



MINUTES
February 10, 2014
CITY COUNCIL MEETING

Call to order: Time: 6:31PM

1. *The pledge of allegiance*
2. *Roll Call:*

	Present	Absent
Mayor Karl Popoff	X	
Council Position #1 Melinda McVey	X	
Council Position #2 Larry Brennan	X	
Council Position #3 Brice Gregory	X	
Council Position #4 Doug Brand	X	
Council Position #5 Tamie Kaufman	X	
STARTING VOTE		
City Administrator Jodi Fritts	X	
Student Liaison Lyndsey Dixon		X

3. *Special Orders of Business:*

Mayor Karl Popoff congratulated Councilor Larry Brennan for Arch Rock Brewing being the Business of the Year 2013.

- a. *Interview Potential Planning Commission members*

Interview potential planning commissioner Robert Chibante. City Administrator Jodi Fritts said that Kate Rambo the other candidate was sick this evening and would not attend. The Council interviewed Chibante.

MOTION: Councilor Melinda McVey made the motion to choose Bob Chibante and Kate Rambo to be on the Planning Commission. Councilor Larry Brennan seconded the motion.

Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
MOTION CARRIES UNANIMOUSLY			

4. *Consent Calendar*

None Scheduled

5. *Citizens Comments*

As presented to the Mayor at the beginning of the meeting

No Citizen Comments were presented to the Mayor.

6. Public Hearing

None Scheduled

There were no Public Hearings.

7. Citizen Requested Agenda Items

a. Dave Lacey RE: Proposed Nickel Mining

Citizen Dave Lacey gave a lengthy presentation regarding proposed Nickel Mining in the upper Hunter Creek area. Lacey explained that nickel mining is very hazardous and most companies do not perform required reclamation and sites become environmental superfund sites. He showed photographs of a mine in near Riddle (Roseburg area) that is contaminating local land and watersheds. Lengthy discussion about the proposal. The site is located in the National Forest (USFS) southeast of Gold Beach in a sensitive habitat area. Lacey urged the Council to protest the mining and provided a letter from Curry County to the USFS objecting to the proposed mining. Lengthy discussion. In the USFS staff report it stated that the mining company planned to purchase bulk water from the City. The Council decided to make a policy to sell bulk water only for certain purposes.

MOTION: Councilor Larry Brennan made the motion restrict the sale of bulk water for firefighting, construction, and emergency services purposes only. Councilor Brice Gregory seconded the motion.

Discussion about what type of construction and what emergency purposes.

Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
MOTION CARRIES UNANIMOUSLY			

8. Public Contracts and Purchasing

None scheduled

9. Ordinances & Resolutions

a. 2nd Reading Ordinance 650 Amending Comp Plan and Zoning Maps

MOTION: Councilor Tamie Kaufman made the motion to approve second reading of Ordinance 650 by title only. Councilor Larry Brennan seconded the motion.

Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.

Record of Vote	Ayes	Nays	Abstain
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Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
MOTION CARRIES UNANIMOUSLY			

b. *1st Reading Ordinance 647 amended FOG ordinance*

MOTION: Councilor Tamie Kaufman made the motion to adopt Ordinance 647 and approve the first reading by title only. Councilor Doug Brand seconded the motion.

Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
MOTION CARRIES UNANIMOUSLY			

c. *Resolution R1314-08 Council Rules*

MOTION: Councilor Larry Brennan made the motion that the Council adopt Resolution R1314-08, a resolution adopting rules of the Gold Beach City Council as provided in the City Charter Chapter IV, Section 13 and rescinding resolution R0910-02 and any other resolutions that may be in conflict. Councilor Tamie Kaufman seconded the motion.

Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
MOTION CARRIES UNANIMOUSLY			

10. *Miscellaneous Items (including policy discussions and determinations)*

a. *Quick Urban Renewal Update*

CA Fritts gave a quick update on the status of urban renewal. Fritts said the last part of the adoption of urban renewal was for the County Assessor to certify the tax roll. As of January that has been completed.

b. *Charter Cable Franchise pending expiration*

Discussion on the pending expiration of the current Charter Cable franchise. The current agreement was adopted in 2004. General discussion on the agreement. Councilor Kaufman questioned the dates on the agreement and the ordinance adopting the agreement. The agreement was signed in the summer but the ordinance was not adopted until November. CA Fritts said she would research and get back to the Council.

c. Update Medical Marijuana Dispensaries

Long discussion on the medical marijuana dispensary issue. CA Fritts provided in the agenda report a summary of what other cities had proposed regarding enforcement or prohibition on the dispensaries. She also included a copy of the letter she sent to Earl Crumrine who came to the Council in November with questions. Lengthy discussion on federal law vs state law, discrimination, employment, and possible impacts of decision by Council. Several members felt the City should follow federal law. Councilor Kaufman asked if we could have a consensus vote on the City's policy regarding this topic.

MOTION: Councilor Larry Brennan made the motion that the Council will follow our Business Code and the City Charter and not approve any business that is violation of local, state, and/or federal law. Councilor Doug Brand seconded.

Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
MOTION CARRIES UNANIMOUSLY			

d. Upcoming meetings and trainings

CA Fritts listed in the agenda report the upcoming meetings and trainings for February.

11. City Administrator's Report

CA Fritts presented her monthly report which is attached to these minutes.

12. Mayor and Council Member Comments

No comments this evening except Councilor Brand.

- a. Mayor Karl Popoff
- b. Councilors
 - 1) Melinda McVey
 - 2) Larry Brennan
 - 3) Brice Gregory
 - 4) Doug Brand: How much clean air do we need?
 - 5) Tamie Kaufman
- c. Student Liaison, Lyndsey Dixon

13. Citizens Comments

As presented to the Mayor at the beginning of the meeting
No Citizen Comments were presented.

14. Executive Session
None scheduled

No executive session was held.

The next scheduled meeting of the Gold Beach City Council is Monday, March 10, 2014 at 6:30PM in the Council Chambers of City Hall, 29592 Ellensburg Avenue, Gold Beach, Oregon.

MOTION: Councilor Doug Brand made the motion to adjourn. Councilor Melinda McVey seconded the motion.

Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
MOTION CARRIES UNANIMOUSLY			

15. Adjourn Time: 8:36PM



Approved April 14, 2014

Candy Cronberger, City Recorder

**ATTACHMENT TO THE MINUTES FOR
FEBRUARY 10, 2014**

ORIGINAL COUNCIL AGENDA PACKET



AGENDA
February 10, 2014, 6:30PM
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		
Council Position #3 Brice Gregory		
Council Position #4 Doug Brand		
Council Position #5 Tamie Kaufman		
STARTING VOTE		
City Administrator Jodi Fritts		
Student Liaison Lyndsey Dixon		

3. Special Orders of Business:

- a. Interview Potential Planning Commission members

4. Consent Calendar

None Scheduled

5. Citizens Comments

As presented to the Mayor at the beginning of the meeting

6. Public Hearing

None Scheduled

7. Citizen Requested Agenda Items

- a. Dave Lacey RE: Proposed Nickel Mining

8. Public Contracts and Purchasing

None scheduled

9. Ordinances & Resolutions

- a. 2nd Reading Ordinance 650 Amending Comp Plan and Zoning Maps
- b. 1st Reading Ordinance 647 amended FOG ordinance
- c. Resolution R1314-08 Council Rules

10. Miscellaneous Items (including policy discussions and determinations)

- a. Quick Urban Renewal Update

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

- b. Charter Cable Franchise pending expiration
- c. Update Medical Marijuana Dispensaries
- d. Upcoming meetings and trainings

11. City Administrator's Report

To be presented at 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, Lyndsey Dixon

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, March 10, 2014 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

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



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SPECIAL ORDERS OF BUSINESS

GOLD BEACH CITY COUNCIL AGENDA REPORT



Agenda Item No. 3 a.
Council Meeting Date: February 10, 2014

TITLE: Interview Planning Commission Candidates

SUMMARY AND BACKGROUND:

There are currently four vacancies on the Planning Commission. Position #4, the only filled position, is occupied by Richard Thompson. His term expires December 2015. We have had two applications for the vacant spots; one is a former member that would like to serve again.

KATE RAMBO – 94295 Sevey Lane

Rambo formerly served on the Planning Commission from October 2011 until May 2013.

ROBERT CHIBANTE – 95629 Jerry's Flat Road

Owner-Bear Ridge Systems

Chibante is the current Chamber of Commerce President, part of Curry Fair Friends, and President of the Wild Rivers Dahlia Society. He is not a city resident but resides within the Gold Beach Urban Growth Boundary. Per City Code, one member of the Planning Commission may be a UGB resident.

Both candidates wish to serve the community and help make Gold Beach a better city. Actual applications are not provided here due to sensitive information on the applications.

FINANCIAL IMPACT:

None

DOCUMENTS ATTACHED:

- None

REQUESTED MOTION/ACTION:

Decision regarding appointment of the vacant Planning Commission positions. The Mayor appoints with majority approval of the present council members. I have consulted with our attorney and based on the language of the City Charter both the Mayor and majority council must agree on a candidate in order for the appointment to occur. If the Mayor and the majority council are unable to agree on a candidate, then the position remains vacant.

