TBD)	445-2401-444.13-01	1,099	
HO0202 AD70 FICA	445-2401-444.15-01	84	
HO0202 AD70 Workers Comp	445-2401-444.15-02	3	
HO0202 AD70 PERS / Retirement	445-2401-444.15-03	141	
HO0202 AD70 Medical-Dental-Life	445-2401-444.15-04	650	
HO0202 AD70 SUTA	445-2401-444.15-05	1	
HO0202 AD70 PERS IN LIEU	445-2401-444.15-90	67	
HO0202 AD70 Youth Program Passthru	445-2401-444.95-98		2,045
HD0102 DFC Prevention Education (TBD)	445-2401-444.13-01	1,099	
HD0102 DFC FICA	445-2401-444.15-01	84	
HD0102 DFC Workers Comp	445-2401-444.15-02	3	
HD0102 DFC PERS / Retirement	445-2401-444.15-03	141	
HD0102 DFC Medical-Dental-Life	445-2401-444.15-04	650	
HD0102 DFC SUTA	445-2401-444.15-05	1	

Account Title	Account Number	Debit (Increase)	Credit (Decrease)
HD0102 DFC PERS IN LIEU	445-2401-444.15-90	67	
HD0102 DFC Youth Program Passthru	445-2401-444.95-98		2,045
HX0102 Miscellaneous Prevention Education (TBD)	445-2401-444.13-01	4,175	
HX0102 Miscellaneous FICA	445-2401-444.15-01	319	
HX0102 Miscellaneous Workers Comp	445-2401-444.15-02	11	
HX0102 Miscellaneous PERS / Retirement	445-2401-444.15-03	534	
HX0102 Miscellaneous Medical-Dental-Life	445-2401-444.15-04	2,469	
HX0102 Miscellaneous SUTA	445-2401-444.15-05	4	
HX0102 Miscellaneous PERS IN LIEU	445-2401-444.15-90	258	
HX0102 Miscellaneous Youth Program Passthru	445-2401-444.95-98		7,770

Adopted this 17th day of October, 2016

Ron Rivers, Chairperson

Karen Joplin, Commissioner

Maui Meyer, Commissioner

Robert Benton, Commissioner

Les Perkins, Commissioner



Notice of Award

Sober Truth on Preventing Underage Drinking Act
Department of Health and Human Services
Substance Abuse and Mental Health Services Administration

Issue Date: 09/02/2016

Center for Substance Abuse Prevention

Grant Number: 1H79SP022002-01
FAIN: SP022002
Program Director: Belinda Ballah

Project Title: HR STOP Underage Drinking Prevention Coalition Hood River County

Grantee Address	Business Address
HOOD RIVER COUNTY Belinda Ballah HRC Prevention Department 309 State Street Hood River, OR 970310000	Belinda Ballah Director Hood River County Prevention Department 309 State Street Hood River, OR 970310000

Budget Period: 09/30/2016 – 09/29/2017

Project Period: 09/30/2016 – 09/29/2020

Dear Grantee:

The Substance Abuse and Mental Health Services Administration hereby awards a grant in the amount of \$47,145 (see “Award Calculation” in Section I and “Terms and Conditions” in Section III) to HOOD RIVER COUNTY in support of the above referenced project. This award is pursuant to the authority of PHS Act (42 U.S.C. 290bb-25b), Section 519B and is subject to the requirements of this statute and regulation and of other referenced, incorporated or attached terms and conditions.

Award recipients may access the SAMHSA website at www.samhsa.gov (click on “Grants” then SAMHSA Grants Management), which provides information relating to the Division of Payment Management System, HHS Division of Cost Allocation and Postaward Administration Requirements. Please use your grant number for reference.

Acceptance of this award including the “Terms and Conditions” is acknowledged by the grantee when funds are drawn down or otherwise obtained from the grant payment system.

If you have any questions about this award, please contact your Grants Management Specialist and your Government Project Officer listed in your terms and conditions.

Sincerely yours,
Odessa Crocker
Grants Management Officer
Division of Grants Management

See additional information below

SECTION I – AWARD DATA – 1H79SP022002-01

Award Calculation (U.S. Dollars)

Salaries and Wages	\$6,881
Fringe Benefits	\$3,031
Personnel Costs (Subtotal)	\$9,912
Supplies	\$1,959
Consortium/Contractual Cost	\$24,250
Travel Costs	\$6,206
Other	\$4,818
Direct Cost	\$47,145
Approved Budget	\$47,145
Federal Share	\$47,145
Cumulative Prior Awards for this Budget Period	\$0
AMOUNT OF THIS ACTION (FEDERAL SHARE)	\$47,145

SUMMARY TOTALS FOR ALL YEARS	
YR	AMOUNT
1	\$47,145
2	\$47,145
3	\$47,145
4	\$47,145

*Recommended future year total cost support, subject to the availability of funds and satisfactory progress of the project.

Fiscal Information:

CFDA Number: 93.243
 EIN: 1936002297A1
 Document Number: 16SP22002A
 Fiscal Year: 2016

IC	CAN	Amount
SP	C96V060	\$47,145

IC	CAN	2016	2017	2018	2019
SP	C96V060	\$47,145	\$47,145	\$47,145	\$47,145

SP Administrative Data:

PCC: STOP2016 / OC: 4145

SECTION II – PAYMENT/HOTLINE INFORMATION – 1H79SP022002-01

Payments under this award will be made available through the HHS Payment Management System (PMS). PMS is a centralized grants payment and cash management system, operated by the HHS Program Support Center (PSC), Division of Payment Management (DPM). Inquiries regarding payment should be directed to: The Division of Payment Management System, PO Box 6021, Rockville, MD 20852, Help Desk Support – Telephone Number: 1-877-614-5533.

The HHS Inspector General maintains a toll-free hotline for receiving information concerning fraud, waste, or abuse under grants and cooperative agreements. The telephone number is: 1-

800-HHS-TIPS (1-800-447-8477). The mailing address is: Office of Inspector General, Department of Health and Human Services, Attn: HOTLINE, 330 Independence Ave., SW, Washington, DC 20201.

SECTION III – TERMS AND CONDITIONS – 1H79SP022002-01

This award is based on the application submitted to, and as approved by, SAMHSA on the above-title project and is subject to the terms and conditions incorporated either directly or by reference in the following:

- a. The grant program legislation and program regulation cited in this Notice of Award.
- b. The restrictions on the expenditure of federal funds in appropriations acts to the extent those restrictions are pertinent to the award.
- c. 45 CFR Part 75 as applicable.
- d. The HHS Grants Policy Statement.
- e. This award notice, INCLUDING THE TERMS AND CONDITIONS CITED BELOW.

Treatment of Program Income:

Additional Costs

In accordance with the regulatory requirements provided at 45 CFR 75.113 and Appendix XII to 45 CFR Part 75, recipients that have currently active Federal grants, cooperative agreements, and procurement contracts with cumulative total value greater than \$10,000,000 must report and maintain information in the System for Award Management (SAM) about civil, criminal, and administrative proceedings in connection with the award or performance of a Federal award that reached final disposition within the most recent five-year period. The recipient must also make semiannual disclosures regarding such proceedings. Proceedings information will be made publicly available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). Full reporting requirements and procedures are found in Appendix XII to 45 CFR Part 75.

SECTION IV – SP Special Terms and Conditions – 1H79SP022002-01

REMARKS:

BY OCTOBER 30, 2016 GRANTEE MUST SUBMIT A REVISED CHECKLIST FORM TO REFLECT A NEW BUSINESS OFFICIAL. FOR GOOD BUSINESS PRACTICE, BELINDA BALLAH CANNOT ASSUME ALL POSITIONS ROLES .

FAILURE TO COMPLY WITH THE REQUEST FUNDS MAY RESTRICTED.

This award reflects approval of the application submitted in response to Funding Opportunity Announcement (FOA) number: SP-16-007.

Due to the availability of funds, your STOP Act grant award has been reduced from \$50,000 to \$47,145. As a result, line item from the Other category has been reduced to \$4,818 to account for the reduction in funding and no further action is required by the recipient.

*Note: All SAMHSA official notifications will be electronically mailed to your organizations Business Official address as identified in the HHS Checklist-Part C.

SPECIAL CONDITION OF AWARD:

The Committee reviewed the applicant organization's plans for ensuring confidentiality and

SAMHSA participant protection and expressed concerns about the inadequacy of the discussion of the following:

- Data collection and evaluation
 - o The applicant organization does not make it readily apparent what probation/law enforcement data it plans to collect and how it ensures it will transmit these data securely.
- Maintenance of privacy and confidentiality
 - o The applicant organization does not ensure that data are only available to those who have restricted access and that data are password protected.
- Consent policies, procedures, and forms
 - o The applicant organization does not describe parental consent for the survey to be administered to children in schools.

On or before November 30, 2016, you must submit your written response regarding the Participant Protection concerns raised by our Initial Review Group (IRG), as well as any clarification or additional information requested by our Participant Protection Officer. Comments from the IRG can be found in your review summary statement. Be sure you have submitted your sample consent forms (i.e., informed consent for participation in diagnostic services, informed consent for participation in the data collection activities (e.g., GPRA), and informed consent form for disclosure/exchange of confidential information - either grantee releasing confidential information to another party or requesting confidential information from another party). To insure that you understand your obligations, you are asked to read (42 C.F.R. Part 2 § 2.32) and indicate that you understand and will comply with all of its provisions.

All grant funds are available for this project except for those funds directly related to Participant Protection issues as outlined in the FOA. Currently, only activities that do not directly involve Participant Protection issues (i.e., are clearly severable and independent from those activities that do involve Participant Protection issues) may be conducted under this award. This restriction of funds will only be lifted if the Participant Protection issues are appropriately addressed by the grantee and resolved to the satisfaction of your designated Government Project Officer.

SPECIAL TERMS OF AWARD:

Financial Capability Review:

SAMHSA's Office of Financial Advisory Services (OFAS) is currently conducting a review of your Organization's financial management system to determine if it is capable of adequately administer federal awards in accordance with 45 CFR 75.205. If the review discloses material weakness and/or other financial management concerns, additional specific award conditions, may be imposed on your organization as deemed appropriate in accordance with 45 CFR 75.207. The conditions will include your organization's Payment Management Services (PMS) account being restricted, which results in all future PMS drawdowns, whether through advances or reimbursements, being required to be approved in advance by OFAS and the applicable Grants Management Specialist and Government Program Official. The pre-approvals will be based on the submission of monthly Requests for Advance/ Reimbursement (SF270) along with accounting reports and source documentation that adequately supports the costs being claimed.

Defense Of Marriage Act (DOMA): On June 26, 2013, in United States v. Windsor, the Supreme Court held that section 3 of the Defense of Marriage Act (DOMA), which prohibited federal recognition of same-sex spouses/marriages, was unconstitutional. As a result of that decision, SAMHSA is no longer prohibited from recognizing same sex marriages. Consistent with HHS policy and the purposes of SAMHSA programs, same-sex spouses/marriages are to be recognized in the Sober Truth on Preventing Underage Drinking Act (STOP Act) Program. This means that, as a recipient of SAMHSA funding, STOP Act program, you are required to treat as valid the marriages of same sex couples whose marriage was legal when entered into. This

applies regardless of whether the couple now lives in a jurisdiction that recognizes same-sex marriage or a jurisdiction that does not recognize same-sex marriage. Any same-sex marriage legally entered into in one of the 50 states, the District of Columbia, a U.S. territory or a foreign country will be recognized. However, this does not apply to registered domestic partnerships, civil unions or similar formal relationships recognized under state law as something other than a marriage.

Disparity Impact Statement (DIS):

Due by November 30, 2016, you must:

Submit an electronic copy of a disparity impact statement to the Government Project Officer (GPO) and Grants Management Specialist (GMS) as identified under Contacts on this notice of award . The

disparity impact statement should be consistent with information in your application regarding access, *service use and outcomes for the program and include three components as described below.

Questions about the disparity impact statement should be directed to your GPO . Examples of disparity impact statements can be found on the SAMHSA website at <http://www.samhsa.gov/grants/grants-management/disparity-impact-statement>.

*Service use is inclusive of treatment services, prevention services as well as outreach , engagement, training and/or technical assistance activities.

The disparity impact statement, in response to the Special Condition of Award, consists of three components:

1. Proposed number of individuals to be reached by subpopulations in the grantimplementation area should be provided in a table that covers the entire grant period. The disparate population(s) should be identified in a narrative that includes a description of the population and rationale for how the determination was made.
2. A quality improvement plan for how you will use your program (GPRA) data on access, use and outcomes to monitor and manage program outcomes by race, ethnicity and LGBT status, when possible. The quality improvement plan should include strategies for how processes and/or programmatic adjustments will support efforts to reduce disparities for the identified sub-populations.
3. The quality improvement plan should include methods for the development and implementation of policies and procedures to ensure adherence to the Enhanced Culturally and Linguistically Appropriate Services (CLAS) Standards and the provision of effective care and services that are responsive to:
 - a. Diverse cultural health beliefs and practices;
 - b. Preferred languages; and
 - c. Health literacy and other communication needs of all sub-populations within the proposed geographic region.

STANDARD TERMS OF AWARD:

Refer to the following SAMHSA website for Standard Terms of Award:

<http://www.samhsa.gov/grants/grants-management/notice-award-noa/standard-termsconditions>

Key Staff listed below:

Belinda Ballah, Project Director @ 5% Level of Effort

All changes in key staff including level of effort must be sent electronically to the GPO, including a biographical sketch and other documentation and information as stated above whom will make a recommendation for approval or disapproval to the assigned Grants Management Specialist. Only the SAMHSA GMO may approve Key Staff Changes.

REPORTING REQUIREMENTS:

Submission of Programmatic (semi-annual) Reporting is due no later than as follows:

1. Friday, February 17, 2017
2. Friday, August 18, 2017

Please submit your report to DGMPProgressReports@samhsa.hhs">DGMPProgressReports@samhsa.hhs.gov, and copy your Program Official. (HARD COPIES SUBMISSION IS NOT REQUIRED)

Failure to comply with the remarks, terms, conditions, or reporting requirements may result in a draw down restriction being placed on your Payment Management System account or denial of future funding.

All responses to Special Terms and Conditions of Award and Post Award requests may be electronically mailed to the Grants Management Specialist, and to the Program Official as identified on your Notice of Award.

It is essential that the Grant Number be included in the SUBJECT line of the email.

CONTACTS:

Shawn Cook, Program Official
Phone: (240) 276-2496 **Email:** shawn.cook@samhsa.hhs.gov

Erwin Morales, Grants Specialist
Phone: (240) 276-1425 **Email:** erwin.morales@samhsa.hhs.gov **Fax:** (240) 276-1430

AGENDA REQUEST FORM

DATE: Oct 17, 2016 **DEPARTMENT:** Budget & Finance **DEPT. HEAD SIGNATURE:** Sandi Borowy

SUBJECT: Tax refunds over \$2,000 requiring BOC approval FY 2016/2017

AUTHORITY: ORS _____ OAR _____ County Ordinance/Code _____
(IF APPLICABLE) PER ADMIN CODE REGARDING BUDGET & FINANCE ACTIVITIES

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

BOC approval of tax refunds over \$2,000 is required by the current Administrative Code for the Budget & Finance Department.

The attached check request represents a tax refund required due to a Records & Assessments correction on the account of:

RK ROSEMONT, LLC TAX ACCOUNT 6033 REFUND \$3,037.83

FISCAL IMPACT/PROJECT ANALYSIS:

Budget Line Item _____ Account Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: ASAP
Staff Contact: SANDRA A. BOROWY

Comments:
Appropriate return of funds to the tax payer.

ACKNOWLEDGEMENT BY OTHER AFFECTED PARTIES: (IF APPLICABLE)

County Counsel Finance Director Other Affected Agencies Administrator
 Safety Committee Human Resources Director Appropriate County Committee Other

RECOMMENDATION FROM DEPARTMENT HEAD:

Approve tax refund as stated.

ADMINISTRATIVE COMMENTS/APPROVAL:

Approve a tax refund over \$2,000 to account #6033 FY 16/17.

County Administrator _____ Dept. Head/Staff Attendance to Meeting (circle one) Yes No

ACTION OF THE BOARD:

Date _____

County Administrator _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: to R & A *Additional/Exceptional Originals to: _____

Copies (all info.):
Copies (ARF only): B&F

REQUEST FOR CHECK

DATE: 10/28/16

VENDOR # 5555555

11/15/2016

PAYABLE TO:

ADDRESS: RK ROSEMONT LLC
LANCE, CAROLEE A TRUSTEE
2890 FILLMORE AVE SE
SALEM, OR 97302

CITY: _____ STATE: OR ZIP: _____

CHARGE TO: FUND DEPT/DIV BASE/SUB ELEMENT OBJECT

BUDGET #: 690 - 0000 - 226 - 10 - 03 AMOUNT: \$ 3,037.83

BUDGET #: 697 - 0000 - 226 - 10 - 03 AMOUNT: \$ 0.00

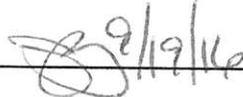
TOTAL \$ 3,037.83

FOR: _____ CORRECTION ON ACCT # 6033 TY: 2015

REQUESTED BY:

APPROVED BY:

DEANNA LAINHART



***PLEASE RETURN CHECK TO DEANNA TO MAIL. THANKS! 😊**

Tax Voucher Listing
For Tax Account 6033
[Voucher Numbers: 11951,11955]

Assessment and Transaction Information				Tax Detail Information	
Assess Trans # R		532849		Tax Trans #	97143
Created By: KIMK				Completed Date: <i>PENDING</i>	By:
	Previous	New	Change	Tax Year Affected: 2015	
Code Area	0005	0005		Trans Info: ADVALOREM IMPOSED MAGISTRATE - ORS 311-205	
AV	399,490	351,027	-48,463	Tax Change: -2,796.24	
M5	460,830	414,003	-46,827	Discount	0.00
SA	2,312	66	-2,246	Interest	0.00
RFPD	399,490	351,027	-48,463	State Interest	0.00
Exempt	0	0	0	Interest Paid	0.00
Tax Amt	7,224.59	4,428.35	-2,796.24	Payment Received	0.00
Comments:				Check Amount	0.00
MAGISTRATE CHANGE 306.115 PER MAGISTRATE DECISION TC-MD 160020N ACCOUNT TO REMAIN UNDER DESIGNATED FORESTLAND SPECIAL ASSESSMENT FOR 2015-16.				Cash	0.00
				Voucher Remarks:	

COPY

Assessment and Transaction Information				Tax Detail Information	
Assess Trans #				Tax Trans #	97143
Created By: KIMK				Completed Date: <i>PENDING</i>	By:
	Previous	New	Change	Tax Year Affected: 2015	
Code Area				Trans Info: ADVALOREM REFUND CREDIT BALANCE	
AV				Tax Change: 2,796.24	
M5				Discount	-83.89
SA				Interest	0.00
RFPD				State Interest	0.00
Exempt				Interest Paid	-325.48
Tax Amt				Payment Received	-3,037.83
Comments:				Check Amount	-3,037.83
MAGISTRATE CHANGE 306.115 PER MAGISTRATE DECISION TC-MD 160020N ACCOUNT TO REMAIN UNDER DESIGNATED FORESTLAND SPECIAL ASSESSMENT FOR 2015-16.				Cash	
				Voucher Remarks:	
				USER INITIATED REFUND VOUCHER AUTO-GENERATED BY TAX VOUCHER PROGRAM FOR TRANS # 97143	

Tax Account History
HOOD RIVER COUNTY TAX COLLECTOR
601 STATE STREET
HOOD RIVER, OREGON 97031
(541) 386-1301

RK ROSEMONT LLC
 LANCE, CAROLEE A TRUSTEE
 2890 FILLMORE AVE SE
 SALEM, OR 97302

16-Sep-2016
 BOC = 10/17/16
 LNT TO
 Nov 15

Tax Account # 6033	Lender Name
Account Status A	Lender ID
Roll Type Real	Property ID 0005 3N10E33-A0-00100
Situs Address 436 COUNTRY CLUB RD HOOD RIVER	

Tax Year	Tax Type	Due Date	Trans Type	Sub Type	As Of Date	Amount Received	Tax Due	Discount Amount	Interest Charged	Refund Interest
2015	ADV	11-15-2015	PAYMENT	RECEIPT	11-15-2015	\$7,007.85	(\$7,224.59)	\$216.74	\$0.00	\$0.00
2015	ADV	11-15-2015	IMPOSED	TAXROLL	11-15-2015	\$0.00	\$7,224.59	\$0.00	\$0.00	\$0.00
							\$0.00			
2014	ADV	11-15-2014	PAYMENT	RECEIPT	11-15-2014	\$3,961.68	(\$4,084.21)	\$122.53	\$0.00	\$0.00
2014	ADV	11-15-2014	IMPOSED	TAXROLL	11-15-2014	\$0.00	\$4,084.21	\$0.00	\$0.00	\$0.00
							\$0.00			
2013	ADV	11-15-2013	IMPOSED	TAXROLL	11-15-2013	\$0.00	\$4,003.71	\$0.00	\$0.00	\$0.00
2013	ADV	11-15-2013	PAYMENT	RECEIPT	11-14-2013	\$3,883.60	(\$4,003.71)	\$120.11	\$0.00	\$0.00
							\$0.00			
2012	ADV	11-15-2012	IMPOSED	TAXROLL	11-15-2012	\$0.00	\$4,242.06	\$0.00	\$0.00	\$0.00
2012	ADV	11-15-2012	PAYMENT	RECEIPT	11-05-2012	\$4,114.80	(\$4,242.06)	\$127.26	\$0.00	\$0.00
							\$0.00			
2011	ADV	11-15-2011	IMPOSED	TAXROLL	11-15-2011	\$0.00	\$3,913.33	\$0.00	\$0.00	\$0.00
2011	ADV	11-15-2011	PAYMENT	RECEIPT	10-27-2011	\$3,795.93	(\$3,913.33)	\$117.40	\$0.00	\$0.00
							\$0.00			
2010	ADV	11-15-2010	IMPOSED	TAXROLL	11-15-2010	\$0.00	\$3,728.31	\$0.00	\$0.00	\$0.00
2010	ADV	11-15-2010	PAYMENT	RECEIPT	11-09-2010	\$3,616.46	(\$3,728.31)	\$111.85	\$0.00	\$0.00
							\$0.00			
2009	ADV	11-15-2009	IMPOSED	TAXROLL	11-15-2009	\$0.00	\$3,770.99	\$0.00	\$0.00	\$0.00
2009	ADV	11-15-2009	PAYMENT	RECEIPT	11-02-2009	\$3,657.86	(\$3,770.99)	\$113.13	\$0.00	\$0.00
							\$0.00			
2008	ADV	11-15-2008	IMPOSED	TAXROLL	11-15-2008	\$0.00	\$3,381.57	\$0.00	\$0.00	\$0.00
2008	ADV	11-15-2008	PAYMENT	RECEIPT	11-12-2008	\$3,280.12	(\$3,381.57)	\$101.45	\$0.00	\$0.00
							\$0.00			
2007	ADV	11-15-2007	REFUND	OVERPAYMENT	02-04-2008	(\$100.00)	\$100.00	\$0.00	\$0.00	\$0.00
2007	ADV	11-15-2007	PAYMENT	RECEIPT	11-15-2007	\$3,443.52	(\$3,546.93)	\$103.41	\$0.00	\$0.00
2007	ADV	11-15-2007	IMPOSED	TAXROLL	11-15-2007	\$0.00	\$3,446.93	\$0.00	\$0.00	\$0.00
							\$0.00			
2006	ADV	11-15-2006	PAYMENT	RECEIPT	11-15-2006	\$3,107.97	(\$3,204.09)	\$96.12	\$0.00	\$0.00
2006	ADV	11-15-2006	IMPOSED	TAXROLL	11-15-2006	\$0.00	\$3,204.09	\$0.00	\$0.00	\$0.00
							\$0.00			

PUBLIC HEARING

AGENDA REQUEST FORM

DATE: 10/17/16

DEPT: Community Development

DEPT. HEAD SIGNATURE: *John Roberts*

SUBJECT: Public hearing to consider legislative amendments to the Hood River County Zoning Ordinance ("HRCZO") to adopt a Short-Term Rental (STR) and marijuana business regulations.

AUTHORITY: ORS ___ OAR _____ X County Ordinance/Code: HRCZO (IFAPPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED: Text amendments to the HRCZO Article 53 (Home Occupation) to adopt STR and Marijuana Business regulations (Files P-15-0215 and P-16-0114 respectively). The purpose of the STR regulations are to adopt standards for review and management of STRs. The purpose of Marijuana Business regulations are to regulate the time, place and manner of marijuana businesses and possibly prohibit production and processing of marijuana in the Rural Residential (RR) zone. BOC public hearings to date and content:

- August 22nd focused on STRs.
- August 29th focused on STRs and marijuana businesses.
- September 9th focused on STRs.

