



CITY COUNCIL AGENDA
January 26, 2015 6:30PM
(rescheduled January 12th meeting)

Regular Meeting
 CITY COUNCIL CHAMBERS, CITY HALL
 29592 ELLENSBURG AVE
 GOLD BEACH OR 97444

Call to order: _____ **Time:** _____

1. The pledge of allegiance

2. Roll Call:

	Present	Absent
Mayor Karl Popoff		
Council Position #1 Melinda McVey		
Council Position #2 Larry Brennan		
STARTING VOTE		
Council Position #3 Becky Campbell		
Council Position #4 Doug Brand		
Council Position #5 Tamie Kaufman		
City Administrator Jodi Fritts		
Student Liaison VACANT		

3. Special Orders of Business:

- a. Mayor's Award Key Presentation
- b. Swearing in of new police officer Garrett Shannon**
- c. Mayor's Proclamation on Ballot Measure 8-79
- d. Elect Mayor Pro-Tem for 2015

4. Consent Calendar:

Minutes: July 21, August 11, October 13, November 10, and December 8, 2014 meetings

5. Citizens Comments

As presented to the Mayor at the beginning of the meeting

6. Public Hearing

None scheduled

7. Citizen Requested Agenda Items

None Scheduled

8. Public Contracts and Purchasing

None Scheduled

The City of Gold Beach is dedicated to enhancing quality of life, while promoting 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

- 9. Ordinances & Resolutions**
 - a. Resolution R1415-07: regarding a Dangerous Building Determination
 - b. Ordinance 654 Second Reading, amendments to Business Code
 - c. Resolution R1415-08: Re-Appointment of Muni Judge

- 10. Miscellaneous Items (including policy discussions and determinations)**
 - a. Update on 1st Street Dangerous Building
 - b. FINAL discussion on Marijuana Regulation

- 11. City Administrator's Report**

To be presented at the meeting

- 12. Mayor and Council Member Comments**
 - a. Mayor Karl Popoff
 - b. Councilors
 - 1) Melinda McVey
 - 2) Larry Brennan
 - 3) Brice Gregory
 - 4) Doug Brand
 - 5) Tamie Kaufman
 - c. Student Liaison, Vacant

- 13. Citizens Comments**

As presented to the Mayor at the beginning of the meeting

- 14. Executive Session**

None scheduled

The next scheduled meeting of the Gold Beach City Council is Monday, February 9, 2015, at 6:30PM in the Council Chambers of City Hall, 29592 Ellensburg Avenue, Gold Beach, Oregon.

- 15. Adjourn Time:** _____

The location of the hearing/meeting is accessible to the disabled. Advance notice is requested if special accommodations are needed. Call 541-247-7029 so that appropriate assistance can be provided. The City of Gold Beach is an affirmative action EEOE and complies with section 504 of the rehab act of 1973. Complaints of discrimination should be sent to: USDA, Attention Director, Office of Civil Rights, Washington, D.C. 20250-9419

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SPECIAL ORDERS OF BUSINESS

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **3 b.**
Council Hearing Date: January 26, 2015

TITLE: Swearing in of Officer Garrett Shannon

SUMMARY AND BACKGROUND:

As most of you know we have been down two officers in the Police Department for several months. Since September we have been going through a comprehensive candidate search and vetting process. We finally hired one officer this month and hope to hire the second in the next month or so.

We didn't have to look far for our first successful candidate. Officer Garrett Shannon has been an asset to the City since he was a teenager as a volunteer firefighter. He is currently a Lieutenant for the department and training officer. He is also a certified explosives instructor with the Department of Public Safety Standards and Training (DPSST or the Police Academy). We think he is the first city employee to be both a fireman and a police officer simultaneously. Pretty great accomplishment, but then Officer Shannon is a pretty accomplished young man. He is a former Marine Sergeant and served with honor in the Iraqi War. He is a decorated veteran from that conflict and a Purple Heart recipient.

Sergeant Wood, Chief Andrews and I are proud to have him as part of our City team and look forward to many years of dedicated service from Officer Shannon. He will be attending the Police Academy in March.

REQUESTED MOTION/ACTION:

Swearing in by Mayor Popoff

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 3 c.
Council Hearing Date: January 26, 2015

TITLE: Mayor's Proclamation on Fire Truck Levy

SUMMARY AND BACKGROUND:

City Code Section 1.210(7)(a) states that the Mayor shall make a proclamation of the on the ballot measure results immediately following an election. I neglected to prepare the proclamation for the December meeting. The proclamation simply states the official results of the election as provided by the County Elections Division.

REQUESTED MOTION/ACTION:

Mayor Popoff will read the proclamation



MAYOR'S PROCLAMATION ON BALLOT MEASURE 8-79

WHEREAS, Resolution R1415-03: a resolution of the City of Gold Beach to submit to the voters of the City a measure concerning a seven (7) year capital projects local option tax for a fire truck was passed by the Council on July 21, 2014; and

WHEREAS, the local option tax levy was placed on the November 2014 ballot as Measure 8-79; and

WHEREAS, Pursuant to City Code Section 1.210(7) (a) the Mayor shall issue a proclamation on the ballot measure results immediately following the election; and

WHEREAS, the November 4, 2014, election results for Measure 8-79 as reported to the City by the Curry County Elections Division were:

942 total votes were cast regarding ballot measure 8-79
455 voters were in favor of the measure (YES votes)
487 voters were NOT in favor the measure (NO votes)

Based on the official canvass of votes provided by the Curry County Elections Division (attached to this proclamation), I Karl Popoff, Mayor of the City of Gold Beach proclaim the following:

Ballot Measure 8-79: Seven Year Capital Projects Local Option Fire Truck Levy FAILED to pass by 32 votes.

DATED this 26th day of January, 2015

Karl Popoff, Mayor

RECEIVED

NOV 24 2014



Reneé Kolen
Curry County Clerk CITY OF GOLD BEACH

Recording Division
Elections Division

29821 Ellensburg Avenue
Mail To: 94235 Moore Street, Suite 212
Gold Beach, OR 97444
(541) 247-3295
(800) 243-7620
(541)-247-9361 Fax
www.co.curry.or.us/Clerk

November 20, 2014

City of Gold Beach
29592 Ellensburg Ave
Gold Beach, OR 97444

Dear City Elections Official,

Attached is the official canvass for the November 4, 2014 General Election.

If you have any questions contact Shelley Denney at (541) 247-3297.

Thank you,

A handwritten signature in cursive script that reads "Shelley Denney".

Shelley Denney, C.R.A., C.E.A.
Supervisor of Elections

Enclosure

**City of Gold Beach — Official
Curry County, Oregon — General Election — November 04, 2014**

Total Number of Voters : 9,952 of 13,109 = 75.92%
 Number of District Voters: 978 of 1,290 = 75.81%

Precincts Reporting 27 of 27 = 100.00%
 District: Precincts Reporting 2 of 2 = 100.00%

Party	Candidate	Absentee/NA	Ballots Cast	Total
	YES	0 0.00%	455 48.30%	455 48.30%
	NO	0 0.00%	487 51.70%	487 51.70%

City of Gold Beach Measure 8-79 Seven year capital projects local option fire truck levy, Vote For 1

Cast Votes: 0 0.00% 942 96.32% 942 96.32%

Over Votes: 0 0.00% 0 0.00% 0 0.00%

Under Votes: 0 0.00% 36 3.68% 36 3.68%

Counted	Precincts		Voters	
	Total	Percent	Ballots	Registered
2	2	100.00%	978	1,290
				75.81%

I certify the votes recorded on this abstract
 correctly summarize the tally of votes cast for the
November 4, 2014 General Election.
 Renee Kobert, Curry County Clerk
 By: Shelley Denny, Supervisor of Elections
 Dated this 20th day of November 2014



**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **3 d.**
Council Hearing Date: January 26, 2015

TITLE: Mayor Pro-Tem for 2015

SUMMARY AND BACKGROUND:

Pursuant to the City Charter Chapter IV, Section 19 the Council shall appoint a Mayor Pro-Tem at the first regular meeting in January annually. Councilor Kaufman served as Mayor Pro-Tem for 2014.

REQUESTED MOTION/ACTION:

Council decide on 2015 Mayor Pro-Tem

SAMPLE MOTION:

I make the motion that we appoint Councilor XX as Mayor Pro-Tem for calendar year 2015.



CONSENT CALENDAR

**(MINUTES FOR JULY, AUGUST, OCTOBER,
NOVEMBER, & DECEMBER 2014 MEETINGS
SENT IN A SEPARATE PACKET FOR REVIEW)**



ORDINANCES & RESOLUTIONS

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **9 a. & 10. a.**
Council Hearing Date: January 26, 2015

TITLE: Resolution R1415-07 Dangerous Building 94223 1st Street

SUMMARY AND BACKGROUND:

JANUARY UPDATE:

The Council made the determination at the November 2014 meeting that the structure located at 94223 1st Street met the Code definition of a Dangerous Building. The Council instructed me to begin the abatement process. I neglected to prepare a declaration resolution for the December meeting. Resolution R1415-07 is the official declaration of the determination made by the Council in November.

I am currently working on an administrative search warrant that legal counsel has prepared. I was directed to abate vermin and possibly asbestos prior to beginning the removal process of the structure. Before we can allow contractors to legally enter onto the property we have to have Judge Fallman approve their entry. To date I still have had no contact from the property owners.

REQUESTED MOTION/ACTION:

Adopt Resolution R1415-07

SAMPLE MOTION:

I make the motion that we adopt Resolution R1415-07, a resolution regarding the Dangerous Building determination of a structure located at 94223 1st Street.