If the Mayor and majority council can agree on a candidate(s), we need a motion approving the appointment(s). A resolution will be prepared for the March 10th council meeting and the candidate(s) will be sworn in at the next Planning Commission meeting.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council



CITIZEN REQUESTED AGENDA ITEM

GOLD BEACH CITY COUNCIL AGENDA REPORT



Agenda Item No. 7 a.
Council Meeting Date: February 10, 2014

TITLE: Citizen Requested Agenda Item Dave Lacey- RE: Potential Red Flat Nickel Mining

SUMMARY AND BACKGROUND:

Mr. Lacey requested to speak to the council regarding proposed test drilling for nickel mining in the upper Hunter Creek watershed in the national forest adjacent to Gold Beach.

I am attaching two pages from the Curry County Comprehensive Plan (the proposed mining is in the county on federally owned land). The area of the potential mining is listed in the county comp plan as a mineral resource. This section was amended in 1998. I'm not making a statement for or against the proposal. I just want the council to be aware the county comp plan document states the nickel deposits are a mineral resource and in 1998 the county felt this area had potential for commercial production. Their opposition letter is contrary to their acknowledged comp plan and they did not reference the comp plan in their letter—they may not even have been aware of it.

Last month the Pilot erroneously reported that the Council would decide at the January meeting whether to issue a permit to the nickel mining company. The proposed mining area is not located within the City of Gold Beach. There would be no permit issued from our jurisdiction. To date, the only contact the City has had with the company was a telephone inquiry some time back on whether the City sells water—such as filing small fire tankers. The City does, and has, sold water for a variety of purposes—usually for fire suppression and construction. There was some question as to how much water the mining company was proposing to purchase. We have not had that particular inquiry but in reading the USFS Preliminary Decision Memo it states on page 6 that the company is proposing to purchase municipal water “likely Gold Beach” and that they have need of a total of 35,000 gallons for the test drilling. No formal request has been made to purchase water.

FINANCIAL IMPACT:

- None to the City

DOCUMENTS ATTACHED:

- Lacey letter to USFS
- Copy of letter to the USFS from the Curry County Board of Commissioners
- Copy of District Botanist report regarding Hunter Creek area
- USFS Preliminary Decision Memo
- Portion of the Curry County Comp Plan regarding mineral and aggregate resources

REQUESTED MOTION/ACTION:

None from staff.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council

DAVE LACEY
LETTER TO USFS

Tina Lanier, District Ranger
Gold Beach Ranger District
Rogue River-Siskiyou National Forest
USDA Forest Service
29279 Ellensburg Ave.
Gold Beach, Oregon 97444

Citizen Comments regarding the Preliminary Decision Memo RF-38 Test Drilling for Red Flat Nickel Corporation

Dear Tina Lanier:

Additional protection measures are warranted to minimize adverse environmental impacts to forest and community resources

I would like these comments to be considered from an 18 year Curry County resident, land owner and small business owner since 2000. More importantly as a father and husband to a family that would be directly impacted by any industrial development of the mining claims at Red Flat and the headwaters of Hunter Creek and Pistol River. This is deeply personal for me and many of the residents of Curry County. I feel there is far greater value in the health of the citizens, the health of the wildlife, the recreational use, the scenic enjoyment, the cleanliness and safety of our water supplies, the availability to access our national forests and the amazing and unique botanical values than there is in the need for profit of a foreign mining corporation. There are so many better uses for our public lands.

Right to know as citizens of the United States

In the Preliminary Report, the Forest Service States:

Under [The General Mining Law of 1872] and related case law, the United States Department of Agriculture (USDA) Forest Service has no authority to prohibit an otherwise reasonable plan of operations for such mining (i.e., one that can be characterized as the logical next step in the orderly development of a mine). For example, reasonable operations often begin with small-scale sampling, followed by larger scale sampling, then on to small-scale production for bulk testing purposes, and then perhaps launching into a large-scale development.

When talking to folks in the area about the test drilling they ask what happens if they find enough Nickel? It is that apprehension that so many people feel when discussing the potential next steps of this project. Why would this corporation test drill if they had no intentions of a full-scale mining removal? It is the logical next step. Many people cannot shake this way of thinking and that is how the Forest Service should think when assessing the potential impacts of this test drilling Plan of Operations (POO). The Forest Service should not allow the test drilling in such a sensitive area when the knowledge of the destructive impacts of the next phase of

mining is known. Is the Forest Service going to then halt the project after test drilling, but before the next industrial phase? If so then it is unfair to the mining claimant and it's investors when the Forest Service already knows the next phase would be far to environmentally devastating to allow it as the next logical step.

Ecological resources

The Red Flat area is very near to the headwaters of the free flowing Hunter Creek and Pistol Rivers. There are no dams or hatchery influence, as such it is wild. The two watersheds boast these wild Chinook and Coho Salmon, Steelhead, Cutthroat Trout as well as resident Rainbow, Eulachon, Lamprey and should be considered wild fish strongholds and gene banks. These sorts of systems with no dams and no hatchery influences are rare and should be protected at all costs including from foreign corporate interests. Exploratory and the next phase of mining would impact both the water quality and maybe quantity, which in turn would have impacts on the fish and other wildlife, not to mention the citizens down stream.

There are many other unique ecological attributes of the Hunter Creek and Pistol River headwaters, but one that deserves more attention is the Mardon Skipper. This rare butterfly has a limited range and has evolved to rely on this unique soil type and vegetation that would be severely impacted by more road activity and mining. Much of the ecological resources that are endemic or unique to this area would be impacted by test drilling disturbances as well as the next phase of mining development and should not be allowed to proceed.

Water Resources

I have grave concerns for the adjacent BLM ACECs, the Red Flat Botanical Area, Flycatcher Springs and the many other unnamed spring fed wetlands and fens around the greater Red Flat area. If mining were allowed to occur in any manner, the water tables and water influx to these areas in need of year round water supply would be in jeopardy. It is possible that the clay pan beds of the fens could be punctured and lose their unique characteristics that enable the plants such as the Darlingtonia or Cobra Lily to thrive there. Do we know for sure this will not happen?

I suggest there be a comprehensive study of the wetlands, bog/fen, emergent springs and plant associations with such watery areas so as to monitor change. Any change would not be allowable in such a unique and diverse area such as this. Some of the drilling sites (11, 12, 15 and 16) are either in or too close to the Flycatcher Springs. This area should have a large buffer to avoid disturbance and possible water table disruption.

Soil Toxicity

Mining disrupts the soil make up of the lands in many unforeseen ways. Will the harmful, yet naturally occurring heavy metals be released into the runoff from the mining activity and then polluting the watersheds below? The inadequate proponents plan that the Forest Service accepts as compliant, needs to be more

robust. If mining were allowed to proceed, testing should occur before, during and after mining to verify that no harmful waste metals or other materials have been allowed to escape the confines of the test area. The Laterite soils of the area do not recover from disturbance and should be left alone. The past mining activities have not been reclaimed and that seems to be par for the course with industrial mining firms with the locals left to deal with the mess.

Access in sensitive areas

This mining plan allows for road clearing and minor roadwork to be done which would make it easier and further the off road use in areas that are currently off limits. Making the old miner roads more accessible will only allow more off-road use into areas that need to be protected for their unique botanical values. This will add to the degradation already imposed by illegal off road use and could spread POC disease or SODS into areas not already infected.

Recreation

Oregon's recreation economy totals 12 billion a year. The Red Flat area, Hunter Creek and Pistol River play an important part in the outdoor recreation economy of Curry County. Whether you; count birds or wild flowers, partake in fishing for salmon or steelhead, drive the county and forest service roads for the scenic vistas, hike or bike the many trails, lots of people enjoy this area being considered for mining. I worry about the impacts to the already established recreation economy and the loss of access due to foreign interests with these claims.

Scenic Values

Many citizens of Curry County and tourists alike enjoy backcountry driving for the many scenic overlooks, they enjoy short hikes or picnicking, many like to do wildlife and wildflower viewing. It's about the access to nature. Mining would devastate any future scenic value of the area. The BLM ACECs would be compromised by the mining as well. Who would want to come visit a protected botanical area and see a strip mine or even a drilling rig?

Conclusions

For the above reasons and others not listed, I ask the Forest Service to deny the permit to allow exploratory mining RF-38 on my public lands. If allowed to proceed, I strongly request that the Forest Service in conjunction with BLM do a joint review of the environmental impacts of test drilling and the logical next step, a strip mining project before allowing the test drilling to occur.

The Red Flat area is globally recognized as one of the most biologically diverse areas of North America. It would be a crime to the area and a direct violation of NEPA law, under the segmentation of projects rationale to avoid an environmental assessment. Many may not realize that Red Flat Corporation is also proposing the Cleopatra site. Both projects should be considered as one due to the relationship of time, proximity and the sharing of mining equipment and resources. The Forest Service should not

make it easier for the corporation to access our public lands for mining under categorical exclusion as separate projects.

The Forest Service should not permit the RF-38 project and should start the process for a mineral withdrawal immediately. A recent petition shared with the greater Hunter Creek residents shows overwhelming support for a mineral withdrawal and designated botanical area to protect the unique resources of the headwaters of Hunter Creek and Pistol River. More than 95% of the respondents have committed their support for this and as time passes the petition will likely show the vast majority of the potentially affected residents of Pistol River, Hunter Creek and Curry County in general oppose this mining POO and support the petition. The Curry County commissioners also passed a strong oppositional letter on Thursday December 12th, 2013.

It is very clear that the people are speaking up, can you hear them? Citizens from all walks of life are banding together to oppose the RF-38 POO. Please listen to us and reason, not the foreign investors that care nothing for our public lands or us. There is a better use for our publicly owned forestlands.