Additional amendments to the HRCZO are necessary and include: i) amending Article 1, Introductory Provisions, to provide clarity, consolidate provisions and improve processes, ii) responding to recent legislation adopted by the Land Conservation and Development Commission, iii) making needed technical changes in response to the recent model code update, which modernized the county's resource zones (i.e., EFU and Forest zones), iv) decreasing ambiguities to make the HRCZO easier to implement and administer, and v) other amendments to create consistency to accomplish the foregoing.

FISCAL IMPACT/PROJECT ANALYSIS:

Budget Line Item _____ Account Balance \$ _____
 Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
 Staff Contact: _____
 Comments: _____

ACKNOWLEDGEMENT BY OTHER AFFECTED PARTIES: (IFAPPLICABLE)

X County Counsel Finance Director Other Affected Agencies Administrator
 Safety Committee Human Resources Director Appropriate County Committee Other

RECOMMENDATION FROM DEPARTMENT HEAD: Request the County Board of Commissioners accept public testimony on marijuana business regulations, advise staff of additional changes, and approved proposed amendments.

ADMINISTRATIVE COMMENTS/APPROVAL:

Conduct a public hearing to review time place and manner reuglations for marijuna businesses and facilities in Hood River County.

County Administrator _____ Dept. Head/Staff Attendance to Meeting (circle one) Yes No

ACTION OF THE BOARD:

Date _____

County Administrator _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: to R & A *Additional/Exceptional Originals to: _____

Copies (all info.):

Copies (ARF only):



Hood River County Community Development

Planning, Building Codes, Code Compliance, Economic Development & Veterans' Services

601 State Street, Hood River OR 97031

JOHN ROBERTS, DIRECTOR
(541) 387-6840 • plan.dept@co.hood-river.or.us

STAFF REPORT: Proposed Ordinance Text Amendment Focused on Marijuana Businesses

- FILE NUMBERS:** P-16-0114 (Marijuana Businesses) & P-15-0215 (STRs)
- DATE:** Prepared for October 17th, 2016 Board of County Commissioner ("Board") Public Hearing
- APPLICANT** Hood River County Community Development Department
- PROCEDURE TYPE:** Legislative
- REQUESTS:**
- 1) Text amendments to the Hood River County Zoning Ordinance (HRCZO) Article 53 (Home Occupation) to adopt Marijuana Business and STR regulations (Files P-16-0114 and P-15-0215 respectively). The purpose of Marijuana Business regulations are to regulate the time, place and manner of marijuana businesses and possibly prohibit production and processing of marijuana in the Rural Residential (RR) zone. The purpose of the Short-Term Rentals (STR) regulations are to adopt standards for review and management of STRs.
 - *There was a Public Hearing conducted August 22nd focused on STRs.*
 - *There was a Public Hearing conducted August 29th focused on STRs and marijuana businesses.*
 - *There was a Public Hearing conducted September 9th focused on STRs.*
 - 2) Additional amendments to the HRCZO are necessary and include: i) amending Article 1, Introductory Provisions, to provide clarity, consolidate provisions and improve processes, ii) responding to recent legislation adopted by the Land Conservation and Development Commission, iii) making needed technical changes in response to the recent model code update, which modernized the county's resource zones (i.e., EFU and Forest zones), iv) decreasing ambiguities to make the HRCZO easier to implement and administer,

and v) other amendments to create consistency to accomplish the foregoing.

STAFF CONTACT: John Roberts, Community Development Director

OWNERS & LOCATION: Amendments will regulate marijuana businesses and STRs in all zones on all non-federal and non-tribal trust properties, outside of incorporated communities and outside of the Columbia River Gorge National Scenic Area.

RECOMMENDATION: Accept public testimony on Marijuana Business regulations, advise staff of additional changes, and approve all proposed amendments (Exhibits A – D). Include emergency clause for marijuana business portion of regulations.

- ATTACHMENTS:**
- *Findings – Applicable Planning Goals and Other Criteria*
 - *U.S. Department of Justice Memo – Guidance Regarding Marijuana Enforcement (i.e., the 2013 “Cole Memo”)*
 - *State of Oregon Legislative Counsel Committee Memo – Designation of marijuana as a crop under SB 1598*
 - *Land Use Board of Appeals (LUBA) Final Order and Opinion: Nos 2016-039/055 (September 2016); Jackson County*
 - *Maps: Measure 91 Election Results & Local Control of Marijuana Businesses*
 - *Example TPM Regulations; NEC (January 2016)*
 - *Picture of Outdoor Grow / Mature Plants (Residential Zone consideration)*

PUBLIC COMMENTS: No Public Comments related to marijuana businesses were received between August 29th and October 7th. In light of possible legal action mentioned at the August 29th Public Hearing staff discouraged additional dialogue with one interested party.

EXHIBITS: Proposed Amendments to HRCZO:

- Exhibit A - Amendments to Article 53 (Home Occupation) to Address Marijuana Businesses and STRs
- Exhibit B – Proposed Updates to Create Consistency with Article 53
- Exhibit C – Amendments to Article 1 (Consolidation of Introductory Provisions)
- Exhibit D – Minor and Technical Changes for the Purpose of Clarity, Improved Process and Better Outcomes

I. PURPOSE & PUBLIC HEARINGS TO DATE

The purpose of the Public Hearing is to adopt proposed text amendments to the HRCZO to regulate STRs and marijuana businesses, and make other necessary legislative and technical changes. A Public Hearing was conducted on August 22nd focused on STRs. The hearing and STR subject matter was continued to another public hearing scheduled for August 29th to discuss marijuana business regulations. At the August 29th Public Hearing STR subject matter was discussed prior to the proposed marijuana business regulations. At the August 29th Public Hearing the STR aspects of the proposed regulations were continued again to a September 12th Public Hearing. At the August 29th Public Hearing the Marijuana Business aspects of the proposed regulations were continued again to the October 17th Public Hearing.

II. EXHIBITS & EDITOR’S NOTES

There are four (4) Exhibits that accompany the staff report (Exhibits A – D) and identify all of the proposed changes. Excluding the articles that are proposed to be repealed in entirety, all the proposed text amendments are shown in ~~strike-through~~ and **bold underline**. Also contained within the Exhibits are *//Editor’s notes//* identified in *italicized yellow highlighting*. The *Editor’s notes* are included to provide background, and more detail and particulars on important proposed changes. The *Editor’s notes* identify what changes to the HRCZO content staff considers substantial and worthy of more in-depth discussion or explanation. The notes are intended to avoid unnecessary content and cross referencing in the staff report and help better organize issues and guide discussions.

III. ADDITIONAL BACKGROUND INFORMATION – Marijuana Businesses

The law with respect to local regulation of marijuana, particularly for home rule jurisdictions, is both complex and constantly evolving given the regulatory landscape, interplay with state and federal law, and ongoing rulemaking. At the August 29th Public Hearing the Board requested

additional information be provided regarding the intersection between Right to Farm protection and the ability to impose marijuana Time, Place and Manner (TMP) regulations. Three attachments have been included to shed light the issue, SB 1598 and designation of marijuana as a crop for farm use purposes. The attachments include:

- 1) *U.S. Department of Justice memo – Guidance Regarding Marijuana Enforcement (i.e., the 2013 “Cole Memo”)*
- 2) *State of Oregon Legislative Counsel (LC) Committee memo – Designation of marijuana as a crop under SB 1598*
- 3) *Land Use Board of Appeals (LUBA) Final Order and Opinion: Nos 2016-039/055 (September 2016)*

Marijuana remains classified as a federally controlled substance and the county has the discretion to prohibit commercial marijuana production on Rural Residential zoned land. The LC opinion confirms the way AOC, LOC and OCCA counsel, including the county, interpret ORS 475B.370(3) providing that a county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed on exclusive farm use zones. The operative word there is MAY; if the Legislature intended to say SHALL, it would have.

The recent LUBA decision from Jackson County is a test case on TPM regulations. As was noted in prior staff memos and issue papers to the planning commission and Board, one of the purposes of SB 1598 (this was the “Christmas Tree” bill), was to resolve the conflict created by HB 3400 regarding Right to Farm protection and local regulation. Specifically, the bill clarifies that while marijuana is covered under Oregon’s Right to Farm protections, the legislature intends to allow for reasonable time, place, and manner restrictions by local governments on marijuana production (i.e., local TPM ordinances are not trumped by Right to Farm laws.)

The pertinent statute is ORS 475B.340: (Emphasis Added)

“(2) Notwithstanding ORS 30.935 (Right to Farm Act), 215.253 (1) (Right to Farm-EFU) or 633.738 (Restrictions on Seed Production), the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under ORS 475B.070, 475B.090, 475B.100 or 475B.110, or for which a certificate has been issued under ORS 475B.235, if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not:

(a) Adopt an ordinance that prohibits a premises for which a license has been issued under ORS 475B.110 from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under ORS 475B.110.

(b) Adopt an ordinance after January 1, 2015, that imposes a setback requirement for an agricultural building used to produce marijuana located on a premises for which a license has been issued under ORS 475B.070 if the agricultural building:

(A) Was constructed on or before July 1, 2015, in compliance with all applicable land use and building code requirements at the time of construction;

(B) Is located at an address where a marijuana grow site first registered with the Oregon Health Authority under ORS 475B.420 on or before January 1, 2015;

(C) Was used to produce marijuana pursuant to the provisions of ORS 475B.400 to 475B.525 on or before January 1, 2015; and

(D) Has four opaque walls and a roof.”

IV. COMMUNITY PERCEPTIONS / CONCERNS

As mentioned, the regulatory compliance issues surrounding marijuana are challenging and will continue to evolve. In this context there are a variety of concerns that continue to be expressed by those in the community who have an interest in promoting cannabis operations. Specific issues staff is aware of that have been circulating among community members are identified below, along with a brief response. At the hearing staff will elaborate on any of these issues at the Board’s request.

Key Community Concerns / Issues

Prohibiting in the Rural Residential (RR) Zone is Not Allowed – Hood River County is one of the last county’s that approved Measure 91 to possibly adopt TPM regulations (see attached local control map). Known counties that have prohibited marijuana production and processing in their respective RR zones include: Clackamas, Wasco, Deschutes, Jackson, Lane, Linn, Douglas, Umatilla and Polk. In Lincoln County marijuana production is allowed only indoors on RR-5 zoned property and there is a 250’ setback requirement for all dwellings.

As previously mentioned, the average size of RR zoned properties in the county is just over 2-acres. The goal of prohibiting marijuana production in the RR zone is to mitigate impacts from competing uses, and to keep RR zoned property for residential purposes and not grow operations. Otherwise, adding a competing/conflicting commercial use to the county’s limited residential area could further exacerbate housing issues (i.e., lack of buildable lands) and creates issues surrounding compatibility.

Staff is “misinterpreting HB 3400 land use section” or is “in the dark and completely misinformed” about marijuana laws – See Section III above. Staff has been involved with understanding the regulatory environment for over 3-years and was involved with AOC (i.e., Rob Bovett) legislative efforts in helping shape the requirements associated with the LUCS and state agency coordination.

Farm use is allowed in the RR zone. The county has to amend the Rural Residential (RR) zone (Article 15) – See Exhibit B page 4 Article 15 amendments.

The county is “trying to expedite the RR ban on grows by writing into Home Occupation standards (being sneaky)” – It doesn’t really matter where in the HRCZO marijuana TPM regulations would be placed. There is no difference if it is a standalone article or incorporated into another article. What matters is the actual language and standards. Marijuana businesses are not an explicit home occupation and have completely separate standards. However, in light of the separate standards, marijuana businesses will be regulated, administered and approved similar to or in the same manner as a home occupation (i.e., Type I and Type II applications).

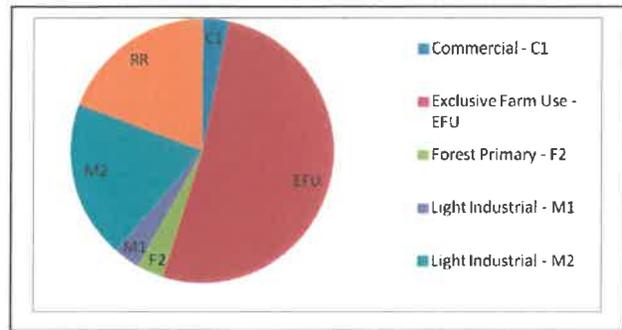
A Measure 56 Type Notice was Not Conducted for RR Zoned Property Owners – See page v of the attached findings. It was determined a notice, adhering to the requirements of the Measure 56 notice process, had to be conducted to notify property owners the county is proposing to modify existing land use regulations that may affect the permissible uses of their property and value. The notice was mailed to all affected property owners who own Rural Residential (RR) zoned property on June 1, 2016. This was more than 20, but less than 40 days, before the June 22, 2016 Public Hearing. The total number of RR zoned properties owners affected was approximately 1,500. After removing duplicate properties (different properties owned by the same individual) approximately 1,300 Measure 56 notices were mailed.

The county is “already being sued over our marijuana regulations” – We hope not and staff is not aware of any legal actions against the county at this time.

V. ADDITIONAL RECOMMENDATIONS / CONSIDERATIONS

Farm Use in the Industrial Zones – To date, the county has received and processed 31 marijuana related LUCS applications. A breakdown of the applications per zone is provided below. Of the 31 applications approximately 51% have been on EFU zoned land, 20% on RR zoned land, and 22.5% on industrial zoned land.

ZONING	#	%
Commercial - C1	1	3.23
Exclusive Farm Use - EFU	16	51.61
Forest Primary - F2	1	3.23
Light Industrial - M1	1	3.23
Light Industrial - M2	6	19.35
Rural Residential - RR	6	19.35
	31	100%



It has been determined through the legislative process that marijuana production is a farm use. Farm use is currently prohibited in the county’s industrial zones (i.e., M-1 and M-2); as farm use is not an industrial use or industrial zones are not appropriate for farming. Even in light of farm uses not explicitly being allowed in the industrial zones, staff has been permitting marijuana production (i.e., growing) through the guise of a determining it is horticultural manufacturing and hydroponic gardening (i.e., industrial in nature and intent). Particularly there is an allowance in the existing zones for “packaging”, as primary production of marijuana requires packaging.

As recommended, the entire county’s EFU zoned lands (both High-Value and Non High-Value) would be available for production / grows. That is over 22,000 acres or 9% of the county. Hood River County has a dearth of industrial zoned land and very limited area for industrial expansion. Continuing to allow for marijuana production in industrial zones would jeopardize the amount of land and space available for more typical industrial uses. Continuing to not allow farm use in the county’s industrial zones would preserve industrial sites for industrial uses that are not farm use described by the state for value added manufacturing and production.

Currently over a 1/5 of the marijuana business applications have been permitted on industrial lands. As such, it is recommended to prohibit the production of marijuana on industrial lands to preserve the land for industrial and manufacturing opportunities that are not directly farm use.

Processing in the EFU Zone - The proposed definition of marijuana processing is:

The processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority; excludes packaging or labeling.

Marijuana processing methods to create extracts and oils are legal but can also be lethal. Materials used in processing can cause explosions creating potential fire hazards by using natural gas, propane or butane to power carbon dioxide generators that make the plants

grow. Recently in Wasco County, similar methods used to process more potent marijuana extracts resulted in an explosion.

Indoor gas use is a standard way to grow marijuana and cultivate cannabis. Growers and processors in the EFU will likely rely on propane or butane gas because using large amounts of metered gas from a utility might not be available. In light of the aforementioned, it is recommended to prohibit processing on EFU zoned lands and encourage / allow processing on industrial zoned land.

Access – The following is the current provision related to access:

The subject property shall have frontage on, or direct access from, a constructed public, county, or state road, and take access on a road or easement serving the subject property. Road access to the marijuana business shall meet current county road standards and shall be adequately maintained and remain clear of obstructions.

However, the notion of adjacent property owners acknowledging and consenting to a marijuana business via signing off on private road access was discussed with the planning commission. The following language has been adopted by both Clackamas and Wasco counties to address concerns associated with traffic (i.e., increase in traffic due to production on EFU zoned land, compatibility and off-site impacts):

If property takes access via a private road or easement which also serves other properties, evidence must be provided by the applicant, in the form of a petition, that all other property owners who have access rights to the private road or easement agree to allow the specific marijuana production or marijuana processing described in the application. Such evidence shall include any conditions stipulated in the agreement.

If access and adjacent property owner consent are perceived to be a concern, the Board could adopt this provision as part of the access standards.

VI. EMERGENCY CLAUSE

Particularly in light on the existing moratorium on marijuana business and facilities in the RR zone (Ordinance No. 331), it is recommended to include the following emergency clause in the Board's ordinance: Inasmuch as the marijuana business aspects of the ordinance amendment are necessary for the immediate preservation of health, safety and welfare, an emergency is hereby declared to exist and the marijuana business portions of the ordinance amendment shall be in full force and effect immediately upon its adoption by the Board of Commissioners.

VII. BOARD OF COMMISSIONER OPTIONS

- A. Accept the amendments as proposed in the attached Exhibits (A - D).
- B. Recommend changes to the attached Exhibits and adopt the amendments.
- C. Recommend denial of any portion of the proposed amendments identified in the attached Exhibits (A – D).

VIII. CONCLUSION / RECOMMENDATION & MOTION

As proposed, the amendments will add and amend text to effectively monitor and manage STRs and marijuana businesses in unincorporated portions of the county in a more sustainable and equitable manner on non-federal lands located outside the Columbia River Gorge National Scenic Area. Staff concludes that all criteria have been met for this request. Based on the findings of fact and other relevant information contained within this and prior staff reports and exhibits, staff recommends that the Board direct staff to make additional changes and move the proposed text amendments be approved at the October 17th Public Hearing.

Recommended Motion: The Board of County Commissioners move to accept the findings and proposed legislative text amendments identified in the staff reports, accompanying documents, and Exhibits A through D contained in and prepared for the August 22nd, 29th, September 9th, and October 17th public hearings; incorporating changes identified by the Board at the October 17th public hearing. Insomuch as the marijuana business aspects of the ordinance amendment are necessary for the immediate preservation of health, safety and welfare, an emergency is hereby declared to exist and the marijuana business portions of the ordinance amendment shall be in full force and effect immediately upon its adoption by the Board of Commissioners.

An Ordinance will hereafter immediately be prepared and circulated for Board of Commissioners signatures.

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Staff Report and proposed amendments are available for review on the Community Development Department website at: <http://hrccd.co.hood-river.or.us/> (Community Development page) or <http://hrccd.co.hood-river.or.us/departments/planning-zoning/> (Planning & Zoning Page). The information will be updated until after the final hearing by the Board of County Commissioners.

For additional information or questions concerning the proposed amendments, contact John Roberts, Hood River County Planning Director, by e-mail at plan.dept@co.hood-river.or.us or by telephone at (541) 387-6840.

Proposed amendments are also available for review or purchase (at 0.25¢/sheet) at County Community Development at 601 State Street, Hood River, OR 97031.

Attachment - Findings

I. APPLICABLE PLANNING GOALS & OTHER CRITERIA

The proposed amendments will not impact the statewide planning goals, county's comprehensive plan or policy document. The proposed changes are a legislative amendment initiated by the Board of County Commissioners ("Board") and Planning Department.

A. GOAL 1 – CITIZEN INVOLVEMENT

GOAL: Maintain a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

POLICIES:

- 1. Improve and use existing citizen participation programs to insure ongoing citizen involvement in plan and land use regulation revisions now and after Plan acknowledgement.*
- 2. Establish, maintain and encourage use of an ongoing citizen involvement program for the County.*

STRATEGIES - The County shall:

- 1. Encourage public participation in the planning process by continuing support of existing programs. The Planning Commission shall advise the Board of the effectiveness of these programs and changes to improve these programs;*
- 2. Improve the availability of planning information to citizens and agencies;*
- 3. Establish other special purpose committees to facilitate citizen involvement during plan review update or as otherwise needed;*

*(***)*

FINDING: A special purpose committee (i.e., Citizen Advisory Committee) was not formed to assist in the proposed amendments. The citizen advisory committee formed to oversee the amendments and forward a recommendation to the Board was the planning commission. It is staff's opinion the make-up and experience of the planning commission made for a positive working group of individuals to represent the public interests and provide constructive feedback. Per the Planning Commission Bylaws Purpose and Responsibilities:

- B.1 - "The Planning Commission is designated and serves as the County's Citizens Advisory Committee (CAC) under Goal 1 of the Oregon Land Use Planning Program."
- B.2 - "The Planning Commission shall be responsible for making recommendation to the Board of County Commissioners ("Board") on matters of planning, plan implementation, and community development."
- B.8 – "The Planning Commission shall make recommendations to the Board regarding the following items:
 - a. Adoption of Comprehensive Plan amendments.
 - b. Adoption of Zoning Ordinances designed to carry out the Comprehensive Plan.

Attachment - Findings

- c. Legislative changes to the text of Zoning Ordinances and map changes.”

Overall, the planning commission conducting two (2) planning sessions on the amendments, one (1) joint work session with the Board, and two (2) public hearings. The planning sessions enabled the planning commission to better understand the status, issues and complexities involved with regulating Short-Term Rentals (STRs) and marijuana businesses. The planning sessions also accomplished the following:

- Advised the planning commission on potential strategies to reasonable regulate and better manage STRs and marijuana in unincorporated portions of the county outside the Urban Growth Boundary (“UGB”) and National Scenic Area.
- Identified issues related to the discussion on what direction the county could take as it considers STRs and marijuana under its current land use zoning.
- Evaluated and discussed effective options and strategies used by other jurisdictions to regulate STRs and marijuana.
- Considered draft terminology, concepts and draft STR and marijuana ordinance language.

The dates of the planning sessions included: April 13th (STRs) and May 11th, 2016 (Marijuana). On May 16th a joint meeting was conducted between the planning commission and Board. At each of these planning sessions or meetings, the public had opportunities to provide comments and recommendations associated with the project and proposed amendments.

Additionally, two (2) public hearing were conducted on June 22th and July 13th, 2016. The June 22nd hearing focused on marijuana businesses and was well-attended (approximately 25 – 30 people). Public testimony was provided by approximately 12-individuals. The July 13th hearing, focused on STRs, Introductory Provisions and other technical changes. There were approximately 15-individuals that attended this hearing. Citizen involvement was encouraged as part of the entire process to ensure opportunities for citizens and different entities to be involved.

II. OTHER: COMPREHENSIVE PLAN & POLICY DOCUMENT

The Hood River County Comprehensive Land Use Plan (“Comprehensive Plan”) is the basic instrument used for county land use planning. It is law and utilized to control and direct the use and development of land use activities on private lands within the county. Such a plan is an expression of public policy in the form of a policy document, generalized plan map, and zoning map, as well as implementing ordinances and supportive background reports.

Comprehensive Plan - STRs

If STRs are to be further regulated in the county, consideration needs to be given to the Comprehensive Plan as a whole and the relationship STRs have relative to the planning goals,

Attachment - Findings

policies and strategies therein. The following goals, policies or strategies in the policy document or background reports speak to STRs:

GOAL 9 – ECONOMIC DEVELOPMENT

A. GOAL:

1. *To maintain and provide for a stable and healthy agricultural and forest product based economy. Heavy industry shall be discouraged. Tourist, commercial, or light or medium industrial growth shall only be encouraged to the extent that it does not significantly alter the rural character, or the existing agriculture and forestry base of the economy in those areas designated as resource land.*

GOAL 10 – HOUSING

A. GOALS:

1. *Provide for the housing needs of present and future residents.*
2. *Provide lands for housing that support, maintain, and do not interfere with agriculture, forestry, and the rural character.*

B. POLICIES:

1. *A variety of housing modes and densities will be encouraged.*
2. *The preservation and rehabilitation of the existing housing supply will be encouraged.*
5. *Rural residential development will be encouraged in locations which do not conflict with established farming and forestry uses.*

Comprehensive Plan - Marijuana Businesses

If marijuana businesses are to be further regulated in the county, consideration should be given to the Comprehensive Plan as a whole and the relationship marijuana has relative to the planning goals, policies and strategies therein. The following goals, policies or strategies in the policy document or background reports speak to marijuana:

GOAL 3 – AGRICULTURAL LANDS

A. GOAL

To preserve and maintain agricultural lands.

B. POLICIES

1. *Agricultural land shall be preserved and maintained for agricultural uses, consistent with existing and future needs for agricultural products.*

(***)

3. *The County through the Zoning Ordinance may authorize farm uses and those non-farm uses allowed by LCDC rules that will not have significant adverse effects on accepted farm or forest practices.*

Attachment - Findings

(***)

8. *Diversity of agricultural crops and enterprises is allowed.*

C. STRATEGIES

14. *Buffers, deed notices, conditions of approval, restrictions or prohibitions on the encroachment of non-farm uses, and consideration of cumulative effects should be used to minimize land use conflicts.*

GOAL 9 – ECONOMIC DEVELOPMENT

A. GOALS:

(***)

2. *To maintain and provide for a stable and healthy economy to encourage labor-intensive and light industrial and commercial growth in order to increase employment opportunities for present and future residents of the Hood River/Westside area.*

FINDING: The above identified Policy Document goals, policies or strategies are applicable to either establishment of STRs or marijuana businesses in Hood River County.