RESOLUTION R1415-07

A RESOLUTION REGARDING THE DANGEROUS BUILDING DETERMINATION OF A STRUCTURE LOCATED AT 94223 1ST STREET

WHEREAS, a Dangerous Building Hearing was held on November 10, 2014, pursuant City Code Section 5.370; and

WHEREAS, notice was given of the hearing to the owner(s) of the property located at 94223 1st Street, Assessor Map number 3615-36DD tax lot 1301, according to the above referenced code section; and

WHEREAS, the hearing was conducted according to the procedures outlined in the Code, and evidence was taken in the form of exhibits, and oral and written testimony; and

WHEREAS, at the public hearing on November 10th, the Council found that the structure located at 94223 1st Street met the City Code definition of Dangerous Building and therefore is deemed "dangerous" as defined in Section 5.350(1)(a-d):

- (a) A structure which, for the want of proper repairs or by reason of age and dilapidated condition or by reason of poorly installed electrical wiring or equipment, defective chimney, defective gas connections, defective heating apparatus, or for any other cause or reason, is especially liable to fire and which is so situated or occupied as to endanger any other building or property or human life.
- (b) A structure containing combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable substance of any kind especially liable to cause fire or danger to the safety of such building, premises or to human life.
- (c) A structure which shall be kept or maintained or shall be in a filthy or unsanitary condition, especially liable to cause the spread of contagious or infectious diseases.
- (d) A structure in such weak or weakened condition, or dilapidated or deteriorated condition, as to endanger any person or property by reason of probability of partial or entire collapse.

NOW, THEREFORE, BE IT resolved the City Council of the City of Gold Beach finds that the structure located at 94223 1st Street is a Dangerous Building as defined by City Code and shall be abated as further provided in the City Code.

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF
CURRY, STATE OF OREGON, and EFFECTIVE THIS 26th DAY OF JANUARY, 2015

Karl Popoff, Mayor

ATTEST:

Candy Cronberger, City Recorder

FROM NOVEMBER 2014 MEETING:

The property owner(s) was notified of this pending hearing, and the required notice was published in the paper in two consecutive editions.

As discussed at the October meeting, the Public Works crew boarded the front door to prevent children and/or transients from entering the building.

The owner(s) has not contacted me, and as of Thursday afternoon there was no change in the status of the building.

The Police Chief and administrative staff have conducted site visits to assess the building. I believe the structure meets the code definition of Dangerous Building under section 5.350(1) d and b. Staff recommends the council make the determination that the structure is a Dangerous Building and direct staff on how the council wishes to proceed.

- (d) A structure in such weak or weakened condition, or dilapidated or deteriorated condition, as to endanger any person or property by reason of probability of partial or entire collapse.
- (b) A structure containing combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable substance of any kind especially liable to cause fire or danger to the safety of such building, premises or to human life.

REQUESTED MOTION/ACTION:

I make the motion that the structure located at 94223 First Street meets the definition of Dangerous Building (insert a, b, c, d or combination of) and direct the City Administrator to take the following action: (insert action to be determined by the council).

FROM OCTOBER REPORT:

Pursuant to City Code Section 5.365 staff conducted an inspection of property located at 94223 First Street. Staff is of the opinion that the structure on the subject property meets the definition of Dangerous Building (5.350(1)(d)). Staff is reporting that opinion to the Council for the purpose of determining whether the Dangerous Building Hearing process should be initiated.

Several site visits have been conducted to this property in the past 2 months. I asked Chief Andrews to revisit the site last week to determine if any transients were resident in the building. He was unable to verify whether there were any or not because he felt the building was structurally unsound to enter. He reported the roof is falling in and the floor was so rotten he felt it was unsafe to enter. Additionally he reported there was so much debris in the building and a visible gas can that he was also unsure about any possible hazardous substances. The front door is not capable of being secured. I will be directing Public Works staff to board the door to prevent any possible transient habitation until the Council makes a determination on the building.

City Code Section 5.350-5.398

DANGEROUS BUILDINGS

5.350 Definitions.

For the purpose of this Code:

- (1) The term “dangerous buildings” shall include:
 - (a) A structure which, for the want of proper repairs or by reason of age and dilapidated condition or by reason of poorly installed electrical wiring or equipment, defective chimney, defective gas connections, defective heating apparatus, or for any other cause or reason, is especially liable to fire and which is so situated or occupied as to endanger any other building or property or human life.
 - (b) A structure containing combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable substance of any kind especially liable to cause fire or danger to the safety of such building, premises or to human life.
 - (c) A structure which shall be kept or maintained or shall be in a filthy or unsanitary condition, especially liable to cause the spread of contagious or infectious diseases.
 - (d) A structure in such weak or weakened condition, or dilapidated or deteriorated condition, as to endanger any person or property by reason of probability of partial or entire collapse.
- (2) The term “person” shall include every natural person, firm, partnership, association or corporation.
- (3) “City official” means any Councilor, mayor, city employee, or any agency or employee of any agency under contract to the City for services.

5.355 General Regulations.

- (1) Administration. The City building official is the primary city official authorized to enforce the provisions of this Code, but any other city official may act under the authority of this Code.
- (2) Inspections. The City building official or another city official is hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this Code.
- (3) Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this Code and whenever the City building official or another city

official has probable and reasonable cause to believe that there exists in any building any condition that would make such building a dangerous building as defined herein, then said city official, including the building official, may enter into such building at reasonable times to inspect said premises for any violations of this Code.

5.360 Nuisance.

Every building or part thereof which is found by the Council to be a dangerous building is hereby declared to be a public nuisance; and the same may be abated by the procedures herein specified, or a suit for abatement thereof may be brought by the City.

5.365 Initial Action.

Whenever a city official shall find or be of the opinion that there is a dangerous building in the City, it shall be his duty to report the same to the City Council. Thereupon, the Council shall, within a reasonable time, fix a time and place for a public hearing thereon.

5.370 Hearing; Mailed Notice.

By certified or registered mail, return receipt requested, the City Administrator shall notify the owner of record of the premises whereon the building in question is located, that a hearing will be held concerning the nuisance character of the property and the time and place of the hearing. A copy of this notice shall also be posted on the property in addition to notices prohibiting entry into building. At the hearing the Council shall determine by resolution whether or not the building is dangerous. The Council may, as a part of the hearing, inspect the building; and the facts observed by the Council at such inspection may be considered by it in determining whether or not the building is dangerous. At the hearing the owner or other person interested in the property or building shall have the right to be heard. At such hearing the Council shall have the power to order any building declared to be dangerous removed and abated, if in its judgment such removal or abatement is necessary in order to remove the dangerous condition; or the Council shall have the power to order the building made safe and to prescribe what acts or things must be done to render the same safe.

5.375 Published and Posted Notices.

Ten (10) days' notice of any hearing shall be published in a newspaper of general circulation in the City or by posting notices thereof in three (3) public places in the City. If the last-mentioned notice be published or given as herein required, no irregularity or failure to mail notices shall invalidate the proceedings.

5.380 Council Orders; Notice.

Five (5) days' notice of findings made by the Council at a hearing and any orders made by the Council shall be given to the owner of the building, the owner's agent or other person controlling the same, and if the orders be not obeyed and the building rendered safe within the time specified by the order (being not less than five (5) days), then the Council shall

have the power and duty to order the building removed or made safe at the expense of the property on which the same is situated.

5.385 Abatement by City.

In the event that the Council orders are not complied with, the Council must specify with convenient certainty the work to be done and shall file a statement thereof with the City Administrator, and shall advertise for bids for the doing of the working the manner provided for advertising for bids for street improvement work. Bids shall be received, opened and the contract let.

5.390 Assessment.

The Council shall ascertain and determine the probable cost of the work and assess the same against the property upon which the building is situated. The assessment shall be entered in the docket of city liens and shall thereupon be and become a lien against the property. The creation of the lien and the collection and enforcement of the cost shall all be performed in substantially the same manner as in the case of the cost of street improvements, but irregularities or informalities in the procedure shall be disregarded.

5.395 Summary Abatement.

The procedures of this Code pertaining to Council declaration of a dangerous building need not be followed where a building is unmistakably dangerous and imminently endangers human life or property. In such an instance, the chief of the fire department, the fire marshal or the Chief of Police may proceed summarily to abate the building.

5.398 Penalty.

Any person who shall be the owner of, or shall be in possession of, or in responsible charge of any dangerous building within the City and who shall knowingly suffer or permit the building to be or remain dangerous beyond the time specified in the order of the Council pursuant to Section 5.380, shall be guilty of a violation of this Code and shall, upon conviction thereof, may be fined a maximum amount as set by resolution of the City Council for the first and all subsequent offenses. Each day's violation of a provision of this Code constitutes a separate offense.

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **9. b.**
Council Hearing Date: January 26, 2015

TITLE: Second Reading Ordinance 654

SUMMARY AND BACKGROUND:

This is the second reading of minor housekeeping clean-up of the Business Code. The first reading was in November.

REQUESTED MOTION/ACTION:

Motion to have the 2nd reading of Ordinance 654 by title only

SAMPLE MOTION:

I make the motion that we approve the second reading of Ordinance 654, an ordinance amending Ordinance 643 which adopted a revised Gold Beach Business Code, by title only.

Following the vote I will read the title of the ordinance into the record for the second and final reading. The changes will go into effect 30 days after the second reading.

ORDINANCE NO. 654

**AN ORDINANCE AMENDING ORDINANCE 643 WHICH ADOPTED A REVISED
GOLD BEACH BUSINESS CODE**

The City of Gold Beach ordains as follows:

Section 1. The following sections of the Gold Beach Business Code are hereby amended:

BUSINESS CODE

Transient Room Tax and Community Promotion Code

4.240 Penalties and Interest

Section 4.245 Deficiency Determinations; Fraud or Evasion

(1) Deficiency determinations. If the Tax Administrator determines that the returns are *incorrect* he or she may compute and determine the amount required to be paid upon the facts contained in the return or returns or upon the basis of any information within or that may come into the Tax Administrator's possession. One or more deficiency determinations may be made of the amount due for one or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided, after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 4.240.