Sincerely

Dave Lacey
Owner and operator, South Coast Tours LLC
Owner and operator, Dave Lacey Woodworking
Hunter Creek River Steward
Family man
27436 Hunter Creek rd.
Gold Beach, OR 97444

Cc:
OR Representative Kreiger
OR Senator Kruse
US Senator Merkley
US Senator Wyden
US Representative Defazio
CA Senator Boxer

**CURRY COUNTY
BOC LETTER TO
USFS**



**Curry County
Board of Commissioners**

David Brock Smith, *Chair*
Susan Brown, *Vice Chair*
David G. Itzen, *Commissioner*

94235 Moore Street/Suite #122
Gold Beach, OR 97444
541-247-3296, 541-247-2718 Fax
800-243-1996 www.co.curry.or.us

December 12, 2013

Tina C. Lanier
Gold Beach Ranger District,
29279 Ellensburg Avenue,
Gold Beach, OR 97444

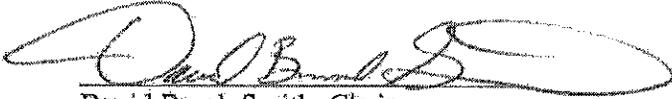
Dear Tina C. Lanier:

The Curry County Board of Commissioners (BOC) passed an Amendment to the Curry County Code adding a New Article One, Division Fourteen relating to a Federal Coordination Policy, August 7th, 2013. This Policy, under Section 1.14.010, subsection (1) asserts additional coordination as outlined in the FLPMA and NFMA to, "provide early and frequent opportunities for... local governments to participate in the planning process". The purpose of the Federal Coordination Policy, as outlined in Section 1.14.020, is that Curry County asserts its maximum rights to coordination, as provided by law, with all federal agencies conducting activities in or affecting Curry County. The policies contained in the Federal Coordination Policy are enacted with the express intent of developing meaningful and productive relationships with the federal agencies that coordinate with Curry County.

Section 1.14.030, Subsection (3) outlines the Federal Coordination Policy Mining Policies. The Curry County Board of Commissioners agrees that the proposed project to be conducted by the Red Flat Nickel Corporation will cause serious negative externalities to the project location at the headwaters of the free flowing Hunter Creek and Pistol River watersheds. If allowed to be developed; the BOC also recognizes there will be serious negative impacts to the surrounding area, restriction of access to popular recreational areas, degradation of the rare and unique botanical resources, as well as the health risks to the residents and wildlife. The BOC places higher values on its citizens health and safety, the many recreational uses of the Red Flat area as well as the highly prized Hunter Creek and Pistol River fisheries for wild Chinook and Coho Salmon, Steelhead, Cutthroat and resident trout than on the foreign owned Red Flat Mining Corporation interests. Furthermore, the BOC feels this proposed project is not in line with a number of other Curry County policies outlined within the Federal Coordination Policy.

This letter is the Curry County BOC formal opposition of any permit issued to the Red Flat Nickel Corporation. A copy of Article One, Division Fourteen and Exhibit A, Curry County Federal Coordination Policy is included for your reference. Thank you for your attention in this matter.

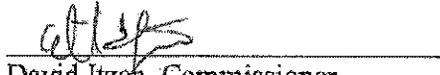
Sincerely,



David Brock Smith, Chair



Susan Brown, Vice Chair



David Itzen, Commissioner

cc: Senator Wyden
Senator Merkley
Congressman DeFazio
State Senator Kruse
State Representative Krieger
BLM District Manager Patricia Burke

**DISTRICT
BOTANIST REPORT
HUNTER CREEK**

Hunter Creek

Nancy J. Brian

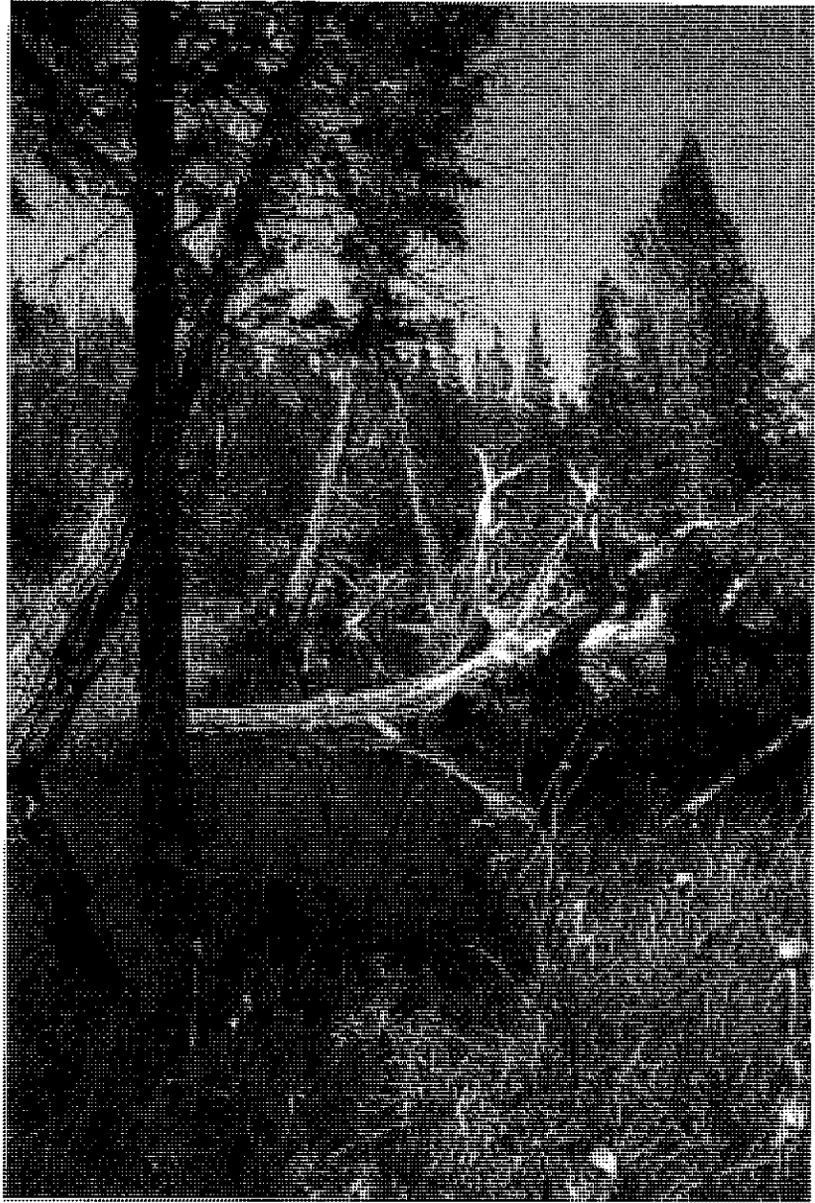
District Botanist, BLM Coos Bay District Office, North Bend, OR 97459

Imagine you can “apparate” (disappear from one place and reappear almost instantly in another, like the wizards and witches in the Harry Potter series) to the middle of Hunter Creek Bog. As you slowly sank into the bog, you’d find yourself surrounded by California pitcherplant, pleated and Mendocino gentians, Labrador tea, western tofieldia, California bog asphodel, sedges, Columbia and Vollmer’s lilies, and Pacific reed grass. Outside of this watery jungle, you would see dry, bare, red rocky slopes and a scattering of Port Orford cedar and Jeffrey pine. Luckily, “muggles” (the non-magical community) don’t need to “apparate” to get to Hunter Creek Bog. We can turn off Highway 101, just south of Gold Beach in Curry County, and drive east about 10.5 miles to visit this public land botanical jewel managed by the Bureau of Land Management (BLM).

ACEC Status

There are two Areas of Critical Environmental Concern (ACEC) at Hunter Creek: Hunter Creek Bog ACEC and the North Fork Hunter Creek ACEC, which together total about 2,300 acres. In 1982 the Kalmiopsis Audubon Society and the Innominata Garden Club nominated Hunter Creek Bog (Section 13) and Hunter Springs Bog (Section 24) for ACEC status (Bowen and others 1982). In 1994, 570 acres in those sections and 1,730 acres of North Fork Hunter Creek were proposed as a separate ACEC. In 1995, both ACEC proposals were designated, including lands located in Sections 1, 2, 11, 12, 13, 14, and 24, Township 37 South, Range 14 West (BLM 1995). The ACECs are bordered by Siskiyou National Forest land to the east and South Coast Lumber Company lands to the north, west, and south. The BLM is currently pursuing land acquisitions and exchanges to consolidate ownership, as provided in the final management plan (about 280 BLM acres in exchange for 320 South Coast Lumber acres). If the exchange is completed, the acquired lands will be included in the ACEC as public domain.