III. APPLICABLE STATE LAW

ORS 197.610 and OAR 660-018-0020 – Notice of a Proposed Change to a Comprehensive Plan or Land Use Regulation – 20 - 35 day notice to DLCD, prior to 1st evidentiary hearing

FINDING: Local governments are required to send notice of a proposed change to a comprehensive plan or land use regulations at least 35-days before the first evidentiary hearing. Consistent with the above rules, staff provided notice of the proposed amendments to all 23 Articles (identified in Exhibits A – D) to DLCD on May 18, 2016. This is more than 35-days prior to the first evidentiary hearing, which was scheduled before the planning commission on Wednesday, June 22, 2016 and continued to July 13, 2016. Text amendments adopted by the Board of Commissioners will be forwarded to DLCD for review and acknowledgement within the required timeframe.

ORS 215.223 - Procedure for adopting zoning ordinances; notice. (1) No zoning ordinance enacted by the county governing body may have legal effect unless prior to its enactment the governing body or the planning commission conducts one or more public hearings on the ordinance and unless 10 days' advance public notice of each hearing is published in a newspaper of general circulation in the county or, in case the ordinance applies to only a part of the county, is so published in that part of the county.

Attachment - Findings

FINDING: Consistent with the above rule, notice of the June 22, 2016 Planning Commission Public Hearing was published in the *Hood River News* on June 11, June 18 and June 22, 2016, more than 10 days before the hearing; the June 22th Public Hearing was continued by the planning commission to July 13th, 2016.

Consistent with the above rule, notice of the August 22, 2016 Board's Public Hearing (continued to August 29, 2016) was published in the *Hood River News* on August 10, 2016, more than 10-days before the hearing.

215.503 Legislative act by ordinance; mailed notice to individual property owners required by county for land use actions.

*(***)*

(3) Except as provided in subsection (6) of this section and in addition to the notice required by ORS 215.060, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof or to adopt a new comprehensive plan, the governing body of a county shall cause a written individual notice of land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

(4) In addition to the notice required by ORS 215.223 (1), at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the governing body of a county shall cause a written individual notice of land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

*(***)*

(9) For purposes of this section, property is rezoned when the governing body of the county:
(a) Changes the base zoning classification of the property; or
(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

FINDING: Consistent with the above rules, it was determined a notice, adhering to the requirements of the Measure 56 notice process, had to be conducted to notify property owners the county is proposing to modify existing land use regulations that may affect the permissible uses of their property and value. The notice was mailed to all affected property owners who own Rural Residential (RR) zoned property on June 1, 2016. This was more than 20, but less than 40 days, before the June 22, 2016 Public Hearing. The total number of RR zoned properties owners affected was approximately 1,500. After removing duplicate properties (different properties owned by the same individual) approximately 1,300 Measure 56 notices were mailed.

Attachment - Findings

IV. LEGISLATIVE REVIEW - Article 62 (“Legislative Amendments”), HRCZO

Section 62.00 - Initiation: An amendment, supplement or change to the text or maps of this ordinance may be initiated by: A. The Board of Commissioners. B. The Planning Commission. C. The Planning Director.

FINDING: The legislative actions were initiated by the both the Board of Commissioners and planning director. The Board identified developing strategies to regulate and manage STRs at their goal setting session in both 2015 and 2016. After working within the Oregon Liquor Control Commission (OLCC) framework to process Land Use Compatibility Statements (LUCS) in January and February of 2016, concerns raised through site plan reviews triggered the planning director to request the Board at their February 2016 meeting to initiate marijuana time, place and manner regulations.

Section 62.02 – Procedures

FINDING: As mentioned, public hearings were scheduled before the planning commission to review the amendments on June 22 and July 13, 2016. A request was forwarded to the Board on July 18, 2016 to conduct a public hearing, within 30 days from receipt of the recommendation by the planning commission. The planning commission’s recommendation was mentioned to the Board on July 18, 2016 and forwarded to the Board as part of the staff report prepared for the August 22, 2016 Board Public Hearing.

Section 62.04 – Notice

FINDING: Notice of the June 22 and July 13, 2016 public hearings were published in the *Hood River News* on June 11, 18 and 22, more than 10 days prior to the June 22, 2016 hearing.

Notification was sent by mail to affected local and state agencies, the City of Hood River, and individuals who indicated an interest in the legislative action. A list of the more than forty (40) agencies and individuals who received notice of the planning commission June 22 and July 13 public hearings and staff report is available at the county planning department.

Consistent with the above rule, notice of the August 22, 2016 Board’s Public Hearing on STRs was published in the *Hood River News* on August 10, 13 and 17, 2016, more than 10-days before the hearing.

Consistent with the above rule, notice of the August 29, 2016 Board’s Public Hearing on Marijuana Businesses was published in the *Hood River News* on August 17, 20 and 24, 2016, more than 10-days before the hearing.

Hood River County

P-15-0215 (Short-Term Rentals)

P-16-0114 (Marijuana)

Attachment

*U.S. Department of Justice Memo
Guidance Regarding Marijuana
Enforcement*



U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.¹

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

¹ These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch
United States Attorney
Eastern District of New York
Chair, Attorney General's Advisory Committee

Michele M. Leonhart
Administrator
Drug Enforcement Administration

H. Marshall Jarrett
Director
Executive Office for United States Attorneys

Ronald T. Hosko
Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation

Hood River County

P-15-0215 (Short-Term Rentals)

P-16-0114 (Marijuana)

Attachment

Legislative Counsel Committee

Designation of marijuana as a crop under

Senate Bill 1598 (2016)



STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

May 17, 2016

Representative Peter Buckley
900 Court Street NE H272
Salem OR 97301

Re: Designation of marijuana as a crop under Senate Bill 1598 (2016)

Dear Representative Buckley:

You asked this office to explain the effect of amending ORS 475B.370 in Senate Bill 1598 (2016)¹ to clarify that the provisions of the statute apply to medical marijuana grow sites registered with the Oregon Health Authority under ORS 475B.420. You specifically asked this office how ORS 475B.370 will affect medical marijuana grow sites that are (1) registered with the authority on the effective date of Senate Bill 1598 (2016) and (2) located within Jackson County on land that has been designated by the county as rural residential land.

ORS 475B.370 (1) specifies that marijuana is:

- (a) A crop for the purposes of "farm use" as defined in ORS 215.203;
 - (b) A crop for purposes of a "farm" and "farming practice," both as defined in ORS 30.930;
 - (c) A product of farm use as described in ORS 308A.062;
- and
- (d) The product of an agricultural activity for purposes of ORS 568.909.

Section 3 of Senate Bill 1598 (2016) amended ORS 475B.370 to provide:

- (4) This section applies to:
 - (a) Marijuana producers licensed under ORS 475B.070;
 - (b) Persons registered under ORS 475B.420 and designated to produce marijuana by one or more persons who hold valid registry identification cards issued under ORS 475B.415; and
 - (c) For the purpose of producing marijuana or propagating immature marijuana plants, persons who hold certificates under ORS 475B.235.

As amended, ORS 475B.370 clarifies that certain statutory laws relating to the production of agricultural crops equally apply to the production of marijuana. For purposes of this opinion, the

¹ Chapter 23, Oregon Laws 2016.

most important provision is ORS 475B.370 (1)(a), which specifies that marijuana is a crop for purposes of “farm use” as defined in ORS 215.203. Understanding the importance of this provision requires a brief explanation of a county’s land use planning process.

A county must adopt a comprehensive plan for the purpose of implementing statewide land use planning goals.² In consideration of its comprehensive plan, a county may “zone designated areas of land within the county as exclusive farm use zones.”³ Land located within an exclusive farm use zone must “be used exclusively for farm use.” As specified in ORS 475B.370, “farm use” includes the production of marijuana, including the production of marijuana by medical marijuana grow sites registered with the Oregon Health Authority.⁴ Altogether, these state laws specify that the production of marijuana is an allowed use of land that a county has zoned for exclusive farm use.

As for areas of land other than those zoned for exclusive farm use, a county has the discretion to adopt zoning ordinances that are consistent with its comprehensive plan.⁵ Some of these areas of land are commonly called rural residential land.⁶ Some counties have adopted ordinances that allow farm uses to occur on rural residential land.⁷ However, counties have the discretion to not allow farm uses to occur on rural residential land. The subject of this opinion, Jackson County, has elected to not allow farm uses to occur on rural residential land.⁸ Under the Jackson County Code, then, the enactment of a law specifying that the production of marijuana is a farm use necessarily means that such production may not occur on rural residential land.

Because Jackson County does not allow the production of marijuana to occur on rural residential land, the county must amend certain zoning ordinances and regulations to account for the statutory designation of the production of marijuana as a farm use. This is important because when a county amends zoning ordinances and regulations, whether for the purpose of implementing a comprehensive plan or otherwise, “[t]he lawful use of any . . . land at the time of the enactment or amendment of any zoning ordinance or regulation may be continued.”⁹ Such continuing uses of the land are commonly called “nonconforming uses.”

It is important to understand other state statutes concerning nonconforming uses. First, subject to certain conditions, state law permits alterations to nonconforming uses, including alterations that involve a change in ownership or occupancy. ORS 215.130 (5) and (9) provide:

(5) The lawful use of any building, structure or land at the time of the enactment or amendment of any zoning ordinance or regulation may be continued. Alteration of any such use may be permitted subject to subsection (9) of this section. Alteration of

² See ORS 197.175 (setting forth the duties of counties with respect to preparing, adopting, amending and implementing comprehensive plans) and 197.225 (directing the Department of Land Conservation and Development to establish goals and guidelines for use by counties in preparing, adopting, amending and implementing comprehensive plans).

³ ORS 215.203.

⁴ Amendments to ORS 475B.370 by section 3, Senate Bill 1598 (2016).

⁵ ORS 215.050.

⁶ State law does not directly address the lawful use of land that a county has zoned for rural residential use.

⁷ See, e.g., section 18.60.020, Deschutes County Code (specifying that farming use is permitted outright in a rural residential zone).

⁸ Jackson County Land Development Ordinance, chapter 6, section 2.2. Farm uses are conditionally allowed in certain areas zoned for rural residential use.

⁹ ORS 215.130.

any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. Except as provided in ORS 215.215, a county shall not place conditions upon the continuation or alteration of a use described under this subsection when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use. A change of ownership or occupancy shall be permitted.

. . .

(9) As used in this section, "alteration" of a nonconforming use includes:

(a) A change in the use of no greater adverse impact to the neighborhood; and

(b) A change in the structure or physical improvements of no greater adverse impact to the neighborhood.

Second, state law does not allow a nonconforming use to be resumed if the use has been discontinued. ORS 215.130 (7)(a) provides:

(7)(a) Any use described in subsection (5) of this section may not be resumed after a period of interruption or abandonment unless the resumed use conforms with the requirements of zoning ordinances or regulations applicable at the time of the proposed resumption.

In contrast, restoration or replacement of a nonconforming use is permitted under certain circumstances. ORS 215.130 (6) provides:

(6) Restoration or replacement of [a nonconforming use] may be permitted when the restoration is made necessary by fire, other casualty or natural disaster. Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster. If restoration or replacement is necessary under this subsection, restoration or replacement shall be done in compliance with ORS 195.260 (1)(c).

Third, a county may adopt ordinances to confirm that a use of land is a nonconforming use. ORS 215.130 (10) provides:

(10) A local government may adopt standards and procedures to implement the provisions of this section. The standards and procedures may include but are not limited to the following:

(a) For purposes of verifying a [nonconforming] use . . . a county may adopt procedures that allow an applicant for verification to prove the existence, continuity, nature and extent of the use only for the 10-year period immediately preceding the date of application. Evidence proving the existence, continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, lawfully

existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application;

(b) Establishing criteria to determine when a use has been interrupted or abandoned under subsection (7) of this section

With these statutes in mind, we now turn toward how ORS 475B.370 will affect medical marijuana grow sites that are (1) registered with the Oregon Health Authority on the effective date of Senate Bill 1598 (2016) and (2) located within Jackson County on land that has been designated by the county as rural residential land.

First, Senate Bill 1598 (2016) is not an outright prohibition of the production of medical marijuana on land that a county has zoned for rural residential use. However, a county has the discretion to prohibit farm uses on land that the county has zoned for rural residential use. Under such generally applicable ordinances, the production of medical marijuana also would be prohibited. Jackson County has exercised that discretion.

Second, with respect to Jackson County and other counties that prohibit farm uses to occur on land that has been zoned for rural residential use, the effects of Senate Bill 1598 (2016) are prospective. As a nonconforming use, the production of medical marijuana may continue to occur if the production is "lawful." In this instance, establishing lawfulness would require a medical marijuana grow site to provide evidence that it was registered with the Oregon Health Authority at the time that Jackson County amended its zoning ordinances and regulations to account for the statutory designation of marijuana production as a farm use.

Third, Jackson County and other counties that prohibit farm uses on land that has been zoned for rural residential use may use standards and procedures to confirm the production of medical marijuana as a nonconforming use. Our understanding is that Jackson County is not adopting any special ordinance for the purpose of confirming the production of medical marijuana as a nonconforming use. Rather, Jackson County is using generally applicable standards and procedures to confirm the production of medical marijuana as a nonconforming use.¹⁰

Finally, under state law, a medical marijuana grow site that was registered with the Oregon Health Authority prior to the effective date of Senate Bill 1598 (2016) should be able to continue producing marijuana in Jackson County and other counties that prohibit farm uses to occur on land that has been zoned for rural residential use provided that (1) the medical marijuana grow site does not undergo a change that is of "greater adverse impact to the neighborhood" and (2) the production of medical marijuana is not discontinued.¹¹ Under the law, registered medical marijuana grow sites would not be able to increase the amount of marijuana plants produced on the property. Registered medical marijuana grow sites also would not be allowed to lie dormant for a grow season; however, if a fire, casualty or natural disaster eradicated a marijuana crop, a medical marijuana grow site would be able to continue producing marijuana during the following grow season.

If you have any other comments or questions about the effect of Senate Bill 1598 (2016), do not hesitate to contact our office.

¹⁰ See Jackson County Land Development Ordinance, chapter 11.

¹¹ ORS 215.130 (7) and (9)(a).

The opinions written by the Legislative Counsel and the staff of the Legislative Counsel's office are prepared solely for the purpose of assisting members of the Legislative Assembly in the development and consideration of legislative matters. In performing their duties, the Legislative Counsel and the members of the staff of the Legislative Counsel's office have no authority to provide legal advice to any other person, group or entity. For this reason, this opinion should not be considered or used as legal advice by any person other than legislators in the conduct of legislative business. Public bodies and their officers and employees should seek and rely upon the advice and opinion of the Attorney General, district attorney, county counsel, city attorney or other retained counsel. Constituents and other private persons and entities should seek and rely upon the advice and opinion of private counsel.

Very truly yours,

DEXTER A. JOHNSON
Legislative Counsel

A handwritten signature in black ink, appearing to read "Mark B. Mayer", is written over the printed name and title of the Deputy Legislative Counsel.

By
Mark B. Mayer
Deputy Legislative Counsel

Hood River County

P-15-0215 (Short-Term Rentals)

P-16-0114 (Marijuana)

Attachment

LUBA Nos. 2016-039/055

Final Opinion and Order

Jackson County: Time, Place, Manner

2 **NATURE OF THE DECISION**

3 Petitioner appeals two county ordinances, Ordinance 2016-3 and
4 Ordinance 2016-4, adopting amendments to the Jackson County Land
5 Development Ordinance.

6 **MOTION TO DISMISS PETITIONER BRODKEY**

7 David Brodkey, one of two petitioners in LUBA No. 2016-055, moves
8 for permission to withdraw from the appeal. The motion is granted, and
9 petitioner Brodkey is dismissed from LUBA No. 2016-055.¹

10 **BACKGROUND**

11 A brief explanation of the state’s laws regulating the growing of
12 marijuana is necessary in order to understand this appeal.² In 1998, Oregon
13 voters approved the Oregon Medical Marijuana Act (OMMA), which allowed
14 the production and use of medical marijuana. The OMMA is now codified at

¹ Ordinance 2016-4, the decision that is appealed in LUBA No. 2016-039, is a temporary ordinance that expired on July 14, 2016. Both parties agree for purposes of these appeals that the ordinances are identical except for the expiration date of Ordinance 2016-4.

The county transmitted separate records for LUBA No. 2016-039 and LUBA No. 2016-055. As we understand it, the record in LUBA No. 2016-055 includes all of the materials that are included in the record for LUBA No. 2016-039, and additional materials. All citations to the record in this opinion are to the record in LUBA No. 2016-055.

² The Federal Controlled Substances Act, 21 USC § 801 *et seq.*, prohibits the manufacture, distribution, dispensation, and possession of marijuana.

1 ORS 475B.400 to 475B.525. The Oregon Health Authority (OHA) administers
2 the state’s medical marijuana program and has adopted rules regulating the
3 growing of marijuana for medical purposes at OAR chapter 333, divisions 7
4 and 8.

5 In November 2014, Oregon voters approved Ballot Measure 91, which
6 legalized recreational marijuana under state law. Measure 91 placed
7 administrative authority over the state’s recreational marijuana program with
8 the Oregon Liquor Control Commission (OLCC). After the passage of
9 Measure 91, in 2015 and 2016 the legislature enacted changes to the OMMA
10 and the state’s recreational marijuana program. Measure 91, the OMMA, and
11 the 2015 and 2016 changes are now codified at ORS 475B.005 *et seq.*

12 With respect to producing marijuana for recreational use, ORS
13 475B.340(1)(a) and (g), and (2) allow local governments to adopt “reasonable
14 conditions on the manner in which a marijuana producer licensed under [the
15 state’s recreational marijuana program] may produce marijuana[,]” and
16 “[r]easonable limitations on where a premises for which a license has been
17 issued [to produce marijuana] may be located.” For medical marijuana
18 production, ORS 475B.500 allows the governing body of a city or county to
19 adopt “reasonable regulations on the operation of marijuana grow sites” by
20 holders of grow cards under the OMMA. ORS 475B.500(2). “Reasonable
21 regulations” in that section are defined as including “reasonable limitations on
22 where the marijuana grow site of a person designated to produce marijuana by

1 a registry identification cardholder * * * may be located.” ORS
2 475B.500(1)(d).

3 In April 2016, the board of county commissioners adopted Ordinance
4 2016-3. *See* n 1. Ordinance 2016-3 adopted amendments to the Jackson County
5 Land Development Ordinance (LDO) to regulate the production, processing,
6 wholesaling, and retail sale of marijuana. This appeal followed.

7 **REPLY BRIEF**

8 Petitioner moves for permission to file a reply brief to respond to alleged
9 new matters raised in the county’s response brief. OAR 661-010-0039.
10 Petitioner argues that the response brief raised a new matter, namely, the
11 response brief’s position that ORS 197.620(1) divests LUBA of jurisdiction
12 over the appeals.

13 We agree with petitioner that a reply brief is warranted to respond to a
14 jurisdictional challenge in the response brief. *See Sievers v. Hood River*
15 *County*, 46 Or LUBA 635, 637 (2004) (“[A]lthough all petitions for review
16 must state why the challenged decision is subject to LUBA’s jurisdiction,
17 jurisdiction does not become an issue in an appeal until respondents contend
18 that LUBA lacks jurisdiction”). The reply brief is allowed.

1 **MOTION TO TAKE EVIDENCE**

2 Petitioner moves to take evidence not in the record under OAR 661-010-
3 0045.³ Petitioner must establish that the evidence concerns “unconstitutionality
4 of the decision, standing, ex parte contacts, actions for the purpose of avoiding
5 the requirements of ORS 215.427 * * * or other procedural irregularities not
6 shown in the record and which, if proved, would warrant reversal or remand of
7 the decision.”

8 According to petitioner, marijuana production was allowed in the Rural
9 Residential (RR) zone prior to the enactment of Ordinance 2016-3. Petitioner
10 moves to take evidence in the form of two newspaper articles that petitioner
11 alleges support petitioner’s assertion in the motion to take evidence that
12 marijuana production is now a nonconforming use in the RR zone, because
13 prior to the enactment of Ordinance 2016-3 marijuana production was an
14 allowed use in the RR zone, and Ordinance 2016-3 effectively prohibited
15 marijuana production in the RR zone.

³ OAR 661-010-0045(1) provides in relevant part:

“Grounds for Motion to Take Evidence Not in the Record: The Board may, upon written motion, take evidence not in the record in the case of disputed factual allegations in the parties’ briefs concerning unconstitutionality of the decision, standing, ex parte contacts, actions for the purpose of avoiding the requirements of ORS 215.427 or 227.178, or other procedural irregularities not shown in the record and which, if proved, would warrant reversal or remand of the decision.”

1 In this appeal, petitioner challenges the county’s enactment of Ordinance
2 2016-3, and argues that the amendments to the LDO are inconsistent with the
3 county’s comprehensive plan. Petitioner does not explain why, even if
4 Ordinance 2016-3 amends the LDO to prohibit marijuana production in the RR
5 zone, establishing whether marijuana production was formerly allowed in the
6 RR zone and may now be allowed as a nonconforming use in the RR zone is
7 relevant to the only issues raised in this appeal, which are (1) whether the LDO
8 amendments enacted in Ordinance 2016-3 are consistent with the county’s
9 comprehensive plan, and (2) whether the LDO amendments are “reasonable
10 regulations” within the meaning of ORS 475B.340 and 475B.500. Petitioner
11 has not met her burden.

12 The motion to take evidence is denied.

13 **FIRST ASSIGNMENT OF ERROR**

14 **A. Ordinance 2016-3**

15 As relevant to this appeal, Ordinance 2016-3 adopts a definition of
16 “marijuana production” at LDO 13.3(166), and lists the zones in which
17 “marijuana production” is permitted and not allowed.⁴ Marijuana production is

⁴ LDO 13.3(166) defines “marijuana production” as “the manufacture, planting, cultivation, growing, trimming, harvesting or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Liquor Control Commission, or registered with the Oregon Health Authority and a ‘person designated to produce marijuana by a registry identification cardholder.’”

1 allowed in the exclusive farm use (EFU) zone, in forest zones, and in industrial
2 zones. LDO Chapter 3.13.

3 LDO Chapter 6 contains “Use Regulations” for all use districts in the
4 county other than resource districts, which are regulated in LDO Chapter 4.
5 LDO 6.2, Table of Permitted Uses, explains that “Table 6.2-1 sets forth the
6 uses permitted within all base zoning districts, except for the resource
7 districts.” LDO 6.2.1 includes an “Explanation of Table Abbreviations.” As
8 relevant here, LDO 6.2.1(F), “Uses Not Allowed,” explains that “[a] dash (-)
9 indicates that the use type is not allowed in the respective zoning district,
10 unless it is otherwise expressly allowed by other regulations of this
11 Ordinance.”

12 Ordinance 2016-3 amended Table 6.2-1 to include “marijuana
13 production” as a specific use in the general category of “Farm Use.” Table 6.2-
14 1 contains a “dash” for the specific use “marijuana production” in the column
15 for the RR zone, and in all other zones except the Industrial zone, where the
16 table indicates that marijuana production is a “Type 1/2” use in that zone.

17 Petitioner and the county disagree over what changes Ordinance 2016-3
18 actually made to the LDO.⁵ According to petitioner, Ordinance 2016-3
19 amended the LDO to prohibit marijuana production in the RR zone, where

⁵ We also understand petitioner to argue that marijuana production is allowed in the RR zone under the separate “farm use” category identified as “non-intensive agricultural use.” Petitioner does not sufficiently develop the argument for review, and we do not consider it in this opinion.

1 according to petitioner it was previously allowed. Petition for Review 4. As we
2 understand the county's position, it is that marijuana production was not
3 allowed in the RR zone prior to the enactment of Ordinance 2016-3. From
4 there, the county argues, Ordinance 2016-3 does not amend the LDO because
5 the LDO still does not allow marijuana production in the RR zone. Response
6 Brief 5. Therefore, the county argues, petitioner is challenging the county's
7 decision to continue to *not* allow marijuana production as a permitted use in the
8 RR zone. According to the county, ORS 197.620(1) divests LUBA of
9 jurisdiction to review the county's decision because it is a decision to not
10 amend the LDO.⁶

11 We reject the county's argument. It is undisputed that the county did in
12 fact adopt legislative amendments to the LDO to, among other things, expressly
13 prohibit marijuana production in the RR zone. While the parties disagree
14 whether that amendment represents a change in the status quo in the RR zone
15 as a matter of substance, there can be no question that the decision amends the
16 LDO. Therefore, ORS 197.620(1) does not apply to this appeal. *ODOT v.*
17 *Klamath County*, 25 Or LUBA 761 (1993). The county's argument relates to

⁶ ORS 197.620(1) provides in relevant part that “a decision to not adopt a legislative amendment or a new land use regulation is not appealable unless the amendment is necessary to address the requirements of a new or amended goal, rule, or statute.”