(a) In making a determination the Tax Administrator may offset overpayments that have been previously made for a period or periods ~~or~~ against penalties and interest on the underpayments. The interest on underpayments shall be computed in a manner set forth in Section 4.240.

Social Gaming Code

- 4.600 Title
- 4.605 Gambling Prohibited
- 4.610 Definitions
- 4.620 License Required
- 4.625 Application for License
- 4.630 Consideration of Application
- 4.635 Issuance of License
- 4.640 Responsibility of Licensee
- 4.645 License Non-Transferable
- 4.650 License Fee, Duration and Renewal
- 4.655 Suspension and Revocation of License
- 4.660 Regulations
- 4.665 Penalties

Social Gaming Code Sections 4.600-4.665 are repealed.

Section 2. All other sections and provisions of Ordinance 643 are unaltered and remain in effect.

Section 3. General Savings Provision and Continuity of Existing Provisions.

This code shall not affect the rights and duties that matured, penalties that were incurred and proceedings that were begun before the effective date of this Code. The provisions of this Code that are the same in substance as code or ordinance provisions that are in effect immediately before this Code becomes effective shall be construed as restatements and continuations of the prior provisions.

Passed and Adopted by the City Council of the City of Gold Beach, Oregon, State of Oregon, on the _____ day of _____, 2015.

Karl Popoff, Mayor

ATTEST:

Jodi Fritts, City Administrator

First Reading: November 10, 2014
Aye 5 Nay 0

Second Reading: January 26, 2015
Aye _____ Nay _____

Candy Cronberger, City Recorder

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **9 c.**
Council Hearing Date: January 26, 2015

TITLE: Resolution R1415-08 Re-Appointing Municipal Judge

SUMMARY AND BACKGROUND:

Pursuant to the City Charter Chapter V, Section 21, the Council may appoint a Municipal Judge. City Code Section 1.305(2)(b) requires the Council to appoint the Judge annually. This resolution would re-appoint our current Judge, James Fallman to another one (1) year term.

REQUESTED MOTION/ACTION:

Adopt Resolution R1415-08

SAMPLE MOTION:

I make the motion that we adopt Resolution R1415-08, a resolution re-appointing the Municipal Judge.

RESOLUTION R1415-08

A RESOLUTION RE-APPOINTING THE MUNICIPAL JUDGE

WHEREAS: Chapter V, Section 21 of the City of Gold Beach City Charter grants the Gold Beach City Council the authority to appoint a Municipal Judge and specify the term and salary for the appointment; and

WHEREAS: Administration Code Section 1.305 2(b) sets a one (1) year term of appointment for of Municipal Judge; and

WHEREAS: The Council is desirous to re-appoint the current Municipal Judge: James Fallman: and

WHEREAS: The budget for the salary for the City of Gold Beach Municipal Court Judge was approved at \$7,000, which is approximately 155 hours at \$45 per hour for Fiscal Year 2014-2015.

NOW THEREFORE, BE IT RESOLVED: the City Council of the City of Gold Beach hereby re-appoints James Fallman as Municipal Judge.

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON, THIS 26TH DAY OF JANUARY, 2015.

Karl Popoff, Mayor

ATTEST:

Candy Cronberger, City Recorder



MISC. ITEMS

(including policy discussions & determinations)

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **10. b.**
Council Hearing Date: January 26, 2014

TITLE: How to Proceed on Marijuana Regulation

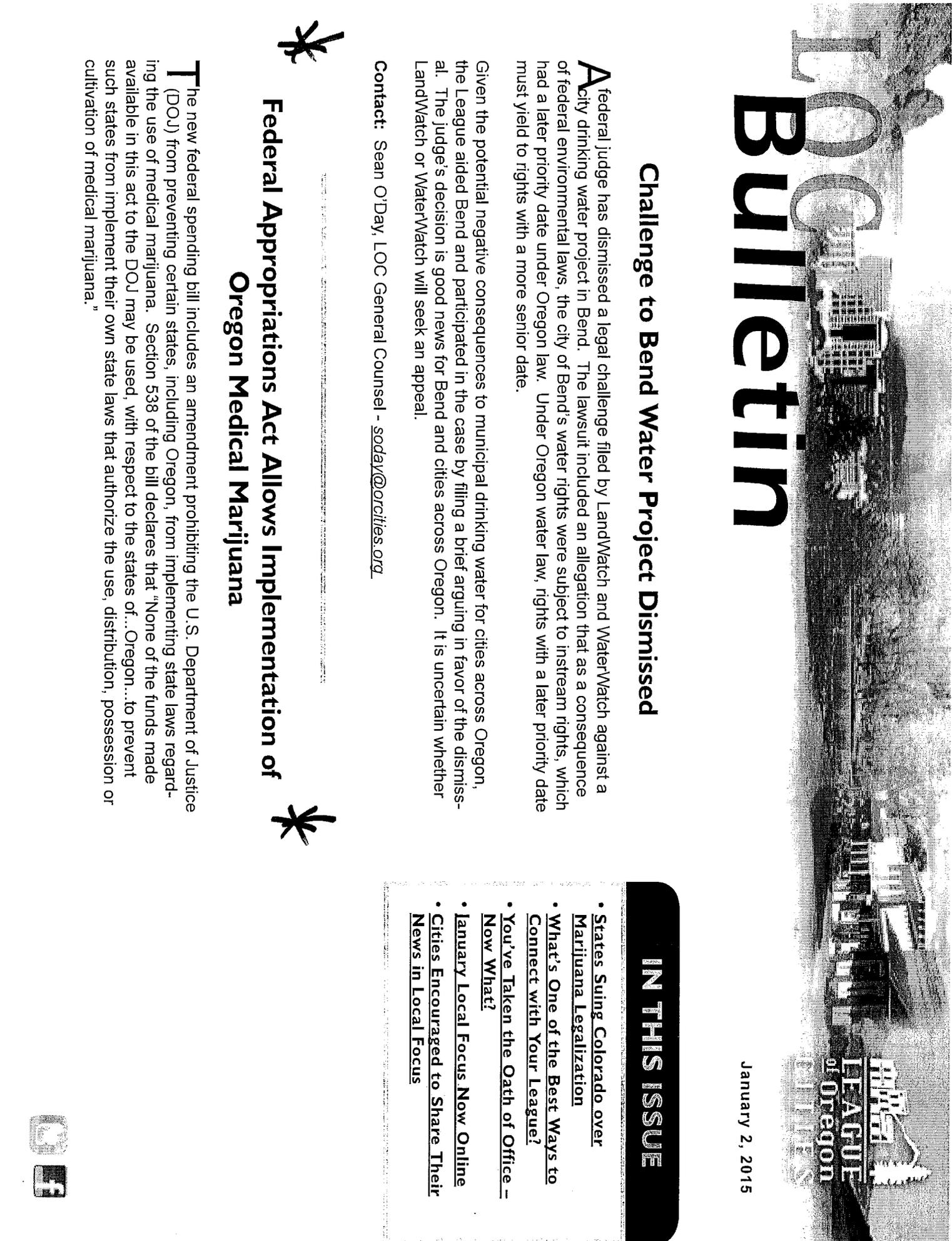
SUMMARY AND BACKGROUND:

JANUARY UPDATE: As you recall, we had a lively (and abusive!) workshop on January 19th regarding the Medical and Recreational Marijuana regulations. I believe the consensus after the meeting was that we would just let the state regulations stand within in the City. Because this has been such a contentious issue I would feel more comfortable if we have a formal declaration from the Council either by motion or resolution.

I am attaching up-to-the-minute info from LOC, the information packet I provided for the workshop, and previous Council reports on the subject.

REQUESTED MOTION/ACTION:

FINAL decision on regulate/not regulate and direction to staff



LOCAL Bulletin

January 2, 2015

PROPER
LEAGUE
OF Oregon
BUILDERS

Challenge to Bend Water Project Dismissed

A federal judge has dismissed a legal challenge filed by LandWatch and WaterWatch against a city drinking water project in Bend. The lawsuit included an allegation that as a consequence of federal environmental laws, the city of Bend's water rights were subject to instream rights, which had a later priority date under Oregon law. Under Oregon water law, rights with a later priority date must yield to rights with a more senior date.

Given the potential negative consequences to municipal drinking water for cities across Oregon, the League aided Bend and participated in the case by filing a brief arguing in favor of the dismissal. The judge's decision is good news for Bend and cities across Oregon. It is uncertain whether LandWatch or WaterWatch will seek an appeal.

Contact: Sean O'Day, LOC General Counsel - soday@orcities.org



Federal Appropriations Act Allows Implementation of Oregon Medical Marijuana



The new federal spending bill includes an amendment prohibiting the U.S. Department of Justice (DOJ) from preventing certain states, including Oregon, from implementing state laws regarding the use of medical marijuana. Section 538 of the bill declares that "None of the funds made available in this act to the DOJ may be used, with respect to the states of...Oregon...to prevent such states from implementing their own state laws that authorize the use, distribution, possession or cultivation of medical marijuana."

IN THIS ISSUE

- [States Suing Colorado over Marijuana Legalization](#)
- [What's One of the Best Ways to Connect with Your League?](#)
- [You've Taken the Oath of Office – Now What?](#)
- [January Local Focus Now Online](#)
- [Cities Encouraged to Share Their News in Local Focus](#)





Despite some news reports to the contrary, the amendment does not make medical marijuana legal under federal law, nor does it address recreational use. However, the amendment does create some relief for local and state officials who are administering licensing programs related to medical marijuana and were previously concerned about the threat of federal prosecution.

