



# **MISC. ITEMS**

**(including policy discussions and  
determinations)**

# **GOLD BEACH CITY COUNCIL AGENDA REPORT**



Agenda Item No. 10 a.  
Council Meeting Date: February 10, 2014

## **TITLE: Urban Renewal Update**

### **SUMMARY AND BACKGROUND:**

Just a quick update regarding Urban Renewal. Per the state requirements I submitted the completed plan to the County Assessor last summer to certify the frozen values. He contacted me shortly afterwards and said they would be unable to complete their work prior to the November 2013 tax billing so no revenue would be collected for 2013-2014. We have now received the certification of the frozen values and revenue will begin this tax year (November 2014). The certified frozen base is: \$61,288,575 this is slightly greater than the projected value in our plan of \$55,163,539—which is good—we were trying to estimate conservatively.

Now that we are officially complete on the UR creation process it is time to re-start regular UR meetings. I would like to suggest having quarterly meetings until we start receiving actual revenue in November. I will contact the UR Advisory Committee members to determine a good regular meeting day/time.

### **FINANCIAL IMPACT:**

- None at this time

### **DOCUMENTS ATTACHED:**

- Copy of Certification of UR Frozen Values from the Assessor and our adopted projected assessed values.

### **REQUESTED MOTION/ACTION:**

None—information only.

### **COPY OF REPORT AND ATTACHMENTS SENT TO:**

Council

# CURRY COUNTY ASSESSOR'S OFFICE

JIM KOLEN ASSESSOR  
COURTHOUSE  
94235 MOORE STREET, SUITE 221  
GOLD BEACH, OREGON 97444

Tracy A Garner  
Chief Deputy Assessor

Phone (541) 247-3288

MACK ARCH ON THE CURRY COAST

January 22, 2014

City of Gold Beach Urban Renewal Agency  
City of Gold Beach  
29592 Ellensburg Avenue  
Gold Beach, Oregon 97444

RE: Certification of Urban Renewal Frozen Values

As the Assessor of Curry County, Oregon, in accordance with ORS 457.430, Certification of assessed value of property in urban renewal area, I hereby certify the total taxable assessed value within the Gold Beach Urban Renewal Plan area as shown on the 2012-13 assessment roll to be \$61,288,575. I further certify the total taxable assessed value of the plan area by code area to be as follows:

CODE AREA	PLAN TAV
31UR	\$61,288,575
<b>Property by type:</b>	
Real Property	\$54,869,640
Manufactured Structures	\$175,760
Personal Property	\$2,772,072
Utility Property	\$3,471,103

Dated this 22nd day of January 2014.



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Jim Kolen  
Assessor Curry County

**Table 14 - Projected Growth Rates and Assessed Values**

<b>Growth Rate</b>	<b>FY</b>	<b>Assessed Value Projections</b>
1.20%	2012-13	\$53,976,065
2.20%	2013-14	\$55,163,539
3.20%	2014-15	\$56,928,772
4.20%	2015-16	\$59,319,781
4.26%	2016-17	\$61,846,803
4.26%	2017-18	\$64,481,477
4.26%	2018-19	\$67,228,388
4.26%	2019-20	\$70,092,317
4.26%	2020-21	\$73,078,250
4.26%	2021-22	\$76,191,383
4.50%	2022-23	\$79,619,996
4.50%	2023-24	\$83,202,895
4.50%	2024-25	\$86,947,026
4.50%	2025-26	\$90,859,642
4.50%	2026-27	\$94,948,326
4.50%	2027-28	\$99,221,000
4.50%	2028-29	\$103,685,945
4.50%	2029-30	\$108,351,813
4.50%	2030-31	\$113,227,645
4.50%	2031-32	\$118,322,889
4.50%	2032-33	\$123,647,419
4.50%	2033-34	\$129,211,552
4.50%	2034-35	\$135,026,072
4.50%	2035-36	\$141,102,246
4.50%	2036-37	\$147,451,847
4.50%	2037-38	\$154,087,180
4.50%	2038-39	\$161,021,103



Source: ECONorthwest

**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**



Agenda Item No. **10 b.**  
Council Meeting Date: February 10, 2014

**TITLE: Pending Charter Cable Franchise Expiration**

**SUMMARY AND BACKGROUND:**

The 10 years Charter Cable franchise agreement will expire in July of this year. Councilor Kaufman had requested a copy so that we may review the current agreement. This would be the opportunity to think about any changes we may want to add to the agreement. After we discuss some possible topics I will consult with legal counsel about we can/cannot potentially change.

**FINANCIAL IMPACT:**

- None at this time

**DOCUMENTS ATTACHED:**

- Copy of the current franchise agreement

**REQUESTED MOTION/ACTION:**

None at the moment but please consider possible discussion points.

**COPY OF REPORT AND ATTACHMENTS SENT TO:**

Council

ORDINANCE #589

CABLE TELEVISION FRANCHISE ORDINANCE

AN ORDINANCE GRANTING FALCON TELECABLE, A CALIFORNIA LIMITED PARTNERSHIP PERMISSION TO OPERATE AND MAINTAIN A NON-EXCLUSIVE FRANCHISE CABLE SYSTEM UPON, ALONG, ACROSS, OVER AND UNDER THE STREETS AND PUBLIC RIGHTS OF WAY OF THE CITY OF GOLD BEACH, OREGON, REPEALING ALL OTHER ORDINANCES IN CONFLICT HEREWITH AND ALL AMENDMENTS THERETO

THE CITY OF GOLD BEACH ORDAINS AS FOLLOWS:

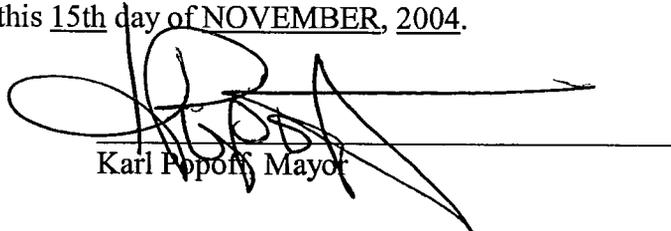
Section 1. The City of Gold Beach, Oregon (the "Franchising Authority") desires to make available to its residents a Cable System subject to certain terms and conditions the Franchising Authority believes to be necessary and appropriate.

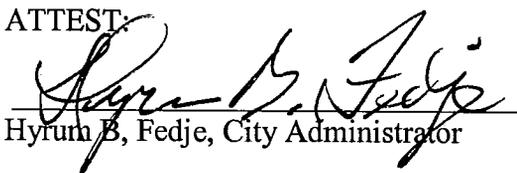
Section 2. The Franchisee desires to continue to construct, install and maintain a Cable System within the jurisdictional limits of the Franchising Authority;

Section 3. Franchising Authority and the Franchisee agree to the terms and conditions set forth in Exhibit A (the "Charter Franchise Agreement") attached hereto, and thus adopting a new Cable Television Franchise.

Section 4. Ordinance # 438, # 579 of the City of Gold Beach and all ordinances in conflict herewith are hereby repealed.

Adopted by the City Council of Gold Beach this 15th day of NOVEMBER, 2004.

  
Karl Popoff, Mayor

ATTEST:  
  
Hyrum B. Fedje, City Administrator

First Reading:            October 18, 2004    Ayes   5      Nays   0      Absent   0  

Second Reading:        November 15, 2004    Ayes   5      Nays   0      Absent   0

CHARTER FRANCHISE AGREEMENT

This Franchise Agreement is between the City of Gold Beach, OR hereinafter referred to as the "Franchising Authority" and Falcon Telecable, a California Limited Partnership d/b/a Charter Communications, hereinafter referred to as the "Grantee."

WHEREAS, the Franchising Authority finds that the Grantee has substantially complied with the material terms of the current Franchise under applicable laws, and that the financial, legal and technical ability of the Grantee is sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community, and

WHEREAS, having afforded the public adequate notice and opportunity for comment, Franchising Authority desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein; and

WHEREAS, the Franchising Authority and Grantee have complied with all federal and State-mandated procedural and substantive requirements pertinent to this franchise renewal;

NOW, THEREFORE, the Franchise Authority and Grantee agree as follows:

SECTION 1  
Definition of Terms

1.1 Terms. For the purpose of this franchise the following terms, phrases, words and their derivations shall have the meaning ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time (the "Cable Act"), unless otherwise defined herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- A. "Cable System," "Cable Service," "Cable Operator" and "Basic Cable Service" shall be defined as set forth in the Cable Act
- B. "Council" shall mean the City Council of Gold Beach, the governing body of the City of Gold Beach, OR.