The Hunter Creek ACECs were designated for four natural resource values: 1) special status species, 2) natural systems and plant community, 3) fish and wildlife habitat, and 4) historic and cultural resources. Twelve special status plant species (see list at



Jeffrey pine and Port Orford cedar surround a watery jungle of California pitcherplant in Hunter Creek Bog. Photo by Veva Stansell.

end of article) and five special status animal species are documented. No federally listed wildlife species have been found, but potential habitat is present for northern spotted owl, marbled murrelet, and American peregrine falcon. The North Fork of Hunter Creek is productive for resident trout and anadromous fish populations such as the fall chinook salmon and winter steelhead. Hunter Creek ACEC fills ecological and special species cells in the Oregon Natural

Ecological and special species cells identified in the 2003 Oregon Natural Heritage Plan for Hunter Creek ACECs

Ecoregion	Ecological Cell	Special Species Cell
Coast Range	<ul style="list-style-type: none"> Port Orford cedar (<i>Chamaecyparis lawsoniana</i>) forest types on ultramafic soils 	<ul style="list-style-type: none"> Gasquet manzanita (<i>Arctostaphylos hispidula</i>)
Klamath Mountains	<ul style="list-style-type: none"> California pitchetplant (<i>Darlingtonia californica</i>) fen on serpentine-peridotite, with Port Orford cedar Coastal oak-conifer woodland and meadow mosaic 	<ul style="list-style-type: none"> Mendocino gentian (<i>Gentiana setigera</i>) and Siskiyou checkerbloom (<i>Sidalcea malviflora</i> ssp. <i>patula</i>) Gasquet manzanita and Siskiyou trillium (<i>Trillium angustipetalum</i>)

Heritage Plan for the Coast Range and Klamath Mountains Ecoregions (Allan and others 2001).

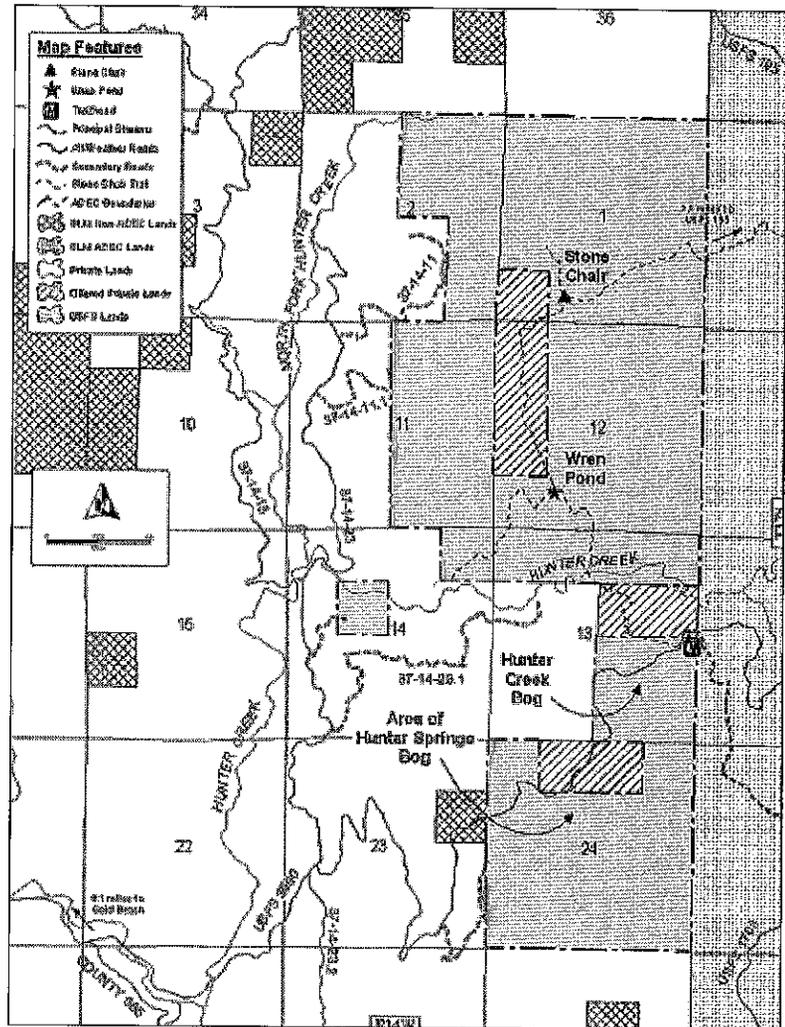
Because the Hunter Creek ACECs lie inland from the coastal fog belt zone, summer days are typically warm and sunny. Annual precipitation averages about 80 to 100 inches, primarily as rain falling between November and May. The elevation ranges from about 800 feet along the creek bottom to nearly 3,000 feet; transient snow falls above 2,500 feet elevation. In this maritime climate, the elevation gradient and geology provide habitat for mixed evergreen forest, rocky prairies, serpentine outcrops, fens, oak savannas, and riparian hardwood forests. It is unusual to find such extensive stands of Jeffrey pine, Oregon white oak, and rubber rabbitbrush (*Ericameria nauseosa* var. *speciosa*) only ten miles from the ocean. Hunter Creek Bog contains strands of Port Orford cedar. Unfortunately, the stand is infected with Port Orford cedar root rot (*Phytophthora lateralis*), a waterborne fungal root disease that may be transferred from one watershed to another by livestock, wildlife, recreationists, and motor vehicles. One can avoid spreading the spores by washing shoes and vehicle tires with a dilute solution of household chlorine bleach.

Hunter Creek and Hunter Springs Bogs

The Hunter Creek Bog ACEC contains three wetlands: one at Hunter Creek Bog and two at Hunter Springs Bog. The former, located in Section 13 and adjacent to US1'S Road 3680, is most accessible. The site supports a multitude of hydric plants, including California pitcherplant, roundleaf sundew (*Drosera rotundifolia*), and Mendocino gentian, but no sphagnum moss. Jeffrey pine and Port Orford cedar grow on the upper slopes. Several small springs in the upper part of the basin drain into a central pond. The water has been found to be either acidic or alkaline, depending upon where the samples were taken. The reason why very few phytoplankton, periphyton, macroinvertebrates, and aquatic plants are present is not known. A year-round stream draining the pond exits through a culvert under the roadbed, flows down a rocky creek

bed to the north, and empties into Hunter Creek. The pond is situated in a depression in an ancient landslide deposit, surrounded on the east, south, and west by scarps caused by movement of the slide material away from undisturbed ground of sedimentary rocks. The roadbed follows the northern or frontal portion of the landslide. A small area of non-ultramafic rocks sits in the center of the basin.

Access to Hunter Springs Bog is steeper and hushier than that



Map of Hunter Creek ACECs. Map prepared by Jay Flora.



California pitcherplant beneath a canopy of Jeffrey pine on the upper slopes of Hunter Creek Bog. Photo by Bruce Rittenhouse.

to Hunter Creek Bog. There are two spring areas, one each on the north- and south-facing sides of the ridge. California pitcherplant and roundleaf sundew are both present. The soils are deep and water movement is not as well defined as in Hunter Creek Bog (Bowen and others 1982).

The wetlands at Hunter Creek share the characteristics that define fens and bogs (see sidebar in the White Rock Fen article, on page 31). Technically, Hunter Creek Bog is a fen (John Christy, pers. comm.). It lacks sphagnum, the topography is sloping to flat, and there is contact with groundwater (seepage and the flowing stream). Bogs typically have a pH lower than 5.5, are dominated by sphagnum, and have raised hummocks or the entire peatland domed and elevated above the influence of groundwater so incoming moisture is limited to precipitation. An intermediate situation is called "poor fen" in places where pH is below 5.5 and topography is flat, but sphagnum is present (John Christy, pers. comm.). Thorough and systematic measurements of pH as well as conductivity data would be useful. Conductivity indirectly measures how mineral-rich the water is, fens being mineral-rich and bogs being mineral-poor.

North Fork Hunter Creek

North Fork Hunter Creek empties into Hunter Creek, which drains westward into the Pacific Ocean south of Gold Beach. Five vegetation types can be found adjacent to the North Fork. Along the ridges and upper slopes are open, park-like Jeffrey pine savannas with an understory of wildflowers and bunchgrasses, including onion-grasses (*Melica harfordii*, *M. spectabilis*, and *M. subulata*) and California oatgrass (*Danthonia californica*). An Oregon white oak (*Quercus garryana* var. *garryana*) savanna is also found on the open upper slopes.

The lower slopes are covered by a mixed conifer forest composed of western white pine, Douglas fir, Jeffrey pine, and Port Orford cedar with an understory of shrubs, including huckleberry oak (*Quercus vaccinifolia*), California coffeeberry (*Rhamnus californica* ssp. *occidentalis*), and red huckleberry (*Vaccinium parvifolium*). A

successional scrubland of knobcone (*Pinus attenuata*) and lodgepole pine (*P. contorta*) covers areas that have burned in the last 50 years or where fires have burned repeatedly over time (Agee 1993). These fire-affected areas support an extremely dense understory of shrubs, including California coffeeberry, canyon live oak (*Quercus chrysolepis*), and tan oak (*Lithocarpus densiflorus* var. *densiflorus*). Along the streams one can walk through western sword fern (*Polystichum munitum*) shaded by Port Orford cedar, 200-year-old Douglas fir, and hardwoods such as red alder (*Alnus rubra*), bigleaf maple (*Acer macrophyllum*), Oregon myrtle (*Umbellularia californica*), and tanoak.

Botanical Gems

Seventy-three vascular plant families are represented in the Hunter Creek ACECs with a total of 327 species, of which 7% are non-native. (A species list follows the article.) The largest family is Asteraceae (35 species), followed by Poaceae (26 species).

Present are twelve special status vascular plant species (Oregon Natural Heritage Program (ONHP) 2001): Del Norte willow (*Salix delnortensis*), Mendocino gentian, Siskiyou checkerboom, Siskiyou trillium, Bolander's onion (*Allium bolanderi*), Gasquet manzanita, serpentine sedge (*Carex serpenticula*), Bolander's hawkweed (*Hieracium bolanderi*), Piper's bluegrass (*Poa piperi*), California lady slipper (*Cypripedium californicum*), California pitcherplant, and pink fawnlily (*Erythronium revolutum*).