Cities with questions about the impact of this part of the federal appropriations bill should contact their city attorney for guidance and advice.

Contact: Sean O'Day, LOC General Counsel - soday@orcities.org

States Suing Colorado over Marijuana Legalization



On December 18, the state governments of Nebraska and Oklahoma filed a petition with the United States Supreme Court seeking a declaration that Colorado's legalization of marijuana conflicts with, and therefore is preempted by, federal law. If successful, the suit would require Colorado to stop issuing licenses for marijuana grow and retail operations. The case has potentially far-reaching consequences for Oregon, where voters adopted Measure 91 in November. Measure 91, which legalizes recreational marijuana use, also attempts to limit local government's authority to regulate marijuana.

Contact: Sean O'Day, LOC General Counsel - soday@orcities.org

What's One of the Best Ways to Connect with Your League?

January 14 Kicks off the tour of the League's 2105 Regional Meetings. LOC President Peter Truax and League staff will present what's happening at LOC and an update on the 2015 legislative session. Regional meetings are held every year and allow the League to connect with member cities and share information.

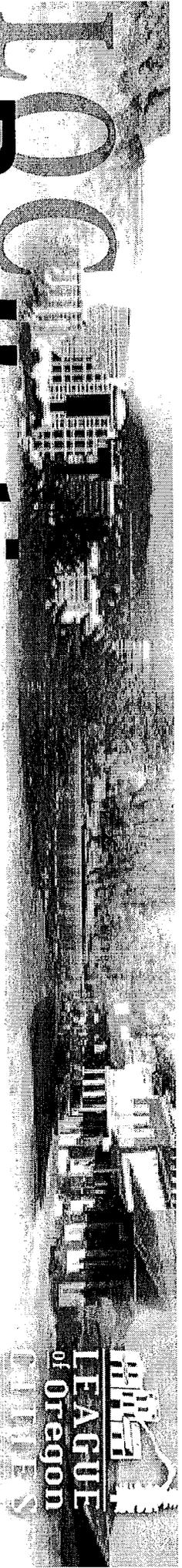
For dates and locations, and to register, click [here](#), or RSVP by sending an email to Kristie Marecek at kmarecek@orcities.org.

Contacts: Mike McCauley, Executive Director – mmccauley@orcities.org; Susan Muir, Member Services Director – smuir@orcities.org; or call the League office at (503) 588-6550.

IN THIS ISSUE

- [Challenge to Bend Water Project Dismissed](#)
- [Federal Appropriations Act Allows Implementation of Oregon Medical Marijuana](#)
- [States Suing Colorado over Marijuana Legalization](#)
- [What's One of the Best Ways to Connect with Your League?](#)
- [You've Taken the Oath of Office – Now What?](#)
- [January Local Focus Now Online](#)
- [Cities Encouraged to Share Their News in Local Focus](#)





OLCC Bulletin

WINTER LEAGUE of Oregon GOLFERS

January 23, 2015

* OLCC Adds More "Listening Sessions" *

The Oregon Liquor Control Commission (OLCC) has expanded its list of marijuana-related "listening sessions" to include all regions of the state. The sessions began in Eastern Oregon this week and will continue into March. These meetings allow the OLCC to receive public input prior to implementing the recreational marijuana law passed by voters in November.

"We need to hear firsthand from local residents in Baker City, Pendleton and nearby communities," said OLCC Chairman Rob Patridge. "Before we implement the law, we want to hear from you: what should marijuana regulation look like in your community?"

Patridge said the sessions are the first steps in a yearlong rulemaking process that will include monthly commission meetings, rules advisory committee meetings and other opportunities to hear from the public. "OLCC is committed to a transparent and inclusive public process to help us implement the law in a way that protects children, keeps our communities safe, and brings the recreational marijuana industry into the regulated market," Patridge said.

Under the new law, possession of recreational marijuana becomes legal on July 1. The OLCC must begin accepting applications for commercial licenses next January, with retail stores to open by late 2016.

The following are cities where sessions will be held and the dates; specific locations have yet to be determined.

- Salem: Monday, February 2, 7:00 - 9:00 p.m.
- Eugene: Tuesday, February 3, 7:00 - 9:00 p.m.
- Medford: Wednesday, February 18, 7:00 - 9:00 p.m.
- Klamath Falls: Thursday, February 19, 10:00 a.m.- 12:00 p.m.

IN THIS ISSUE

- [ODOT Announces 2015 STP Fund Allocations](#)
- [NLC Releases Update on Proposed NFPA Standards](#)
- [City Day at the Capitol – Make Your Voices Heard](#)
- [Session Proposals Sought for LOC Conference](#)
- [Registration Deadlines Next Week for "Elected Essentials" Trainings](#)
- [Regional Meetings Set for January 28-29](#)
- [Free Notary Seminars Available](#)



- Bend: Thursday, February 19, 7:00 - 9:00 p.m.
- Beaverton: Thursday, February 26, 7:00 - 9:00 p.m.
- Portland (East): Friday, February 27, 4:00 - 6:00 p.m.
- Newport: Wednesday, March 11, 7:00 - 9:00 p.m.

Learn more at <http://marijuana.oregon.gov>.

Contact: Scott Winkels, Intergovernmental Relations Associate – swinkels@orcities.org

ODOT Announces 2015 STP Fund Allocations

The Oregon Department of Transportation (ODOT) has released their Federal Surface Transportation Program (STP) funding allocations for 2015. Cities must notify ODOT how they intend to use their STP allocation by **September 30**. These options include exchange for state funds, use as federal funds on a federal-aid project, or a combination of the two.

To view the allocation report, click [here](#).

Contact: Craig Honeyman, Legislative Director – choneyman@orcities.org

NLC Releases Update on Proposed NFPA Standards

The National League of Cities has published an update on a multi-year process to revise and develop standards for the National Fire Protecting Association. The report, which includes a request for city managers to serve on technical committees, is available [here](#).

IN THIS ISSUE

- [OLCC Adds More "Listening Sessions"](#)
- [ODOT Announces 2015 STP Fund Allocations](#)
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- [Free Notary Seminars Available](#)

Jodi Fritts

From: Rob Patridge <rob.patridge@state.or.us>
Sent: Friday, January 23, 2015 5:28 PM
To: Rob Patridge
Subject: Please join us for a local community meeting about marijuana

Dear City Manager:

As you may know, Measure 91, the recreational marijuana measure passed by voters last November, directs the Oregon Liquor Control Commission to create a framework for the commercial licensing and regulation of recreational marijuana in 2016. OLCC is committed to a robust and transparent public process to help the agency implement the law in a way that protects children, promotes safety, and brings the recreational marijuana industry into the regulated market.

To that end, OLCC has developed a series of community meetings statewide. These meetings are an opportunity to learn about Measure 91 and how to get involved as rule making and implementation get underway. Most importantly, they allow Commissioners and staff to hear first-hand from Oregonians about what they believe marijuana regulation should look like in our communities.

We had our first meetings in Baker City and Pendleton this week. They were lively and well-attended. The rest of the schedule follows. I hope you can join us at a meeting near you.

Salem:

Monday, February 2, 7-9 p.m.
Chemeketa Eola Hills, Viticulture Center
215 Doaks Ferry Road NW
Salem, OR 97305

Eugene:

Tuesday, February 3, 7-9 p.m.
Lane County Fairgrounds
796 W. 13 Ave., Wheeler Pavilion
Eugene, OR 97402

Medford:

Wednesday, February 18, 7-9 p.m.
Southern Oregon University, Stevenson Union
1250 Siskiyou Blvd., Rogue River Room
Ashland, OR 97520

Klamath Falls:

Thursday, February 19, 10 a.m.-Noon
Oregon Institute of Technology
3201 Campus Drive, Auditorium
Klamath Falls, OR 97601

Bend:

Thursday, February 19, 7-9 p.m.
The Riverhouse Convention Center

2850 Rippling River Court
Bend, OR 97701

Beaverton:

Thursday, February 26, 4-6 p.m.
Embassy Suites Portland Washington Square
9000 SW Washington Square Road
Tigard, OR 97223

Clackamas:

Friday, February 27, 4-6 p.m.
Monarch Hotel & Conference Center
12566 SE 93rd Ave.
Clackamas, OR 97015

Newport:

Wednesday, March 11, 7-9 p.m.
Hallmark Resort
744 SW Elizabeth Street
Newport, OR 97365

These meetings are the first step in a public process that will include numerous public rule making hearings through October. Meanwhile, the OLCC has set up a special web page at <http://www.marijuana.oregon.gov> to educate the public about the law and communicate about opportunities for public involvement.

Please don't hesitate to reach out to me or Commission staff if you have any questions or constituent concerns to share.

Sincerely,

Rob Patridge
Chair, Oregon Liquor Control Commission
Tel. (541) 840-1600
rob@patridge.com



Marijuana

Description

The League will advocate for legislative changes that will clarify and enhance public safety and local control related to marijuana.

Background

In 2013, House Bill 3460 established a means for registering the 150-200 medical marijuana dispensaries that had been operating in the state illegally but with the forbearance of most law enforcement agencies. Additionally, in November the voters approved Ballot Measure 91 allowing the consumption, production and retail sale of marijuana for non-medical purposes.