- C. "Cable Act" shall mean the Cable Communication Policy Act of 1984, as amended, 47 U.S.C. §§ 521, et. seq.
- D. "FCC" shall mean the Federal Communications Commission and any successor governmental entity thereto.
- E. "Franchise Authority" shall mean the City of Gold Beach, OR.
- F. "Franchise" shall mean the non-exclusive rights granted pursuant to this franchise to construct and operate a Cable System along the public ways within all or a specified area in the Service Area.
- G. "Grantee" shall mean Falcon Telecable, a California Limited Partnership, d/b/a Charter Communications franchise or its lawful successor, transferee or assignee.
- H. "Gross Revenue" means any revenue received by the Grantee from the operation of the Cable System to provide Cable Services in the Service Area, provided, however, that such phrase shall not include: (1) any taxes, fee or assessment of general applicability collected by the Grantee from Subscribers for pass-through to a government agency, including the FCC User Fee; (2) unrecovered bad debt; and (3) any PEG or I-Net amounts recovered from Subscribers.
- I. "Installation" shall mean the connection of the Cable System from feeder cable to Subscribers' terminals.
- J. "Person" shall mean an individual, partnership, association, organization, corporation or any lawful successor, transferee or assignee of said individual, partnership, association, organization or corporation.
- K. "Public School" shall mean any school at any educational level operated within the Service Area by any public, private or parochial school system, but limited to, elementary, junior high school, and high school.
- L. "Reasonable notice" shall be written notice addressed to the Grantee at its principal office or such other office as the Grantee has designated to the Franchise Authority as the address to which notice should be transmitted to it.
- M. "Service Area" shall mean the geographic boundaries of the Franchise Authority, and shall include any additions thereto by annexation or other legal means, subject to the exception in subsection 6.1 hereto..
- N. "State" shall mean the State of Oregon.
- O. "Street" shall include each of the following located within the Service Area: public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys,

sidewalks, circles, drives, easements, rights-of-way and similar public ways and extensions and additions thereto, including but not limited to public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Franchising Authority in the Service Area, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System..

- P. "Subscriber" shall mean any person lawfully receiving Cable Service from the Grantee.

## **SECTION 2** **Grant of Franchise**

**2.1 Grant.** The Franchising Authority franchise hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to erect, construct, operate and maintain in, upon, along, across, above, over and under the Streets, now in existence and as may be created or established during its terms; any poles, wires, cable, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation of a Cable System. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal, State or local law.

**2.2 Term.** The Franchise and the rights, privileges and authority hereby granted shall be for an initial term of ten (10) years, commencing on the Effective Date of this Franchise as set forth in subsection 15.8, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

**2.3 Franchise Requirements For Other Franchise Holders.** In the event that the Franchising Authority grants one (1) or more franchise(s) or similar authorizations, for the construction, operation and maintenance of any communication facility which shall offer services substantially equivalent to services offered by the Cable System, it shall not make the grant on more favorable or less burdensome terms. If said other franchise(s) contain provisions imposing lesser obligations on the company(s) thereof than are imposed by the provisions of this

Franchise, Grantee may petition the Franchising Authority for a modification of this Franchise. The Grantee shall be entitled, with respect to said lesser obligations to such modification(s) of this Franchise as to insure fair and equal treatment by this Franchise and said other agreements.

In the event that a non-franchised multichannel video-programming distributor provides service to the Service Area, the Grantee shall have a right to request Franchise amendments that relieve the Grantee of burdens that create a competitive disadvantage to the Grantee. In requesting amendments, the Grantee shall file a petition seeking to amend the Franchise. Such petitions shall:

1. Indicate the presence of a non-franchised competitor(s);
2. Identify the basis for Grantee's belief that certain provisions of the Franchise place Grantee at a competitive disadvantage;
3. Identify the burdens to be amended or repealed in order to eliminate the competitive disadvantage.

The Franchising Authority shall not unreasonably withhold granting the Grantee's petition.

**2.4 Police Powers and Conflicts with Franchise.** This Franchise is a contract and except as to those changes which are the result of the Franchising Authority's exercise of its general police power, the Franchising Authority may not take any unilateral action which materially changes the explicit mutual promises in this contract. Any changes to this Franchise must be made in writing signed by the Grantee and the Franchising Authority. In the event of any conflict between this Franchise and any Franchising Authority ordinance or regulation, this Franchise will prevail.

**2.5 Cable System Franchise Required.** No Cable System shall be allowed to occupy or use the streets or public rights-of-way of the Service Area or be allowed to operate without a Cable System Franchise.

**SECTION 3**  
**Franchise Renewal**

**3.1 Procedures for Renewal.** The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, or any such successor statute.

**SECTION 4**  
**Indemnification and Insurance**

**4.1 Indemnification.** The Grantee shall, by acceptance of the Franchise granted herein, defend the Franchising Authority, its officers, boards, commissions, agents, and employees for all claims for injury to any person or property caused by the negligence of Grantee in the construction or operation of the Cable System and in the event of a determination of liability shall indemnify and hold Franchising Authority, its officers, boards, commissions, agents, and employees harmless from any and all liabilities, claims, demands, or judgments growing out of any injury to any person or property as a result of the negligence of Grantee arising out of the construction, repair, extension, maintenance, operation or removal of its wires, poles or other equipment of any kind or character used in connection with the operation of the Cable System, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within ten (10) days of receipt of a claim or action pursuant to this section. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify the Franchising Authority for any damages, liability or claims resulting from the willful misconduct or negligence of the Franchising Authority or for the Franchising Authority's use of the Cable System, including any PEG channels.

**4.2 Insurance.**

- A. The Grantee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:

Workers' Compensation	Statutory Limits
Commercial General Liability	[\$1,000,000] per occurrence, Combined Single Liability (C.S.L.) [\$2,000,000] General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos Umbrella Liability	[\$1,000,000] per occurrence C.S.L.
Umbrella Liability	[\$1,000,000] per occurrence C.S.L.

- B. The Franchising Authority shall be added as an additional insured to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverage.
- C. The Grantee shall furnish the Franchising Authority with current certificates of insurance evidencing such coverage.

**SECTION 5**  
**Service Obligations**

**5.1 No Discrimination.** Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, age or sex.

**5.2 Privacy.** The Grantee shall fully comply with the privacy rights of Subscribers as contained in Cable Act Section 631 (47 U.S.C. § 551).

**SECTION 6**  
**Service Availability**

**6.1 Service Area.** The Grantee shall make Cable Service distributed over the Cable System available to every residence within the Service Area where there is a minimum density of at least thirty (30) residences per mile as measured from Grantee's closest existing Cable System plant. The Grantee may elect to provide Cable Service to areas not meeting the above standard.

**6.2 Service to New or Previously Unserved Single Family Dwellings.** The Grantee shall offer Cable Service to all new homes or previously unserved single dwellings located within 150 feet of Grantee's feeder cable at its published rates for standard Installation.

**6.3 New Development Underground.** In cases of new construction or property development where utilities are to be placed underground, the Franchising Authority agrees to require as a condition of issuing a permit for open trenching to any developer or property owner that such developer or property owner give Grantee at least 30 days prior notice of such construction or development, and of the particular dates on which open trenching will be available for Grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at Grantee's expense. Grantee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Grantee fails to install its conduit, pedestals and/or vaults, and laterals within five (5) working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the five-day period, the cost of new trenching is to be borne by Grantee.

**SECTION 7**  
**Construction and Technical Standards**

**7.1 Compliance with Codes.** All construction practices and installation of equipment shall be done in accordance with all applicable sections of the National Electric Safety Code. .

**7.2 Construction Standards and Requirements.** All of the Grantee's plant and equipment, including but not limited to the antenna site, head-end and distribution system, towers, house connections, structures, poles, wire, cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices and performed by experienced maintenance and construction personnel.

**7.3 Safety.** The Grantee shall at all times employ ordinary care and shall use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage,

**7.4 Network Technical Requirements.** The Cable System shall be operated so that it is capable of continuous twenty-four (24) hour daily operation, capable of meeting or exceeding all applicable federal technical standards, as they may be amended from time to time, and operated in such a manner as to comply with all applicable FCC regulations.

**7.5 Performance Monitoring.** Grantee shall test the Cable System consistent with the FCC regulations.

**SECTION 8**  
**Conditions on Street Occupancy**

**8.1 General Conditions.** Grantee shall have the right to utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or

additional poles, conduits, or other facilities on public property until the written approval of the Franchising Authority is obtained, which approval shall not be unreasonably withheld.

**8.2 Underground Construction.** The facilities of the Grantee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. In areas where either telephone or electric utility facilities are installed aerially at the time of system construction, the Grantee may install its facilities aerially with the understanding that at such time as the existing aerial facilities are required to be placed underground by the Franchising Authority, the Grantee shall likewise place its facilities underground. In the event that any telephone or electric utilities are reimbursed by the Franchising Authority or any agency thereof for the placement of cable underground or the movement of cable, Grantee shall be reimbursed upon the same terms and conditions as any telephone, electric or other utilities.

**8.3 Permits.** The Franchising Authority shall cooperate with the Grantee in granting any permits required, providing such grant and subsequent construction by the Grantee shall not unduly interfere with the use of such Streets.

**8.4 System Construction.** All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The Grantee shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures

placed in any public way by the Grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.

**8.5 Restoration of Public Ways.** Grantee shall, at its own expense, restore any damage or disturbance caused to the public way as a result of its operation, construction, or maintenance of the Cable System to a condition reasonably comparable to the condition of the Streets immediately prior to such damage or disturbance.