Other rare or uncommon plants to look for at Hunter Creek ACECs are Vollmer's lily (*Lilium pardalinum* ssp. *vollmeri*), serpentine phacelia (*Phacelia corymbosa*), Howell's bicuitroot (*Lomatium howellii*), roundleaf sundew, fringed pinesap



Mendocino gentian growing in Hunter Creek Bog. Photo by Veva Stansell.



Riparian woodland of Port Orford cedar, Douglas fir, red alder, bigleaf maple, California laurel, and tanoak along the North Fork of Hunter Creek.
Photo by Veva Stansell.

(*Pleuricospora fimbriolata*), evergreen everlasting (*Antennaria suffrutescens*), brook wakerobin (*Trillium rivale*), fairy slipper (*Calypto bulbosa*), silky horkelia (*Horkelia sericata*), golden iris (*Iris innominata*), giant chainfern (*Woodwardia fimbriata*), Oregon fawnlily (*Erythronium oregonum*), Del Norte pea (*Lathyrus delnorticus*), and Scouler's woollyweed (*Hieracium scouleri*).

Surveys have found a total of 107 nonvascular species (26 lichens, 36 fungi, 14 liverworts, 1 hornwort, and 30 mosses) in the Hunter Creek ACECs (Wagner 2000, Clinch 2003, Mayor 2003). Two are special status species: the liverwort *Calyptogeia sphagnicola* and the moss *Pseudoteskeella serpentinensis*. The present fungi list is incomplete because surveys were conducted during a dry fall when few fungi were fruiting. About 80% of our local fungi fruit only in the fall. Additional vascular and nonvascular species are likely to be added to the list when botanists survey more of the area. These lists are available online at http://www.npsoregon.org/lists/plantlists/hunter_creek.htm.

Serpentine Vegetation

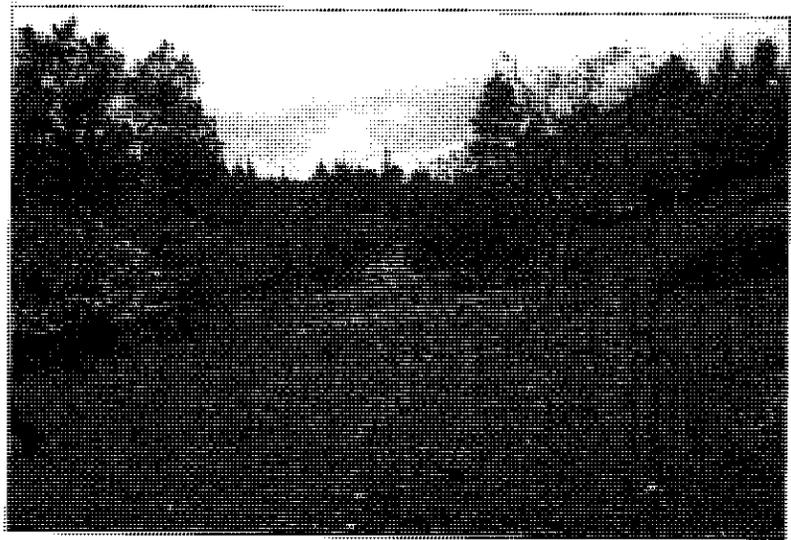
Serpentine affiliated plants in the Hunter Creek ACECs include silky horkelia, Howell's biscuitroot, bigseed biscuitroot (*L. macrocarpum*), evergreen everlasting (*Antennaria suffrutescens*), leafy fleabane (*Erigeron foliosus* var. *confinis*), Jeffrey pine, knobcone pine, common beargrass (*Xerophyllum tenax*), Siskiyou bedstraw (*Galium ambiguum* ssp. *siskiyouense*), western azalea (*Rhododendron occidentale*), and California pitcherplant (Brooks 1987, Kruckeberg 1984a, b, Whittaker 1960). Additional ultramafic endemics include serpentine sedge (*Carex serpenticola*), serpentine arnica (*Arnica cernua*), redwood toothwort (*Cardamine nuttallii* var. *gemmata*), Piper's bluegrass, Del Norte willow, and wedgeleaf violet (*Viola cuneata*) (Zika and others 1998). Also, Jeffrey pine and Indian's dream (*Aspidotis densa*) generally indicate ultramafic substrates in southwestern Oregon.

Wildlife

Hunter Creek ACECs have five special status wildlife species (ONHP 2001): clouded salamander, mountain quail, red-legged frog, southern torrent salamander, and winter steelhead. Over 120 wildlife species are known or have potential habitat at Hunter Creek ACECs: 16 amphibians, 12 reptiles, 63 birds, 28 mammals, and 2 fish. The list includes black-tailed deer, Roosevelt elk, black bear, cougar, bobcat, fringed myotis, lump-nosed bat, red tree vole, ringtail cat, American marten, tailed frog, and California mountain king snake.

Soils and Geology

The streams entering Hunter Creek and Hunter Spring Bogs drain over rock that contains unusually high concentrations of magnesium and iron. This rock type is sometimes referred to as ultramafic rock, from *ultra* meaning high, and *mafic* (meaning composed of magnesium [magnesium] and iron [Latin *ferrum*] + *ic*) (Kruckeberg



The Oregon white oak savanna of North Fork Hunter Creek is unusual in its proximity to the Pacific Ocean. Photo by Bruce Rittenhouse.



An open Jeffrey pine woodland with an understory of Piper's bluegrass (*Poa piperi*) on the upper slopes of North Fork Hunter Creek. Photo by Veva Stansell.

1984a, Brooks 1987). The ultramafic parent materials are serpentinite and its parent rock, peridotite. Serpentinite formed at the subduction zone of the continental plate when water released from the seafloor combined with the mantle rock (Bishop 2003). Serpentinite has a shiny green surface, polished under the pressure of slow, constant movement of continental plates. High in magnesium, but destitute of plant-sustaining elements such as potassium and sodium, serpentinite and peridotite zones support only meager vegetative cover.

The soils in the Hunter Creek ACECs are deep, fine, cobbly, silty, clay loams formed in materials weathered from serpentine and peridotite. Depth to bedrock is at least 40 inches. Serpentinite readily flakes apart and weathers to clay-sized particles, which are red from the oxidized iron. Thus, soils are reddish brown to red in color, and contain about 10 to 30 percent rock fragments. The soil in the bog is probably only a few feet deep. Though not described as a soil series, it is a black, poorly drained organic soil (histosol), influenced by the perched water table flowing over the ultramafic bedrock.

Human History

Cultural resources found within the Hunter Creek ACECs include a prehistoric stone tool manufacturing site on a ridge top near Hunter Creek Bog and a temporary campsite on a riverside bench near North Fork Hunter Creek (BLM 1996). When Europeans began exploring the region, Athapascan-speaking people called the Tututni lived there. The temporary camp site along North Fork Hunter Creek was probably where Tututni gathered and processed resources, such as acorns from Oregon white oak and roots of hrodiaea and small camas. The main Tututni village was located on the Rogue River, about five miles to the north. Tututni people were killed, scattered, or removed to the Siletz Reservation following the Rogue Indian Wars (1855 and 1856). Today, the Confederated Tribes of Siletz Indians is the federally-recognized trihe for descendants of Tututni people.

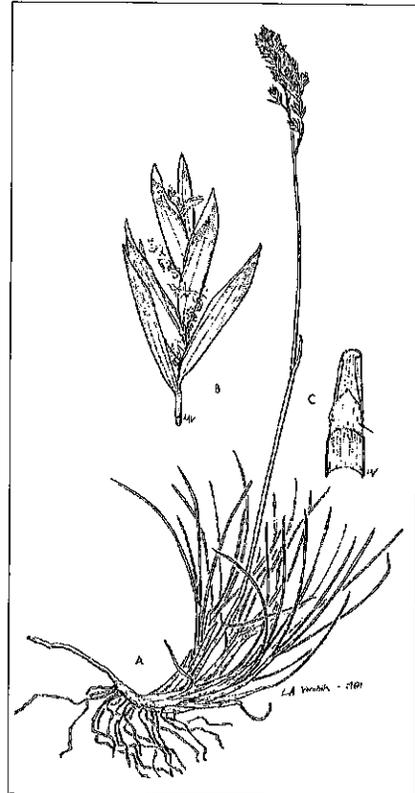
Signal Butte, a high point to the north of the ACEC on National Forest land, was named for the stone rings found on top that early pioneers believed were remnants of signal fire pits. Some think that the stone circles were spirit quest sites where young Tututni men fasted in seclusion for several days (Curtis 1924).

During the late 1800s and the early 1900s, homesteaders came to the North Fork Hunter Creek area. Two cabin locations are documented (BLM 1996). The Wren family built a cabin, grazed sheep and cattle, and dammed a small spring for livestock water, an impoundment now known as Wren Pond. Portions of several historic trails are still traceable, forming a network linking the homesteads along Hunter Creek to the Rogue River valley. The Crook family grazed sheep and cattle in the area until the 1960s. In past decades, trespass cattle have grazed the meadows and efforts are underway to remove them. McKinley Mine, located on the western slope of Signal Butte on National Forest land, is a copper, gold, silver and iron mine dating from the 1930s and 1940s. Other nearby chromite mines were also active during that time and during World War II.