1 the substance or scope of petitioner’s challenges to those legislative
2 amendments.

3 Accordingly, we reject the county’s argument that ORS 197.620(1)
4 makes the county’s decision to adopt Ordinance 2016-3 “not appealable”
5 within the meaning of the statute.

6 **B. Assignment of Error**

7 ORS 197.835(7)(a) provides in relevant part that LUBA shall reverse or
8 remand an amendment to a land use regulation “[if] the regulation is not in
9 compliance with the comprehensive plan[.]” In her first assignment of error, we
10 understand petitioner to argue that Ordinance 2016-3 does not comply with the
11 Jackson County Comprehensive Plan (JCCP). In support, petitioner cites the
12 Agricultural Lands Element of the JCCP, which provides in relevant part:

13 “Predominant Farm Uses in Jackson County: Full-time agricultural
14 production and employment are limited in the county. The major
15 farm crops and farm uses are described below and compared in
16 Table II. Hobby farming and small scale agriculture provide
17 opportunities for agricultural diversity and are particularly
18 appropriate for specialty crops and specialty or exotic livestock.

19 “The median size range for farms that annually gross more than
20 \$10,000 dollars is from 100 to 139 acres, and the median gross
21 sales income is \$25,000 to \$40,000. These farms include about 48
22 per cent of the land in farms in Jackson County (Tables 2 and 16,
23 1987 Census of Agriculture), leaving about 52% of land in farms
24 either in small scale agriculture or unmanaged. Farms with gross
25 incomes less than \$10,000 only account for 8 percent of the
26 county’s gross annual farm receipts. These figures strongly
27 support the need to preserve farm land in large blocks in order to
28 preserve and maintain those farms that contribute in a substantial
29 way to the area's existing agricultural economy. *However, in areas*

1 *where parcelization and/or residential development has already*
2 *occurred, small scale agriculture is often the only way to keep*
3 *land in productive farm use. Encouraging a variety of types of*
4 *agriculture in the county provides a greater possibility of*
5 *innovation and resiliency in the agricultural economy.” JCCP*
6 *Agricultural Lands Element, 8-2 (underlining in original, italics*
7 *added).*

8 According to petitioner, the emphasized language above requires the county to
9 allow Marijuana Production as a permitted use on RR lands. In support,
10 petitioner also points to statements in the record by the county’s planning staff
11 that interpreted the emphasized language as requiring the county to allow
12 marijuana production on RR zoned lands.

13 The county responds, and we agree, that petitioner has not demonstrated
14 that amending the LDO to prohibit marijuana production on RR-zoned lands is
15 inconsistent with the JCCP. The provision of the JCCP that petitioner relies on
16 merely describes the predominant farm uses in the county and describes small
17 scale agriculture on parcelized lands as one of those farm uses. The language
18 does not *require* the county to allow marijuana production on RR-zoned land
19 and the county’s decision to prohibit it on those lands is not inconsistent with
20 anything in the JCCP cited by petitioner.

21 Finally, we understand petitioner to challenge findings adopted by the
22 board of county commissioners. The findings appear to take the position that
23 the county’s decision to prohibit marijuana production in the RR zone is
24 consistent with a 2016 amendment to the state’s recreational and medical

1 marijuana programs, Senate Bill 1598 (SB 1598).⁷ As we understand it, the
2 county takes the position that the legislature’s decision to classify marijuana as
3 a crop for purposes of the definition of “farm use” at ORS 215.203 supports the
4 county’s decision to prohibit marijuana production in the RR zone. As we
5 understand petitioner’s argument, it is that the county erred to the extent it
6 found that SB 1598 requires the county to prohibit marijuana production in the
7 RR zone. Petition for Review 15-16.

8 We are not sure we understand the county’s findings to say what
9 petitioner alleges that they say.⁸ However, the county’s findings appear to
10 simply provide additional support for the board of commissioners’ decision to
11 prohibit marijuana production in the RR zone. Even if the county
12 misunderstood SB 1598, and in fact that legislation does not provide support
13 for the decision to prohibit marijuana production in the RR zone, petitioner
14 does not explain why any faulty interpretation of SB 1598 compels the
15 conclusion that the amendments to the LDO are not in compliance with the

⁷ Senate Bill 1598 provides that “marijuana is * * * [a] crop for the purpose of ‘farm use’ as defined in ORS 215.203[.]” and applies the definition to producers of medical marijuana. Or Laws 2016, ch 23, §3 (SB 1598).

⁸ The county found:

“Based upon the passage of Senate Bill 1598, recreational and medical marijuana production are both now determined to be a ‘farm use.’ The Board of Commissioners finds the [LDO] does not allow a ‘farm use’ to occur within the Rural Residential and Rural Use zoning districts.” Record A0005.

1 JCCP. Petitioner’s arguments provide no basis for reversal or remand of the
2 decision.

3 The first assignment of error is denied.

4 **SECOND ASSIGNMENT OF ERROR**

5 In her second assignment of error, petitioner argues that the county’s
6 prohibition on production of marijuana in the RR zone is not a “reasonable
7 regulation[]” under ORS 475B.340(2) and 475B.500(2). ORS 475B.340, as
8 amended by SB 1598 (2016), provides in relevant part:

9 “(1) For purposes of this section, ‘reasonable regulations’
10 includes:

11 “(a) Reasonable conditions on the manner in which a
12 marijuana producer licensed under ORS 475B.070
13 may produce marijuana or in which a person who
14 holds a certificate issued under ORS 475B.235 may
15 produce marijuana or propagate immature marijuana
16 plants;

17 “(b) Reasonable conditions on the manner in which a
18 marijuana processor licensed under ORS 475B.090
19 may process marijuana or in which a person who
20 holds a certificate issued under ORS 475B.235 may
21 process marijuana;

22 “(c) Reasonable conditions on the manner in which a
23 marijuana wholesaler licensed under ORS 475B.100
24 may sell marijuana at wholesale;

25 “(d) Reasonable limitations on the hours during which a
26 marijuana retailer licensed under ORS 475B.110 may
27 operate;

1 “(B) Is located at an address where a marijuana
2 grow site first registered with the Oregon
3 Health Authority under ORS 475B.420 on or
4 before January 1, 2015;

5 “(C) Was used to produce marijuana pursuant to the
6 provisions of ORS 475B.400 to 475B.525 on or
7 before January 1, 2015; and

8 “(D) Has four opaque walls and a roof.”

9 ORS 475B.500, as amended by SB 1598 (2016), provides in relevant part:

10 “(1) For purposes of this section, ‘reasonable regulations’
11 includes:

12 “(a) Reasonable limitations on the hours during which the
13 marijuana grow site of a person designated to produce
14 marijuana by a registry identification cardholder, a
15 marijuana processing site or a medical marijuana
16 dispensary may operate;

17 “(b) Reasonable conditions on the manner in which the
18 marijuana grow site of a person designated to produce
19 marijuana by a registry identification cardholder, a
20 marijuana processing site or a medical marijuana
21 dispensary may transfer usable marijuana, medical
22 cannabinoid products, cannabinoid concentrates,
23 cannabinoid extracts, immature marijuana plants and
24 seeds;

25 (c) Reasonable requirements related to the public’s
26 access to the marijuana grow site of a person
27 designated to produce marijuana by a registry
28 identification cardholder, a marijuana processing site
29 or a medical marijuana dispensary; and

30 “(d) Reasonable limitations on where the marijuana grow
31 site of a person designated to produce marijuana by a
32 registry identification cardholder, a marijuana

- 1 “(e) Reasonable conditions on the manner in which a
2 marijuana retailer licensed under ORS 475B.110 may
3 sell marijuana items;
- 4 “(f) Reasonable requirements related to the public’s
5 access to a premises for which a license or certificate
6 has been issued under ORS 475B.070, 475B.090,
7 475B.100, 475B.110 or 475B.235; and
- 8 “(g) Reasonable limitations on where a premises for which
9 a license or certificate may be issued under ORS
10 475B.070, 475B.090, 475B.100, 475B.110 or
11 475B.235 may be located.”
- 12 “(2) Notwithstanding ORS 30.935, 215.253 (1) or 633.738, the
13 governing body of a city or county may adopt ordinances
14 that impose reasonable regulations on the operation of
15 businesses located at premises for which a license has been
16 issued under ORS 475B.070, 475B.090, 475B.100 or
17 475B.110, or for which a certificate has been issued under
18 ORS 475B.235, if the premises are located in the area
19 subject to the jurisdiction of the city or county, except that
20 the governing body of a city or county may not:
- 21 “(a) Adopt an ordinance that prohibits a premises for
22 which a license has been issued under ORS 475B.110
23 from being located within a distance that is greater
24 than 1,000 feet of another premises for which a
25 license has been issued under ORS 475B.110.
- 26 “(b) Adopt an ordinance after January 1, 2015, that
27 imposes a setback requirement for an agricultural
28 building used to produce marijuana located on a
29 premises for which a license has been issued under
30 ORS 475B.070 if the agricultural building:
- 31 “(A) Was constructed on or before July 1, 2015, in
32 compliance with all applicable land use and
33 building code requirements at the time of
34 construction;

1 processing site or a medical marijuana dispensary
2 may be located.

3 “(2) Notwithstanding ORS 30.935, 215.253 (1) or 633.738, the
4 governing body of a city or county may adopt ordinances
5 that impose reasonable regulations on the operation of
6 marijuana grow sites of persons designated to produce
7 marijuana by registry identification cardholders, marijuana
8 processing sites and medical marijuana dispensaries that are
9 located in the area subject to the jurisdiction of the city or
10 county.”

11 In support of her argument, petitioner cites and relies on cases that have
12 addressed the reasonableness of restrictions on speech, conduct or expression
13 that is protected by the First Amendment of the US Constitution.⁹ Government
14 restrictions on protected speech, conduct or expression are subject to a higher
15 level of scrutiny, and will generally be upheld if the restrictions are content
16 neutral and narrowly tailored to serve a substantial government interest. *Ladue*
17 *v. Gilleo*, 512 US 43 (1994). According to petitioner, the amendments to the
18 LDO to prohibit marijuana production on RR zoned land must serve a
19 significant government interest, and the county has not identified any
20 significant government interest those LDO amendments serve.

21 The county responds, and we agree, that petitioner has not established
22 that marijuana production is a protected interest under the First Amendment.

⁹ The First Amendment provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”

1 Absent any argument that establishes such a protected interest in marijuana
2 production, the cases petitioner cites are inapposite. That ORS 475B.340 and
3 ORS 475B.500 use the similar phrase “reasonable regulation” in listing the
4 kind of regulations a county or city can impose on the sale or production of
5 recreational and medicinal marijuana does not mean that the legislature
6 intended to import into review of local zoning codes the doctrines and
7 standards of review that courts have applied to First Amendment speech cases.

8 We also understand petitioner to argue that the LDO’s prohibition of
9 marijuana production on RR zoned lands is not a “reasonable regulation”
10 within the meaning of ORS 475B.340 and ORS 475B.500 because the county
11 did not choose to prohibit other crops that the county may perceive also to have
12 negative effects on neighboring properties from being grown on RR zoned
13 land. The county responds that the choice to not allow marijuana production on
14 RR-zoned lands is reasonable, given that the county chose to allow marijuana
15 production in several base zoning districts, including on EFU and farm and
16 forest zoned land, which the county approximates to include more than one
17 million acres in the county.

18 The term “reasonable regulations” is not defined in the statutes
19 regulating marijuana production and use. Accordingly, we first look to the
20 ordinary meaning of the word “reasonable.” “Reasonable” is defined as
21 relevant here to mean “[1] b: being or remaining within the bounds of reason:
22 not extreme: not excessive * * *; c: MODERATE : as (1) not demanding too

1 much[.]” *Webster’s Third New Int’l Dictionary* 1892 (unabridged ed. 2002).
2 We agree with the county that allowing marijuana production in zones that
3 constitute over a million acres in the county, while not allowing it in a
4 residential zone that would presumably present more potential for conflicts
5 with residential uses, does not seem “extreme” or “excessive,” and could
6 accurately be described as “moderate.”

7 We may also look to legislative history. ORS 174.020(3). In support of
8 her claim that the county’s prohibition of marijuana production in the RR zone
9 is not a “reasonable regulation,” petitioner cites statements made by a legislator
10 on the floor of the House of Representatives in connection with 2015
11 amendments to Measure 91. However, that legislative history tends to defeat
12 petitioner’s argument. The cited legislator stated his belief about what is meant
13 by “reasonable regulation,” and expressed that an unreasonable regulation
14 would be present when a local government attempts to:

15 “* * * use their local zoning code to effectively eliminate
16 marijuana businesses or grow sites in their communities by, for
17 example, finding zones in which it is very difficult to site these
18 businesses, or putting them on the edge of town where nobody
19 wants to go or in some other way making it so difficult for these
20 businesses to be sited that the businesses won’t site in their
21 communities.” Audio Recording, House of Representatives, HB
22 3400, June 24, 2015, 1:45:30-1:46:03 (statement of Representative
23 Ken Helm).

24 Given that the county allows marijuana production in the EFU zone and on
25 lands zoned farm and forest, which together comprise more than a million acres
26 in the county, and on industrial zoned land, the concerns stated by that

1 legislator about the reasonableness of zoning regulations do not appear to be
2 present in this case. Accordingly, petitioner has not established that the
3 amendments to the LDO to prohibit marijuana production in the RR zone are
4 not “reasonable regulations” within the meaning of ORS 475B.340 and
5 475B.500, or that the county acted unreasonably when it decided to allow
6 marijuana production in some, but not all, county zones.

7 The second assignment of error is denied.

8 The county’s decision is affirmed.

Hood River County

P-16-0114

Marijuana TPM Regulations

Attachment

Map: Measure 91 Election Results

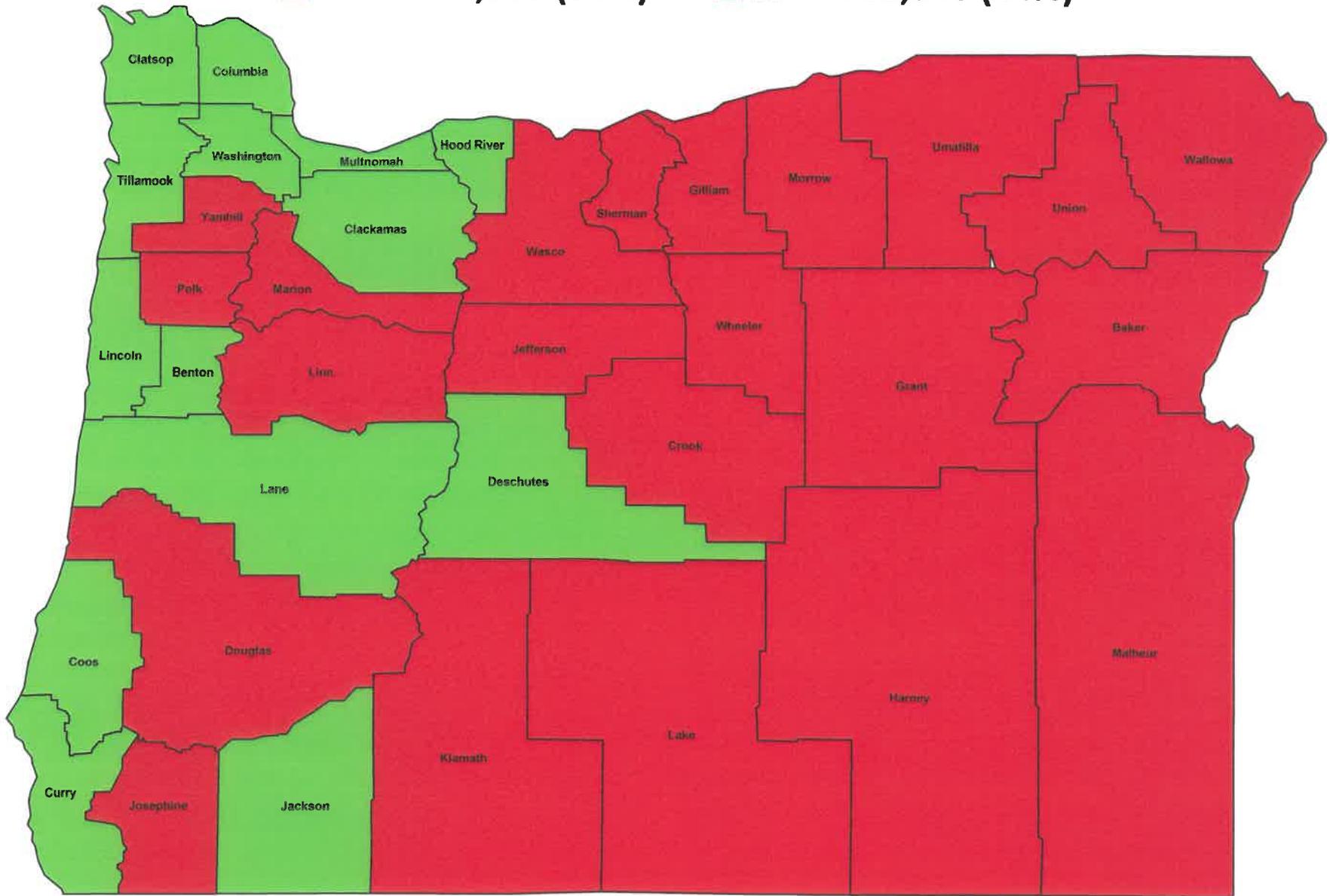
Map: Local Control of

Marijuana Businesses in OR Counties



Measure 91 Election Results

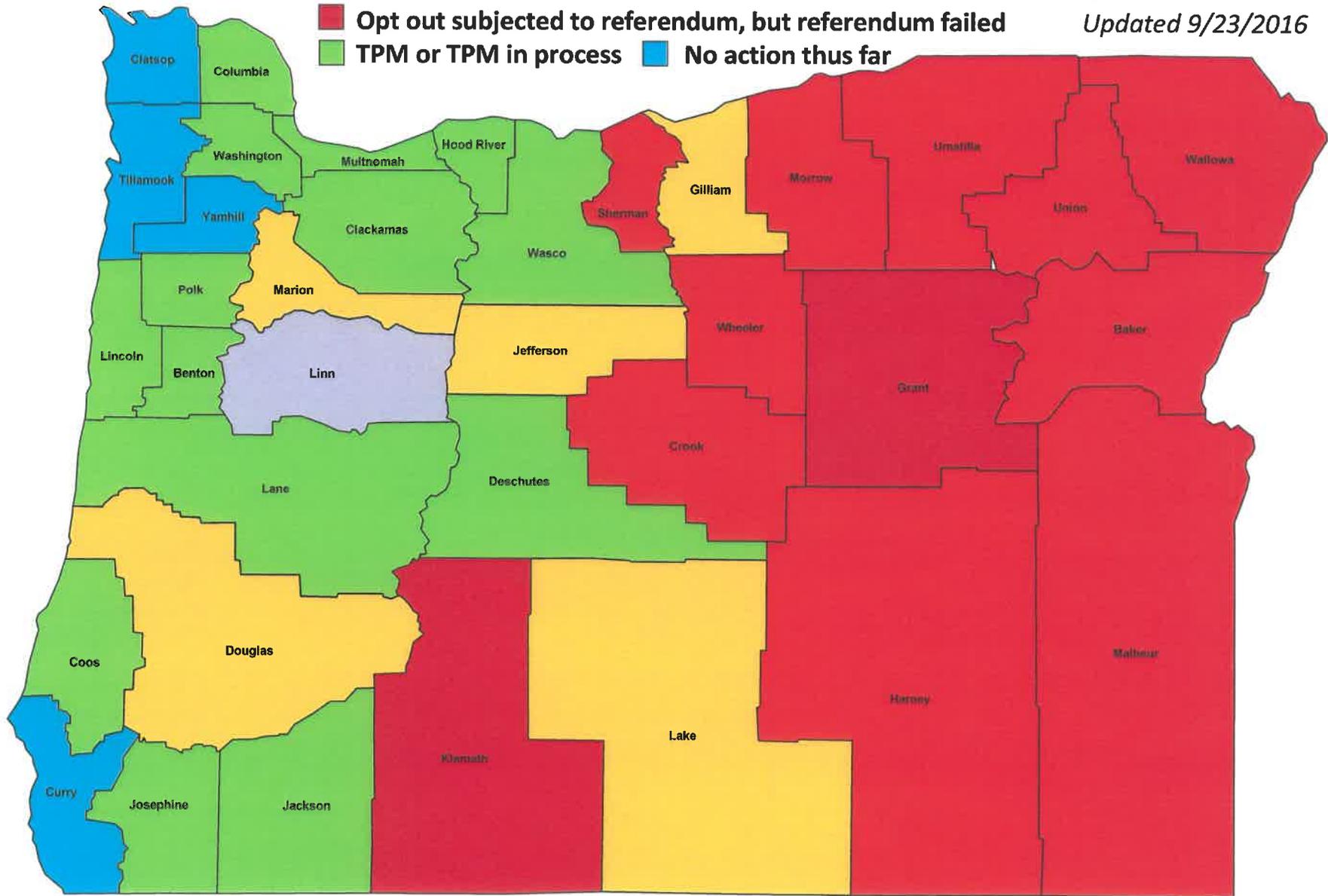
■ Yes = 847,865 (56%) ■ No = 663,346 (44%)



Local Control of Marijuana Businesses in Oregon Counties

- Opt out
- Opt out, but with election
- Opt out of retail only, but with election
- Opt out subjected to referendum, but referendum failed
- TPM or TPM in process
- No action thus far

Updated 9/23/2016



Hood River County

P-16-0114

Marijuana TPM Regulations

Attachment

Examples of TPM Regulations

Prepared by: Sam Chapman, NEC



Memorandum

To: Oregon Liquor Control Commission
From: Sam Chapman, Partner NEC
Date: 1/12/16
Re: City Movement First Week of 2016

- **Gresham** City Council not only updated their Time, Place, and Manner regulations for recreational marijuana, but also simultaneously proposed 3% taxation on both medical and recreational marijuana sold by licensed facilities. The taxation of *recreational* marijuana will be submitted to Gresham voters in the general election in 2016. The second reading and anticipated adoption date will be at the City Council meeting on January 19, 2016. They will also be moving on “Resolution No. 3230: A Resolution Establishing Fees and Charges for Gresham Revised Code Article 9.63 Marijuana Businesses and Repealing Resolution No. 3204”. Fees include \$250 “Completeness Review Fee” to be paid at the time of application “and each time the application is resubmitted until determined to be complete by the manager”; \$5,000 “Registration Application Fee” to be paid after the manager determines the application to be complete; and similar fees for renewal, registration updates, re-inspections and “inspections outside of normal business hours when requested by the business.”
- **Tualatin** has yet to modify their decision regarding their 3,000 ft. buffer between marijuana facilities (all types) and any Residential Planning District or residential use, City Park, School, or Library and 2,000 ft. buffer between any type of marijuana facility. There is no evidence that this will be discussed in any near-future City Council or Planning Commission meetings.
- **McMinnville** Planning Commission has begun researching similar uses within their city code to the marijuana facility usages. They suggest a 40,000 square ft. canopy limit; limiting Production to indoor only in the Light and General Industrial districts; and relegating Retail sales to General and Neighborhood Commercial zones.
- **The Dalles** will be hosting a Town Hall meeting regarding Marijuana in City Hall on January 25, 2016.
- **Newport** has drafted an Ordinance establishing Time, Place, and Manner that include a 1,000 ft. buffer between Retail sales facilities and “Child Care Facilities”. However, facilities that have been

operating before Jan. 7 2016 will be grandfathered in and will not be retroactively forced to comply with the buffer.