**8.6 Removal in Emergency.** Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the Franchising Authority to remove any of the Grantee's facilities, no charge shall be made by the Grantee against the Franchising Authority for restoration and repair, unless such acts amount to gross negligence by the Franchising Authority.

**8.7 Tree Trimming.** Grantee or its designee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities.

**8.8 Relocation for the Franchising Authority.** The Grantee shall, upon receipt of reasonable advance written notice, to be not less than ten (10) business days, protect, support, temporarily disconnect, relocate, or remove any property of Grantee when lawfully required by the Franchising Authority pursuant to its police powers. Grantee shall be responsible for any costs associated with these obligations to the same extent all other users of the Franchising Authority rights-of-way are responsible for the costs related to their facilities.

**8.9 Relocation for a Third Party.** The Grantee shall, on the request of any person holding a lawful permit issued by the Franchising Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Street as necessary any property of the Grantee, provided that the expense of such is paid by any such person benefiting from the relocation and the Grantee is give reasonable advance written notice to prepare for such changes. The Grantee

may require such payment in advance. For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business day in the event of a temporary relocation and no less than one hundred twenty days (120) for a permanent relocation.

**8.10 Reimbursement of Costs.** If funds are available to any person using the Streets for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall reimburse the Grantee in the same manner in which other persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Franchising Authority shall make application for such funds on behalf of the Grantee.

**8.11 Emergency Use.** If the Grantee provides an Emergency Alert System ("EAS"), then the Franchising Authority shall permit only appropriately trained and authorized Persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. The Franchising Authority shall hold the Grantee, its employees, officers and assigns harmless from any claims or costs arising out of use of the EAS.

## **SECTION 9** **Service And Rates**

**9.1 Phone Service.** The Grantee shall maintain a toll-free telephone number and a phone service operated such that complaints and requests for repairs or adjustments may be received at any time.

**9.2 Notification of Service Procedures.** The Grantee shall furnish each Subscriber at the time service is installed, written instructions that clearly set forth information concerning the procedures for making inquiries or complaints, including the Grantee's name, address and local

telephone number. Grantee shall give the Franchising Authority thirty (30) days prior notice of any rate increases, channel lineup or other substantive service changes.

**9.3 Rate Regulation.** Franchising Authority shall have the right to exercise rate regulation to the extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the Franchising Authority. If and when exercising rate regulation, the Franchising Authority shall abide by the terms and conditions set forth by the FCC.

**9.4 Continuity of Service.** It shall be the right of all Subscribers to continue receiving Cable Service insofar as their financial and other obligations to the Grantee are honored.

## **SECTION 10** **Franchise Fee**

**10.1 Amount of Fee.** Grantee shall pay to the Franchising Authority an annual franchise fee in an amount equal to five percent (5%) of the annual Gross Revenue. Such payment shall be in addition to taxes of general applicability owed to the Franchising Authority by the Grantee that are not included as franchise fee under federal law.

**10.2 Payment of Fee.** Payment of the fee due the Franchising Authority shall be made on an annual basis, within 45 days of the close of each calendar year. The payment period shall commence as of the Effective Date of the Franchise. In the event of a dispute, the Franchising Authority, if it so requests, shall be furnished a statement of said payment, reflecting the Gross Revenues and the applicable charges, deductions and computations for the period covered by the payment.

**10.3 Accord and Satisfaction.** No acceptance of any payment by the Franchising Authority shall be construed as a release or as an accord and satisfaction of any claim the Franchising Authority may have for additional sums payable as a franchise fee under this Franchise.

**10.4 Limitation on Recovery.** In the event that any Franchise payment or recomputed payment is not made on or before the dates specified herein, Grantee shall pay an interest charge, computed from such due date, at the annual rate of one percent over the prime interest rate. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee was due.

**SECTION 11**  
**Transfer of Franchise**

**11.1 Franchise Transfer.** The Franchise granted hereunder shall not be transferred or assigned, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System to secure indebtedness. Within thirty (30) days of receiving a request for transfer, the Franchising Authority shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Franchising Authority has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Franchising Authority shall be deemed given.

**11.2 Transfer to Affiliates.** The foregoing requirements shall not apply to any sale, assignment or transfer to any Person that is owned or controlled by the Grantee, or any Person that owns or controls the Grantee. Grantee shall notify the Franchising Authority thirty (30) days prior to any such sale, assignment or transfer.

**SECTION 12**  
**Records, Reports And Maps**

**12.1 Reports Required.** The Grantee's schedule of charges, contract or application forms for regular Subscriber service, policy regarding the processing of Subscriber complaints, delinquent Subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the Grantee's policy in connection with its Subscribers shall be filed with the Franchising Authority upon request.

**12.2 Records Required.**

The Grantee shall at all times maintain:

- A. A record of all complaints received regarding interruptions or degradation of Cable Service shall be maintained for one (1) year.
- B. A full and complete set of plans, records and strand maps showing the location of the Cable System.

**12.3 Inspection of Records.** Grantee shall permit any duly authorized representative of the Franchising Authority, upon receipt of advance written notice to examine during normal business hours and on a nondisruptive basis any and all records as is reasonably necessary to ensure Grantee's compliance with the Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the Franchising Authority. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years, except for service complaints, which shall be kept for one (1) year as specified above. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act. The Franchising Authority agrees to treat as confidential any books; records or maps that constitute proprietary or confidential information to the extent Grantee make the Franchising Authority aware of such confidentiality. If the Franchising Authority believes it must release any

such confidential books or records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. Until otherwise ordered by a court or agency of competent jurisdiction, the Franchising Authority agrees that, to the extent permitted by state and federal law, it shall deny access to any of Grantee's books and records marked confidential, as set forth above, to any Person.

**SECTION 13**  
**Community Programming**

**13.1 Service to Schools and Buildings.** The Grantee shall maintain, without charge, one outlet to each Public School, located in the Service Area served by the Cable System and will provide free Basic Cable, for so long as the Cable System remains in operation in the Service Area. Any such school may install, at its expense, such additional outlets for classroom purposes as it desires, provided that such installation shall not interfere with the operation of Grantee's Cable System, and that the quality and manner of installation of such additional connections shall have been approved by the Grantee and shall comply with all local, State and federal laws and regulations. In addition, the Grantee shall furnish to the Franchising Authority, without installation or monthly charges, one outlet to each Police and Fire Station, and to the administration building of the Franchising Authority.

**13.2 Limitations on Use.** The Cable Service provided pursuant to this Section shall not be used for commercial purposes and such outlets shall not be located in areas open to the public. The Franchising Authority shall take reasonable precautions to prevent any use of the Grantee's Cable System that results in the inappropriate use thereof or any loss or damage to the Cable System. The Franchising Authority shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of Cable Service required by subsection 13.1 above.

The Grantee shall not be required to provide an outlet to any such building where a standard drop of more than 150 feet is required, unless the Franchising Authority or building owner/occupant agrees to pay the incremental cost of any necessary extension or installation.

**13.3 Community Programming.** Grantee shall provide one (1) channel on the Cable System for use by the Franchising Authority for non-commercial, video programming for public, education and government access programming.

**13.4 Internet Access.** Grantee shall provide the Franchising Authority with one (1) free Internet Service connection to the Gold Beach City Library.

#### **SECTION 14** **Enforcement Or Revocation**

**14.1 Notice of Violation.** If the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, the Franchising Authority shall first informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Franchising Authority shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

**14.2 Grantee's Right to Cure or Respond.** The Grantee shall have thirty (30) days from receipt of the notice described in subsection 14.1 to (i) respond to the Franchising Authority, contesting the assertion of noncompliance, or (ii) to cure such default, or (iii) if, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

**14.3 Public Hearing.** If the Grantee fails to respond to the notice received from the Franchising Authority pursuant to the procedures set forth in subsection 14.2, or if the default is

not remedied within the cure period set forth above, the Board shall schedule a public hearing if it intends to continue its investigation into the default. The Franchising Authority shall provide the Grantee at least twenty (20) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, notice of which shall be published by the Clerk of the Franchising Authority in a newspaper of general circulation within the Franchising Authority in accordance with subsection 15.5 hereof.

**14.4 Enforcement.** Subject to applicable federal and state law, in the event the Franchising Authority, after the hearing set forth in subsection 14.3 above, determines that the Grantee is in default of any provision of the Franchise, the Franchising Authority may:

- A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- B. Commence an action at law for monetary damages or seek other equitable relief;  
or
- C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise itself in accordance with subsection 14.5 below.

**14.5 Revocation.**

- A. Prior to revocation or termination of the Franchise, the Franchising Authority shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have sixty (60) days from such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged

noncompliance. If the Franchising Authority has not received a satisfactory response from Grantee, it may then seek to revoke the Franchise at a public hearing. The Grantee shall be given at least thirty (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the Franchise.

- B. At the hearing, the Board shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the Board shall be made in writing and shall be delivered to the Grantee. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Board *de novo*.