Priority

The League will advocate for the following legislative and administrative changes:

- **Require employees and agents of dispensaries pass criminal background checks.**
Owners of marijuana dispensaries must pass criminal background checks prior to receiving a license to operate. Employees and other parties affiliated with the operation of a dispensary should also be subject to criminal background checks to help keep medical marijuana in the hands of patients and not diverted to criminal activity. Authority exists for the OLCC to require background checks for employees in the retail system; not requiring them for medical employees would vector those ineligible for employment in other aspects of the marijuana industry towards medical dispensaries.
- **Allow City Councils to Prohibit Retail Marijuana Sales and Production and Allow for Meaningful City input in the Licensing Process**
Measure 91 allows cities and counties to prohibit marijuana sales by an initiative vote of the people at the next general election, which would be 2016. However, under the act, OLCC would begin accepting license applications in January of 2016. Oregon has traditionally been a strong home-rule state, while allowing citizens to legislate directly through the initiative process. City councils should be allowed to prohibit commercial marijuana by ordinance. Additionally, allowing citizens to vote on an “opt-out” only at the next general election does not allow them to express their wishes at other stages of the process. Cities must also have a meaningful avenue to express concerns and objections to individual license applications.
- **Remove Preemption on Local Taxation and Ensure Equitable Distribution of Revenue**
The statutory scheme for the distribution of tax revenues is unworkable and does not provide adequate resources to cities and counties to deal with the impacts of marijuana. The legislature should provide mechanisms to provide fiscal resources to cities and counties to deal with the impacts of legalized marijuana.
- **Establish licensing and safety regulations for the manufacture of marijuana tinctures utilizing flammable or explosive materials.**
The manufacture of butane hash oil and other value-added extracts has resulted in fires, injuries and deaths in Oregon and other states. It is also an area the federal governments has demonstrated little tolerance for with prosecutions in Oregon and Washington. The OLCC will be regulating manufacturers of marijuana concentrates and those regulations should be tailored to ensure the safe production of extracts. However, medical dispensaries are not subject to the same regulations. Dispensaries should be required to acquire these products from a manufacturer that is licensed by the state and uses appropriate safety protocols.
- **Clarify land use regulations to ensure dispensaries are not allowed in areas inappropriate for their use or in close proximity to places where children congregate.**
The intent of HB 3460 was to prohibit dispensary operations in residential zones. However, the bill was phrased in a way that specifies which zones dispensaries are allowed in, as opposed to prohibiting them in

residential zones and simply relying on the local development code to determine where a dispensary may be located in cities permitting them to operate. This language should be clarified to align with the bill's original intent to prohibit residential locations. Further, HB 3460 prohibits dispensaries within 1,000 feet of schools, but federal law creates a specific offense for distribution of controlled substances within 1,000 feet of any place children congregate. The conflict between those two requirements should also be resolved.

For more information, contact Scott Winkels at (503) 588-6550 or swinkels@orcities.org.

Marijuana

- Weed ☺ Mary Jane ☺ Ganga ☺ Herb ☺
- Hemp ☺ Reefer ☺ Pot ☺ Dank ☺
- Schwag ☺ Cheech & Chong ☺ Puff the Magic Dragon ☺
- Space Cowboy ☺ Maui Wowie ☺ Bruce Banner ☺ Yoda ☺ Tumbleweed ☺ Shrubbery



Two Distinct Weed Laws

- Medical Marijuana



Oregon Health Authority

- Recreational Marijuana



- Oregon Liquor Control Commission (OLLC)

Medical Weed

- **1923** Cannabis Indica prohibited
- **1931** Cannabis Sativa prohibited
- **1935** Uniform Narcotic Drug Act
- **1941** exceptions for medicinal preparations removed
- **1998** Ballot M67 "Allows Medical Use of Marijuana Within Limits; Establishes Permit System—passed 55% to 45%
- **2004** Ballot M33—"Amends Oregon Medical Marijuana Act: Increases marijuana amount may possess; allows sales; creates dispensaries"—failed 57% to 42%
- **2005** Legislature increases amounts permissible

BEFORE	AFTER
3 ozs	24 ozs
3 plants	6 plants
4 seedlings	18 seedlings
- **2009** Legislature directs Board of Pharmacy to down-schedule marijuana from Schedule I to Schedule II
- **2010** Ballot M74—"Establishes medical marijuana supply system and assistance and research programs; allows limited selling of marijuana—failed 56% to 44%
- **HB 3460**: Medical Marijuana Dispensaries
- **SB 1531**: Dispensaries-local options
- **LIMITATIONS**: No use in public view, no growing in public view, DUII law still applies, same with employment law

- 59,183 registered card holders (that's 1.5% of total state population)
- Interestingly Curry County is double that 3% of total population
- 65% of card holders cite "severe pain" as the need

Medical Weed Stats



Recreational

- **1973** Oregon first state to decriminalize possession of user amounts-less than 1 oz
- **1986** Ballot M5-"Legalize Private Possession and Growing of Marijuana for Personal Use"—failed 74% to 26%
- **1997** Legislature attempts to recriminalize less than 1oz—**1998** referendum to voters: "Makes Possession of Limited Amount of Marijuana Class C Misdemeanor"—failed 67% to 33%
- **2012** Ballot M80-"Allows personal marijuana, hemp cultivation/use without license; commission to regulate commercial marijuana cultivation/sale"—failed 53% to 47%
- **2013** SB 40: Reduced crime levels for possession and manufacture
- HB3194: Reduced sentencing levels for commercial and substantial quantity marijuana crimes
- **2014 Measure 91**: legalized recreational marijuana for people ages 21 and older (after July 1, 2015), allowing adults over this age to possess up to eight ounces of "dried" marijuana and up to four plants—passed 55% to 44%

- Up to 4 plants and 8oz per residence—must be kept out of public view
- Does NOT affect landlord/tenant laws
- Does NOT affect employment law
- 21 years old—just like alcohol
- Can't be consumed or smoked in a public place
- Can't take across state lines—even into WA

Beginning July 1,
2015

Putting M91 into action

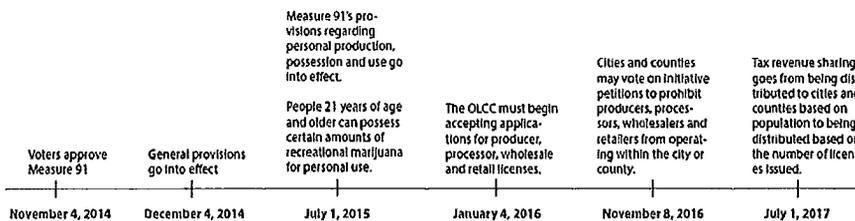


State Comparison

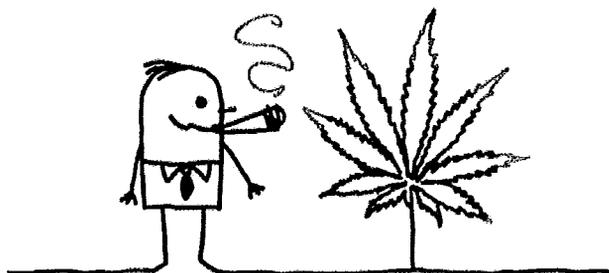
Oregon/Washington/Colorado Comparison			
	OREGON	WASHINGTON	COLORADO
Excise Tax	\$35 per ounce, paid by the producer. State has exclusive right to tax.	25% at each point of sale (wholesale and retail).	15% excise tax at wholesale in addition to sales taxes.
Retailing/Wholesale	Licensed entities may sell at both wholesale and retail.	Licensed entities are prohibited from selling at wholesale and retail.	For initial roll-out, retailers were required to produce 70% of their own product. (Provision expired 10/1/14.)
Plant Limit	4 plants.	Prohibited.	6 plants total, 3 mature plants.
THC	OLCC required to report to legislature.	Per se intoxication at 5ng THC/mL of blood.	Per se intoxication at 5ng THC/mL of blood.
Local Ordinances	The measure pre-empt's any local ordinances. Local governments may adopt time, place and manner regulations but may prohibit recreational marijuana businesses only via general election.	Washington AG has declared that local governments are not pre-empted from adopting ordinances that prohibit recreational marijuana businesses.	Local governments may prohibit marijuana businesses.
Number of Licenses	The measure does not limit the number of licenses that may be issued.	Retail licenses capped at 334 for the state.	No limit on total number of licenses.
Medical Dispensaries	Not addressed.	Not addressed.	For initial roll-out, only licensed medical dispensaries were allowed to apply for retail licenses. (Provision expired 10/1/14.)



Measure 91 Timeline & Important Dates



So What's Wrong with Weed?



Let's talk about that a bit...

illustrations of.com #44130

- Lack of staffing & enforcement on state level—Governor calls for “extraordinarily vigorous” enforcement of the rules—Budgets 6 FTE for the entire state
- Dispensers unlicensed and unregulated compared to other controlled substances such as alcohol
- Testers unlicensed and unregulated
- Growers unlicensed and unregulated
- Product types unregulated (oil, hash, food products—gummi bears
- Marketing unregulated
- Labeling unregulated
- Zoning issues
- Local Control—what and how?
- Indoor Clear Air Act??

Medical Weed Problems

HB 3460 Authorized Medical Weed Dispensaries, however, unresolved issues that yet to be addressed on the state level...

So that means it's okay, Right?

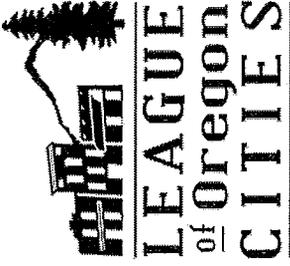
- We DON'T KNOW what it means...
- The Feds still classify marijuana as a Schedule I drug
- Cave Junction has already taken the state to court and partially won: Josephine County Court Judge Pat Wolke said it's up to the state legislature to decide if the intent was to preempt local law and they need to decide, HOWEVER, he declined to comment on FEDERAL preemption...
- But we can tax it, so what's the problem??

Unanswered Questions...