- **Springfield** Planning Commission has officially requested recommendations from City Council as to Land Use requirements for marijuana facilities. They have recommended that Council allow Production in Industrial zones, Processors in Industrial zones, Wholesalers in Industrial and Commercial zones and Retailers in Commercial zones. No further information or movement has taken plus as of writing date.
- **Lebanon** City Council approved Time, Place, and Manner restrictions for *medical* marijuana facilities following the provision in their ban on *recreational* marijuana facilities to allow the establishment of medical dispensaries. Approved zones include the Central Business District and Highway Commercial areas. The ban on recreational marijuana facilities will be placed on the ballot for general election in 2016.
- **Jacksonville** banned Processors, Wholesalers, and Retailers but did not ban Production. The ban will be referred to voters in two separate referendums for recreational and medical sales. Local Police Chief David Towe stated he has not heard any complaints about marijuana gardens in the past six months, although historically there had been a couple of issues.
- **Scappoose** City Council motioned to pass the first reading of an Ordinance banning Medical Marijuana Processing sites, Marijuana Production, Marijuana Processing, Marijuana Wholesaling, and Marijuana Retailing and referring the ban to the electorate in November 2016. Second reading is expected on January 19, 2016.
- **Medford** City Council approved an Ordinance that allows for the establishment of recreational marijuana Production, Processing, Wholesaling; and medical marijuana Dispensaries while banning recreational Retail facilities. This comes after a heated debate that lasted about three City Council meetings, where the Mayor stated no matter Council's decision he would veto any retail sale of recreational marijuana, "He noted his position went back to our Strategic Plan regarding a safe community and because the council had not addressed outdoor grows."¹ Production is approved within all three Industrial zones; Processing in Heavy Commercial and all Industrial zones; Wholesaling in Heavy Commercial and all three Industrial zones; and Dispensaries in Community Commercial, Regional Commercial, and Heavy Commercial zones. The retail sale of recreational marijuana will be referred to a general election in November.
- **Keizer** City Council motioned to pass Ordinance establishing "marijuana Retailer Permit Process" on Jan. 11, 2016. Thus far, the Ordinance includes a 1,500 ft. buffer between facilities and public, private, and parochial elementary and secondary schools; 1,000 ft. buffer between "any Public Property, not including right-of-way"; and 1,000 ft. between recreational and medical retail

¹ Mayor & City Council Minutes October 15, 2015

facilities. Fees will include nonrefundable application fee of \$500 and a refundable \$1,500 registration fee. The fee will be refunded if the application is returned to the applicant as incomplete, the City denies the application, or if an applicant withdraws an application. The second reading of the Ordinance allowed for edibles to be sold within the city, an amendment from the original draft that prohibited edibles. Retail is permitted within the General, Office, Retail, and Mixed Use Commercial districts; General, Business park, and Agricultural Industrial Districts, and General Employment districts. Production is permitted within General, Business Park, and Agricultural Industrial districts; Exclusive Farm Use; and General Employment District.

- **Josephine County** has taken the most hands-off approach to OLCC facilities seen in any County thus far. Production is permitted as an outright use in all zones except Commercial and Industrial; Retail in Commercial and Industrial zones with a Site Plan Review (In Industrial only if associated with Wholesaling; Processing in Industrial and Farm zones with a Site Plan Review; and Wholesaling in Industrial and Commercial Zones with a Site Plan Review. In Commercial zones both wholesaling and retail sales allowed in greenhouses only. Their permitting processing for Production is restricted to obtaining a LUCS from the OLCC and Planning department, as well as obtaining a Production license from the OLCC of course. All other facilities must apply for a Site Plan Review with Planning, Obtaining a Development Permit from Planning, LUCS, and OLCC license.
- **Jackson County** will be holding a hearing on January 13th, 2016 to discuss their Time, Place, and Manner restrictions. The current draft includes Production in the EFU, Forest, Light & General Industrial zones; Retailing in General Commercial; Processing within EFU and Industrial zones; and Wholesaling within General Commercial and Industrial zones. Retail is not permitted within one mile of the Veterans Administration of Southern Oregon Rehabilitation Center and Clinics; within 1,000 ft. of the Jackson County Transition Center; 250 ft. of residentially zoned property within the White City Urban Unincorporated Community Boundary; 1,000 ft. of a public park, excluding Bear Creek Greenway; Within 1,000 ft. of an Interstate Change along The 5; 1,000 ft. of a public, private, or parochial school; and 1,000 ft. of similarly licensed retail facilities (rec-rec, med-med).
- **Deschutes County** has yet to schedule a meeting to make further revisions to the LDO they drafted last year. There is currently a ban on all recreational facilities with the intent to improve current land use regulations.
- **Wasco County** held their final reading of their Land Use Ordinance, the results of which are not yet available online but no major complaints to the proposed regulations have been recorded. Production is permitted in the Forest zones and Exclusive Farm Use zones. Retail is permitted only within the Rural Commercial and Industrial districts.

January 12, 2016

- **Marijuana Sales Tax** has been implemented for dispensaries that have been selling recreational marijuana pursuant to the Early Sales bill. The tax is currently 25%, but facilities licensed by the OLCC will be accountable for a 17% tax on their retail sales, with Cities and Counties holding the ability to establish a local increase of 3% sales tax IF local electorate approves the measure. Some facilities have reported a decrease in sales after the implementation of the tax, with customers claiming they will return to the black market.
- **Outright Bans** are no longer permitted for Cities and Counties that voted more than 55% against Measure 91. The 180 day period has expired, therefore the only tool localities may utilize to keep OLCC facilities out of their jurisdiction is to refer the prohibition to the electorate in November 2016, a provision which does not expire.

Hood River County

P-16-0114

Marijuana TPM Regulations

Attachment

Picture of Outdoor Grow / Mature Plants



Growing (Production)

Source: Oregon League of Cities, May 2014 workshop

Mature plants can be big



The large plant diameters are nearly the size of the cargo utility trailer parked in the driveway at the upper left side of the picture, and as tall as the fence.

Hood River County

P-15-0215 (Short-Term Rentals)

P-16-0114 (Marijuana)

Exhibit A

Amendments to Article 53
(Home Occupation) to Address

Short-Term Rentals (STRs)

&

Marijuana Businesses

**EXHIBIT A – ARTICLE 53
HOME OCCUPATIONS**

**EXHIBIT A: WORKING DRAFT – AMENDMENTS TO ARTICLE 53 TO ADDRESS
SHORT-TERM RENTALS & MARIJUANA BUSINESSES**

The changes noted below indicate the Board’s final recommendations regarding STRs endorsed at the September 12, 2016 Public Hearing.

The October 17, 2016 Public Hearing will focus on discussing and finalizing the Marijuana Business regulations (not the STR regulations).

Article 53 to be Repealed and Established in its Entirety.

Proposed text amendments are shown in ~~strike-through~~ and **bold underline**.

Incorrect numbering and references will be revised in the adopted version.

ARTICLE 53 – HOME OCCUPATIONS, SHORT-TERM RENTALS & MARIJUANA BUSINESSES

[Insert Table of Contents]

SHORT-TERM RENTALS

Section 53.20 Permitted Uses

- A. Home occupations are permitted outright in the following zones pursuant to compliance with provisions in the zones in which the use is proposed: Commercial Zone (C-1), Mt. Hood Unincorporated Community Commercial Zone (MH-C1), Industrial Zone (M-1), and Light Industrial Zone (M-2). Short-term rentals and marijuana businesses are not subject to the Home Occupation standards contained in Sections 53.25 – 53.35 below. **Short-term rental** ~~Said~~ **home occupation** uses are subject to the subsequent provisions contained in Section **53.40 herein, and Marijuana business regulations subject to Section 53.XX.**

- B. In in-home commercial activity is not considered a home occupation and **may** ~~does~~ not require a land use conditional use permit where all of the following criteria can be met. (Coordination and permits with other agencies may be required).

(***)

Section 53.25 Conditional Uses

- A.** The following conditional uses are required to comply with provisions in Article 72 - Planning Director's Review Procedure and Section 53.30:

**EXHIBIT A – ARTICLE 53
HOME OCCUPATIONS**

- 1.** A home occupation proposed in the following zones in an existing dwelling or pre-existing building on the same lot or parcel as the resident's dwelling: ~~Forest Zone (F-1), Primary Forest Zone (F-2), Exclusive Farm Use Zone (EFU),~~ Residential Zone (R-1), Rural Residential Zone (RR), and Rural Center Zone (RC).
- 2.** Expansion or change in use of home occupations or one or two person businesses existing prior to the adoption date of this Ordinance (see Section 53.35 Nonconforming Use).

B. Home occupations in the Forest Zones (F-1), Primary Forest Zone (F-2), Exclusive Farm Use Zone are subject to Section 53.30 and respective Conditional Use Review Criteria contained in Article 5.05 and Article 7.05.

//Editor's note: The above changes were noted at the September 12th public hearing as clerical issues that needed to be addressed to create consistency.//

Section 53.30 Home Occupation Standards

(***)

N. Complies with Federal, State and Local laws. Non-compliance with any of these laws can result in the home occupation being terminated.

Section 53.40 Purpose

The purpose of this section is to regulate short-term rentals to protect the integrity of resource lands, to monitor and provide reasonable means for citizens to mitigate impacts created by occupancy of short-term rentals, and to protect the public health, safety and general welfare of individuals and the community at large.

Section 53.X Use Table

Short-term rentals are permitted as specified for each of the different zoning districts, subject to the following review Type and regulations:

Table 53.X Summary of Use Table for Short-Term Rentals

Zoning	Review Type¹	Subject To²
Forest		
Forest Zone (F-1)	C (Type II)	Article 5; Section 5.05
Primary Forest Zones (F-2)	P	
Exclusive Farm Use (EFU); High Value	C (Type II)	Article 7; Section 7.05
Exclusive Farm Use (EFU); Non-High Value	C (Type II)	Article 7; Section 7.05

**EXHIBIT A – ARTICLE 53
HOME OCCUPATIONS**

Residential (R-1)	Type I	
Rural Residential (RR)	Type I	
Hood River Urban Growth Area (UGA)		Article 17
Commercial (C-1)	Type I	
Rural Center (RC)	Type I	
Rural Unincorporated Community (RUC-1)	Type I	
Mt. Hood Unincorporated Community Commercial (MH-C1)	Type I	
Industrial (M-1)	P	
Industrial (M-2)	P	
Airport Development (AD)	P	
Natural Area (NA)	P	
Overlays: SPO, EP, FP, GH, HHO	P	
National Scenic Area		Article 75

¹ “P” means the use is prohibited.

² “Subject To” column identifies certain provisions to which the use is subject.

* Permitted uses are subject to the applicable short-term rental provisions Sections XX and other applicable Articles of the *Hood River County Zoning Ordinance*.

Section 53.XX Permit Required

An owner shall obtain a revocable short-term rental permit prior to using a dwelling unit as a short-term rental and shall comply with the following requirements:

- A. **No more than 100 short-term rental permits shall be issued by the county at any one time; no more than 25 of the 100 permits issued shall be on resource zoned land.**

//Editor’s note: The Board indicated 100 STRs would be approximately 2% of the housing units in unincorporated portions of the county, the cap should be revisited at a later date (i.e., approximately 2-years), and up to 25 of the 100 permits could be applied to resource zoned land through a Type II CUP review.//

- B. Only one short-term rental per parcel shall be permitted.
- C. The short-term rental permit shall be renewed every two-years by December 31 thereafter. Failure to maintain and renew the short-term rental permit shall be considered abandonment of use.

EXHIBIT A – ARTICLE 53 HOME OCCUPATIONS

- D. The short-term rental permit is not transferable to a new owner. If the property is transferred or sold, the new owner will need to re-apply for a short-term rental permit.
- E. The short-term rental permit does not relieve the owner of the obligation to pay County Transient Room Taxes (TRT) and personal property tax. Non-compliance will result in revocation of the permit.
- F. No recreational vehicle, travel trailer, or tent or other temporary shelter shall be used in conjunction with the short-term rental. No occupancy of a parked vehicle or trailer in conjunction with the short-term rental is permitted.
- G. The Planning Director or designee may visit and inspect the site of a short-term rental on a prescribed schedule to ensure compliance with all applicable regulations, during normal business hours, and with reasonable notice and other procedural safeguards as necessary.
- H. If the terms of the short-term rental permit are not met, the permit may be revoked and the owner subject to enforcement and Class I or Class II penalties per Article 1 or any amendments thereto.
- I. The county will monitor and enforcement unpermitted short-term rentals through periodic review and audits. An unpermitted short-term rental is subject to enforcement, and Class I or Class II penalties per Article 1 of this ordinance, Chapter 1.08 (Code Enforcement), Chapter 8.08 (Health and Safety) and Chapter 8.12 (Noise Code) of the Hood River County Code.

Section 53.XX Short-Term Rental Permit Application Requirements

An application for a short-term rental permit shall be completed on the form provided by the County and shall provide the following information:

- A. Property Owners - A list of all the property owners of the short-term rental including names, addresses and telephone numbers.
- B. Affidavit of Adjacent Property Owner Notification – The applicant of a short-term rental shall provide, in writing to adjacent neighbors within 250-feet, a local telephone number, name, and address of a property manager who will accept and handle complaints immediately relating to tenant activities. Notice for applications in resource zones shall be provided in accordance requirements identified in ORS 215 et seq.
- C. Site Plan - A site plan, drawn to scale, showing the location of buildings and required parking.
- D. Floor Plan - A floor plan identifying the number of bedrooms proposed for use.
- E. Property Management Plan - A property management plan demonstrating how the short-term rental will be managed and how impacts to neighboring properties will be minimized; specifically, nuisances, parking and garbage. The property management plan

EXHIBIT A – ARTICLE 53 HOME OCCUPATIONS

shall also include the name, address and telephone number of local points of contacts available to respond immediately to complaints and promptly remedy any violation of these standards.

- F. Environmental Health – Prior to the issuance of a permit satisfactory completion of an inspection performed by the Hood River County Environmental Health Department regarding any existing on-site sewage disposal system (septic).
- G. Assessor – Prior to the issuance of a permit proof County Assessor has been notified.
- H. TRT – Prior to the issuance of a permit proof of registration for County TRT certificate.
- I. Building Safety – Prior to the issuance of a permit satisfactory completion of an inspection performed by the Hood River County Building Department.
- J. Proof of Insurance – Include certification of insurance coverage.
- K. Certify Accuracy - Certification of the accuracy of the information submitted and agreement to comply with the conditions of the permit.
- L. Other - Other information as requested by the County.

Section 53.XX Short-Term Rental Standards

All short-term rentals shall meet the following standards:

- A. Resource Lands (EFU and F-1 Forest zones) – Short-term rentals shall be operated within the primary dwelling of the subject property. It shall be occupied and operated by a resident of that dwelling. The primary use of the dwelling will remain residential and shall not be rented out a predominance (i.e., more than 180 days) of the year. Outbuildings, including agricultural buildings, farm worker housing and other lawful dwellings on the property, shall not be converted to short-term rentals. The STR shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

//Editor’s note: The Board indicated the above modified provision would satisfy state law, was more limiting and clearer than state law, and would be easier to administer than having to refine statutory language. It was recommended to insert the last sentence (The STR shall not unreasonably interfere with other uses permitted in the zone in which the property is located) to insure such uses are evaluated.//

- B. Appearance and Identification - The exterior of the building(s) shall retain a residential appearance with house numbers maintained on the front of the building and visible from the street or road. No junk or garbage shall be allowed to accumulate in any yards and all vehicles shall park in designated parking areas.
- C. Occupancy Limits - The maximum occupancy for each short-term rental unit shall be

EXHIBIT A – ARTICLE 53 HOME OCCUPATIONS

calculated on the basis of two (2) persons per bedroom, plus two additional overnight occupants. On properties containing both a residential dwelling and an accessory residential dwelling, only one residential structure may be rented out as a short-term rental, but not both.

- D. Parking - The short-term rental shall have one onsite parking space per each bedroom unit with a minimum of two parking spaces required. If the garage is to be utilized to meet the parking requirement, a photo of the interior of the garage shall be submitted to show the garage is available for parking. The garage shall continually be available for guest parking as long as the short-term rental permit is valid.
- E. Access - Road access to the short-term rental shall meet minimum county road standards and shall be adequately maintained and remain clear of obstructions, including illegally parked cars, recreational vehicles, boats, trailers, junk, etc., to ensure the unimpeded passage of emergency vehicles and other vehicular traffic.
- F. Nuisances and Garbage - The short-term rental shall be operated in a way that will prevent disturbances to neighboring properties not typical of a residential neighborhood, including, but not limited to: loud music and noises, excessive traffic, junk/debris accumulation in the yards, garbage removal, trespassing, or excess vehicles, boats or recreational vehicles parked in the streets in front of the rental. Said provisions shall be documented in the Property Management Plan.
- G. Pets - Pets shall be secured at all times while on the property and nuisance barking by pets is prohibited.
- H. Signage - No on or off-premise signage advertising the short-term rental is permitted.
- I. License and Permit Requirements - The short-term rental permit **and permit number** issued by Hood River County shall be prominently and permanently displayed inside the unit near the front entrance of the rental and shall list the name, address and phone numbers of the property owner or the designated local contact. **The permit number shall also be display in all advertising.**

//Editor's note: In light of potential enforcement, the Board recommended a permit number from the county be displayed in all advertising (e.g., AirBnB).//

- J. Federal, State & Local Laws - The short-term rental shall meet all applicable State and local health, safety laws and building codes.
- K. Other - Other conditions may be imposed, such as additional parking, improved access, fencing, landscaping, or minimum screening to ensure the proposed use is compatible with the surrounding residential character.

Section 53.XX Compliance

EXHIBIT A – ARTICLE 53 HOME OCCUPATIONS

All complaints shall proceed as follows:

- A. The complaining party shall first attempt to communicate with the local contact person designated on the permit and property management plan, describe the problem and leave a contact phone number for call back information;
- B. The contact person shall respond promptly to the complaint, regardless of time of day, and make reasonable efforts to remedy any situation that is out of compliance with the permit;
- C. If the response is not satisfactory to the complaining party, then the complaining party may next provide a written complaint to the County Planning Department and Code Compliance program, which complaint shall identify and be signed by the complaining party. The complaint shall include a description of the informal attempts to resolve the complaint. A copy of the written complaint shall be provided to the owner and contact person by the county; and
- D. The County Planning Department/Code Compliance program shall attempt to resolve the complaint. If so required, the owner or local contact person shall provide a written response to the complaint with the anticipated corrective action within 10 days. A copy of the complaint will be filed with the short-term rental permit.
- E. A permitted short-term rental is subject to enforcement, and Class I or Class II penalties per Article 1 of this ordinance, Chapter 1.08 (Code Enforcement), Chapter 8.08 (Health and Safety) and Chapter 8.12 (Noise Code) of the Hood River County Code.

Section 53.X X Revocation

A permit for a short-term rental may be revoked subject to the procedures identified Article 1 Section 1.XXX Enforcement – Revocation. The Planning Director may immediately revoke all short-term rental permits from the owner upon three (3) violations of the permit or this Article.

MARIJUANA BUSINESSES

Section 53.XX Purpose & Intent

This section describes the requirements for establishing marijuana businesses, including all medical and recreational marijuana production, processing, wholesaling, and retail uses in Hood River County. The purpose of this section is to:

- Establish reasonable time, manner and place requirements for new business that produce, process, wholesale or retail marijuana.
- Provide clear and objective standards for marijuana businesses.
- Minimize conflict with other permitted uses in underlying zones.

EXHIBIT A – ARTICLE 53 HOME OCCUPATIONS

- Protect resources identified in the Hood River County Comprehensive Plan.
- Protect the public health, safety, and general welfare of the citizens of the county.

Section 53.XX **Applicability**

In construing this section, related provisions of state law and administrative rule provide relevant context. These regulations shall not apply to:

- Personal use of marijuana.
- Any Marijuana Business, structure or building legally established prior to the adoption of this article.
- Any marijuana retailer that applied for a registration with the Oregon Health Authority and has subsequently obtained full, unconditional approval prior to the adoption of this article.

The alteration, expansion or replacement of a Marijuana Business will be subject to this section.

Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses:

- A. No more than one marijuana businesses may be established on the same Lot of Record.
- B. A new dwelling used in conjunction with a marijuana crop.
- C. A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop.
- D. A commercial activity, as described in ORS 215.213(2)(c) or ORS 215.283(2)(a), carried on in conjunction with a marijuana crop.
- E. Marijuana production, processing, wholesaling and retailing are not permitted in conjunction with a home occupation or Bed & Breakfast.

Section 53.XX **Definitions**

Marijuana Processing - The processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority; excludes packaging or labeling.

Marijuana Production / Grow - The manufacture, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the

EXHIBIT A – ARTICLE 53 HOME OCCUPATIONS

Oregon Liquor Control Commission, or registered with the Oregon Health Authority and is a “person designated to produce marijuana by a registry identification cardholder.”

1. Outdoor Production means producing marijuana:
 - (a) In an expanse of open or cleared ground; or
 - (b) In a greenhouse, hoop house or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources.

2. Indoor Production means producing marijuana in any manner:
 - (a) Utilizing artificial lighting on mature marijuana plants; or
 - (b) Other than “outdoor production,” as that is defined in this section.

Marijuana Retailing - The sale of marijuana items to a consumer, provided that the marijuana retailer is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.

Marijuana Wholesaling - The purchase of marijuana items for resale to a person other than a consumer, provided that the marijuana wholesaler is licensed by the Oregon Liquor Control Commission.

Section 53.XX Use Table & Procedures

Table 53.XX identifies the marijuana uses permitted as specified for each of the different zoning districts, subject to the review Type and regulations.

As used in the Table “P” means the use is prohibited; including new agriculture dwellings to support the commercial growing of marijuana, farm stands to sell marijuana products, and commercial activities in conjunction with marijuana on EFU.

As used in the Table “A” means the use is allowed outright subject to the general provisions set forth by this ordinance and do not require land use review.

Type I (Ministerial Action) and Type II (Non-Ministerial or Administrative Action) are review types defined in Article 3 - Definitions.

EXHIBIT A – ARTICLE 53 HOME OCCUPATIONS

Table 53.X Summary of Use Table for Marijuana Businesses

Zoning District	Production / Grow	Processing	Wholesaling	Retailing
Forest (F-1 & F-2)	Type I	P	<u>P</u> ³	P
Exclusive Farm Use (EFU)	Type I	Type II ¹ <u>P</u>	<u>P</u> ³	P
Residential (R-1)	P	P	P	P
Rural Residential (RR)	P	P	P	P
Hood River UGA	See Article 17	See Article 17	See Article 17	See Article 17
Commercial (C-1)	P	P	P	Type II
Rural Center (RC)	P	P	P	P
Rural Unincorporated Community (RUC-1)	P	P	P	P
Mt. Hood Unincorporated Community Commercial (MH-C1)	P	P	P	P
Industrial (M-1)	Type I ² <u>P</u>	Type II	A	P
Industrial (M-2)	Type I ² <u>P</u>	Type II	A	P
Airport Development (AD)	Type I	P	P	P
Natural Area (NA)	P	P	P	P
Overlays: SPO, EP, FP, GH, HHO	P	P	P	P
National Scenic Area	P	P	P	P

¹~~Processing products and floor area subject to ORS 215.283(1)(r), as amended.~~

//Editor's note: In light of processing methods to create extracts (i.e., natural gas, propane or butane) and encourage processing industrial zoned lands, it is recommended to prohibit processing in the EFU zone.//

²~~Indoor production is permitted; outdoor production is prohibited.~~

//Editor's note: Prohibiting production the industrial zones would align with the current uses permitted in the zones//.

³ Specific to wholesaling of products grown off-site.

EXHIBIT A – ARTICLE 53 HOME OCCUPATIONS

//Editor's note: This provision would align with the comments received from DLCD and distinguish between off-site and on-site wholesaling per ORS 215.203.//

* Permitted uses are subject to the applicable provisions **Section ____** and other applicable Articles of the *Hood River County Zoning Ordinance*.

Section 53.XX Marijuana Business

A Marijuana Business reference in Table A shall be subject to the following standards and criteria:

- A. Minimum Yard Depth & Setbacks (EFU and Forest Zones) - Outdoor marijuana canopies, buildings and structures used for indoor or outdoor marijuana production, and buildings and structures used for marijuana processing in the EFU and Forest zones shall be located at least 80-feet from any property line. The distance shall be measured using a straight-line extending horizontally from the nearest part of the canopy area or building or structure used for marijuana production or marijuana processing to the point nearest to any property line.

Marijuana production or processing on resource zones shall be located a minimum of 1,000 feet from a licensed school, daycare facility, publicly owned park or recreational use area or facility. The measurement shall be made using a straight line extending horizontally from the closest point anywhere on the property line of the subject property to the closest property line of the affected property.

- B. Access – The subject property shall have frontage on, or direct access from, a constructed public, county, or state road, and take access on a road or easement serving the subject property. Road access to the marijuana business shall meet current county road standards and shall be adequately maintained and remain clear of obstructions.

*//Editor's note: As mentioned in the staff report, the following language could be added to address concerns associated with access, compatibility and off-site impacts (i.e., increased traffic to resource zoned properties): **If property takes access via a private road or easement which also serves other properties, evidence must be provided by the applicant, in the form of a petition, that all other property owners who have access rights to the private road or easement agree to allow the specific marijuana production or marijuana processing described in the application. Such evidence shall include any conditions stipulated in the agreement.**//*

EXHIBIT A – ARTICLE 53 HOME OCCUPATIONS

- C. Security Cameras - If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with licensing requirements of the Oregon Liquor Control Commission or registration requirements of the Oregon Health Authority.
- D. Lighting - Lighting shall be regulated as follows:
1. Light cast by light fixtures (i.e., artificial lighting) inside any structure or building used for marijuana production or processing shall not be visible from outside.
 2. Outdoor marijuana grow lights shall not be illuminated during the period commencing 30 minutes before sunset and ending 30 minutes after sunrise the following date.
 3. Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall be downcast, shielded and hooded, and not spill onto adjacent lots.
- E. Odor – Industrial Zones: Marijuana production and processing in the M-1 and M-2 zones is allowed if the building or structure is equipped with a charcoal, air filtration system or a building design that mitigates marijuana odor. The marijuana producer or marijuana processor must operate and maintain the filtration system in a manner such that no more than faint odor and no pungent odors are detectable from the property line.
- F. Fences, walls or other barriers
1. Shall be limited in area by being located no more than 20-feet in any direction from the outer extent of all areas used for Marijuana Business activities, including but not limited to buildings, structures, outdoor marijuana canopies, and areas used for off-street parking, loading, and storage.
 2. Shall not be electrified, use barbed wire, razor wire, concertina coils, anti-climb spikes or any other similar security feature designed to discourage ingress through the potential of causing bodily harm.
 3. Shall not include plastic sheeting, knitted polyethylene, woven polypropylene, vinyl coated polyester, or similar materials.
 4. Development standards of that zone shall apply (e.g., height and vision clearance).
- G. Water - The applicant shall submit proof of a legal water source for the proposed marijuana production or marijuana processing. Proof could include, but is not limited to,

EXHIBIT A – ARTICLE 53 HOME OCCUPATIONS

a copy of a water right that serves the proposed use or a letter from the irrigation district, municipal water provider or the Watermaster.