## **SECTION 15** **Miscellaneous Provisions**

**15.1 Force Majeure.** The Grantee shall not be held in default under, on in noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

Furthermore, the parties hereby agree that it is not the Franchising Authority's intention to subject the Grantee to penalties, fine, forfeitures or revocation of the Franchise for violations

of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Franchise territory, or where strict performance would result in practical difficulties and hardship to the Grantee which outweighs the benefit to be derived by the Franchising Authority and/or Subscribers.

**15.2 Action of Parties.** In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

**15.3 Notices.** All notices from Grantee to the Franchising Authority pursuant to this Franchise shall be to the Clerk of the Franchising Authority. Grantee shall maintain with the Franchising Authority, throughout the term of this Franchise, an address for service of notices by mail.

**15.4 Public Notice.** Minimum public notice of any public meeting relating to this Franchise shall be by publication at least once in a newspaper of general circulation in the area at least ten (10) days prior to the meeting and a posting at the administrative buildings of the Franchising Authority.

**15.5 Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Franchise is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Franchise.

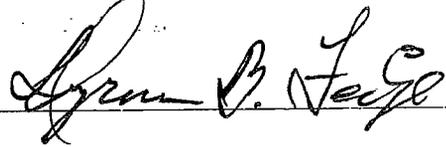
**15.6 Entire Agreement.** This Franchise sets forth the entire agreement between the parties respecting the subject matter hereof. All agreements, covenants, representations and warranties, express and implied, oral and written, of the parties with regard to the subject matter hereof are contained herein. No other agreements, covenants, representations or warranties, express or

implied, oral or written, have been made by any party to another with respect to the matter of this Franchise. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties with respect to the subject matter hereof are waived, merged herein and therein and superseded hereby and thereby.

**15.7 Effective Date.** The Effective Date of this Franchise shall be thirty (30) days after an authorized representative of Grantee has affixed his/her signature hereto, pursuant to the provisions of applicable law. This Franchise shall expire on the 28<sup>th</sup> of July, 2014, unless extended by the mutual agreement of the parties.

Considered and approved this 27 day of April, 2004.

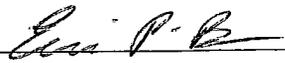
City of Gold Beach, OR

Signature: 

Name/Title: Hyrum B. Fedje, City Administrator

Accepted this 28<sup>th</sup> day of JUNE, 2004, subject to applicable federal, state and local law.

Falcon Telecable, a California Limited Partnership,  
d/b/a Charter Communications

Signature: 

Name/Title: Eric P. Brown

SVP Western Division Operations

Date: 6/28/04

# **GOLD BEACH CITY COUNCIL AGENDA REPORT**



Agenda Item No. **10 c.**  
Council Meeting Date: February 10, 2014

## **TITLE: Medical Marijuana Update**

### **SUMMARY AND BACKGROUND:**

Effective Monday, March 3<sup>rd</sup>, the state will begin accepting applications for Medical Marijuana Facility registration. We received the temporary Oregon Administrative Rules from legal counsel this week. I have reviewed the rules and the registration process is actually quite difficult—and expensive. The rules are attached.

Obviously this has been a hot topic for cities—how or whether to further regulate dispensaries. I have included some info and ordinances from other cities. I spoke with legal counsel about the potential risks of the dispensaries. We can discuss those during the meeting. The decision on how to proceed is a legislative one and therefore a council decision. I will administer/enforce whatever the council decides to adopt.

The gentlemen from Gold Beach Cannabis Service brought a list of questions to the council meeting a few months ago regarding dispensaries within the city limits. I responded to his questions since most were either of an administrative nature or not applicable. I included a copy of the letter.

### **FINANCIAL IMPACT:**

- None at this time

### **DOCUMENTS ATTACHED:**

- Temporary OAR for Medical Marijuana Dispensaries
- Info from other cities
- Response to Mr. Crumrine

### **REQUESTED MOTION/ACTION:**

The state rules do not go into effect until March 3<sup>rd</sup>. No decision is necessary at this time this is for discussion and possible direction on how or if to proceed.

### **COPY OF REPORT AND ATTACHMENTS SENT TO:**

Council  
Chief Andrews

**TEMPORARY OARS  
MEDICAL MARIJUANA  
DISPENSARIES**

# Temporary Rules for the Medical Marijuana Dispensary Program

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Jan. 15, 2014

These are the temporary rules governing medical marijuana dispensaries in Oregon. They will be in effect through the initial application process in March of 2014. The process to make these rules permanent will begin in February, and will allow for continued public input on the content of the rules. Individuals intending to file an application to register a dispensary should use these rules as a guide. Visit [mmj.oregon.gov](http://mmj.oregon.gov) for more information.

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

**DIVISION 8**

**MEDICAL MARIJUANA**

**Medical Marijuana Facilities**

**333-008-1000**

**Applicability**

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

**333-008-1010**

**Definitions**

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

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

### **333-008-1020**

#### **Application for Medical Marijuana Facility Registration**

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

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

(a) An application on a form prescribed by the Authority;

(b) Any additional documentation required by the Authority in accordance with these rules;

(c) The applicable fee as specified in OAR 333-008-1030; and

(d) Information and fingerprints required for a criminal background check in accordance with OAR 333-008-1130.

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

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

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

### **333-008-1030**

#### **Fees**

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

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

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

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

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

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

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

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

(b) The Authority denies an application; or

(c) An applicant withdraws an application.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1040**

#### **Application Review**

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

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

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

(b) Inspect the premises of the proposed facility.

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

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

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

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1050**

#### **Approval of Application**

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1060**

#### **Denial of Application**

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

(2) If the Authority intends to deny an application for registration it must issue a Notice of Proposed Denial in accordance with ORS 183.411 through 183.470.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1070**

#### **Expiration and Renewal of Registration**

(1) A facility's registration expires one year following the date of application approval.

(2) If a PRF wishes to renew the facility's registration, the person must submit to the Authority within 60 days of the registration's expiration:

(a) An application renewal form prescribed by the Authority;

(b) The required renewal fees;

(c) Forms required for the Authority to do a criminal background check on the PRF.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1080**

#### **Notification of Changes**

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

(a) The person's conviction for the manufacture or delivery of a controlled substance in Schedule I or Schedule II;

(b) The issuance of a court order that prohibits the person from participating in the OMMP;

(c) A decision to change the PRF;

(d) A decision to permanently close the facility at that location;

(e) A decision to move to a new location;

(f) A change in the person's residency; and

(g) The location of an elementary, secondary or career school attended primarily by minors within 1,000 feet of the facility.

(2) The notification required in section (1) of this rule must include a description of what has changed and any documentation necessary for the Authority to determine whether the facility is still in compliance with ORS 474.314 and these rules including but not limited to, as applicable:

(a) A copy of the criminal judgment or order;

(b) A copy of the court order prohibiting the PRF from participating in the OMMP;

(c) The location of the school that has been identified as being within 1,000 feet of the facility; or

(d) The information required in OAR 333-008-1120 and 333-008-1130 to determine the residency of the new PRF and to perform the criminal background check.

(3) Failure of the PRF to notify the Authority in accordance with this rule may result in revocation of a facility's registration.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1090**

#### **Required Closures**

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

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

### **333-008-1100**

#### **Business Qualifications for Medical Marijuana Facility Registration**

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

### **333-008-1110**

#### **Locations of Medical Marijuana Facilities**

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1120**

#### **Person Responsible for a Medical Marijuana Facility (PRF)**

(1) A PRF must:

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

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

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

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

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

(2) A PRF may not:

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1130**

#### **Criminal Background Checks**

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

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

(A) First, middle and last name;

(B) Any aliases;

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

### **333-008-1140**

#### **Security for Registered Facilities**

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

(A) Identified as a restricted access area and clearly identified by the posting of a sign not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height that reads “Restricted Access Area – No Minors Allowed”;

(B) Supervised by the PRF or an employee of the registered facility at all times when a patient or designated primary caregiver is present; and

(C) Separate from any area where usable marijuana or immature plants are being transferred to a registered facility.

(5) During all hours when the registered facility is not open for business the PRF must ensure that:

(a) All entrances to and exits from the facility are securely locked and any keys or key codes to the facility remain in the possession of the PRF or authorized employees;

(b) All usable marijuana is kept in a safe; and

(c) All immature plants are in a locked room.

(6) The PRF must ensure that:

(a) Electronic records are encrypted, and securely stored to prevent unauthorized access and to ensure confidentiality;

(b) There is an electronic back-up system for all electronic records; and

(c) All video recordings and archived required records not stored electronically are kept in a locked storage area. Current records may be kept in a locked cupboard or desk outside the locked storage area during hours when the registered facility is open.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1150**

#### **Alarm System for Registered Facilities**

(1) Prior to opening for business, a PRF must ensure that a registered facility has a security alarm system, installed by an alarm installation company, on all facility entry or exit points and perimeter windows.

(2) At the time of application a PRF must submit to the Authority documentation of the:

(a) Alarm system that is installed or proposed for installation;

(b) Company that installed the system or plans to install the system;

(c) Features of the system that meet the criteria of this rule.