- Who is ultimately has the right to regulate pot—medical or otherwise
- What if the Feds change their minds about enforcement what does that mean for states, cities, counties?
- They can't bank so what happens when states, cities, counties collect tax from the federally illegal use? Can you say RACKETEERING?
- What about federal dollars received on a local level?



M91 TIMELINE AND DATES



Measure 91 Timeline & Important Dates

<p>Voters approve Measure 91</p>	<p>November 4, 2014</p>
<p>General provisions go into effect</p>	<p>December 4, 2014</p>
<p>Measure 91's provisions regarding personal production, possession and use go into effect.</p> <p>People 21 years of age and older can possess certain amounts of recreational marijuana for personal use.</p>	<p>July 1, 2015</p>
<p>The OLCC must begin accepting applications for producer, processor, wholesale and retail licenses.</p>	<p>January 4, 2016</p>
<p>Cities and counties may vote on initiative petitions to prohibit producers, processors, wholesalers and retailers from operating within the city or county.</p>	<p>November 8, 2016</p>
<p>Tax revenue sharing goes from being distributed to cities and counties based on population to being distributed based on the number of licenses issued.</p>	<p>July 1, 2017</p>



M91 FAQs

Measure 91 Frequently Asked Questions

FAQ

Overview

Q: What does Measure 91 do?

A: Starting July 1, 2015, Measure 91 allows the personal use and possession of recreational marijuana under Oregon law. It also gives OLCC authority to tax, license and regulate recreational marijuana.

Q. When will Measure 91 go into effect?

A. Starting July 1, 2015, Measure 91 allows the personal use and possession of recreational marijuana under Oregon law. Measure 91 requires OLCC to begin accepting license applications by January 4, 2016.

Q. Who will implement the initiative?

A. The initiative designates the Oregon Liquor Control Commission as the state agency that will implement the terms of the initiative. Measure 91 gives the OLCC authority to tax, license and regulate recreational marijuana.

Q: Where can I get more information?

A: As updates occur and information is available, we will share that information with you on this website. To keep up to date, [click here](#)

Q: How can I get a job with OLCC in the new marijuana program?

A: OLCC posts job opportunities on the www.Oregonjobs.org website. Interested applicants can fill out a [Job Interest Card](#) to receive email alerts about job openings at OLCC. You can also sign up for email alerts about OLCC job opportunities through our [website](#).

Medical Marijuana

Q. What impact does Measure 91 have on the current Medical Marijuana Program?

A. None.

Q. Should I get a new OMMP card or renew my existing Card?

A. Only you as an individual can determine that question. The OLCC cannot advise you about if or how to make that determination.

Q: What is the difference between recreational marijuana and medical marijuana?

A: Medical marijuana is for patients with qualifying medical conditions. Recreational marijuana is for personal use for adults 21 years of age or older. For more information on medical marijuana see www.mmj.oregon.gov

Measure 91 Frequently Asked Questions

Personal Use

Q: When can I smoke/use recreational marijuana?

A: Starting July 1, 2015, Measure 91 allows the personal use and possession of recreational marijuana under Oregon law. Until then, current marijuana laws in Oregon remain in place. Measure 91 requires OLCC to begin accepting license applications by January 4, 2016.

Q: Where can I buy marijuana?

A: Marijuana will be available for purchase through retail stores. Measure 91 requires OLCC to begin accepting license applications by January 4, 2016.

Q: When can I buy marijuana?

A: Currently there are no recreational stores that have been licensed to open for recreational marijuana sales in Oregon. Measure 91 requires OLCC to begin accepting license applications by January 4, 2016. To keep up to date, [click here](#)

Q: When can I buy edibles and extracts?

A: Until retail outlets are open, there is no place to purchase edibles or extracts. To keep up to date, [click here](#)

Q: How much marijuana can I have?

A: Beginning July 1, 2015; recreational marijuana users can possess up to eight (8) oz. of marijuana and four (4) plants per residence in Oregon. An individual can carry up to one (1) oz. in public (cannot consume in public).

Q: Can I grow marijuana at home?

A: Yes, with limits. The act allows home grow of up to four (4) plants and eight (8) oz. per residence beginning July 1, 2015. Homegrow plants and product must be kept out of public view.

Q: When can I start growing my own at home?

A: Measure 91 takes effect July 1, 2015, at that time you can begin growing at home.

Q. Can a landlord tell you not to homegrow recreational marijuana in residence you are renting/leasing?

A. Measure 91 does not affect existing landlord/tenant laws.

Q: Who can smoke recreational marijuana? What is the minimum age?

A: As of July 1, 2015, the minimum age for consuming recreational marijuana in Oregon will be 21 years old.

Q: Can my teenage son/daughter consume in our private residence?

A: No. As of July 1, 2015, the minimum age for consuming recreational marijuana in Oregon will be 21 years old, regardless of where it is consumed.

Q: How much will recreational marijuana cost?

A: The retail price of recreational marijuana will be determined through a competitive marketplace.

Measure 91 Frequently Asked Questions

Q: Where can I smoke marijuana?

A: Measure 91 does not allow marijuana to be smoked/consumed in public.

Q: Can I smoke marijuana in a bar/restaurant?

A: No. Marijuana cannot be smoked or used in a public place.

Q: Can I smoke marijuana in public?

A: No. Marijuana cannot be smoked or used in a public place.

Q: Can I take marijuana into Washington where they also allow recreational marijuana?

A: No. You can not take marijuana across state lines.

Public Safety

Q: How will OLCC protect children?

A: One of OLCC's main priorities is to prevent sales to minors. The measure prohibits recreational marijuana sales to people under the age of 21. The act gives OLCC authority to regulate or prohibit advertising. OLCC may regulate packages and labels to ensure public safety and prevent appeal to minors.

Q: Can I get a DUII while under the influence of marijuana?

A: Yes. Current laws for DUII have not changed. Driving under the influence of intoxicants (DUII) refers to operating a motor vehicle while intoxicated or drugged, including impairment from the use of marijuana.

Q: What is OLCC's role to prevent drugged driving?

A: The act requires OLCC to examine research and present a report to the Legislature. Staff intend to partner with the Department of Justice Criminal Investigation Division and Oregon State Police to facilitate research on this issue. Current Driving Under the Influence of Intoxicants (DUII) standards will continue to be enforced.

Q: Can I lose my job for using marijuana?

A: Passage of measure 91 does not impact employment law in Oregon.

Q: Where will marijuana stores be located?

A: The act does not set forth siting requirements. These types of policy questions will require an extensive public rulemaking process including legislative and public input. To keep up to date, [click here](#)

Q: Where will the tax money go?

A: Measure 91 provides distribution of revenue after costs to the following:

- 40% to Common School Fund
- 20% to Mental Health Alcoholism and Drug Services
- 15% to State Police
- 10% to Cities for enforcement of the measure
- 10% to Counties for enforcement of the measure
- 5% to Oregon Health Authority For Alcohol and Drug Abuse Prevention

Measure 91 Frequently Asked Questions

Q: How will the OLCC go about making policy decisions?

A: The OLCC will take a measured approach to implementing Measure 91 with a great amount of accountability through a transparent and inclusive public process.

Q: How is Washington different than Oregon?

A: See [Oregon/Washington/Colorado Comparison](#) in Measure 91 Overview

Q: Can I take marijuana into Washington where they also allow recreational marijuana?

A: No. You can not take marijuana across state lines.

Licensing

Q: What licenses will be available?

A: The measure lists four types of recreational marijuana licenses: Producer, Processor, Wholesaler, and Retail

Q: What is a Producer license?

A: A Producer is also known as the grower. Rules that will define the privileges of the Producer license will be completed after a public rulemaking process. To keep up to date, [click here](#)

Q: What is a Processor license?

A: A Processor is a business that will transform the raw marijuana into another product or extract. Processors are also responsible for packaging and labeling of recreational marijuana. Rules that will define the privileges of the Processor license will be completed after a public rulemaking process. To keep up to date, [click here](#)

Q: What is a Wholesaler license?

A: A Wholesaler is a business that buys in bulk and sells to resellers rather than to consumers. Rules that will define the privileges of the Wholesaler license will be completed after a public rulemaking process. To keep up to date, [click here](#)

Q: What is a Retailer license?

A: A Retailer is a business that sells directly to consumers. Rules that will define the privileges of the Retailer license will be completed after a public rulemaking process. To keep up to date, [click here](#)

Q. Has OLCC started to accept license applications?

A. No. The measure requires OLCC to begin accepting license applications for recreational marijuana by January 4, 2016. We have not accepted any license applications at this time.

Q. When will OLCC accept license applications?

A. The measure requires OLCC to begin accepting license applications by January 4, 2016. We are not accepting any license applications for recreational marijuana at this time.

Q. How will OLCC decide who gets a license application?

A. The process for recreational marijuana license approval will be developed by the OLCC. We will gather the public's input through an open and transparent process. To keep up to date on opportunities to provide public input, [click here](#)

Measure 91 Frequently Asked Questions

Q: If I want to apply for a recreational marijuana license, what should I do now?

A: We are not accepting any applications for recreational marijuana licenses at this time. To keep up to date on when the OLCC will begin accepting applications for the different license types, [click here](#)

Q: How much are the licensing fees?

A: Measure 91 establishes an annual license fee of \$1,000 plus a non-refundable application fee of \$250 per license application.

Q: How many licenses can I have?

A: There are four license types: Producer, Processor, Wholesale and Retail. A licensee may hold multiple licenses and multiple license types.

Q: Can an out-of-state resident hold an Oregon recreational marijuana license?

A: Measure 91 does not specifically address this question.

Q: When can I submit my application?

A: The measure requires that OLCC begin accepting license applications no later than January 4, 2016. To keep up to date, [click here](#)

Q: Who will be eligible for a marijuana license?

A: Anyone over 21 years old is eligible for a recreational marijuana license if they meet certain conditions outlined in section 29 of the measure.