SECTION 53.XX Marijuana Retailing

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

- A. Hours & Window Service - A marijuana retailer may only sell to consumers between the hours of 8:00 a.m. and 8:00 p.m. and may only permit consumers to be present in the building space occupied by the marijuana retailer between the hours of 8:00 a.m. and 8 p.m. The use shall not have a walk-up window or drive-thru window service.

- B. Odor - A marijuana facility shall be equipped with a carbon or charcoal filtration system for odor control.
 - 1. The system shall consist of one or more fans and filters.
 - 2. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) sufficient to scrub or purge the facility total interior air volume, minus sealed grow rooms and non cannabis areas like offices, once per hour.
 - 3. The filter(s) shall be rated for the required CFM.
 - 4. The filtration system shall be maintained in working order and shall be in use.
 - 5. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the charcoal filtration system otherwise required.

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

- D. Minimum Separation Distances - A Marijuana Retail Business shall be located a minimum of 1,000 feet from:
 - 1. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.020, including associated property and parking lot;
 - 2. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including associated property and parking lot;

**EXHIBIT A – ARTICLE 53
HOME OCCUPATIONS**

3. A licensed daycare facility or preschool, including associated property and parking lot;
4. A public park, public playground, government-owned recreational use area or facility, public library, living history museum, community centers, licensed treatment center, or multifamily dwelling owned by a public housing authority;
5. Other marijuana retailer of the same type (e.g., recreational or medical);

The measurement shall be made using a straight line extending horizontally from the closest point anywhere on the property line of the Marijuana Business property to the closest property line of the affected property.

Hood River County

P-15-0215 (Short-Term Rentals)

P-16-0114 (Marijuana)

Exhibit B

**Proposed Updates to Create Consistency
with Article 53**

*For Example: Article 15 Rural Residential to
Amend the Definition of Farm Use*

Exhibit B – HRCZO

EXHIBIT B: PROPOSED UPDATES TO CREATE CONSISTENCY WITH ARTICLE 53

To provide conformity with Article 53 and the proposed changes, there are other articles in the HRCZO that should reference if short-term rentals and marijuana businesses are an allowed use and the review type. These specific articles and provisions are identified below. The proposed text amendments are shown in ~~strike-through~~ and **bold underline**.

Incorrect numbering and references will be revised in the adopted version. Use will reflect the Summary of Use Tables in Article 53.

ARTICLE 3 - Definitions

CANNABINOID: Refers to any of the chemical compounds that are the active constituents of marijuana.

FARM STAND: A business selling agricultural produce or products. A farm stand structure is designed and used for the sale of farm crops and livestock (inclusive of processed crops and livestock), which could include promotional events and providing visitor brochures and information. As it applies to farm stands, “processed crops and livestock” means farm products that have been converted into other products through canning, drying, baking, freezing, pressing, butchering or other similar means of adding value to the farm product, including the addition of incidental ingredients, but not including the conversion of farm products into food items that are prepared on-site or intended for on-site consumption. Pursuant to compliance with the Farm Stand Development Standards, Farm Stands are permitted uses subject to review in the Exclusive Farm Use, Rural Residential and Rural Center zones. **A farm stand shall not be used for the sale, or to promote the sale, of marijuana products or extracts.**

FARM USE: As defined in ORS 215.203 and as used in this Ordinance:

1. “Preparation” of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products; and
2. “Products or by-products raised on such land” means that those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.

Discretionary uses that include marijuana shall comply with Chapter 53.

Exhibit B – HRCZO

MARIJUANA: The plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. Marijuana does not include industrial hemp as defined in Oregon Revised Statutes 571.300.

MARIJUANA BUSINESS: The term and its derivations means an enterprise authorized by state law involving medical or recreational marijuana production, medical or recreational marijuana processing, recreational marijuana wholesaling, medical marijuana dispensing, or retailing of recreational marijuana.

SHORT-TERM RENTAL: A dwelling unit or other building or any portion thereof that is available or advertised, or listed by an agent, for use, rent, or occupancy for a period of time that is less than 30 consecutive days. Short-Term Rentals does not include guest quarters, bed and breakfast facilities, hotels, or other types of lodging permitted to operate in accordance with this Ordinance.

SHORT-TERM RENTAL PERMIT: A Type I development application authorizing a Short-Term Rental or Short-Term Room Rental. Type I Short-Term Rental Permits are permitted by-right, requiring only non-discretionary staff review to demonstrate compliance with the standards in this Ordinance. Type I permits (Ministerial Review) are limited to actions that do not require interpretation or the exercise of policy or legal judgment.

ARTICLE 5 – Forest (F-1) & Primary Forest (F-2) Zones

Table 5.02 Use Table for Forest (F-1) & Primary Forest (F-2) Zone

Table 5.02: Use Table for Forest Zones		
I = Type I II = Type II III = Type III A= Allowed P = Prohibited		
Use	Review Type	SUBJECT TO
Forest, Farm and Natural Resource Uses		
Farm use as defined in ORS 215.203	A	
<u>Farm use, marijuana production</u>	<u>Type I</u>	<u>Article 53</u>
<u>Marijuana processing</u>	<u>P</u>	
<u>Marijuana wholesaling</u>	<u>P</u>	
<u>Marijuana retailing</u>	<u>P</u>	
Commercial Uses		
<u>Commercial activity carried on in conjunction with a marijuana crop</u>	<u>P</u>	

Exhibit B – HRCZO

Table 5.02: Use Table for Forest Zones		
I = Type I II = Type II III = Type III A= Allowed P = Prohibited		
Use	Review Type	SUBJECT TO
<u>Home Occupation involving short-term rental</u>	C (Type II)	<u>Section 5.04.G</u> <u>Section 5.05</u> <u>Article 53</u>

Section 5.04 Use Standards

G. Home Occupation, subject to the following:

1. Located and used subject to the definition of “Home Occupation” in Article 3 and meet the Home Occupation Standards in Article 53 of this Ordinance.
2. Home occupation involving a Bed and Breakfast subject to Article 56.
3. Home occupation to host weddings and related events subject to Article 73.
4. Home occupation involving short-term rental subject to Article 53.

Article 7 – Exclusive Farm Use Zone (EFU)

Table 7.02 Use Table for Exclusive Farm Use (EFU) Zone

Table 7.02: Use Table for EFU Zones I = Type I II = Type II III = Type III A= Allowed P = Prohibited	Review Type		SUBJECT TO
	HV	All Other	
Farm, Forest, & Natural Resource Uses			
Farm use as defined in ORS 215.203	A	A	
<u>Farm use, marijuana production</u>	<u>Type I</u>	<u>Type I</u>	<u>Article 53</u>
<u>Marijuana processing</u>	<u>Type II</u>	<u>Type II</u>	<u>Article 53</u>
<u>Marijuana wholesaling</u>	<u>P</u>	<u>P</u>	
<u>Marijuana retailing</u>	<u>P</u>	<u>P</u>	
Commercial Uses			
<u>Home occupation involving short-term rentals</u>	<u>C</u> <u>(Type II)</u>	<u>C</u> <u>(Type II)</u>	<u>Section 7.05</u> <u>Article 53</u>
<u>Commercial activity carried on in conjunction with a marijuana crop</u>	<u>P</u>	<u>P</u>	

ARTICLE 10 – Residential R-1 Zone (R-1)

Section 10.10 – Uses Permitted Outright

Exhibit B – HRCZO

D. Short-term rentals, subject to Article 53.

ARTICLE 15 - Rural Residential Zone (RR)

Section 15.00 - Purpose and Intent

This zone is intended to maintain a semi-rural atmosphere for the development of residential living. Residential land uses will be the primary activity while agriculture will be of secondary importance. This Ordinance applies to land designated Rural Residential on the Comprehensive Plan Map. New marijuana uses are prohibited in this zone.

Section 15.10 – Permitted Uses

C. Farm uses, excepting:

- (i) any poultry, animal raising, or breeding enterprise conducted on a commercial basis;
and
- (ii) marijuana production and processing.

(***)

H. Short-term rentals, subject to Article 53.

ARTICLE 21 - Commercial Zone (C-1)

Section 21.10 – Uses Permitted Outright

H. Short-term rentals, subject to Article 53.

I. Marijuana retailing, subject to Article 53.

ARTICLE 22 – Rural Center (RC) Zone

Section 22.20 – Permitted Uses

C. Short-term rentals, subject to Article 53.

ARTICLE 25 - Rural Unincorporated Community Commercial Zone (RUC-1)

Section 25.10 – Uses Permitted Outright

V. Short-term rentals, subject to Article 53.

Exhibit B – HRCZO

ARTICLE 27 - Mt. Hood Unincorporated Community Commercial Zone (MH-C1)

Section 27.10 – Uses Permitted Outright

A. Retail Trade Establishment; excepting marijuana retailing.

(***)

E. Motels and hotels, up to 35 units, if served by a sewer system which has service connections to at least 15 permanent dwelling units, including manufactured homes, within the unincorporated community.

(i) Short-term rentals, subject to Article 53.

ARTICLE 31 - Industrial Zone (M-1)

Section 31.10 – Uses Permitted Outright

H. Marijuana uses and businesses are prohibited in this zone.

ARTICLE 32 - Light Industrial (M-2)

Section 32.15 – Uses Permitted

B.9 Manufacturing, compounding, processing, and/or packing of products such as:

- a. Bakery goods
- b. Candy
- c. Cosmetics
- d. Food products
- e. Fruit and vegetables
- f. Marijuana production (growing) is prohibited in the zone.

C.5 Marijuana processing, subject to Article 53.

Article 33 - Airport Development Zone (AD)

Section 33.15 – Uses Permitted

Exhibit B – HRCZO

- A. Accepted Farming Practices; including crop dusting and associated activities, such as chemical storage. **Marijuana production subject to Article 53.**

Section 33.20 – Uses Subject to a Conditional Use Permit

- A. Light industrial, as permitted in the M-2 zone. **Marijuana business, subject to Article 53.**

Article 35 – Natural Area Zone (NA)

Section 35.40 – Uses Subject to a Conditional Use Permit and Criteria for Approval Specified in Section 35.50

- B. Farm uses and accessory uses; **marijuana uses are prohibited in this zone.**

Hood River County

P-15-0215 (Short-Term Rentals)

P-16-0114 (Marijuana)

Exhibit C

Amendments to Article 1

(Consolidation of Introductory Provisions)

**EXHIBIT C – ARTICLE 1
INTRODUCTORY PROVISIONS**

**EXHIBIT C: WORKING DRAFT – AMENDMENTS TO ARTICLE 1
CONSOLIDATION OF INTRODUCTORY PROVISIONS**

Article 1 to be Repealed and Established in its Entirety.

Incorrect numbering and references will be revised in the adopted version.

ARTICLE 1 INTRODUCTORY PROVISIONS

Contents

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Section 1.140 Enforcement / Revocation

Section 1.150 Code Compliance.....

Section 1.160 Penalties.....

Section 1.170 Definitions.....

//Editor’s note: In an effort to consolidate the HRCZO and for administrative purposes, Article 1 was re-organized to incorporate Articles 2, 4, 68, 70 and 71. These changes are reflected below.//

Section 1.010 Authority

Consistent with the provisions of Oregon Revised Statutes Chapters 92, 197, 203 and 215, and under the authority of the Hood River County Home Rule Charter, land use zoning shall be governed by the provisions of this ordinance.

EXHIBIT C – ARTICLE 1 INTRODUCTORY PROVISIONS

Section 1.020 Title

This ordinance shall be known as the "Hood River County Zoning Ordinance."

Section 1.030 Purpose & Objectives

This ordinance is designed to provide and coordinate regulations in Hood River County governing the development and use of lands. To these ends, it is the purpose of this ordinance to:

- A. Provide a guide for the growth and development of the County of Hood River in accordance with the Comprehensive Plan.
- B. **Insure that the development of property within the County is commensurate with the character and physical limitation of the land, and, in general to promote and protect the public health, safety, convenience and welfare.**

//Editor's note: Staff inserted this purpose statement. The notion of health, safety and welfare is not currently imbedded in the Purpose statements guiding the HRCZO.//

- C. Secure for the citizens of Hood River County the social and economic advantages resulting from an orderly planned use of its land resources.
- D. Encourage, classify, designate, regulate and segregate the use of land, buildings and structures to serve the needs of agriculture, commerce, industry, residences and other purposes in appropriate places.
- E. Establish conditions which will allow all of these land uses to exist in harmony within the community.
- F. Prevent the overcrowding of land, to avoid undue concentration of population, and to maintain a suitable balance between the structures and open spaces.
- G. Lessen congestion on streets and to promote a safe, efficient traffic circulation system.
- H. Ensure that adequate off-street parking and loading facilities will be installed and maintained.
- I. Facilitate adequate provisions for community utilities, such as transportation, water, sewage, schools, parks and other public requirements.
- J. Protect and enhance real property values.
- K. Promote the stability of existing land uses and to protect them from incompatible and harmful intrusions.
- L. Protect and preserve the stability of fish and wildlife and other natural resources.
- M. Encourage the most appropriate use of land.
- N. Promote aesthetic values.

Section 1.040 Effect of Hood River County Zoning Ordinance

Any structure, building, or use granted shall be valid in accordance with the provisions and conditions under which it was originally approved, unless the owner applies for a change in

EXHIBIT C – ARTICLE 1 INTRODUCTORY PROVISIONS

which additional conditions established shall apply.

Section 1.050 Severability

The provisions of this ordinance are severable. Should any article, section, subsection, paragraph, sentence, clause or phrase of this ordinance be declared invalid, such declaration shall not affect the validity of any other article, section, subsection, paragraph, sentence, clause or phrase; and if this ordinance or any portion thereof should be held to be invalid on one ground but valid on another, it shall be construed that the valid ground is the one upon which said ordinance or such portion thereof was enacted.

Section 1.060 Interpretation, Scope & Applicability

- A. **Interpretation:** The provisions of this ordinance shall be liberally construed to effect the purpose of this ordinance. These provisions are declared to be the minimum requirements to fulfill its objectives. When conditions herein imposed are less restrictive than comparative provisions imposed by any other provision of this ordinance by resolution of State Law or State Administration regulations, then the more restrictive conditions shall govern.

- B. **Scope:** This ordinance is enacted to regulate and restrict the location and use of buildings, structures, and land for residence, trade, industry, and other land use activities; to regulate and limit the height, number of stories, and size of buildings and other structures hereafter erected or altered; to regulate density; and to divide the County into zones deemed best to carry out these regulations and to provide for the enforcement of these regulations.

//Editor's note: The above provisions were amended and inserted to more clearly identify the need for more restrictive provisions to apply and scope of the HRCZO in relation to zoning. Staff cannot find in the existing HRCZO provisions where this is clearly organized or identified.//

- C. **Applicability:** The Hood River County Zoning Ordinance, Zoning Designations and its Subdivision Ordinance apply to private and government ownerships, including lands within both urban growth boundaries of the Cities of Hood River and Cascade Locks.

- D. **Parcel or lot containing two or more zoning classifications:** A split-zoned parcel is a parcel or lot with two or more zoning classifications. All applicable zoning regulations for each particular zone shall be applied separately for each portion of a parcel or subdivided lot which is split-zoned.

**EXHIBIT C – ARTICLE 1
INTRODUCTORY PROVISIONS**

Section 1.065 Urban Growth Area

- A. Hood River County retains the responsibility for land use decisions and actions affecting urban growth areas. Appeals from such decisions and actions shall be in accordance with the appellant procedures specified in Hood River County Zoning and Subdivision ordinances. The cities of Hood River and Cascade Locks have standing to appeal any land use decision in the County involving the urban growth areas, provided the city's testimony has been added into the record at the Planning Commission level or added to the record during the Planning Director's administrative decision-making process.

- B. Although Hood River County retains the responsibility for decisions affecting lands within the urban growth areas, recommendations and decisions by both the cities of Hood River and Cascade Locks will prevail regarding the specific city zoning and subdivision ordinance interpretation. However, the County reserves the rights to insure decisions are in compliance with land use and applicable laws. If necessary (as determined by both the City and County), public hearings will be conducted to insure land use actions and decisions are consistent and in compliance with both the Cities' and the County's comprehensive plans.

- C. Cities' responses to the above County referrals shall be specific regarding what site development standards are required. A brief statement that the request must comply with the City's zoning ordinance is not acceptable.

Section 1.070 Compliance With Ordinance Provisions

The Planning Director, the Director's designee or other Approving Authority shall not approve a development or use that has been previously divided or otherwise developed in violation of this ordinance, regardless of whether the applicant created the violation, unless the violation can be rectified as part of the development proposal.

No structure or lot shall hereafter be used or occupied and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or altered contrary to the provisions of this ordinance. A proposed use or structure not expressly listed under "conditional uses" may be considered by the Planning Commission or Planning Director as conditional use if said structure or use is of the same general type and impacts with other zoning uses listed in the zone.

Section 1.075 Classification of Zones

For the purpose of this ordinance, the following zones are hereby established:

Resource Zone Classifications

Abbreviated Designation

Exclusive Farm Use Zone

EFU

**EXHIBIT C – ARTICLE 1
INTRODUCTORY PROVISIONS**

Forest Zone	F-1
Primary Forest Zone	F-2

Non-Resource Zone Classifications

Abbreviated Designation

Airport Development Zone	AD
Commercial Zone	C-1
Industrial Zone	M-1
Light Industrial Zone	M-2
Mt. Hood Unincorporated Community Commercial Zone	MH-C1
Natural Area Zone	NA
Residential Zone	R-1
Rural Center Zone	RC
Rural Residential Zone	RR
Surface Mining Zone	SM

Overlays

Abbreviated Designation

Airport Height Combining Zone	AH
Airport Noise Overlay Zone	AN
Environmental Protection Zone	EP
Floodplain Zone	FP
Geologic Hazard	GH
Health Hazard Overlay Zone	HH
Historic Preservation Zone	HP
Interchange Area Management Plan	IAMP
Stream Protection Overlay Zone	SPO

Section 1.080 - Zoning Maps

- A. The location and boundaries of the zones designated to Section 1.075 are hereby established as of the effective date shown on the maps entitled "Hood River County Zoning Maps," all of which were signed by the Chair of the County Board of Commissioners and/or the County Planning Director. The maps shall hereafter be referred to as the zoning maps.
- B. The signed copy of the zoning maps are located in the County Planning Department (*aka County Community Development*) and are maintained by planning staff. With exception to Zone Boundary Adjustment applications, which are discussed in Section 55.10 of the County Zoning Ordinance, no changes to the zoning maps shall be made, unless otherwise approved by the County Board of Commissioners through a formal legislative process. All

EXHIBIT C – ARTICLE 1 INTRODUCTORY PROVISIONS

changes to the zoning maps will be documented in the Hood River County Errata Sheets, which is an element of the County Comprehensive Plan and available at the County Planning Department.

- C. At minimum, paper copies of the zoning maps are available at the County Planning Department, while digital copies are available on the County website.
- D. When discrepancies are noted on paper and digital copies of the zoning maps, the signed Hood River County Zoning Maps shall govern.

//Editor's note: These provisions were amended to reflect where and how the official zoning maps are administered in the planning department.//

Section 1.090 – Minor and Major Modification

- A. **Minor Modification** - Modification of any permit issued by the Planning Department or Commission may be submitted to and subject to approval of the Planning Director. Minor adjustments are those changes which may affect the precise dimensions of buildings and the siting of buildings, or similar portion of the design plan which do not affect the basic character or arrangements of buildings, the density of development, open space requirements or the intent or purpose of the original permit.
- B. **Major Modification** - A permit amendment that does not qualify as a Minor Modification may be submitted as a Major Modification, which shall be processed as a non-ministerial action (Type II), as defined in Section 1.180 of this Ordinance.

//Editor's note: The term major modification (previously referred to as "adjustment") was added for clarity and to articulate notice or re-notice is required.//

Section 1.095 – Minor Text Corrections

The Director may correct the Hood River County Zoning Ordinance or the Comprehensive Plan, without prior notice or hearing, so long as the Director does not alter the sense, meaning, effect, or substance of any adopted ordinance and, within such limitations, the Director may:

- A. Renumber chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals, objectives, and policies of the Hood River County Zoning Ordinance and Comprehensive Plan.
- B. Rearrange chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals, objectives, and policies.

EXHIBIT C – ARTICLE 1 INTRODUCTORY PROVISIONS

- C. Change reference numbers to agree with renumbered chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals, objectives, and policies.
- D. Delete references to repealed chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals objectives, and policies.
- E. Substitute the proper chapter, article, section, subsection, finding, goal, objective, or policy numbers.
- F. Change capitalization and spelling for the purpose of uniformity.
- G. Correct manifest clerical, grammatical or typographical errors.
- H. Change the name of an agency by reason of a name change prescribed by law.

//Editor's note: The Minor Text Corrections provisions are recommended by staff to be inserted into Article 1. It would enable staff to make grammatical and reference changes to the HRCZO without having to go through a formal legislative amendment and review process.//

Section 1.130 - Filing Fees, Refunds and Withdrawals

Filing fees are used to cover costs of staff time, mailing, posting, public hearings and transcripts involved in processing applications. As such, refunds due to denial are not permitted. In case of withdrawal, the Planning Department shall authorize a refund based on pro-rata costs and determination of the status of the application at the time of withdrawal.

Section 1.135 - Waiver

The Board of County Commissioners is the sole authority for County fee waivers.

Section 1.140 – Enforcement / Revocation

- A. Approval Period & Time Extension – Except as provided for land use permits in EFU and forest zones, any permit issued by the Planning Department shall automatically become null and void two-years after the date on which it was granted unless a building permit has been issued or construction has commenced except as otherwise allowed by State statute, State Administrative Rule or a separate section of the Hood River County Zoning Ordinance. If a building permit is not required all applicable conditions of approval shall have been met within two-years after approval of the permit.

A two-year extension may be granted by the Planning Director where all of the following standards are met:

1. An extension request is filed prior to the applicable expiration date or within 30-days

EXHIBIT C – ARTICLE 1 INTRODUCTORY PROVISIONS

after that date;

2. The extension request is filed in written form and includes all exhibits and fees required by the County. Extension requests filed up to 30-days after the expiration date are subject to double fees;
3. The provisions of this Ordinance or State law do not prohibit the extension;
4. The approval criteria for the original decision found in a state goal, policy, statute or administrative rule, the Comprehensive Plan or this Ordinance have not changed; and

Additional one (1) year extensions may be authorized where the applicable standards for an extension set out in (1) through (4) above are met and are subject to double fees. Authority to grant extensions of time will rest with the Director and is a Type I decision. Such decisions are not subject to appeal and are not land use decisions.

- B. Planning Director Grounds for Revocation - In addition to any other penalty authorized by law, a permit may be revoked by the County if the Planning Director finds, after notice to the property owners and opportunity to be heard, that the permit's conditions of approval or requirements of this Article have not been fulfilled. The Planning Director may immediately revoke all permits from the owner upon three (3) violations of the permit.
- C. Appeal Procedures - If the Planning Director revokes a permit, the property owner may appeal the revocation to the Board of Commissioners after submitting a statement outlining the reason for the appeal and payment of appeal fee.
- D. Board Revocation Procedures and Criteria - The Planning Director may initiate a Board of Commissioner public hearing for revocation of a prior approval of a land use permit when there is a violation of conditions attached to the previous approval sufficient to merit such revocation. The Board of Commissioners, with or without recommendation of the Planning Director, may void any permit providing the following conditions and procedures are followed:
 1. Upon review by the Planning Director a violation of the conditions of the permit of this ordinance is found. The Planning Director shall inform the applicant by registered letter of the violation and require compliance within a reasonable time.
 2. If the violation is not corrected, the Planning Director shall inform the Board of Commissioners of the violation together with sufficient data to inform the Board of the character of the violation. The Board may then set a hearing date on the violation.

EXHIBIT C – ARTICLE 1 INTRODUCTORY PROVISIONS

3. At least 10-days prior to the public hearing, the applicant shall be notified by registered letter of the public hearing. In addition all who are notified of the original application and those who testified shall be notified by regular mail.
4. The Board of Commissioners shall conduct the public hearing pursuant to the requirements of a hearings body or officer found in Article 60.