(3) A PRF must ensure that the facility is continuously monitored by the alarm system.

(4) The security alarm system for the registered facility must:

(a) Be able to detect movement inside the registered facility;

(b) Be programmed to notify a security company that will notify the PRF or his or her designee in the event of a breach; and

(c) Have at least two “panic buttons” located inside the registered facility that are linked with the alarm system.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1160**

#### **Video Surveillance Equipment for Registered Facilities**

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

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

### **333-008-1170**

#### **Required Camera Coverage and Camera Placement for Registered Facilities**

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

### **333-008-1180**

#### **Video Recording Requirements for Registered Facilities**

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1190**

#### **Testing**

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

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

(a) A unique identifier;

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

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

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

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

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

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

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

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

(i) Chlorinated Hydrocarbons;

(ii) Organophosphates;

(iii) Carbamates; and

(iv) Pyrethroids; and

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

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

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

(a) Uses valid testing methodologies; and

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

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

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

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

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

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

(b) A sample of usable marijuana shall be deemed to test positive for mold and mildew if the sample has levels that exceed the maximum acceptable counts in the Pharmacopeia, Section 1111 (May 1, 2009), incorporated by reference.

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

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1200**

#### **Operation of Registered Facilities**

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

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

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

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

- (3) The following persons are the only persons permitted in any area of a registered facility where usable marijuana or immature plants are present, and only in accordance with these rules, as applicable:
- (a) A PRF;
  - (b) An owner of a registered facility;
  - (c) An employee of the registered facility;
  - (d) Laboratory personnel in accordance with OAR 333-008-1190;
  - (e) A contractor authorized by the PRF to be on the premises of a registered facility;
  - (f) A patient, designated primary caregiver, or growers;
  - (g) An authorized employee or authorized contractor of the Authority; and
  - (h) Other government officials that have jurisdiction over some aspect of the registered facility or that otherwise have authority to be on the premises of the registered facility.
- (4) A PRF must have written detailed policies and procedures and training for employees on the policies and procedures that at a minimum, cover the following:
- (a) Security;
  - (b) Testing;
  - (c) Transfers of usable marijuana and plants to and from the facility;
  - (d) Operation of a registered facility;
  - (e) Required record keeping;
  - (f) Labeling; and
  - (g) Violations and enforcement.
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: 475.314

### **333-008-1210**

#### **Record Keeping**

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

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

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

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

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

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

(d) Monitor date of testing and testing results;

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

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

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

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1220**

#### **Labeling**

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

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

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

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

(d) Potency information; and

(e) Who performed the testing.

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1230**

#### **Transfers to a Registered Facility**

(1) A patient may authorize usable marijuana or immature marijuana plants to be transferred to a registered facility by signing an Authorization to Transfer form prescribed by the Authority. A

patient may authorize transfers to more than one registered facility. A separate form must be provided for each registered facility. The Authorization must include, but is not limited to, the following information:

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

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

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

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

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

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

(5) Once usable marijuana or an immature plant is transferred to a registered facility pursuant to a valid Authorization to Transfer form, the usable marijuana or immature plant is no longer the property of the patient unless the usable marijuana or immature plants are returned by the registered facility.

(6) Prior to a registered facility accepting a transfer of usable marijuana or immature plants the PRF must ensure that:

(a) It has a valid Authorization to Transfer form on file that authorizes the individual that is transferring the usable marijuana or immature plants to make the transfer; and

(b) The individual transferring the usable marijuana or immature plants is the individual authorized to make the transfer.

(7) A PRF must ensure that when a registered facility accepts a transfer of usable marijuana or an immature plant the batch of usable marijuana and each immature plant are segregated in accordance with the testing rule, OAR 333-008-1190 and that the following information is documented, as applicable:

(a) The unique identifier;

(b) The weight in metric units of all usable marijuana received by the registered facility;

(c) The number of immature plants received by the registered facility;

(d) The amount of a finished product received by the registered facility, including, as applicable, the weight in metric units, or the number of units of a finished product;

(e) A description of the form the usable marijuana was in when it was received, for example, oil or an edible product;

(f) Who transferred the usable marijuana or the immature plant, the individual's OMMP card number and expiration date of the card, a copy of the individual's picture identification, the date

the usable marijuana or an immature plant was received, and the name of the patient who authorized the transfer; and

(g) The amount of reimbursement paid by the registered facility.

(8) Nothing in these rules requires a PRF or a registered facility to accept a transfer of usable marijuana or immature plants.

(9) A PRF must ensure that:

(a) From the time that a batch or plant has been received by the registered facility until it is tested in accordance with these rules, the usable marijuana and immature plants are segregated, withheld from use, and kept in a secure location so as to prevent the marijuana or plants from becoming contaminated or losing efficacy, or from being tampered with or transferred except that samples may be removed for testing; and

(b) No usable marijuana or immature plants are transferred to a patient or designated primary caregiver until testing has been completed, the registered facility has received a written testing report, and the usable marijuana and immature plants have tested negative for pesticides, mold and mildew.

(10) Usable marijuana and immature plants must be kept on-site at the facility. The Authority may cite a PRF for a violation of these rules if during an inspection it cannot account for its inventory or if the amount of usable marijuana at the registered facility is not within five percent of the documented inventory.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

### **333-008-1240**

#### **Transfers to a Patient or Designated Primary Caregiver**

(1) Prior to a registered facility transferring usable marijuana or an immature plant to a patient or a designated primary caregiver the PRF must ensure that:

(a) The usable marijuana or an immature plant has not tested positive for mold, mildew or pesticides as specified in OAR 333-008-1190; and

(b) The identity and cardholder status of the person requesting usable marijuana or an immature plant is verified by viewing the person's OMMP card and picture identification and making sure the two match.

(2) The PRF must ensure that for each transfer of usable marijuana or an immature plant to a patient or a designated primary caregiver the following information is documented:

(a) The name, OMMP card number and expiration date of the card of each person to whom the registered facility transfers usable marijuana or an immature plant;

(b) A copy of the person's picture identification;

(c) The amount of usable marijuana transferred in metric units, if applicable;

(d) The number of immature plants transferred, if applicable;

(e) The amount of a finished product transferred in metric units, or units of the finished product, if applicable;

(f) A description of what was transferred;

(g) The date of the transfer; and

(h) The amount of money paid by a patient or a designated primary caregiver to a registered facility for the transfer of usable marijuana or an immature plant.

(3) The PRF must ensure that a registered facility does not transfer at any one time more usable marijuana or immature plants than a patient or designated primary caregiver is permitted to

possess under ORS 475.320(1)(a). A PRF is not responsible for determining whether a patient or designated primary caregiver is limited in the amount of usable marijuana he or she can possess under ORS 475.320(1)(b).

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

### **333-008-1250**

#### **Inspections**

(1) The Authority must conduct an initial inspection of every registered facility within six months of approving an application to ensure compliance with these rules, and must conduct a routine inspection of every registered facility at least every year.

(2) The Authority may conduct a complaint inspection at any time following the receipt of a complaint that alleges a registered facility is in violation of ORS 475.314 or these rules.

(3) The Authority may conduct an inspection at any time if it believes, for any reason, that a registered facility or a PRF is in violation of ORS 475.314 or these rules.

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

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

Stat. Auth.: ORS 431.262, 475.314, 475.338

Stats. Implemented: ORS 431.262, 475.314

### **333-008-1260**

#### **Violations**

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

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

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

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

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

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

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

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

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

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

or

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

**333-008-1270**

**Enforcement**

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

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

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

(d) The Authority must determine if a written plan of correction is acceptable. If the plan of correction is not acceptable to the Authority it must notify the PRF in writing and request that the plan of correction be modified and resubmitted no later than 10 working days from the date the letter of non-acceptance was mailed.

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

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

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

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 431.262, 475.314, 475.338

Stats. Implemented: ORS 431.262, 475.314

**333-008-1280**

**Confidentiality**

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314, 475.331

**333-008-1290**

**Change of Location**

- (1) A registered facility that changes location must submit a new application that complies with OAR 333-008-1020.
- (2) A facility may not operate at a new location unless it is registered by the Authority.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

## **Oregon Medical Marijuana Program proposed revised rules**

### **333-008-0010**

#### **Definitions**

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

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

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

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

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

(16~~5~~) "Medical use of marijuana" means the production, possession, delivery, or administration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his or her debilitating medical condition.

(17~~6~~) "Oregon Health Plan (OHP)" means the medical assistance program administered by the Authority under ORS chapter 414.

(18~~7~~) "OMMP" refers to the office within the Authority that administers the provisions of the OMMA, and all policies and procedures pertaining thereto, as set forth in these rules.

(19~~8~~) "Parent or legal guardian" means the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age.

(20~~19~~) "Patient" has the same meaning as "registry identification cardholder."

(21~~0~~) "Person responsible for a marijuana grow site" means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose.