Visiting Hunter Creek ACECs

Spring, summer, and early fall are good times to visit the Hunter Creek ACECs. South of Gold Beach, turn east near Milepost 331 on County Road 665, then right onto Hunter Creek Road. Follow the paved road for 4.9 miles, when it turns to dirt and is called USFS Road 3680. The dirt road crosses the Hunter Creek drainage. Continue west about 5.6 miles, up the mountain slope through an old clearcut. Past the top, a hasin of bare red soil will catch your eye. If you'd like to see the Hunter Creek Bog, park at a pullout on the south side of the road. Rubber boots or waders are recommended to enter the hog, though you can observe it from the ridgeline to the west. The entry is made difficult by dense brush, but the interior is more open.

To visit the forested zones of North Fork of Hunter Creek you will need a day pack, good boots, a map, and plenty of time, as the area can be visited only on foot. The southern terminus of the



Piper's bluegrass is a dioecious, rhizomatous perennial found in serpentine forest openings. A, habit; B, spikelet; C, opened leaf sheath showing ligule. Illustration by Linda Ann Vorobik.

Stone Chair trailhead is located just past the Hunter Creek Bog, but it is difficult to find as it is unmarked. Easier access and the advantage of walking downhill from the highest point are gained via the northern terminus of the Stone Chair trail. The trail is named for rocks grouped in the shape of a chair. The unmarked trailhead is located off of USFS Road 195, approximately 6.4 miles past Hunter Creek Bog. The trail winds through the open Jeffrey pine forest. Hikers are eventually rewarded with distant views of the Pacific Ocean. Visitor etiquette calls for taking nothing but pictures and leaving nothing but footprints. Off-road vehicles are not permitted.



Lichen-covered rocks in the shape of a chair, for which the Stone Chair trail is named, sit in a California oatgrass opening among Jeffrey pine. Photo by Bruce Rittenhouse.

Acknowledgments

Thanks to Veva Stansell, Curry County botanist, Gold Beach, who kindly reviewed the manuscript, including the vascular plant species list, and loaned her photographs for this article. Bruce Rittenhouse, former Coos Bay District botanist, also reviewed the manuscript and contributed the remaining photographs. Jay Flora, Coos Bay Natural resource specialist (GIS), prepared the area map. Steven Samuels, Coos Bay District archeologist, provided review of the cultural and historical information. David Wagner reviewed the manuscript and the bryophyte list. Dan Luoma reviewed the fungi list. Frank A. Lang, Southern Oregon University professor emeritus, and John A. Christy, Oregon Natural Heritage Information Center, Oregon State University, provided clarification on bogs and fens.

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The species lists for Hunter Creek Bog and North Fork Hunter Creek ACECs were compiled from the following sources: BLM (1996), Zika and others (1998), Forest Service (1997), and Veve Stansell. Nomenclature for vascular plants follows the checklist for the Oregon Flora Project. Names of taxa native to Oregon are printed in italic *Garamond*; alien taxa are in italic *Gill Sans*, a sans-serif type. The symbol * indicates Special Status Species and # indicates serpentine affiliate.

Vascular Plant Species List

FERNS AND THEIR ALLIES

BLECHNACEAE (Deer Fern Family)

Blechnum spicant (L.) Sm. (deer fern)

Woodwardia fimbriata Sm. (giant chainfern)

DENNSTAEDTIACEAE (Bracken Family)

Pteridium aquilinum (L.) Kuhn var. *pubescens* L. Underw. (hracken)

DRYOPTERIDACEAE (Wood Fern Family)

Athyrium filix-femina (L.) Mert. ssp. *cyclosorum* Rupr. (northwestern ladyfern)

Polystichum imbricans (D.C. Eaton) D.H. Wagner ssp. *imbricans* (narrowleaf swordfern)

Polystichum munitum (Kaulf.) C. Presl (western swordfern)

EQUISETACEAE (Horsetail Family)

Equisetum arvense L. (field horsetail)

Equisetum telmateia Ehrh. ssp. *braunii* (Milde) Milde (giant horsetail)

POLYPODIACEAE (Polypody Family)

Polypodium glycyrrhiza D.C. Eaton (licorice fern)

PTERIDACEAE (Brake Family)

Adiantum aleuticum (Rupr.) C.A. Paris (northern maidenhair fern)

Aspidotis densa (Brack.) Lellinger (podfern)

Cheilanthes gracillima D.C. Eatou (lace lipfern)

Pentagramma triangularis (Kaulf.) Yatsk., Windham, E. Wollenw. (goldback fern)

SELAGINELLACEAE (Spike-Moss Family)

Selaginella wallacei Hieron. (Wallace's spikemoss)

GYMNOSPERMS

CUPRESSACEAE (Cypress Family)

Chamaecyparis lawsoniana (A. Murray) Parl. (Port Orford cedar)

Juniperus communis L. var. *saxatilis* Pall. (common juniper)

PINACEAE (Pine Family)

#*Pinus attenuata* Lemmon (knobcone pine)

Pinus contorta Douglas ex Loudon var. *contorta* (shore pine)

Pinus contorta Douglas ex Loudon var. *latifolia* Engelm. (lodgepole pine)

#*Pinus jeffreyi* Balf. (Jeffrey pine)

Pinus lambertiana Douglas (sugar pine)

#*Pinus monticola* D. Don (western white pine)

Pseudotsuga menziesii (Mirb.) Franco var. *menziesii* (Douglas fir)

Tsuga heterophylla (Raf.) Sarg. (western hemlock)

TAXACEAE (Yew Family)

Taxus brevifolia Nutt. (Pacific yew)

DICOTYLEDONS

ACERACEAE (Maple Family)

Acer circinatum Pursh (vine maple)

Acer macrophyllum Pursh (bigleaf maple)

ANACARDIACEAE (Sumac Family)

Toxicodendron diversilobum (Torr. & A. Gray) Greene (poison oak)

APIACEAE (Carrot Family)

Angelica arguta Nutt. (shining angelica)

Heracleum lanatum Michx. (cowparsnip)

Ligusticum apiifolium (Nutt.) A. Gray (celery leaved lovage)

Lomatium hallii (S. Watson) J.M. Coult. & Rose (Hall's hiscuitroot)

#*Lomatium howellii* (S. Watson) Jeps. (Howell's hiscuitroot)

#*Lomatium macrocarpum* (Nutt.) J.M. Coult. & Rose (bigseed biscuitroot)

Lomatium martindalei J.M. Coult. & Rose (cascade desertparsley)

Lomatium triternatum (Pursh) J.M. Coult. & Rose var.

triternatum (nineleaf bisuitroot)

Lomatium utricularum (Nutt.) J.M. Coult. & Rose (common lomatium)

Oenanthe sarmentosa C. Presl ex DC. (water parsley)

Osmorbiza berteroi DC. (sweercicely)

Perideridia oregana (S. Watson) Mathias (squaw potato)

Sanicula bipinnatifida Dougl. ex Hook. (purple sanicle)

Sanicula crassicaulis Poepp. (Pacific snakeroot)

Sanicula laciniata Hook. & Arn. (coast snakeroot)

APOCYNACEAE (Dogbane Family)

Apocynum androsaemifolium L. (spreading dogbane)

ARALIACEAE (Ginseng Family)

Aralia californica S. Watson (elk clover)

ARISTOLOCHIACEAE (Birthwort Family)

Asarum caudatum Lindl. (wild ginger)

ASTERACEAE (Sunflower Family)

Achillea millefolium L. (common yarrow)

Adenocaulon bicolor Hook. (trailplant)

Anaphalis margaritacea (L.) Benth. & Hook. f. (pearly everlasting)

Anisocarpus madrioides Nutt. (woodland madia)

#*Antennaria suffrutescens* Greene (evergreen everlasting)

#*Arnica cernua* Howell (serpentine arnica)

Arnica cordifolia Hook. (heartleaf arnica)

Baccharis pilularis DC. (coyotebrush)

Bellis perennis L. (lawndaisy)

Cirsium remotifolium (Hook.) DC. (fewleaf thistle)

Crepis pleurocarpa A. Gray (naked hawkbeard)

Crocidium multicaule Hook. (common spring-gold)

Ericameria nauseosa (Pall. ex Pursh) G.L. Nesom & G.I. Baird var.

speciosa (Nutt.) G.L. Nesom & G.I. Baird (rubber rabbitbrush)

Erigeron eatonii A. Gray var. *plantagineus* (Greene) Cronquist

(plantain leaved daisy)

#*Erigeron foliosus* Nutt. var. *confinus* (Howell) Jeps. (leafy fleabane)

Eriophyllum lanatum (Pursh) J. Forbes (common woolly sunflower)

Aster radulinus A. Gray (rough leaved aster)

Grindelia nana Nutt. (gumweed)

Hieracium albiflorum Hook. (white hawkweed)

**Hieracium bolanderi* A. Gray (Bolander's hawkweed)

Hieracium scouleri Hook. (Scouler's woollyweed)

Hypochaeris radicata L. (hairy catsear)

Lactuca saligna L. (willowleaf lettuce)

Leucanthemum maximum (Ramond) DC. (max chrysanthemum)

Luina hypoleuca Benth. (littleleaf silverback)

Micropus californicus Fisch. & C.A. Mey. (slender cottonweed)

Microseris laciniata (Hook.) Sch. Bip. ssp. *leptosepala* (Nutt.)