//Editor's note: Staff worked with legal counsel to re-work provisions B and C above. The current provisions in the HRCZO enable the planning commission to possibly forward a recommendation to the Board. However, enforcement of the HRCZO is not a quasi-judicial action. As such, the proposed enforcement hearings process would go directly to the Board via the Planning Director instead of through the planning commission.//

Section 1.150 – Code Compliance

Violations of this ordinance are governed by Chapter 1.08 (Code Enforcement), Chapter 8.08 (Health and Safety) and Chapter 8.12 (Noise Code) of the Hood River County Code. In addition to enforcement actions authorized by these chapters of the Hood River County Code, an application for land use action may be rejected prior to filing or at any point during the application process if any of the following are found to exist:

- A. The affected property has an enforcement action pending; or
- B. The affected property is found to contain a land use violation while processing the application; or
- C. The affected property is found to be in violation of a condition of approval from an approval that remains applicable to the property.

Section 1.160 – Penalties

Chapter 1.08 (Code Enforcement) of the Hood River County Code stipulates that violations of county ordinances are ranked in order of severity and severity of related penalties. The following constitute the severity levels for violations of land use ordinances:

- A. Class I Violations - Violations which the Planning Director considers to be major violations that cause or have the potential to cause a danger to life (persons or animals) or property; that pose substantial and unacceptable impacts on nearby properties; situations which involve individuals disregarding county ordinances; or situations that involve recurring violations at a single property or by the same individual or company.

**EXHIBIT C – ARTICLE 1
INTRODUCTORY PROVISIONS**

- B. Class II Violations – Violations that do not pose an immediate danger to life or property but which the Planning Director considers as major violations of county ordinances that impact the quality of life of neighboring properties or other members of the community.

- C. Class III Violations – Ordinance violations that the Planning Director considers minor and that have minor impacts on neighbors.

Section 1.170 – Definitions

Insert Article 3 - Definitions

Hood River County

P-15-0215 (Short-Term Rentals)

P-16-0114 (Marijuana)

Exhibit D

**Minor and Technical Changes for the
Purpose of Clarity, Improved Process and
Better Outcomes**

Exhibit D – HRCZO

EXHIBIT D - OTHER PROPOSED & RECOMMENDED UPDATES

Minor and Technical Changes for the Purpose of Clarity, Improved Process and Better Outcomes

SUMMARY OF PROPOSED CHANGES

The proposed amendments contained herein are intended to:

- Respond to legislation adopted by LCDC on January 14 and March 11, 2016, which made changes to conform to recent legislation and other minor and technical amendments. Specifically the adoption of minor, technical, and conforming amendments to administrative rules for OAR Chapter 660, Divisions 4, 6, 25 and 33;
- Make changes to in response to the recent model code update to ensure conformity;
- Decrease ambiguities to make the HRCZO easier to implement and administer;
- Repeal in entirety Articles 48, 49 and 63;
- Consolidate Article 1: Incorporate existing provisions from Articles 2, 4, 68, 69, 70 and 71.
- Change the numbering of the following Articles:
 - Article 3 – Incorporate into to Article 1
 - Article 7 – Change to Article 3
 - Article 5 – Change to Article 4

Proposed text amendments are shown in ~~strike-through~~ and **bold underline**.

Article 2 – Effect of Ordinance No. 2

Repeal Article 2 in its entirety; incorporate appropriate provisions within Article 1. Placemark Article 2 for Development Approval Procedures.

Section 2.00 – Repeal of Parts of Ordinance No. 2

~~Section 1, 2 and Sections 50 through 72 of Ordinance No. 2 inclusively are hereby repealed.~~

Section 2.10 – Effect of Ordinance No. 2

- ~~A. All Sections of Ordinance No. 2 not repealed by Section 2.00 of this ordinance are in full effect.~~
- ~~B. Any structure, use, variance, plan, conditional use permit, land use permit granted under provision of Ordinance No. 2 shall be valid in accordance with the provision~~

Exhibit D – HRCZO

~~and conditions under which it was originally approved, unless additional conditions are established for conditional use permits pursuant to Section 68.10 of this ordinance.~~

//Editor's note: The Article refers to the zoning ordinance adopted in 1965. It is recommended to move 2.10.B to Article 1.//

Article 3 – Definitions

Repeal Article 3 in its entirety; incorporate it into the HRCZO Article 1.

Article 1 - Definitions

- 1. Words used in the present tense include the future; the singular number includes the plural; and the word "shall" is mandatory and not directory. Whenever the term "this Ordinance" is used herewith, it shall be deemed to include all amendments thereto as may hereafter from time to time be adopted.**
- 2. For the purpose of this Ordinance, unless otherwise specifically provided, certain words, terms and phrases are defined as follows:**

ACCESSORY BUILDING OR USE: A building or use which (1) is subordinate to and serves a principle building or principle use; (2) is subordinate in area, extent or purpose to the principle building or principle use served; (3) contributes to the comfort, convenience, or necessity of occupants of the principle building or principle use; and (4) is located on the same zoning parcel or lot as the principle building or principle use. Examples of accessory **buildings or uses** ~~are~~ **include** private garages, storage sheds, carports or patio covers.

NON-MINISTERIAL ACTION (Type II or III): A decision that involves criteria that are subjective in nature and that require some level of interpretation or the exercise of policy or legal judgment. A non-ministerial action is the same as an "administrative action" or "land use decision," as defined in ORS 197.015, subject to the notice requirements, decision criteria, and appeal procedures outlined in Article 72 (Director's Review Procedures).

//Editor's note: As part of the model code update it was not intended for Article 72 to apply to Articles 5 and 7 in light of updated CUP criteria.//

RELATIVE: As it applies to ~~relative farm help dwellings~~ and temporary hardship dwellings, relative means a child, parent, stepparent, grandchild, grandparent, step-grandparent, sibling, stepsibling, niece, nephew or first cousin.

Exhibit D – HRCZO

RESIDENTIAL OR RESIDENTIAL USE: The occupancy of a dwelling unit on a non-transient basis. Uses where tenancy is arranged on a transient basis of less than 30 days are not considered residential.

//Editor’ note: After public input and deliberation, the above definition was recommended by the planning commission to be included to create clarity regarding types of occupancy and consistency with the STR regulations. It also furthers the county’s position regarding the need to distinguish residential use from commercial use associated with STRs.//

TRACT: One or more contiguous lots or parcels under the same ownership as provided in ORS 215.010(2). Separate lots or parcels divided by a public highway are not considered contiguous.

Article 4 – Compliance with Ordinance Provisions, Classification of Zones & Zoning Map

Repeal Article 4 in its entirety; incorporate appropriate provisions within Article 1.

Article 5 – Forest Lands

Repeal Article 5 in its entirety; incorporate it into the HRCZO as Article 4.

Table 4.02 Use Table for Forest (F-1) & Primary Forest (F-2) Zone

Table 4.02: Use Table for Forest Zones		
I = Type I II = Type II III = Type III A= Allowed P = Prohibited		
Use	Review Type	SUBJECT TO
Utility, Power Generation, Solid Waste Uses		
Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation	Type I	Section 5.09 Section 5.10
Forest, Farm and Natural Resource Uses		
Permanent facility for the primary processing of forest products that is: (a) located in a building, or an outdoor area that does not exceed one acre excluding laydown and storage yards, or a proportionate combination of indoor and outdoor areas; and (b) adequately separated from surrounding properties to reasonably mitigate noise, odor and other impacts generated by the facility that adversely affect forest management and other existing uses, as determined by the governing body.	C (Type II)	Section 4.05
Public and Quasi-public Uses		
Private firearms training facility as provided in ORS 197.770(2)	C (Type II)	Section 4.05

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Section 4.03 Definitions

- G. Primary Processing of Forest Products: The initial treatments of logs or other forest plant or fungi materials to prepare them for shipment for further processing or to market, ~~in a building or buildings that do not exceed 10,000 square feet in total floor area, or an outdoor area that does not exceed one acre excluding laydown and storage yards, or both, that are adequately separated from surrounding properties to reasonably mitigate noise, odor and other impacts generated by the facility that adversely affect forest management and other existing uses, as determined by the governing body. Treatments may include, including but are not limited to, debarking, peeling, drying, cleaning, sorting, chipping, grinding, sawing, shaping, notching, biofuels conversion, or other similar methods of initial treatments.~~

Section 4.04 Use Standards

- E. Temporary Hardship Dwelling, is subject to the following:

(***)

- 5. A property line adjustment of a lot or parcel in a manner that separates a temporary hardship dwelling or home occupation from the parcel on which the primary residential use exists may not be approved.**

Article 7 – Exclusive Farm Use Zone

Repeal Article 7 in its entirety; incorporate it into the HRCZO as Article 3

Table 3.02 Use Table for Exclusive Farm Use (EFU) Zone

Table 3.02: Use Table for EFU Zones I = Type I II = Type II III = Type III A= Allowed P = Prohibited	Review Type		SUBJECT TO
	HV	All Other	
Residential Uses			
Residential home or facility as defined in ORS 197.660, in existing dwellings	C (TYPE III)	C (TYPE III)	Section 3.04.V Section 7.05
Commercial Uses			
Commercial activities in conjunction with an on-premise farm use, including the processing of farm crops into biofuel not permitted under Section 7.04.B, but excluding activities in conjunction with a marijuana crop.	C (TYPE II)	C (TYPE II)	Section 7.05

Section 7.04 Use Standards (Residential Uses)

Exhibit D – HRCZO

D. Relative farm help dwelling, subject to the following standards:

1. The relative farm help dwelling shall be located on the same lot or parcel as the principal farm dwelling and must be on real property used for farm use.
2. The relative farm help dwelling shall be occupied by a relative(s) of the farm operator or the farm operator' spouse, whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. However, farming of a marijuana crop may not be used to demonstrate compliance with the approval criteria for a relative farm help dwelling.
3. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm from the principal farm dwelling, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.
4. For the purposes of this Subsection D "relative" means a child, parent, stepparent, grandchild, grandparent, step-grandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator's spouse.

E. Temporary hardship dwelling, subject to the following standards

(***)

5. A property line adjustment of a lot or parcel in a manner that separates a temporary hardship dwelling or home occupation from the parcel on which the primary residential use exists may not be approved

(Commercial Uses)

G. Farm stand, subject to the following standards

(***)

14. A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.

Section 7.06 Dwellings Customarily Provided in Conjunction with Farm Use

A. Primary Farm Dwelling - Large Tract Standards. On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

1. The parcel on which the dwelling will be located is at least 160-acres.

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2. The subject tract is currently employed for farm use.
3. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the **subject tract land**, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.
4. Except for **seasonal farm worker housing approved prior to 2001** ~~an accessory farm dwelling~~, there is no other dwelling on the subject tract.

C. Primary Farm Dwelling – Farm Income Standards (high value)

2. Except for **seasonal farm worker housing approved prior to 2001** ~~for an accessory farm dwelling~~, there is no other dwelling on lands designated for exclusive farm use **pursuant to ORS Chapter 215** owned by the farm or ranch operator or on the farm or ranch operation; and

(***)

5. **Farming of a marijuana crop, and the grow sales derived from selling a marijuana crop, may not be used to demonstrate compliance with the approval criteria for a primary farm dwelling.**

Section 7.07 Accessory Farm Dwelling (Farm worker housing)

(***)

- B. **Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for an accessory farm dwelling.**

Section 7.14 Land Divisions

(***)

- D. **A land division of a lot or parcel created before January 1, 1993, on which a nonfarm dwelling was approved pursuant to ORS 215.284(1) may not be approved.**

(***)

- J. **A division of a lawfully established unit of land may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for agricultural uses and is smaller than the minimum parcel size, provided that:**

1. **If the parcel contains a dwelling, the parcel must be large enough to support continued residential use.**

2. **If the parcel does not contain a dwelling, it:**

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- (i) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
- (ii) May not be considered in approving or denying an application for any other dwelling; and
- (iii) May not be considered in approving a redesignation or rezoning of agricultural lands, except to allow a public park, open space or other natural resource area.

Section 7.09 Dwelling Not in Conjunction with Farm use

- A. Non-farm dwelling. A non-farm dwelling sited on a parcel is subject to the following requirements:
1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
 2. The following applies to non-farm dwellings:
 - a. The dwelling, including essential or accessory improvements or structures, is situated upon a new parcel, or, in the case of an existing lot or parcel, upon a portion of ~~a an existing~~ lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or new parcel or portion of an existing parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

(***)

Article 10 – Residential R-1 Zone (R-1)

Section 10.20 – Conditional Uses Permitted

(***)

1. ~~Signs identifying a conditional use located on the same lot or parcel as the use and not exceeding 12 square feet in area.~~

Section 10.70 – Signs

~~In an R-1 Zone, signs shall be limited to those identifying the use of the premises or the sale, rental or lease of the property on which the sign is located. Signs shall not exceed six square~~

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~~feet in area, may be non-illuminated or indirectly illuminated, and shall be limited to one per parcel, except that two temporary signs, each not to exceed 12 square feet in area, may be erected to advertise the sale, lease or rental of a tract or more than four or five acres.~~

In an R-1 zone, signs may be allowed, subject to the following:

- A. Signs shall be limited to one per parcel except that two temporary sign, each not to exceed 12-square feet in area, may be erected to advertise the sale, lease, or rental of a lot or parcel.
- B. Signs shall be limited to those identifying the use of the premises or the sale, rental, or lease of the property on which the sign is located.
- C. The size limit of a sign shall not exceed 12-square feet in area, except for signs associated with a fire station, school, or other public facility, which may be enlarged up to 32-square feet.
- D. Sign may be non-illuminated or internally illuminated only. Exceptions include signs associated with a fire station, school, or other public facility may include electronic messaging when show to have minimal nighttime light intensity and illumination per industry standards.
- E. Signs are not permitted within a road or highway right-of-way, unless approved by either the County Public Work Departments or the State Highway Division.

Article 32 - Light Industrial (M-2)

Section 32.35 – Dimensional Requirements

- ~~E. Maximum height: Two (2) stories or 30 feet, whichever is less, if not equipped with a sprinkler system. Three (3) stories or 45 feet, whichever is less, if equipped with a sprinkler system approved by the Fire Marshall. Forty-five (45) feet.~~

Article 48 – Columbia Gorge Combining Zone (CG)

Repeal Article 48 in its entirety.

Article 49 – Scenic Protection Zone (SP)

Repeal Article 49 in its entirety.

Article 50 – Buffer Requirements

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Section 50.10 - Purpose and Intent

To protect the public health, safety, and welfare of the County's rural population by separating farm and forestry uses from non-farm and non-forest use dwellings within and on the boundaries of Exclusive Farm Use (EFU), ~~and Forest (FR)~~ **F-1), and Primary Forest (F-2)** zones. More specifically, to help protect residences from orchard and forest spray drift, dust and noise as well as feedlot and dairy odor and unsightliness, and to help protect farm and forest operators from fire, trespass, vandalism and complaints concerning above conflicts.

Definitions

(***)

- E. Forest Use (commercial): The growing and harvesting of trees for wood production ~~on parcels 40 acres or more.~~ **Land receiving forest tax deferral is considered commercial forest land.**
- F. Orchard: Lands on which fruit or nut trees are grown and harvested on a commercial basis ~~on parcels 20 acres or more.~~

Section 50.15 Applicability

A. This ~~Article "Buffer Requirements" section~~ shall apply to all proposed dwellings and subdivisions that are within or directly adjacent to Exclusive Farm Use (EFU), **Forest (F-1), and Primary Forest (F-2)** ~~and Forest (FR)~~ zones except dwellings located on and directly associated with farm uses.

B. **This Article does not apply to accessory buildings that are detached from the dwelling.**

(***)

Section 50.35 - Variances

- A. If existing vegetation, topography and/or other conditions effectively accomplish the purpose and intent of the buffer requirements on a particular parcel, some or all of the requirements outlined in Section 50.45 may be ~~administratively~~ **Ministerially (Type I)** waived by the Planning Director after receiving a Site Plan pursuant to Section 50.20
- B. If a particular parcel's physical limitations makes it physically impossible to apply some or all of the applicable buffer requirement outlined in Section 50.45, some or all of the requirements shall be ~~administratively~~ **Ministerially (Type I)** waived by the Planning Director after receiving a Site Plan pursuant to Section 50.20. In

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no case shall the buffer requirements preclude a lot from being buildable.

Section 50.45 - Buffer Requirements

- A. If proposed dwelling or subdivision is to be adjacent to an orchard, feedlot, or dairy, the landowner or developer shall provide:
1. An 80-foot perimeter setback between the dwelling(s) and all lot lines which abut said farm use; and
 2. In the case of subdivisions, additional setback, planting, berm, and/or fence may be required if the Planning Director, Planning Commission, Board of Commissioners finds that Section 50.35(A) and (B) ~~above a) and b)~~ are not sufficient to preclude the conflict of the site.
- B. If proposed dwelling or subdivision is to be located within or adjacent to an EFU zone and adjacent to land receiving farm tax deferral for any farm use except those described in Section 50.45(A) 1., the landowner or developer shall provide: a 50 foot setback along all lot lines contiguous with such lands.
- C. If proposed dwelling is to be adjacent to a commercial forest use ~~and or~~ within or adjacent to a forest zone, the landowner or developer shall provide an 80 foot setback along all lot lines contiguous with such land. :
- ~~1. 80 foot setback; and~~
 - ~~2. A maintained firebreak.~~
- D. All proposed dwelling located within or adjacent to a forest zone shall provide a maintained fire break.**

Article 55 – Supplementary Provisions

Section 55.65 – Conditional Use Permits

Once a conditional use permit has been granted, accessory buildings or uses to the conditional use may be permitted provided original conditions and property development standards are met.

Section 55.70 – Accessory Buildings

- A. Accessory buildings may only be approved subsequent to or at the same time as the principal use.**

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- B. An accessory building connected to a dwelling by a breezeway shall be treated as a detached building.**
- C. All rooms comprising a dwelling unit shall have access through an interior doorway to other parts of the dwelling unit. An addition that shares a common wall, roof, or other connection with the dwelling, but does not have an interior passageway shall be treated as a detached building.**
- D. No manufactured dwelling or mobile home may be placed or retained on a lot or parcel for use as an accessory building.**

//Editor's note: The above provisions stem from a two-year process (circa 2010 – 2012) to amend the HRCZO to address accessory buildings. The planning commission held two planning meetings and five work session to consider a host of potential amendments to the HRCZO regarding the use and development of residential accessory buildings and other related structures in the county. The planning commission supported all of the above ideas regarding design limitations and use of manufactured dwellings as accessory buildings.

By definition, accessory buildings are "subordinate to and serve a principal building or principal use" and, therefore, the planning department has consistently interpreted this definition to preclude an accessory building from being approved for construction before the primary use. Most other jurisdictions share this same interpretation and, in fact, have standards in their codes to prevent such pre-dwelling construction. To avoid confusion and to support the current interpretation, the planning commission generally agreed that a standard should be established to clarify that accessory buildings may only be approved after or at the same time as the primary use, such as a single family dwelling.//

Section 55.75 – Setback Requirements for Accessory Buildings and Structures

- A. Except as otherwise allowed, all accessory buildings and structures, including those exempt from a land use permit pursuant to Article 64 (Land Use Permits) of this ordinance, shall comply with the minimum setbacks of the zone in which they are located.**
- B. For buildings accessory to a dwelling that are less than 200 square feet in size and 10 feet in heights, the rear yard setback requirement shall be reduced to match the appropriate side yard setback of the zone in which the property is located.**
- C. The front yard setback of 60-feet from the centerline of any arterial street/road, or 50-feet from the centerline of any local or collector street/road, or 20-feet from the right-of-way, whichever is greater shall not apply to private street/roads that serve or have the potential to serve four or fewer parcels. For such streets/roads, the following front yard setback shall apply:**

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- Ten (10) feet or more from the edge of the nearest street/road right-of-way line, except for garages that directly face the street/road, which shall be setback at least twenty (20) feet from the nearest right-of-way line.

//Editor's note: The HRCZO is not always clear as to which accessory buildings and structures must meet property line setback requirements and which are exempt. For instance, are buildings that are exempt from a building permit also exempt from having to meet property line setback requirements? What about covered patios or decks? What about uncovered patios and decks? What about fences, retaining walls, swimming pools, and hot tubs? To answer these and other questions, a new ordinance section is recommended to be developed. Many of these issues were addressed through amending the definition of "Setback" in Article 3 in updates to the HRCZO during the model code update project to the resource zone.

In reviewing this section and issues between 2010 and 2012, the planning commission generally supported its creation as a way to clarify what structures are exempt from meeting applicable setback requirements. They ultimately saw the benefits of having this information in the HRCZO instead of having it left open to interpretation.

The planning commission recommended the above provisions of Section 57.75 regarding property line setback requirements be adopted by the BOC as proposed.//

Article 63 – Conduct of Public Hearings

Repeal Article 63 in its entirety.

//Editor's note: Hearings and review procedures are outlined in State Statutes, Planning Commission Bylaws, Article 61 and County's Administrative Code.//

Article 64 – Land Use Permits

Section 64.30 99 - Land Uses Exempt from Permits

The uses specified below are exempt from the requirements of this article. However, any land use, structure or building shall comply with the general provisions, special conditions, additional restrictions and exceptions set forth in his ordinance requirements of this ordinance (e.g., dimensional and site development standards, property line setbacks and off-street parking requirements).

- ~~A. Farm use building other than dwellings, structures for public assembly, structures regulated by the State Fire Marshall, or the storage of chemicals, flammables or explosives.~~
- A. Walls, and fences not exceeding six feet in height. Fences and freestanding walls not exceeding eight-feet in height, including agricultural related fences, which are exempt

Exhibit D – HRCZO

regardless of their height. Although exempt from a land use permit, certain fences over six-feet in height are subject to building permit requirements.

- B. Retaining walls that are 4-feet or less in height as measured from the bottom on the footing to the top of the wall. Although exempt from a land use permit, certain retaining wall are subject to building permit requirements.
- C. Swimming Pools. Although exempt from a land use permit, swimming pools are subject to building permit requirements.
- D. Alteration of a building that does not increase the lots coverage, or change the land use.
- E. Temporary use of a real estate sign.
- F. Replacement signs of the same size.
- G. Accepted Timber Practice.
- H. Uses requiring Conditional Use Permits, except those involving the construction of a new structure or an addition to an existing structure requiring a building permit.
- I. ~~Buildings or structures not exceeding \$400 in valuation.~~ Accessory buildings or structures that are exempt from a building permit, except for agricultural buildings.
- J. Transportation improvements identified in Section 55.60(A) of Article 55 (“Supplementary Provisions”) of ~~the County Zoning~~ this ordinance.

//Editor’s note: The above provisions stem from a two-year process (circa 2010 – 2012) to amend the HRCZO to address accessory buildings. More specifically, the planning commission held two planning meetings and five work sessions to consider a host of potential amendments to the HRCZO regarding the use and development of residential accessory buildings and other related structures in the county. The planning commission generally agreed that the above changes to Section 64.99 of the HRCZO were reasonable and more in keeping with current requirements and review processes. As such, staff suggests that these changes to Section 64.99 be recommended for adoption by the BOC.//

Article 65 – Non-Conforming Use

Section 65.00 - Purpose & Intent

It is necessary and consistent with the establishment of this zoning code that all uses of land, or uses of structures not permitted in a zone, be regulated and permitted to exist under controls, the ultimate purpose of which is to phase out or change each non-conforming use to a conforming status.

Exhibit D – HRCZO

A lawfully established structure, which does not meet the site development standards of a zone in which it is located, is considered a nonconforming structure. The provisions of this article do not apply to nonconforming structures ~~in this instance~~ unless the structure(s) also contains a nonconforming use. The action of replacing or expanding a nonconforming structure, in which a site development standard(s) remains unmet, shall be subject to the provisions of Article 66 – Variances.

Article 66 – Variances

Section 66.15 – Exempt Activities

- A. Expansion of a non-conforming structure (a structure that does not meet setbacks) when the portion being expanded is located entirely outside of the setback area.
- B. In kind replacement of a non-conforming structure (a structure that does not meet setbacks).

Section 66.20 – Variance Standards

(***)

Minor Variance

- C. A variance may be granted only in the event that all of the following circumstances have been addressed.

(***)

- 3. An addition can extend beyond the existing building into the required setback, but not extend closer to the property line or road unless within the percentages provided in Subsection 4 below or with a Major Variance.

- 4. The variance does not exceed the following percentages; ~~or is for an addition which does not extend beyond the existing building into the required setback:~~

- a. Setbacks: *No more than 25% of requirement*
- b. Lot Dimension: *No more than 10% of requirement*
- c. Height: *No more than 10% of requirement*
- d. Lot Area: *No more than 10% of requirement*
- e. Lot Coverage: *No more than 10% of requirement*

Major Variance

Exhibit D – HRCZO

5. Exceptions to the Subsection ~~66.20.C.3.~~ above may be granted if the following circumstances exist:
- a. Exceptional or extraordinary circumstances apply to the property, which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography, or other circumstances over which the owners of property, since enactment of this ordinance, have had no control.
 - b. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.
 - c. Strict adherence to the requirement will result in a substantial economic impact to the property owner.