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

(23~~1~~) "Primary responsibility" as that term is used in relation to an attending physician means that the physician:

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

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

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

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

(24~~2~~) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(25~~3~~) "Registry identification card" means a document issued by the Authority that identifies a person authorized to engage in the medical use of marijuana, and the person's designated primary caregiver, if any.

(26~~4~~) "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Authority.

- | (275) "Replacement registry identification card" means a new card issued in the event that a registry identification cardholder's card, designated primary caregiver identification card, grower identification card, or grow site registration card is lost or stolen, or if a registry identification cardholder's designation of primary caregiver, grower, or grow site has changed.
- | (286) "Seedling or start" means a marijuana plant that has no flowers, is less than 12 inches in height, and less than 12 inches in diameter. A seedling or start that does not meet all three criteria shall be considered a mature plant.
- | (297) "Supplemental Security Income (SSI)" means the monthly benefit assistance program administered by the federal government for persons who are age 65 or older, or blind, or disabled and who have limited income and financial resources.
- | (3028) "Usable marijuana" means the dried leaves and flowers of the plant Cannabis family Moraceae and any mixture or preparation thereof, that are appropriate for medical use. "Usable marijuana" does not include the seeds, stalks and roots of the plant.
- | (3129) "Written documentation" means a statement signed and dated by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person's relevant medical records, maintained in accordance with standard medical record practices.  
Stat. Auth.: ORS 475.338  
Stats. Implemented: ORS 475.300 - 475.346

### 333-008-0020

#### **New Registration Application and Verification**

- (1) A person may apply for a registry identification card on forms prescribed by the Authority. In order for an application to be considered complete, an applicant must submit the following:
  - (a) An application form signed and dated by the applicant;
  - (b) Copies of legible and valid U.S. state or federal issued photographic identification that includes last name, first name, and date of birth from the applicant, the designated primary caregiver, and grower, as applicable. Acceptable forms of current U.S. state or federal issued photographic identification include but are not limited to:
    - (A) Driver's license;
    - (B) State identification card;
    - (C) Passport; or
    - (D) Military identification card.
  - (c) Written documentation, which may consist of relevant portions of the applicant's medical record, signed by the applicant's attending physician within 90 days of the date of receipt by the Authority, which describes the applicant's debilitating medical condition and states that the use of marijuana may mitigate the symptoms or effects of the applicant's debilitating medical condition;
  - (d) If applicable, a completed and notarized "Declaration of Person Responsible for Minor" form for any person under 18 years of age, signed and dated by the person responsible for the minor;
  - (e) The name of a designated primary caregiver, if any;<sup>33</sup>
  - | (f) ~~and one~~ The name of a designated grower (either the patient or another person), if any and the location of the grow site; and
  - | (gf) An application fee and grow site registration fee, if applicable, in the form of cash, bank check, money order, or personal check.
- (2) The Authority shall process an application prior to issuing registry identification cards to assure that the application is complete and information provided has been verified.

- (a) The Authority shall only accept applications that are mailed or are hand-delivered.
- (b) If an applicant does not provide all the information required and the application is considered incomplete, the Authority shall notify the applicant of the information that is missing, and shall allow the applicant 14 days to submit the missing information.
- (c) If an applicant does not provide the information necessary to declare an application complete, or to complete the verification process within the timelines established in subsections (2)(b) and (3)(e) of this rule, the application shall be rejected as incomplete. An applicant whose application is rejected as incomplete may reapply at any time. If an applicant submits an application fee and the application is subsequently denied or rejected, the application fee may be applied toward a new application submitted within one year of the denial or rejection date.
- (d) The Authority may reject an application if the application or supporting documents appear to be altered (for example, writing is whited out). An application shall be denied in accordance with OAR 333-008-0030 if an application or supporting documents are determined to have been falsified.
- (e) The Authority may verify information on each application and accompanying documentation, including:
  - (A) Contacting each applicant by telephone or by mail. If proof of identity is uncertain, the Authority may require a face-to-face meeting and may require the production of additional identification materials;
  - (B) Contacting a minor's parent or legal guardian;
  - (C) Contacting the Oregon Medical Board to verify that an attending physician is licensed to practice in the state and is in good standing;
  - (D) Contacting the attending physician to request further documentation to support a finding that the physician is the applicant's attending physician. The Authority shall notify the applicant of the intent to review the medical records and request the applicant's authorization to conduct the review. Failure to authorize a review of medical records may result in the application being declared incomplete, or denial of an application. If the Authority is unable to verify that the applicant's attending physician meets the definition under OAR 333-008-0010(3) the applicant will be allowed 30 days to submit written documentation or a new attending physician's declaration from a physician meeting the requirements of these rules. Failure to submit the required attending physician documentation is grounds for denial under ORS 475.309 and OAR 333-008-0030;
  - (E) Contacting the Division of Medical Assistance Programs, Department of Human Services-Self Sufficiency, or the Social Security Administration (SSA) to verify eligibility for benefits; and
  - (F) Conducting a criminal records check under ORS 181.534 of any person whose name is submitted as a grower.
- (3) Application fees.
  - (a) A non-refundable application fee of \$200 is required at the time of application.
  - (b) If applicable as specified in OAR 333-008-0025, a non-refundable grow site registration fee of \$50 is required at the time of application.
  - (c) An applicant who can demonstrate current receipt of SSI benefits, current eligibility for OHP benefits or current receipt of food stamp benefits through the Oregon SNAP program qualifies for a reduced non-refundable application fee.
    - (A) An applicant demonstrating receipt of SSI benefits by providing a copy of a current monthly SSI benefit card showing dates of coverage is entitled to a reduced application fee of \$20.

(B) An applicant demonstrating current eligibility for OHP benefits by providing a copy of the applicant's current eligibility statement is entitled to a reduced application fee of \$50.

(C) An applicant demonstrating receipt of current food stamp benefits, verified by enrollment in Oregon's Food Stamp Management Information System database system and by providing current proof of his or her food stamp benefits, is entitled to a reduced application fee of \$60.

(d) The Authority shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. Upon receipt by the Authority of a notice of non-sufficient funds (NSF) or stop payment, an applicant will be allowed 14 days to submit payment in the form of a bank check or cash. Application fees paid in the form of cash must be hand-delivered. Applicants are advised not to make payments in cash through the United States mail or private delivery services. The Authority will not accept responsibility for payments of cash that are lost in the mail or stolen in transit.

(e) The Authority shall notify an applicant who submits a reduced application fee for which the applicant is not eligible and will allow the applicant 14 days from the date of notice to pay the correct application fee and submit a current valid proof of eligibility.

(f) The application fees established in paragraphs (3)(c)(B) and (C) of this rule are effective for applications received on or after October 1, 2013.

(4) The application forms referenced in this rule may be obtained by contacting the Oregon Medical Marijuana Program (OMMP) at PO Box 14450, Portland, OR 97293-0450 or by calling 971-673-1234.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

### **333-008-0025**

#### **Marijuana Grow Site Registration**

(1) A patient ~~must~~ may register a marijuana grow site with the Authority. The address of a medical marijuana facility may not be listed by a patient on the grow site application as the location of the marijuana grow site. The Authority will register only one grow site per patient, and will only register grow sites in Oregon.

(2) To register a marijuana grow site, an applicant or patient must submit to the Authority an application, prescribed by the Authority, that includes:

(a) The name of the grower;

(b) The date of birth of the grower;

(c) The physical address of the marijuana grow site where marijuana is to be produced;

(d) The mailing address of the grower;

(e) The registry identification card number of the patient, if known, for whom the marijuana is being produced; and

(f) A non-refundable grow site registration fee of \$50 in the form of cash, bank check, money order, or personal check. If the grower is the applicant, he or she is not required to pay the grow site registration fee. The Authority shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. Upon receipt by the Authority of a notice of non-sufficient funds (NSF) or stop payment, an applicant will be allowed 14 days to submit payment in the form of a bank check or cash. Application fees paid in the form of cash must be hand-delivered. Applicants are advised not to make payments in cash through the United States mail or private delivery services. The Authority will not accept responsibility for payments of cash that are lost in the mail or stolen in transit.

(3) The Authority shall conduct a criminal background check on the grower as authorized under ORS 475.304.

(a) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offense occurred on or after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder for five years from the date of conviction.

(b) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offenses occurred after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.

(c) The Authority shall notify a patient by certified mail that the grower is ineligible and the patient will be allowed the opportunity to identify another grower.

(4) The Authority shall issue a marijuana grow site registration card to a patient who has met the requirements of section (2) of this rule, unless the grower is disqualified under section (3) of this rule.

(5) A grower must display a marijuana grow site registration card for each patient for whom marijuana is being produced, at the marijuana grow site at all times.

(6) All usable marijuana, plants, seedlings and seeds, associated with the production of marijuana for a patient by a grower, are the property of the patient and must be provided to the patient, or, if the marijuana is usable marijuana or an immature marijuana plant, transferred to a registered medical marijuana facility, upon request.

(7) All marijuana produced for a patient must be provided to the patient or designated primary caregiver when the grower ceases producing marijuana for the patient.