K.L. Chambers (cutleaf silverpuffs)

Petasites frigidus (L.) Fr. var. *palmatus* (Aiton) Cronquist (arctic sweet coltsfoot)
Rudbeckia glaucescens Eastw. (waxy coneflower)
Senecio bolanderi A. Gray var. *bolanderi* (Bolander's groundsel)
Senecio canus Hook. (woolly groundsel)
Senecio jacobaea L. (stinking willie)
Senecio macounii Greene (Puget butterweed)
Senecio triangularis Hook. (arrowleaf ragwort)
Taraxacum officinale Weber ex F.H. Wigg. (common dandelion)
BERBERIDACEAE (Barberry Family)
Achlys triphylla (Sm.) DC. (vanillaleaf)
Berberis aquifolium Pursh (tall Oregon grape)
Berberis nervosa Pursh (Cascade Oregon grape)
Berberis repens Lindl. (creeping Oregon grape)
Vancouveria hexandra (Hook.) C. Morren & Decne. (white insideout flower)
Vancouveria planipetala Calloni (small insideout flower)
BETULACEAE (Birch Family)
Alnus rubra Bong. (red alder)
Corylus cornuta Marshall var. *californica* (A. DC.) W.M. Sharp (California hazelnut)
BORAGINACEAE (Borage Family)
Cynoglossum grande Douglas ex Lehm. (Pacific hound's tongue)
Myosotis discolor Pers. (yellow and blue scorpion grass)
BRASSICACEAE (Mustard Family)
 #*Cardamine nuttalli* Greene var. *gemmata* (Greene) Rollins (redwood toothwort)
Streptanthus tortuosus Kellogg (mountain jewel flower)
CAMPANULACEAE (Harebell Family)
Campanula prenanthoides Durand (California harebell)
CAPRIFOLIACEAE (Honeysuckle Family)
Linnaea borealis L. var. *longiflora* Torr. (western twinflower)
Lonicera ciliosa (Pursh) Poir. ex DC. (orange honeysuckle)
Lonicera hispidula (Lindl.) Douglas ex Torr. & A. Gray (hairy honeysuckle)
Symphoricarpos albus (L.) S.F. Blake var. *laevigatus* Fernald (common snowberry)
CARYOPHYLLACEAE (Pink Family)
Cerastium arvense L. (field chickweed)
Moehringia macrophylla (Hook.) Fenzl (bigleaf sandwort)
Silene campanulata S. Watson ssp. *glandulosa* C.L. Hitchc. & Maguire (slender campion)
Silene gallica L. (windmill pink)
CONVOLVULACEAE (Morning Glory Family)
Calyptegia atriplicifolia Hallier f. (nightblooming false bindweed)
Calyptegia occidentalis (A. Gray) Brummitt (pale morning glory)
CRASSULACEAE (Stonecrop Family)
Sedum laxum (Britton) A. Berger ssp. *laxum* (rose flowered stonecrop)
Sedum spathulifolium Hook. (broadleaf stonecrop)
CUCURBITACEAE (Gourd Family)
Marah oreganus (Torr. & A. Gray) Howell (old man in the ground)
DROSERACEAE (Sundew Family)
Drosera rotundifolia L. (roundleaf sundew)
ERICACEAE (Heath Family)
Allotropa virgata Torr. & A. Gray ex A. Gray (sugar stick)
Arbutus menziesii Pursh (Pacific madrone)
Arctostaphylos columbiana Piper (hairy manzanita)
 **Arctostaphylos hispidula* Howell (Gasquet manzanita)

#*Arctostaphylos nevadensis* A. Gray (pinemat manzanita)
Arctostaphylos uva-ursi (L.) Spreng. (kinnikinnick)
Chimaphila menziesii (R. Br.) Spreng. (little prince's pine)
Chimaphila umbellata (L.) W. Bartram (pipsissewa)
Gaultheria shallon Pursh (salal)
Ledum glandulosum Nutt. (western Labrador-tea)
Monotropa hypopitys L. (pinesap)
Pleuricospora fimbriolata A. Gray (fringed pinesap)
Pyrola picta Sm. (whiteveined wintergreen)
Rhododendron macrophyllum D. Don ex G. Don (Pacific rhododendron)
 #*Rhododendron occidentale* (Torr. & A. Gray) A. Gray (western azalea)
Vaccinium ovatum Pursh (evergreen blueberry)
Vaccinium parvifolium Sm. (red huckleberry)
FABACEAE (Legume Family)
Lathyrus delnorticus C.L. Hitchc. (Del Norte pea)
Lathyrus nevadensis S. Watson var. *nevadensis* (Sierra pea)
Lotus formosissimus Greene (seaside lotus)
Lupinus bicolor Lindl. (minature lupine)
Lupinus sp. (lupine)
Medicago lupulina L. (black medic)
Pediomelum californicum (S. Wats.) Rydb. (California Indian breadroot)
Thermopsis gracilis Howell (golden pea)
Trifolium albopurpureum Torr. & A. Gray var. *dichotomum* (Hook. & Arn.) Isely (branched Indian clover)
Trifolium longipes Nutt. (longstock clover)
Trifolium subterraneum L. (subterranean clover)
Vicia americana Muhl. ex Willd. ssp. *americana* (American vetch)
FAGACEAE (Oak Family)
Chrysolepis chrysophylla (Douglas ex Hook.) Hjelmq. (golden chinquapin)
Lithocarpus densiflorus (Hook. & Arn.) Rehder var. *densiflorus* (tan oak)
 #*Quercus chrysolepis* Liebm. (canyon live oak)
Quercus garryana Douglas ex Hook. var. *garryana* (Oregon white oak)
Quercus sadleriana R. Br. (deer oak)
Quercus vaccinifolia Kellogg (huckleberry oak)
FUMARIACEAE (Fumitory Family)
Dicentra formosa (Andrews) Walp. (Pacific bleeding heart)
GARRYACEAE (Silk Tassel Family)
Garrya buxifolia A. Gray (dwarf silktassel)
Garrya fremontii Torr. (hearbrush)
GENTIANACEAE (Gentian Family)
Gentiana affinis Griseb. (pleated gentian)
 **Gentiana setigera* A. Gray (Mendocino gentian)
GROSSULARIACEAE (Gooseberry Family)
Ribes menziesii Pursh (coast prickly goosecherry)
Ribes roezlii Regel var. *cruentum* (Greene) Rehder (shinyleaf currant)
Ribes sanguineum Pursh (redflower currant)
HYDRANGEACEAE (Hydrangea Family)
Whipplea modesta Torr. (whipplevine)
HYDROPHYLLACEAE (Waterleaf Family)
Eriodictyon californicum (Hook. & Arn.) Torr. (yerba santa)
Nemophila menziesii Hook. & Arn. var. *atomaria* (Fisch. & C.A. Mey.) H.P. Chandler (baby blue eyes)
Nemophila parviflora Dougl. ex Benth. (smallflower nemophila)

Phacelia bolanderi A. Gray (Bolander's phacelia)
Phacelia corymbosa Jeps. (serpentine scorpionweed)
LAMIACEAE (Mint Family)
Prunella vulgaris L. (common selfheal)
Satureja douglasii (Benth.) Briq. (yerba buena)
LAURACEAE (Laurel Family)
Umbellularia californica (Hook. & Arn.) Nutt. (Oregon myrtle)
LINACEAE (Flax Family)
Linum bienne Mill. (pale flax)
MALVACEAE (Mallow Family)
 **Sidalcea malviflora* (DC.) A. Gray ssp. *patula* C.L. Hitchc. (mallow sidalcea)
MYRICACEAE (Wax Myrtle Family)
Myrica californica Cham. & Schltld. (Pacific wax myrtle)
OLEACEAE (Olive Family)
Fraxinus latifolia Benth. (Oregon ash)
ONAGRACEAE (Evening-Primrose Family)
Epilobium brachycarpum C. Presl (tall annual willowherb)
Epilobium minutum Lindl. (small flowered willowherb)
OROBANCHACEAE (Broom-Rape Family)
Boschniakia strobilacea A. Gray (California groundcone)
Orobanche uniflora L. (oneflowered broomrape)
OXALIDACEAE (Oxalis Family)
Oxalis oregana Nutt. ex Torr. & A. Gray (redwood sorrel)
Oxalis suksdorfii Trel. (Suksdorf's woodsorrel)
PARNASSIACEAE (Grass of Parnassus Family)
Parnassia californica (A. Gray) Greene (California grass of Parnassus)
PLANTAGINACEAE (Plantain Family)
Plantago lanceolata L. (narrowleaf plantain)
POLEMONIACEAE (Phlox Family)
Collomia heterophylla Hook. (variableleaf collomia)
Gilia capitata Sims (bluehead gilia)
Linanthus bicolor (Nutt.) Greene (bicolored linanthus)
Phlox diffusa Benth. (spreading phlox)
Phlox gracilis (Hook.) Greene (slender phlox)
POLYGALACEAE (Milkwort Family)
Polygala californica Nutt. (California milkwort)
POLYGONACEAE (Buckwheat Family)
Eriogonum ternatum Howell (ternate buckwheat)
Rumex acetosella L. (common sheep sorrel)
PORTULACACEAE (Purslane Family)
Claytonia sibirica L. (candy flower)
Montia parvifolia (Moç. ex DC.) Greene (littleleaf minerslettuce)
PRIMULACEAE (Primrose Family)
Dodecatheon hendersonii A. Gray (Henderson's shooting star)
Trientalis latifolia Hook. (broadleaf starflower)
RANUNCULACEAE (Buttercup Family)
Anemone oregana A. Gray (blue windflower)
Aquilegia formosa Fisch. ex DC. (western columbine)
Coptis laciniata A. Gray (Oregon goldthread)
Ranunculus aquatilis L. (whitewater crowfoot)
Ranunculus californicus Benth. (California buttercup)
Ranunculus occidentalis Nutt. (western buttercup)
RHAMNACEAE (Buckthorn Family)
 #*Ceanothus pumilus* Greene (dwarf ceanothus)
Ceanothus thyrsiflorus Eschsch. (bluehlossom)
Rhamnus californica Eschsch. ssp. *occidentalis* (Howell) C.B. Wolf (California coffeeberry)