Article 68 – Revocation

Repeal Article 68 in its entirety; incorporate appropriate provisions within Article 1.

Article 69 – Filing Fees

Repeal Article 69 in its entirety; incorporate appropriate provisions within Article 1.

Article 70 – Compliance and Enforcement

Repeal Article 70 in its entirety; incorporate appropriate provisions within Article 1.

Article 71 - Separability

Repeal Article 71 in its entirety; incorporate appropriate provisions within Article 1.

AGENDA REQUEST FORM

DATE: 10/17/16 **DEPARTMENT:** Admin **DEPT. HEAD SIGNATURE:** _____

ISSUE: Emergency Ordinance – Marijuana Time Place Manner, Short Term Rental and other misc regulation changes to the Hood River County Zoning Ordinance

STATUTORY AUTHORITY: OAR _____ County Ordinance _____

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Public hearings have been conducted regarding Time Place and Manner Regulations for Marijuana Business and Facilities in Hood River County as well has hearings regarding the regulation of Short Term Rentals. Tonight the Commissioner reviewed the regulations again for both topics. An Ordinance has been drafted to adopt both sets of regulations as presented this evening as well as miscellaneous modifications to the zoning ordinance to facilitate these new regulations. The ordinance is declaring an emergency and if adopted will into effect immediately.

FISCAL IMPACT: Budget Line Item: _____ Account Balance: _____

PROJECT ANALYSIS:

Staff Contact: _____ Estimated Hours Spent to Date: _____
Estimated Completion Date: _____ Comments: _____

ACKNOWLEDGEMENT BY OTHER AFFECTED PARTIES:

County Counsel Finance Director Other Affected Agencies Administrator
 Safety Committee Human Resources Director Appropriate County Committee Other

RECOMMENDATION FROM DEPARTMENT HEAD:

ADMINISTRATIVE COMMENTS/APPROVAL:

Adopt the Emergency Ordinance and all related exhibits as presented, or direct staff to bring back an amended ordinance to the Commission, affecting Article 53 and miscellaneous other articles of the Hood River County Zoning Code pertaining to time place and manner for marijuana business and facilities and short term rentals in Hood River County.

County Administrator _____

ACTION OF THE BOARD:

County Administrator _____

FOLLOW-UP:*Ord./Res./Agmt./Order Originals: to R & A

*Additional Originals to: _____

Copies (all info.): _____ Copies (ARF only): _____

HOOD RIVER COUNTY

ORDINANCE NO. _____

AN ORDINANCE TO ADOPT MULTIPLE AMENDMENTS TO THE HOOD RIVER COUNTY ZONING ORDINANCE AND DECLARING AN EMERGENCY

WHEREAS, in January 2015 the Board of County Commissioners (Board) prioritized addressing Short-Term Rentals (STRs) at their goal-setting retreat. The goal established at the retreat was, by the end of 2015, to: develop policies and programs to effectively monitor and manage vacation rentals in unincorporated portions of Hood River County in a more sustainable and equitable manner; and

WHEREAS, on April 18, 2016 the Board passed an emergency ordinance (Ordinance No. 331) declaring a 180-day moratorium on marijuana production and processing in the Rural Resident (RR) zone of unincorporated Hood River County in order to provide time necessary to examine the range of options surrounding the regulation or prohibition of said businesses or facilities; and

WHEREAS, the Hood River County Planning Director initiated a legislative process, in accordance with authority provided in Hood River County Zoning Ordinance Article 62 (Legislative Amendments), Section 62.00, to make amendments to the Hood River County Zoning Ordinance Article 53 (Home Occupation) to address STRs and marijuana businesses , respond to recent legislation and rulemaking adopted by the Land Conservation and Development Commission, and to incorporate additional zoning code language to better serve the citizens of the County; and

WHEREAS, the legislative updates also provided an opportunity to update other Articles of the Hood River County Zoning Ordinance directly related to the proposed amendments making the zoning ordinance easier to implement and administer; and

WHEREAS, the above matter came before the Hood River County Planning Commission on three planning sessions: April 13, 2016 to address STRs; May 11, 2016 to address marijuana businesses; and May 16, 2016 a joint planning session with the Board; and

WHEREAS, a public hearing was held by the Hood River County Planning Commission on June 22, 2016 to address marijuana businesses and July 13, 2016 to address STRs; and

WHEREAS, by the Hood River County Planning Commission on a vote of 6 to 1 that

the Board adopt amendments to the Hood River County Zoning Ordinance presented in the Staff Reports dated June 22, 2016 (Marijuana Businesses) and July 13, 2016 (STRs), inclusive of Exhibits A-D in their entirety; and

WHEREAS, the above matter came before the Board for public hearings on August 22nd, August 29th, September 12th and October 17th, 2016 in the County Board of Commissioner Conference Room (1st floor), 601 State Street, Hood River, Oregon to consider the ordinance changes recommended by the planning commission; and

WHEREAS, a Measure 56 type notification was sent by mail to approximately 1,500 affected properties owners in the Rural Residential (RR) zone on June 1, 2016; and

WHEREAS, notification was sent by mail to affected county, local and state agencies, the City of Hood River, and individuals who indicated an interest in the legislative action; and

WHEREAS, due notice was given of all the hearings before the planning commission and Board and opportunity provided to allow testimony to all parties; and

WHEREAS, the Board, based on the staff reports, testimony and its own deliberations, concurred with the Amendments proposed by staff. The general and more notable changes include:

STRs (Staff Report Exhibit A)

- The text amendments are proposed to be included as part of Article 53 (Home Occupation) to address STRs and bifurcates different standards for review from the Home Occupation standards.
- Adds definitions of: Short-Term Rental and a Short-Term Rental Permit. A STR permit would be a Type I or Type II development application authorizing a Short-Term Rental or Short-Term Room Rental.
- Creates a table / matrix to identify uses permitted for each zoning district and review type.
- Prohibits STRs in all F-2 (Primary Forest) zone, industrial zones and overlays. Furthermore limits STRs to a cap of 100 when combining all other zones, of which 25 of the 100 can be on resource zoned land.
- Allows STRs as a Type II use on EFU and F-1 (Forest) zoned land through a Conditional Use Permit.
- Addresses permit requirements (i.e., renewed every 2-years).
- Outlines application requirements to require applicant to address: identifying adjacent property owners, site plan, floor plan, property management plan, building safety, environmental health and Transient Room Tax (TRT).

- Contains standards for all permit requirements: signage, occupancy, parking, access, garbage disposal and nuisances.
- Provides framework for compliance process and enables planning director to revoke STR permit if there are 3 (three) confirmed violations.

Marijuana Businesses (Staff Report Exhibit A)

- The text amendments are proposed to be included as part of Article 53 (Home Occupation) to address marijuana production, processing, wholesaling and retailing and bifurcates different standards for review from Home Occupation standards.
- Addresses both medical and recreation marijuana businesses regulated by the OLCC and OHA.
- Adds definitions of: cannabinoid, marijuana, marijuana business, marijuana processing, marijuana production / grow (outdoor and indoor), marijuana retailing and marijuana wholesaling.
- Allows for production / growing in resource zones (EFU and Forest zones); processing in Industrial zones; limits retail to the Commercial zone; and prohibits commercial production in Residential zones.
- Creates a table / matrix to identify the marijuana uses permitted for each zoning district and review type:
 - *Prohibits all marijuana businesses in the rural center zones (i.e., Oak Grove, Mt. Hood and Rockford communities);*
 - *Allows marijuana retailing in the Commercial (C-1) zone;*
 - *Allows processing on Industrial zoned land; processing requires Type II review; and*
 - *Prohibits all marijuana businesses in overlay zones and National Scenic Area.*
- Addresses water, lighting, access and fencing through siting standards.
- Provides 80-foot setback for buildings and structures on resources zones (EFU and Forest zones).
- Provides 1,000 foot separation for production and processing on EFU zoned property from schools, licensed daycares and preschools.
- Provides 1,000 foot separation for the following: retail businesses from schools, licensed daycares, preschools, public parks, public playgrounds, government-owned recreational uses, public library, living history museums, community centers, licensed treatment centers, or multifamily dwelling's owned by a public housing authority.

Other (Staff Report Exhibits B – D)

- Amends other articles to provide conformity with Article 53 and the proposed STR and marijuana business amendments.

- Repeals and establishes in entirety a new Article 1 (Introductory Provisions) to better consolidate and organize existing provisions.
- Makes minor and technical changes for the purpose of clarity, improved process and better outcomes.
- Adds a definition of residential.

WHEREAS, at the October 17th, 2016 public hearing the Board voted to accept the findings and proposed legislative text amendments identified in the staff reports, accompanying documents, and Exhibits A through D contained in and prepared for the August 22nd, 29th, September 9th, and October 17th public hearings in their entirety, and incorporated herein; incorporating changes identified by the Board at the October 17th public hearing.

NOW, THEREFORE, the Board of County Commissioners for Hood River County adopts this Ordinance, as set forth below:

I. **IT IS HEREBY ORDAINED** that the Hood River Zoning Ordinance Articles 1, 2, 4, 48, 49, 53, 64, 68, 69, 70 and 71 be repealed in their entirety and restated as set forth in the Staff Report and Exhibits A - D dated October 17th, 2016, and by this reference incorporated herein.

II. **IT IS HEREBY ORDAINED** that the Hood River County Zoning Ordinance be amended to incorporate modifications to eighteen other Articles directly related to the amendments as set forth in the Staff Report and Exhibits A – D dated October 17th, specifically: Article 3 (Definitions), Article 5 (Forest and Primary Forest), Article 7 (EFU), Article 10 (Residential Zone, R-1), Article 15 (Rural Residential Zone, RR), Article 21 (Commercial), Article 22 (Rural Center), Article 25 (Rural Unincorporated Community Commercial Zone), Article 27 (Mt. Hood Unincorporated Community Commercial Zone), Article 31 (Industrial Zone), Article 32 (Light Industrial), Article 33 (Airport Development Zone), Article 35 (Natural Area Zone), Article 50 (Buffer Requirements), Article 55 (Supplementary Provisions), Article 64 (Land Use Permit), Article 65 (Non-Conforming Use), and Article 66 (Variances), and by this reference incorporated herein.

III. **SEVERABILITY**. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

IV. **EMERGENCY**. Insomuch as the business aspects of this Ordinance amendment are necessary for the immediate preservation of health, safety and welfare, an emergency is hereby declared to exist and shall be in full force and effect immediately upon its adoption by the

Board of Commissioners.

DATED THIS 17th DAY OF OCTOBER, 2016

HOOD RIVER COUNTY BOARD OF COMMISSIONERS

Ron River, Chair

Karen Joplin, Commissioner

Maui Meyers, Commissioner

Robert Benton, Commissioner

Les Perkins, Commissioner

Approved as to Form: _____
Wilford K. Carey, County Counsel

AGENDA REQUEST FORM

DATE: 10/17/16

DEPT: Community Development

DEPT. HEAD SIGNATURE: *John Roberts*

SUBJECT: Renew emergency ordinance – marijuana business activities and facilities in the RR zone

AUTHORITY: ORS _____ OAR _____ County Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED: On April 18th, 2016 the Board of County Commissioners passed an emergency ordinance to enact a moratorium prohibiting the siting and operation of marijuana business activities or facilities within the Rural Residential (RR) zone of unincorporated portions of the county (Ordinance No 331). The moratorium was intended to provide time necessary to examine the range of options surrounding the regulation of reasonable marijuana Time, Place, Manner (TPM) regulations and expires October 15, 2016. The county is currently conducting a legislative amendment (P-16-0114) to adopt TPM regulations, which could be adopted by the Board on October 17th, 2016.

If the Board does not adopted the marijuana TPM regulations at the October 17th public hearing, it will be recommended to renew the moratorium for another 180-days to prohibit marijuana businesses and facilities on RR zoned property. Renewing the moratorium would: 1) provide additional time for the TPM regulations to be processed, adopted and implemented; 2) provide additional time if the regulations were challenged; and 3) provide more certainty and better direction to applicants currently considering marijuana related permits with the Oregon Liquor Control Commission.

FISCAL IMPACT/PROJECT ANALYSIS:

Budget Line Item _____ Account Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: _____
Comments:

ACKNOWLEDGEMENT BY OTHER AFFECTED PARTIES: (IF APPLICABLE)

County Counsel Finance Director Other Affected Agencies Administrator
 Safety Committee Human Resources Director Appropriate County Committee Other

RECOMMENDATION FROM DEPARTMENT HEAD: Renew emergency ordinance to prohibit marijuana business activities and facilities on Rural Residential (RR) zoned properties in Hood River County. This recommendation is provided by the county planning director and land-use counsel.

ADMINISTRATIVE COMMENTS/APPROVAL:

Conduct the hearing, as needed, to consider an emergency ordinance for a moratorium on marijuana businesses and facilities on Rural Residential (RR) zoned properties in Hood River County.

County Administrator _____ Dept. Head/Staff Attendance to Meeting (circle one) Yes No

ACTION OF THE BOARD:

Date _____

County Administrator _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: to R & A *Additional/Exceptional Originals to: _____
Copies (all info.):
Copies (ARF only):



Hood River County Community Development

Planning, Building Codes, Code Compliance, Economic Development & Veterans' Services

601 State Street, Hood River OR 97031

Ph: (541) 387-6840 • plan.dept@co.hood-river.or.us • www.co.hood-river.or.us

STAFF MEMO

Renewing County Moratorium on Marijuana Businesses – Emergency Ordinance

FILE NUMBER: Renew Ordinance No. 331

DATE: Prepared for October 17th, 2016 Public Hearing

STAFF CONTACT: John Roberts, Community Development Director

REQUEST: Renew the Emergency Ordinance Declaring a Moratorium on Marijuana Business Activities and Facilities in the Rural Residential (RR) Zone.

APPLICABLE PROPERTIES: RR zoned properties, located in unincorporated portions of Hood River County (“county”) outside of the Urban Growth Area (“UGA”) and outside of the Columbia River Gorge National Scenic Area.

ATTACHMENT: Ordinance

I. PURPOSE & BACKGROUND

On April 18th, 2016 the Board of County Commissioners (“Board”) passed an emergency ordinance to enact a moratorium prohibiting the siting and operation of marijuana business activities or facilities within the Rural Residential (RR) zone of unincorporated portions of the county (Ordinance No 331). The moratorium was intended to provide time necessary to examine the range of options surrounding the regulation of reasonable marijuana Time, Place, Manner (TPM) regulations. The moratorium expires October 15, 2016. The county is currently conducting a legislative amendment (P-16-0114) to adopt TPM regulations, which could be adopted by the Board on October 17th, 2016.

If the Board does not adopted the marijuana TPM regulations at the October 17th public hearing, it will be recommended to renew the moratorium for another 180-days to prohibit marijuana businesses and facilities on RR zoned property. Renewing the moratorium would: 1) provide additional time for the TPM regulations to be processed, adopted and implemented; 2) provide additional time if the regulations were challenged; and 3) provide more certainty and better

direction to applicants currently considering marijuana related permits with the Oregon Liquor

Hood River County has yet to enact regulations governing the growing, processing and dispensing of medical marijuana or the production, processing and sale of recreational marijuana. With the adoption of House Bill 3400 (HB 3400) during the 2015 legislative session, some of the regulations concerning TPM for marijuana uses have been resolved at the state level although local governments have discretion to tailor land use regulations, in some circumstances, to guide where and how marijuana uses occur. Approximately 12 counties in Oregon have amended land use codes in response to marijuana legalization. On February 16, 2016 the Hood River County Board of Commissioners directed staff to engage the Hood River County Planning Commission to explore TPM ordinance amendments regulating marijuana businesses in the county.

II. SUMMARY OF IMPORTANT DATES & PROCESS – Marijuana Businesses

- 1998 – Ballot Measure 67, as amended (Oregon Medical Marijuana Act).
- November 4, 2014 - Measure 91 passes.
- June 30, 2015 – HB 3400 becomes effective. The bill makes numerous amendments to Measure 91 and enables land use regulations to be adopted by local jurisdictions.
- July 20, 2015 – Discussion with Board regarding HB 3400, local control and sales tax; consensus was to take a ‘wait and see’ approach regarding regulation of marijuana businesses.
- September 10, 2015 - Community Conversation forum on Marijuana hosted in Odell by the Hood River County Prevention Department.
- December 28, 2015 – Planning staff meets with Columbia Gorge Cannabis Growers Association to discuss local permitting process and issues.
- January 4, 2016 - OLCC starts accepting applications for production, processing, wholesaling and retailing of marijuana.
- February 16, 2016 - County staff (i.e., county prevention and planning departments) make the Board aware of some trends and significant statewide, regional or local issues. Staff requests Board initiate a legislative amendment to adopt reasonable TPM

regulations to apply to marijuana. Additionally, it is requested an emergency ordinance temporarily prohibiting marijuana production and processing on Rural Residential (RR) zoned property is warranted and be adopted.

- March 21, 2016 – Board set date for public hearing on emergency ordinance to prohibit marijuana production and processing on RR zoned property.
- April 18, 2016 – Board passes an emergency ordinance declaring a 180-day moratorium on marijuana production and processing in the RR zone.
- May 11, 2016 - Planning commission conducts work session on Marijuana Businesses. *Extensive background information provided (i.e., "Pot Primer") as well as draft ordinance concepts presented.*
- May 16, 2016 – Board and planning commission conduct joint meeting. Some specifics regarding marijuana businesses and production in industrial zones discussed.
- May 18, 2016 – Notice and text amendments regarding marijuana businesses provided to DLCD.
- June 1, 2016 – Written notice mailed to all affected landowners in the RR zone regarding proposed text amendments to HRCZO and proposed prohibition on marijuana businesses (adhering to the requirements of the Measure 56 notice process).
- June 1 and June 7, 2016 – Otis Gardens hosted and conducted tours of production facility in Odell. Tours were well attended by county staff, planning commissioners and elected officials.
- June 15, 2016 – Per the request of the Prevention Department to raise awareness, participated on a Latino morning call-in radio show (Radio Tierra).
- June 15, 2016 - Notification to all partner agencies and parties; notification to view content online and submit feedback.
- June 22, 2016 – Planning commission hearing on draft marijuana business ordinance presented.
- August 29, 2016 – Board Public Hearing on draft marijuana TPM regulations.

- September 19, 2016 – Board set date for public hearing to renew emergency ordinance to prohibit marijuana production and processing on RR zoned property.
- October 17th, 2016 - Board Public Hearing to possibly adopt short-term rental and marijuana business regulations.

III. FINDINGS

197.520 Manner of declaring moratorium.

(***)

(4) No moratorium adopted under subsection (3)(a) [referring to urbanizable land, which is not applicable] of this section shall be effective for a period longer than 120 days, but such a moratorium may be extended provided the city, county or special district adopting the ' moratorium holds a public hearing on the proposed extension and adopts written findings that:

(a) Verify the problem giving rise to the need for a moratorium still exists;

(b) Demonstrate that reasonable progress is being made to alleviate the problem giving rise to the moratorium; and

(c) Set a specific duration for the renewal of the moratorium. No extension may be for a period longer than six months.

FINDINGS: The problem giving rise to the need for a moratorium still exists. There is still interest in the community to establish marijuana businesses in the Rural Residential (RR) zone. The average size of RR zoned properties in the county is just over 2-acres. The goal of prohibiting marijuana production in the RR zone is to mitigate impacts from competing uses, and to keep RR zoned property for residential purposes and not grow operations. Otherwise, adding a competing/conflicting commercial use to the county's limited residential area further exacerbates housing issues (i.e., lack of buildable lands) and creates issues surrounding compatibility.

Reasonable progress is being made to alleviate the problem giving rise to the moratorium and a legislative text amendment was initiated in March 2016 (P-16-0114). In light of the legislative amendment, the County Board of Commissioners have conducted two public hearings (August 29th and October 17th, 2016) to adopted reasonable Time, Place and Manner (TPM) regulations to govern certain aspects of marijuana businesses per the directive and guidance given

primarily by Measure 91 and HB 3400. The Board could adopt the proposed TPM regulations at the October 17th public hearing or continue the hearing to a time, place and date certain.

The moratorium will be set for six months, or 180-days, to April 15th, 2017.

(5) Any city, county or special district considering an extension of a moratorium shall give the department at least 14 days' notice of the time and date of the public hearing on the extension. [1980 c.2 §3; 1991 c.839 §3; 1995 c.463 §3]

FINDINGS: Staff provided DLCD notice to renew the moratorium on Thursday, September 29th, more than 14 days before the public hearing. The public hearing was noticed in the Hood River News on October 5th, 8th and 12th, 2016.

IV. EMERGENCY CLAUSE & RECOMMENDED MOTION

MOTION: The Board of County Commissioners move to accept the findings identified in the staff memo dated October 17th, 2016 and approved the attached ordinance to renew the moratorium for 180-days prohibiting marijuana business and facilities in the Rural Residential (RR) zone. This ordinance being necessary for the immediate preservation of the public peace, health and safety, and emergency is declared to exist, and this Ordinance takes effect on its adoption.

HOOD RIVER COUNTY

ORDINANCE NO. _____

AN ORDINANCE RENEWING ORDINANCE NO. 331 DECLARING A MORATORIUM ON MARIJUANA BUSINESS ACTIVITIES AND FACILITIES IN THE RURAL RESIDENTIAL (RR) ZONE AND DECLARING AN EMERGENCY

WHEREAS, the above Ordinance having come before the Hood River Board of County Commissioners (“Board”) for public hearing on October 17th, 2016 at 6:00 p.m. in the First Floor Conference Room, 601 State Street, Hood River, Oregon; and

WHEREAS, in the November 1998 general election, Oregon voters passed Ballot Measure 67, the *Oregon Medical Marijuana Act*, which decriminalized medical marijuana under state law. In the November 2014 general election, Oregon voters passed Ballot Measure 91, the *Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act*, which decriminalized recreational marijuana under state law. In Hood River County, Measure 91 passed by a vote of 53.80% in favor (4,913) to 46.20% in opposition (3,925), with a voter turnout of 74.93%; and

WHEREAS, the Oregon Liquor Control Commission (OLCC) adopted temporary Marijuana Business rules on October 22, 2015 to regulate the production, processing, wholesaling and retail sales of recreational marijuana, and started accepting applications on January 4th, 2016; and

WHEREAS, Section 33 and 34 of HB 3400 enable local governments to impose reasonable Time, Place, Manner (TPM) restrictions on marijuana, the enforcement of which is subject to the general and police powers of that jurisdiction; and

WHEREAS, on February 16th, 2016 the Board recommended staff explore developing reasonable TPM restrictions to address potential health, safety and general community welfare impacts related to marijuana business activities; and

WHEREAS, on April 18th, 2016 the Board adopted Ordinance No. 331 declaring a moratorium on marijuana business activities and facilities in the Rural Residential (RR) zone and declaring an emergency, which expires after 180 days; and

WHEREAS, per the findings in the October 17th Staff Memo to the Board renewing the moratorium meets the requirements of Oregon Revised Statute; and

WHEREAS, the Board has determined that it is in the best interests of the health, safety

and welfare of the citizens of Hood River County to renew and enact a moratorium prohibiting the siting and operation of marijuana business activities or facilities within the Rural Residential (RR) zone of unincorporated Hood River County in order to provide necessary time to examine the range of options surrounding the regulation or prohibition of said businesses or facilities.

NOW, THEREFORE, THE HOOD RIVER COUNTY BOARD OF COMMISSIONERS ORDAINS as follows:

- A. **MORATORIUM DECLARED.** Hood River County hereby issues a moratorium prohibiting the operation of any medical marijuana business activity or facility in the Rural Residential (RR) zone subject to the jurisdiction of Hood River County. As used in this section, “marijuana” includes any facility that dispenses marijuana pursuant to ORS 475.005 or any other provision of Oregon law.
- B. **EFFECTIVE DATE.** The moratorium imposed in hereby effective after the enactment of this Ordinance and continues for a period of 180-days, through April 15, 2017, unless otherwise lawfully rescinded or extended.
- C. **REMEDIES NOT EXCLUSIVE.** The remedies available under HB 3400 for a violation of the moratorium imposed by this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law. It is within the discretion of the Hood River County Sheriff to seek cumulative remedies for a violation of the moratorium imposed by this Ordinance.
- D. **SEVERABILITY.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.
- E. **EMERGENCY.** This ordinance being necessary for the immediate preservation of the public peace, health and safety, and emergency is declared to exist, and this Ordinance takes effect on its adoption.

DATED THIS 17th DAY OF OCTOBER, 2016

HOOD RIVER COUNTY BOARD OF COMMISSIONERS

Ron Rivers, Chair

Les Perkins, Commissioner

Maui Meyer, Commissioner

Karen Joplin, Commissioner

Bob Benton, Commissioner

Approved as to Form: Wilford K. Carey, County Counsel