(8) A grower must return the grow site registration card to the patient to whom the card was issued when requested to do so by the patient or when the grower ceases producing marijuana for the patient.

(9) A patient or the designated primary caregiver of the patient may reimburse the grower for the costs of supplies and utilities associated with production of marijuana for patient. No other costs associated with the production of marijuana for the patient, including the cost of labor, may be reimbursed.

(10) A grower may produce marijuana for no more than four patients or designated primary caregivers concurrently.

(11) The Authority may not register a grow site if the location of the grow site is the same location as a medical marijuana facility.

Stat.Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

### **333-008-0045**

#### **Interim Changes**

(1) A patient shall notify the Authority within 30 calendar days of any change in the patient's name, address, telephone number, attending physician, designated primary caregiver, grower or grow site address.

(2) A patient shall notify, as applicable, the designated primary caregiver, and the grower, and the person responsible for a medical marijuana facility of any changes in status including, but not limited to:

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

### **333-008-0050**

#### **Confidentiality**

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

(B) That a person is or was a person responsible for a registered medical marijuana facility;  
~~(B)(C)~~ That the address is or was a documented grow site, and how many people are authorized to grow at that grow site; or

(D) How many people a person was or is authorized to grow for; or

(E) That an address is or was the location of a registered medical marijuana facility.

(c) Other persons (such as, but not limited to, employers, lawyers, family members) upon receipt of a properly executed release of information signed by the patient, the patient's parent or legal guardian, designated primary caregiver or grower. The release of information must specify what information the Authority is authorized to release and to whom.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

### **333-008-0120**

#### **System to Allow Verification of Data at All Times**

(1) The Authority shall establish an interactive method to allow authorized employees of state and local law enforcement agencies to use the Oregon State Police Law Enforcement Data System (LEDS) to query an OMMP data file in order to verify at any time whether a particular patient, designated primary caregiver, grower, person responsible for a medical marijuana facility, grow site location, or medical marijuana facility is listed or registered with the Authority.

(2) LEDS access will only allow a yes or no answer to the query and the information obtained may not be used for any other purpose other than verification.

(3) The Authority may allow the release of reports related to verification if it is without identifying data.

(4) The Authority shall have staff available by phone to verify law enforcement agency employee questions during regular business hours in case the electronic verification system is down, and in the event the system is expected to be down for more than two business days, the Authority shall ensure program staff are available by phone for verification purposes.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 – 475.346

# **OTHER CITIES**



## Coos Bay puts year-long hold on medical marijuana dispensaries

JANUARY 22, 2014 1:30 PM • BY CHELSEA DAVIS, THE WORLD

COOS BAY — For the next year, the city of Coos Bay won't allow any medical marijuana dispensaries to move into town while city staff craft new land use and business regulations.

At Tuesday's city council meeting, councilors enacted a moratorium on medical marijuana dispensary land use applications, licenses and permits for up to one year, said Mayor Crystal Shoji.

Eric Day, the city's community development director, said he and City Manager Rodger Craddock got an influx of inquiries last week. Day was getting two to three a day.

Staff will have one year to examine Oregon's medical marijuana law and make changes to the city code to handle requests to open dispensaries in Coos Bay.

City code would have allowed marijuana dispensaries — which fall under "retail sales operations" — to occupy space in any commercial- or home occupation-zoned area.

"This will give us up to a year to allow us to get our land use codes in order and for the state to get its system set up," Shoji said.

As of Jan. 1, Coos County had 1,591 medical marijuana card-holders, according to Oregon Health Authority. Statewide, there are 60,516 medical marijuana patients.

"Conceivably at any moment they could go in any residential or commercial area, which is most of the city," Day said. "I'm not looking at it from a negative or positive perspective; I'm looking at it from a land use perspective and how best to plan for allowing them."

Day said there are two components to consider: dispensaries and grows.

"Grows are not allowed anywhere in the city right now," he said. "Now dispensaries ... I don't know what the impacts are, which is one of the reasons we're looking at a moratorium."

Coos Bay isn't the first Oregon city to consider a temporary ban on dispensary applications. The city follows Hillsboro, Tualatin and others who have enacted similar moratoriums while marijuana legalization efforts are in limbo.

In 2012, Oregon voters shot down marijuana legalization just as Washington voters passed it. This fall, Oregon could follow Colorado and Washington with a pot-tinged ballot.

Reporter Tim Novotny contributed to this report.

*Reporter Chelsea Davis can be reached at 541-269-1222, ext. 239, or by email at*

**ORDINANCE 2013-1127**

AN ORDINANCE AMENDING CHAPTER 7.04 OF THE REEDSPORT MUNICIPAL CODE, BUSINESS LICENSES

WHEREAS, the City Council finds that it is in the City's best interest to expand the definition of a Business Licenses, and

WHEREAS, it has been determined that the City shall not authorize any business that is in violation of local, state or federal law; and

NOW, THEREFORE, THE CITY OF REEDSPORT ORDAINS AS FOLLOWS:

§ 7.04.020 Definitions, of the Reedsport Municipal Code is revised to read as follows:

"Business" shall mean all professions, trades, occupations and shops of all and every kind carried on for profit that is not in violation of local, state or federal law.

EFFECTIVE DATE OF ORDINANCE: This Ordinance shall become effective on the 4<sup>th</sup> day of December, 2013.

PASSED BY THE CITY COUNCIL this 4<sup>th</sup> day of November, 2013.

AYES 6 NAYS 0

APPROVED BY THE MAYOR this 4th day of November, 2013.

\_\_\_\_\_  
Mayor Keith Tymchuk

ATTEST:

\_\_\_\_\_  
Deanna Schafer, City Recorder

**ORDINANCE NO. 6073**

AN ORDINANCE TEMPORARILY PROHIBITING THE LOCATION OF MEDICAL MARIJUANA FACILITIES WITHIN THE CITY OF HILLSBORO, AND DECLARING AN EMERGENCY.

WHEREAS, in the 2013 Special Session, the Oregon Legislature approved House Bill 3460 which creates a medical marijuana registration system and allows for medical marijuana facilities to be located in areas zoned for commercial, industrial, or mixed use, and

WHEREAS, House Bill 3460 also includes further specific restrictions on the location of medical marijuana facilities related to proximity to schools attended by minors and to other medical marijuana facilities, and

WHEREAS, this use and these restrictions are not currently included in Hillsboro Zoning Ordinance No. 1945, and

WHEREAS, the City has received inquiries regarding siting of medical marijuana facilities in commercial and industrial zones within the City, and

WHEREAS, the Hillsboro Planning Commission will shortly begin the process of amending the Zoning Ordinance to add zoning regulations for medical marijuana facilities, a process expected to take up to four months, and

WHEREAS, the Hillsboro City Council believes that siting medical marijuana facilities within the City absent zoning regulations endangers the health, peace, and welfare of the City of Hillsboro.

NOW, THEREFORE, THE CITY OF HILLSBORO PLANNING COMMISSION ORDERS AS FOLLOWS:

Section 1. Effective January 21, 2014, no person shall site a medical marijuana facility (as described in House Bill 3460 of the 2013 Oregon Special Legislative Session) within the city limits of Hillsboro.

Section 2. The prohibition on siting of medical marijuana facilities shall be in effect for one hundred twenty (120) days from the effective date of this Ordinance, or until the effective date of an adopted amendment to the Hillsboro Zoning Ordinance establishing zoning regulations for such facilities, whichever occurs first.

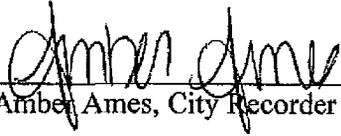
Section 3. The Planning Director, the Building Official, and the Fire Marshal are charged with enforcement of this temporary prohibition.

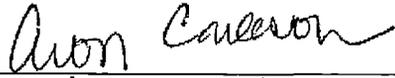
Section 4. In order to maintain the health, peace and welfare of the City of Hillsboro, an emergency is declared and this ordinance shall take effect immediately upon its passage and approval by the Mayor.

Approval and adoption by the Council on this 21<sup>st</sup> day of January 2014.

Approved by the Mayor this 21<sup>st</sup> day of January 2014.

ATTEST:

  
Amber Ames, City Recorder

  
Jerry Willey, Mayor   
Aron Carlson

**ORDINANCE NO. 966**

AN ORDINANCE AMENDING STAYTON MUNICIPAL CODE CHAPTERS 5.08 AND 5.12 TO REGULATE MEDICAL MARIJUANA FACILITIES WITHIN THE CITY OF STAYTON

WHEREAS, On August 14, 2013, Governor Kitzhaber signed House Bill 3460 into law, authorizing the Oregon Health Authority to establish procedures to license and regulate medical marijuana dispensaries; and

WHEREAS, the Stayton Municipal Code, Chapter 5.12 does not currently address or regulate Medical Marijuana Facilities.