Q: What if my city/county wants to go “dry?”

A: Measure 91 states that local governments may not prohibit licenses in their jurisdiction except via general election. Measure 91 allows local governments to adopt time, place and manner restrictions to regulate public nuisance.

Q: What kinds of testing will OLCC require?

A: OLCC has the authority to set testing requirements. These types of policy questions will require an extensive public rulemaking process including legislative and public input.

Retail Stores

Q: When will marijuana stores be open?

A: Measure 91 requires OLCC to begin accepting license applications by January 4, 2016.

Q: Will the OLCC distribute marijuana out of a central warehouse?

A: No. Under the measure the OLCC does not have the responsibility for the storage and distribution of marijuana. The OLCC’s primary responsibility is to collect taxes and to license and regulate producers, processors, wholesalers, and retailers.

Q: Will there be a quota for how many retail outlets will be allowed?

A: The measure does not specifically address the number of retail outlets allowed. Specifics for licensing retail outlets will be determined by the Commission after the completion of a public rulemaking process.

Measure 91 Frequently Asked Questions

Q: What will OLCC be doing to get ready for marijuana stores?

A: With the public's help, OLCC will create a process for licensing, regulating, and collecting taxes. We will be exploring many policy questions through an extensive public rulemaking process including legislative and public input. To keep up to date, [click here](#)

Taxes

Q: How much are the taxes?

A: Measure 91 provides for an excise tax that is paid by the Producer (grower) \$35/oz. for flower, \$10/oz. for leaves, \$5 per immature plant.

Q: How much money will marijuana bring in taxes?

A: According to the voters' pamphlet, the revenue estimate from taxes when fully implemented ranges from \$17 million to \$40 million annually.

Q: Where will the tax money go?

A: Measure 91 provides distribution of revenue after costs to the following:

- 40% to Common School Fund
- 20% to Mental Health Alcoholism and Drug Services
- 15% to State Police
- 10% to Cities for enforcement of the measure
- 10% to Counties for enforcement of the measure
- 5% to Oregon Health Authority For Alcohol and Drug Abuse Prevention

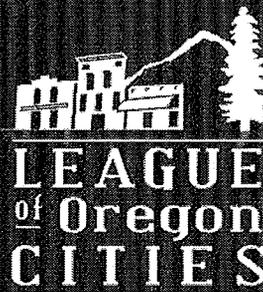


LOC M91 INFO

LEAGUE OF OREGON CITIES

MEASURE 91:
What it Means for
Local Governments

NOVEMBER 2014



Published by the League of
Oregon Cities



Measure 91: What It Means for Local Governments

Measure 91 legalizes personal possession of certain amounts of recreational marijuana for people 21 years of age or older, and creates a regulatory system for the production, distribution and sale of recreational marijuana and marijuana products. Notwithstanding Measure 91, marijuana remains a Schedule I controlled substance under federal law, which prohibits the production, possession, delivery and use of marijuana. 21 U.S.C. § 801, *et seq.*

This report focuses on the provisions of Measure 91 that are particularly relevant to local governments and discusses the potential impacts on local governments.

The Basics: What Measure 91 Does

Measure 91 creates a regulatory framework for recreational marijuana, but exempts from regulation the personal possession and delivery of marijuana and marijuana products in specified amounts. In particular, beginning July 1, 2015, a person 21 years of age or older may produce, make, process, keep or store, per household:

- 4 marijuana plants;
- 8 ounces of useable marijuana (dried marijuana flowers and leaves);
- 16 ounces of solid homemade marijuana products; and
- 72 ounces of liquid homemade marijuana products.¹

Although a person may have those quantities of marijuana and marijuana products at home, a person cannot produce, process, keep or store homegrown marijuana or homemade marijuana products in a location that can be readily seen from a public place. In addition, the measure prohibits use of marijuana in a public place. However, Measure 91 does allow a person to possess up to one ounce of useable marijuana on their person while in a public place.

Under Measure 91, individuals without a license can also transfer certain quantities of marijuana and marijuana products to others. In particular, a person can deliver up to 1 ounce of homegrown marijuana, 16 ounces of solid homemade marijuana products, and 72 ounces of liquid homemade marijuana products to another person of legal age for noncommercial purposes.

The measure directs the Oregon Liquor Control Commission (OLCC) to regulate all other production, processing and sales of marijuana and marijuana products.

¹ “Homemade” marijuana products are those that have been made for noncommercial purposes by a person who is 21 years old or older.

The Regulatory Structure: How Measure 91 Works

Section 7 of Measure 91 requires the OLCC to regulate the production, processing, transportation, delivery, sale and purchase of recreational marijuana. The OLCC also is charged with licensing the processing, production and sale of marijuana, and with collecting the taxes that the measure imposes on producers.

Licensing

Measure 91 creates four types of licenses. Producers, processors, wholesalers and retailers are all required to apply for OLCC licenses, and the OLCC must start accepting those applications on or before January 4, 2016. A person may hold more than one type of license.

The licenses will be issued for a particular premises. However, a person with a license can relocate, because the licenses are transferrable to a new location subject to OLCC rules, municipal ordinances and other local regulation.

The OLCC has authority to deny, suspend or revoke a license for a variety of reasons. Of particular relevance to local governments, the OLCC can reject a license application if it has reasonable grounds to believe that there are sufficient licensed premises in a locality or that the license is not necessary for the public interest or convenience of the locality. In addition, the OLCC may cancel or suspend a license if the licensee is convicted of violating general or local marijuana laws, or is convicted of any misdemeanor or violation of a municipal ordinance committed on the licensed premises.

Regulation of Facilities

Section 59 of Measure 91 recognizes that local governments can adopt “reasonable time, place and manner regulations” of the “nuisance aspects” of businesses that sell marijuana to consumers. In enacting those regulations, cities and counties must make specific findings that the regulated businesses would create adverse effects. The measure notes that the authority recognized in section 59 is in addition to, and not in place of, other authority granted to cities and counties under their charters, relevant statutes, and the Oregon Constitution.

Independent of local government authority to regulate businesses that sell marijuana to consumers, the measure prohibits “noisy, lewd, disorderly, or insanitary” facilities.² It also provides that property is a common nuisance if marijuana is manufactured, bartered, sold, given away, or used in violation of Oregon law on the property.

The Local Option to Prohibit Licensees

Sections 60 to 62 allow cities and counties to prohibit producers, processors, wholesalers and retailers from operating within the city or county. To impose a ban, someone must file an initiative petition using the statutory process for city and county initiatives provided in ORS

² The measure does not expressly state whether the OLCC, local law enforcement, or both have authority to enforce that provision.

Chapter 250, with a few changes to the procedure as provided in Measure 91. The petition must be filed at least 60 days before a statewide general election. In addition, it must be signed by at least 10 percent of the electors registered in the city or county, and those signatures must have been signed within 180 days before the petition is filed. An election on a local option petition must be held at “the next statewide general election.”

Although Measure 91 allows cities and counties, through the initiative process, to ban OLCC licensees from operating within the jurisdiction, a local ban does not impair the right of an individual person to possess homegrown marijuana or homemade marijuana products for personal use as provided in Measure 91.

The measure also purports to repeal all local charter provisions and ordinances that directly conflict with Measure 91.

State Tax Revenue Structure

The measure imposes a state tax on a marijuana producer’s first sale of marijuana flowers, leaves and immature plants.³ Revenues from that tax will first offset the OLCC’s start-up costs, as well as its operating expenses, which are estimated to be \$3.2 million per year. In addition, other state entities, including the Oregon Health Authority, the Oregon Department of Agriculture, the Oregon State Police, and the Oregon Judicial Department, expect increased expenses associated with the measure.

Ten percent of any net revenue remaining after expenses will be distributed to cities, and 10 percent will be distributed to counties⁴ “to assist local law enforcement in performing its duties under [the measure].”

The 10 percent of net revenue available to cities and counties will be distributed using different metrics before and after July 1, 2017. Before July 1, 2017, tax revenues will be distributed proportionately to all Oregon cities and counties based on their population. After July 1, 2017, those revenues will be distributed proportionately based on the number of licenses issued for premises located in each city and county. Fifty percent of the revenues will be distributed based on the number of production, processor and wholesale licenses issued for premises in a city or county. The other 50 percent of the revenues will be distributed based on the number of retail licenses issued for premises in a city or county.

State Tax Revenue Estimates

Estimates of the amount of expected tax revenue vary widely. The state’s Legislative Revenue Office (LRO) estimates gross revenue of \$46.6 million in the 2017-2019 biennium, while a study commissioned by the measure’s sponsors estimates gross revenue of \$78.7 million for that

³ If the producer is also a processor, wholesaler and/or retailer, then the tax appears to apply at the point of the first sale, which is broadly defined by the measure.

⁴ The other 80% will be distributed as follows: 40% to the Common School Fund, 20% to the Mental Health Alcoholism and Drug Services Account, 15% to the State Police Account, and 5% to the Oregon Health Authority.

same time period. The LRO projected that the net revenue in fiscal year 2017 would be \$9.4 million, increasing to approximately \$20 million in 2019.

Based on the LRO's projections, \$938,000 of revenue in fiscal year 2017 would be distributed to cities, and that same amount would also be distributed to counties. By 2019, that number is projected to increase to \$2.1 million. A recent *Wall Street Journal* article noted, however, that tax revenue has come in below initial projections in other states that have legalized recreational marijuana.⁵

Local Taxes

Section 42 of Measure 91 provides, "No county or city of this state shall impose any fee or tax, including occupation taxes, privilege taxes and inspection fees, in connection with the purchase, sale, production, processing, transportation, and delivery of marijuana items." In addition, section 58 of Measure 91 provides that the substantive provisions of the measure are "designed to operate uniformly throughout the state, shall be paramount and superior to and shall fully replace and supersede any and all municipal charter enactments or local ordinances inconsistent with it. Such charters and ordinances hereby are repealed."

In the weeks leading up to the election, many cities and counties wrestled with the possible implications of those provisions and the apparent restrictions placed on how local governments will be able to use their share of the state tax. Out of concerns regarding those possible restrictions and the sufficiency of the state tax, many jurisdictions adopted local taxes on marijuana prior to Measure 91's effective date. Those decisions are discussed further below.

Enforcement

Measure 91 charges state police, local police and sheriffs with enforcing the new law, including the restriction on use of marijuana while driving. In addition, after conviction, any marijuana items seized will be forfeited to state or local law enforcement agencies.

County courts, district attorneys and municipal authorities also are required to notify the OLCC when a licensee is convicted of violating state law or a municipal ordinance where marijuana "had any part" in the violation.

Effect on Other Laws

Measure 91 expressly limits its effect on other related laws. Section 4 states that the measure does not affect employment law, landlord-tenant law, federal grant and contract requirements, or the Oregon Medical Marijuana Act (OMMA). The measure makes clear that the Oregon Health Authority retains its power to regulate medical marijuana under the OMMA. As a result, recreational marijuana and medical marijuana will be regulated by different agencies relying on different statutory authority.

⁵ Zusha Elinson, *Oregon Initiative Seeks Lower Pot Taxes Than Cities Want*, Wall Street Journal, Oct. 24, 2014.

What Measure 91 Means for Local Governments

Measure 91's provisions relating to personal production, possession and delivery do not become operative until July 1, 2015, and the OLCC business licensing provisions begin to operate in January of 2016, giving local governments time to consider how to approach this new law. Although Measure 91 aims to create a comprehensive regulatory framework for recreational marijuana, it leaves room for cities and counties to exercise some local control.

- **Licensing:** Although the measure does not provide a formal channel for local governments to weigh in on licensing applications, cities and counties may play an important role in providing information to the OLCC about local conditions that could impact the decision to grant or deny a license – that is, whether there are sufficient licensed premises in the locality and whether the license is demanded by public interest or convenience in the locality. In addition, as the OLCC engages in rule-making, or should the Legislature consider reform legislation in the wake of Measure 91's passage, the League will work to include provisions in the law that allow local governments to weigh in.
- **Regulation of Facilities:** In addition to the restrictions provided in the measure, local governments can impose reasonable time, place and manner restrictions on the nuisance aspects of businesses selling marijuana to consumers. In addition, those businesses are also likely to be subject to other general local government regulations, such as business license requirements, land use and development regulations, and the imposition of economic improvement district fees. When developing time, place and manner restrictions, local governments might consider how a local ordinance currently regulates the time, place and manner of retail liquor stores and should work closely with their legal counsel.
- **The Local Option:** Through the local initiative process, local governments can prohibit licensees from operating within their boundaries. However, because any election on such a petition must occur at "the next statewide general election," local governments will not have the opportunity to prohibit the operation of licensed producers, processors, wholesalers or retailers until November 2016 (and it is unclear under the text of the measure whether local governments will have the opportunity to vote on similar initiatives after November 2016). Meanwhile, the OLCC must start accepting license applications on or before January 4, 2016 (nearly a year before the local opt-out election can occur). The League intends to seek corrective legislation that would prohibit the issuance of a license where a jurisdiction is considering an opt-out.
- **State Tax Revenues:** Until July 1, 2017, all cities and counties will receive some tax revenue generated by Measure 91 that exceeds the expenses associated with the measure. After that time, however, only cities and counties with licensees – producers, processors, wholesalers and retailers – will receive any portion of state tax revenues.

Additionally, the revenues are intended to “assist local law enforcement in performing its duties under [the measure.]” Because the measure’s provisions relating to home use are likely to have an impact on law enforcement statewide, including jurisdictions that might lack a licensee, and given the ambiguity in the measure’s apparent restriction on the use of tax revenues, the League intends to pursue corrective legislation that would ensure more adequate and unrestricted funding for local governments.

- **Local Taxes:** Before Measure 91 passed, more than 60 cities and at least four counties imposed or had considered imposing a tax on marijuana. Several legal arguments have been suggested to support the imposition of a local tax. Some have argued that federal law overrides Measure 91’s attempt to preempt local regulation and taxation. Others argue that Measure 91 only preempts local governments from imposing a tax *after* the measure’s passage, and the measure’s attempt to repeal inconsistent charter provisions and ordinances violates home rule and rules relating to retroactive legislation. It is uncertain how a court might rule on those or other arguments. Nonetheless, some jurisdictions have adopted taxes with the hope that the Legislature, recognizing the inadequacy of the revenue sharing provisions within the measure, might grandfather in preexisting taxes. Because of the range of possible legal interpretations, local governments interested in enacting a tax on marijuana, or wondering about the validity of existing taxes on marijuana, should consult their legal counsel.
- **Employee Drug Testing:** Measure 91 purports to not disturb existing employment laws. In addition, under *Emerald Steel v. Bureau of Labor and Industries*, the Oregon Supreme Court held that federal law preempted an employee’s rights under the Oregon Medical Marijuana Act to the use of medical marijuana in the workplace. Consequently, it seems that an employer could take the appropriate adverse employment action against an employee (in accordance with any collective bargaining agreement) who was found to be using marijuana or tested positive for marijuana use in violation of the employer’s policies. Nonetheless, a local government considering discipline of an employee who engaged in marijuana use after July 1, 2015 should seek the advice of legal counsel, and Citycounty Insurance Services’ pre-loss program, if insured by CIS.



2013 FED AG MEMO



U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

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

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

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

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

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

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

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

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

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

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

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

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

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

cc: Mythili Raman
Acting Assistant Attorney General, Criminal Division

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

Michele M. Leonhart
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H. Marshall Jarrett
Director
Executive Office for United States Attorneys

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

FROM DECEMBER MEETING:

We have two marijuana issues to deal with in short order: medical marijuana and recreational use marijuana. Both involve sales approved by the state and the state prohibits cities from disallowing the sales. We have options on how to address the sales:

- 1) Do Nothing and just let the state regulations govern within the city;
- 2) Adopt regulations related to time, place, business license, etc.;
- 3) Regulate the siting and sales through the land use process/or not.

Those are just a few of the considerations the council may wish to discuss.

Councilor Kaufman has prepared a brief "Marijuana Options" outline as a beginning discussion point for the council. I have attached her outline to this report.

I have also attached the following documents:

- LOC document: Measure 91: What it Means for Local Governments
- LOC PP slides on Measure 91
- PP slides and information I recently presented to the local Rotary club which includes the August 2013 USDOJ memo to US attorneys, and the October 2014 Josephine County decision on Cave Junction vs State of Oregon

Our legal counsel has provided the following information to consider:

Quick Overview of the Measure

Measure 91 allows individuals 21 and over to grow, possess, and use marijuana for personal recreational purposes. The measure also allows individuals and entities to apply for licenses to produce, manufacture, and sell marijuana and marijuana products for commercial recreational purposes. There are four types of licenses available under the Measure: producer (growers), processor, wholesaler and retailer licenses. The state will tax commercial recreational marijuana at \$35 per ounce for buds, \$10 per ounce for leaves and \$5 per immature plant. The tax revenues collected by the state are shared among various governmental entities. Cities will receive 10% of the state tax revenues collected.

Important Dates

- December 4, 2014 – Measure 91 takes effect; however, individuals cannot grow or possess recreational marijuana until July 1, 2015
- April 30, 2015 – Moratoria adopted by cities on medical marijuana dispensaries expire (unless the city set an earlier expiration date)
- July 1, 2015 – Individuals may now possess and grow recreational marijuana (up to 4 plants, 8 oz of useable marijuana, 16 oz solid form homemade marijuana products, and 72 oz liquid homemade marijuana products per household)

- January 1, 2016 – Not later than this date, the OLCC must adopt administrative rules regulating recreational marijuana licensees
- January 4, 2016 – OLCC begins accepting applications for recreational marijuana licenses
- Spring 2016 – OLCC begins issuing recreational marijuana licenses
- Spring/Summer 2016 – State begins distributing recreational marijuana tax dollars to cities - distribution is proportional based on population
- July 1, 2017 – State begins distributing cities' shared state recreational marijuana tax revenue proportionally based on the number recreational licenses in the City – if there are no licensed premises in the City, the City will not receive any state shared marijuana revenue

Regulations

Both the medical marijuana and recreational marijuana statutes allow cities to regulate marijuana facilities. Regulations considered by other cities include: buffer zones around parks and libraries; land use code amendments to define dispensaries as a use and add conditions of approval; regulation of hours of operation; regulations related to odor and other nuisance issues; business licensing requirements; and storm water issues related to fertilizer run off. You may want to consider some or all of these types of regulations. Remember that adoption of land use regulations in particular can take several months, and if you adopted a moratorium on medical marijuana, that moratorium will expire on April 30, 2015. If you want to make sure the City's regulations are in place prior to the expiration of the medical moratorium, I encourage you to start working on those regulations now.

Local Taxes

Now that Measure 91 has passed, one of the big outstanding questions is whether local recreational marijuana taxes will survive. The short answer is that we still do not know for sure, and we probably will not know until the issue is decided by a judge. It seems likely that, sometime after December 4th, a lawsuit will be filed either by a local government or by the State. We will keep you informed about any updates on the validity of local taxation measures.

Criminal Prosecutions

The Multnomah County District Attorney's Office has announced that the office will no longer prosecute conduct related to the possession or delivery of marijuana where the conduct will be legal beginning July 1, 2015. Other district attorneys may follow suit.