**NOW, THEREFORE, THE CITY OF STAYTON ORDAINS AS FOLLOWS:**

**Section 1. Chapter 5.08.110 amended.** Stayton Municipal Code, Title 5, Section 5.08.110 is hereby amended as follows: (additions are underlined, deletions are ~~crossed-out~~)

5.08.110 LICENSE/PERMIT REQUIRED

1. No person shall engage in any of the following businesses or activities within the City limits without first obtaining a license or permit as provided in this Title, except as otherwise exempted herein: (Ord. 935, July 01, 2011)
  - a. Carnival, amusement park, amusement concessionaire;
  - b. Garage sale;
  - c. Junk dealer;
  - d. Promotional event; or
  - e. Solicitor.
  - f. Medical Marijuana Facility**
2. The term of a license or permit shall be on a twelve (12) month cycle (commencing on the month of issuance) unless otherwise indicated. (Ord. 668, July 02, 1990)
- 3. No licenses will be issued to businesses that violate local, state, or federal law.**

**Section 2. Chapter 5.12 – Medical Marijuana Facilities.** Stayton Municipal Code, Title 5, Section 5.12 is hereby amended as follows: (additions are underlined, deletions are ~~crossed-out~~)

CHAPTER 5.12

MEDICAL MARIJUANA FACILITIES

5.12.010 REGULATIONS

Subject to local, state, and federal laws, rules, and regulations.

**Section 3. Effective Date.**

This Ordinance shall be effective from and after 30 days following its adoption by the Council and approval by the Mayor.

ADOPTED BY THE STAYTON CITY COUNCIL this \_\_ day of \_\_\_\_\_, 2014.

CITY OF STAYTON

Signed \_\_\_\_\_, 2014

By: \_\_\_\_\_  
A. Scott Vigil, Mayor

Signed \_\_\_\_\_, 2014

Attest: \_\_\_\_\_  
Christine Shaffer, Interim City Administrator

APPROVED AS TO FORM:

\_\_\_\_\_  
David A. Rhoten, City Attorney

# **LETTER TO CRUMRINE**

**Questions regarding the new implementation of HB 3460 Bill effective March 1, 2014**

- I. *I understand the cost for an application is \$500.00 non-refundable for an OMMP Dispensary. My concern is after I have invested in this how many OMMP Dispensary's will I be allowed to open in Gold Beach before I put up the State fee of \$4,000.00.*
- II. *Are Chief Andrew's crew and/or the Sheriff Department going to be parking in the lot of during my business hours? It is only fair for my business to be treated as all other business in Gold Beach.*
- III. *My business hours are 11AM to 5PM Tuesday thru Saturday. My question is do I have the same right as all business in Gold Beach.*
- IV. *Will I be able to have a legal banking account like all other business?*
- V. *If I move into the city limits will my business license be the same as all other business in Gold Beach?*
- VI. *As I always complied by the rules an regulations here in Gold Beach would they be willing to give me a letter of recommendation to send with my Cannabis License Application?*
- VII. *Signage, will I be allowed to have the same type of signs in the area use? Prior to my Club's move I paid for signage and was later told to take down BUT not refunded any money. I want proof that I am allowed the same privilege as all other business in the area.*
- VIII. *Will the police department still pursue illegal cannabis sales to people that do not have OMMP cards?*
- IX. *Can I depend on the law enforcement to protect my rights against any type of harassment against my shop?*

**GOLD BEACH CANNABIS SERVICE**

Need Information?  
Just Getting Started?  
We can help...

Store Hours  
11:30am - 2:30pm  
Mon. - Sat.



**Earl**  
Office (541) 247-9080  
Home (541) 247-7345

94263 North Bank Rogue River Rd., Gold Beach, OR 97444



# City of Gold Beach

29592 Ellensburg Avenue • Gold Beach, OR 97444

Administration: 541-247-7029 • Police: 541-247-6671 • [www.goldbeachoregon.gov](http://www.goldbeachoregon.gov)

Visitor Center: 541-247-7526 • [www.goldbeach.org](http://www.goldbeach.org)

Thursday, February 06, 2014

Earl Crumrine  
Gold Beach Cannabis Service  
94253 N Bank Rogue River Rd  
Gold Beach, OR 97444

**RE: Questions presented to the City**

Dear Mr. Crumrine:

Many of the questions you recently presented to the council are either administrative questions or state questions. I will answer as many as I can that apply.

- I. *I understand the cost for an application is \$500.00 non-refundable for an OMMP Dispensary. My concern is after I have invested in this how many OMMP Dispensary's will I be allowed to open in Gold Beach before I put up the State fee of \$4,000.00.*

The City has not yet decided how to/whether to additionally regulate Medical Marijuana Facilities in Gold Beach. There are state restrictions on how close facilities can be located to each other and to schools.

- II. *Are Chief Andrew's crew and/or the Sheriff Department going to be parking in the lot of during my business hours? It is only fair for my business to be treated as all other business in Gold Beach.*

The Gold Beach Police Department does not park in any business lots to monitor business or other activities. If a call for service is received for the location of the business the officers will be dispatched to whatever the call may be. The City cannot speak for the Sheriff's Department. Please refer this portion of your question to them directly.

- III. *My business hours are 11AM to 5PM Tuesday thru Saturday. My question is do I have the same right as all business in Gold Beach.*

Your question is posed in the present tense—you currently have no business within the City limits. Referring to a possible future business—we don't actually assign any "rights" to

*The City of Gold Beach is dedicated to enhancing quality of life, while promoting the health, safety, and welfare of our citizens, businesses, and visitors in the most fiscally responsible manner. In doing this, the City will respect the past, respond to current concerns, and plan for the future, while maintaining environmental sensitivity in our beach oriented community.*

businesses. As a business owner you are required to comply with City ordinances and codes. As long as you comply with the City's regulations you are free to conduct business.

**IV. Will I be able to have a legal banking account like all other business?**

The City does not regulate banking. I suggest you contact your current bank to discuss banking options.

**V. If I move into the city limits will my business license be the same as all other business in Gold Beach?**

Again, the City has not determined yet whether to further regulate Medical Marijuana businesses. As of the date of this letter, all businesses are issued the same license. If you would like a copy of the current Business License Code please let me know.

**VI. As I always complied by the rules and regulations here in Gold Beach would they be willing to give me a letter of recommendation to send with my Cannabis License Application?**

I'm sorry we do not send letters of recommendation for any businesses—cannabis or otherwise. This would be similar to a request for recommendation to the Oregon Liquor Control Commission (OLCC)—we do not make personal recommendations for any applicants.

**VII. Signage, will I be allowed to have the same type of signs in the area use? Prior to my Club's move I paid for signage and was later told to take down BUT not refunded any money. I want proof that I am allowed the same privilege as all other business in the area.**

Signage is regulated by the Sign Code. If your proposed sign complies with the Code you will be issued a permit. If you were previously asked to remove a sign (we have no City record of that) it would have been because your business was no longer located at the location of sign.

**VIII. Will the police department still pursue illegal cannabis sales to people that do not have OMMF cards?**

I cannot specifically address police issues before they occur. I can say if illegal activity is occurring within the City limits our officers are duty bound to enforce the law. I would also say that "illegal cannabis sales" would most likely violate any state issued permit/license.

**IX. Can I depend on the law enforcement to protect my rights against any type of harassment against my shop?**

*The City of Gold Beach is dedicated to enhancing quality of life, while promoting the health, safety, and welfare of our citizens, businesses, and visitors in the most fiscally responsible manner. In doing this, the City will respect the past, respond to current concerns, and plan for the future, while maintaining environmental sensitivity in our beach oriented community.*

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Again, the police department is duty bound to enforce the law. If you—or any other citizen—feels a crime is being committed, report the crime (call dispatch) and an officer(s) will be dispatched.

I hope this answers your questions but please feel free to contact me again. Please note-- most of your questions are administrative in nature. Citizens are always welcome at City Council meetings but your questions can probably be answered outside of a public meeting. Once the Council makes a decision regarding regulation of Medical Marijuana Facilities I will provide you with that decision.

Sincerely,



Jodi Fritts-Matthey

[jfritts@goldbeachoregon.gov](mailto:jfritts@goldbeachoregon.gov)

cc: Council and Mayor  
Chief Andrews

# GOLD BEACH CITY COUNCIL AGENDA REPORT



Agenda Item No. **10. d.**  
City Council Meeting Date: February 10, 2014

## **TITLE: Upcoming Meetings and Trainings**

<b>DATE</b>	<b>TIME</b>	<b>EVENT</b>	<b>LOCATION</b>
February 11 <sup>th</sup>	Noon	Chamber Monthly Luncheon	Showcase Building Fairgrounds
February 14 <sup>th</sup>	All Day!	Valentines Day	All over!
February 17 <sup>th</sup>	All Day	President's Day City Hall Closed	
February 19 <sup>th</sup>	11AM to 1PM	LOC Small Cities Meeting	Myrtle Point

The front office will be coordinating the annual ethics training for employees and volunteers. We will have the online sessions like last year (we have great sound equipment now!) You will be hearing from Margaret shortly.

Also, CIS has requested that all city employees and volunteers attend annual local government training and annual harassment training both of these are offered as online sessions as well.