Rhamnus purshiana DC. (cascara)
ROSACEAE (Rose Family)
Amelanchier alnifolia (Nutt.) Nutt. ex M. Roem. var. *semiintegrifolia* (Hook.) C.L. Hitchc. (Saskatoon serviceberry)
Aphanes arvensis L. (field parsley piert)
Fragaria vesca L. (woodland strawberry)
Fragaria virginiana Duchesne (Virginia strawberry)
Holodiscus discolor (Pursh) Maxim. (oceanspray)
 #*Horkelia sericata* S. Watson (silky horkelia)
Physocarpus capitatus (Pursh) Kuntze (Pacific ninebark)
Rosa gymnocarpa Nutt. (dwarf rose)
Rubus leucodermis Douglas ex Torr. & A. Gray (western blackcap)
Rubus parviflorus Nutt. (thimbleberry)
Rubus spectabilis Pursh (salmonberry)
Rubus ursinus Cham. & Schltld. (Pacific dewberry)
Sanguisorba officinalis L. (great burnet)
Spiraea douglasii Hook. (rose spirea)
RUBIACEAE (Madder Family)
 #*Galium ambiguum* W. Wight var. *siskiyouense* Ferris (Siskiyou bedstraw)
Galium aparine L. (stickywilly)
Galium triflorum Michx. (fragrant bedstraw)
Sherardia arvensis L. (blue fieldmadder)
SALICACEAE (Willow Family)
 **Salix delnortensis* C.K. Schneid. (Del Norte willow)
Salix sitchensis Sanson ex Bong. (Sitka willow)
SARRACENIACEAE (Pitcherplant Family)
 #**Darlingtonia californica* Torr. (California pitcherplant)
SAXIFRAGACEAE (Saxifrage Family)
Boykinia occidentalis Torr. & A. Gray (coast boykinia)
Chrysoplenium glechomifolium Nutt. (Pacific golden saxifrage)
Mitella sp. (mitrewort)
Saxifraga howellii Greene (Howell's saxifrage)
Tolmiea menziesii (Pursh) Torr. & A. Gray (piggyback plant)
SCROPHULARIACEAE (Figwort Family)
Castilleja pruinosa Fernald (frosted paintbrush)
Collinsia grandiflora Douglas ex Lindl. (large flowered blue eyed Mary)
Collinsia rattanii A. Gray (sticky blue eyed Mary)
Digitalis purpurea L. (purple foxglove)
Mimulus guttatus DC. (seep monkeyflower)
Mimulus moschatus Douglas ex Lindl. (musk monkeyflower)
Penstemon anguineus Eastw. (Siskiyou beardtongue)
Penstemon azureus Benth. ssp. *azureus* (azure penstemon)
Penstemon laetus A. Gray (mountain blue penstemon)
Synthyris reniformis (Douglas ex Benth.) Benth. (snowqucen)
Triphysaria pusilla (Benth.) T.I. Chuang & Heckard (dwarf owl clover)
VALERIANACEAE (Valerian Family)
Plectritis ciliosa (E. Greene) Jeps. ssp. *ciliosa* (longspur seablush)
Plectritis congesta (Lindl.) DC. (shortspur seablush)
VIOLACEAE (Violet Family)
Viola adunca Sm. (hooked spur violet)
 #*Viola cuneata* S. Watson (wedgeleaf violet)
Viola glabella Nutt. ex Torr. & A. Gray (pioneer violet)
Viola lanceolata L. (lance leaved violet)
Viola sempervirens Greene (redwoods violet)
VISCACEAE (Mistletoe Family)
Arceuthobium monticola Hawksw., Wiens & Nickrent (western white pine dwarf mistletoe)

Arceutobium siskiyouense Hawksw., Wiens & Nickrent
(knobcone pine dwarf mistletoe)

MONOCOTYLEDONS

CYPERACEAE (Sedge Family)

Carex concinnoides Mack. (northwestern sedge)
Carex deweyana Schwein. ssp. *leptopoda* (Mack.) Calder & Roy
L. Taylor (Dewey's sedge)
Carex echinata Murray (stellate sedge)
Carex hendersonii L.H. Bailey (Henderson's sedge)
Carex leptalea Wahlenb. (bristly stalked sedge)
Carex mendocinensis Olney (Mendocino sedge)
Carex obnupta L.H. Bailey (slough sedge)
Carex pachystachya Cham. ex Steud. (thick headed sedge)
Carex rossii W. Boott (Ross' sedge)
Carex scabriuscula Mack. (Cascade sedge)
#*Carex serpenticola* Zilka (serpentine sedge)
Carex tumulicola Mack. (foothill sedge)
Scirpus criniger A. Gray (fringed cottongrass)
Scirpus sp. (bulrush)

IRIDACEAE (Iris Family)

Iris innominata L.F. Hend. (golden iris)
Iris tenax Douglas ex Lindl. (Oregon iris)
Sisyrinchium bellum S. Watson (beautiful blue eyed grass)
Sisyrinchium californicum (Ker Gawl.) Dryand. (golden eyed grass)
Sisyrinchium idahoense E.P. Bicknell (Idaho blue eyed grass)

JUNCACEAE (Rush Family)

Juncus bolanderi Engelm. (Bolander's rush)
Juncus effusus L. (common rush)
Juncus oxymiris Engelm. (pointed rush)
Juncus tenuis Willd. (slender rush)
Luzula comosa E. Mey. (Pacific woodrush)

LILIACEAE (Lily Family)

Allium amplexans Torr. (narrowleaf onion)
**Allium bolanderi* S. Watson var. *bolanderi* (Bolander's onion)
Allium bolanderi S. Watson var. *mirabile* (L.F. Hend.) McNeal
(potato bulb Bolander's onion)
Allium siskiyouense Ownhey ex Traub (Siskiyou onion)
Allium validum S. Watson (swamp onion)
Brodiaea elegans Hoover (harvest brodiaea)
Calochortus tolmiei Hook. & Arn. (Oregon mariposa lily)
Camassia quamash (Pursh) Greene var. *quamash* (small camas)
Dichelostemma congestum (Sm.) Kunth (ookow)
Erythronium oregonum Applegate (Oregon fawnlily)
**Erythronium revolutum* Sm. (pink fawnlily)
Fritillaria affinis (Schult.) Sealy (checker lily)
Hastingsia alba (Durand) S. Watson (white rushlily)
Lilium columbianum Hanson (Columbia lily)
Lilium paradalinum Kellogg ssp. *vollmeri* (Eastw.) M.W. Skinner
ined. (Vollmer's lily)
Maianthemum racemosum (L.) Link ssp. *amplexicaule* (Nutt.)
LaFrankie (western Solomon plume)
Maianthemum stellatum (L.) Link (sarry false Solomon's seal)
Narthecium californicum Baker (bog asphodel)
Prosartes hookeri Torr. (Oregon fairybells)
Prosartes smithii (Hook.) Utech, Shinwari & Kawano
(largeflower fairybells)
Triantha glutinosa (Michx.) Baker (sticky tofieldia)

**Trillium kurabayashii* J.D. Freeman (giant purple wakerobin)
Trillium ovatum Pursh (western trillium)
Trillium rivale S. Watson (brook wakerobin)
Triteleia bridgesii (S. Watson) Greene (Bridges' triteleia)
Triteleia hyacinthina (Lindl.) Greene (white brodiaea)
#*Xerophyllum tenax* (Pursh) Nutt. (beargrass)
Zigadenus micranthus Eastw. (smallflower dearh camas)

ORCHIDACEAE (Orchid Family)

Calypso bulbosa (L.) Oakes (fairy slipper)
Corallorhiza maculata (Raf.) Raf. (spotted coralroot)
Corallorhiza mertensiana Bong. (Pacific coralroot)
**Cypripedium californicum* A. Gray (California lady slipper)
Goodyera oblongifolia Raf. (western rattlesnake plantain)
Listera cordata (L.) R. Br. (heartleaf twayblade)
Piperia unalascensis (Spreng.) Rydb. (Alaska rein orchid)
Platanthera sparsiflora (S. Watson) Schltr. (sparse-flowered bog orchid)

POACEAE (Grass Family)

Achnatherum lemmonii (Vasey) Barkworth (Lemmon's needlegrass)
Aira caryophylla L. (European silver hairgrass)
Anthoxanthum odoratum L. (sweet vernalgrass)
Bromus carinatus Hook. & Arn. (California brome)
Bromus vulgaris (Hook.) Shear (Columbia brome)
Calamagrostis nutkaensis (J. Presl) Steud. (Pacific reedgrass)
Cynosurus echinatus L. (hedghog dogtail)
Dactylis glomerata L. (orchardgrass)
Danthonia californica Bol. (California oargrass)
Deschampsia cespitosa (L.) P. Beauv. (tufted hairgrass)
Deschampsia elongata (Hook.) Munro (slender hairgrass)
Elymus glaucus Buckley (blue wildrye)
Festuca californica Vasey (California fescue)
Festuca idahoensis Elmer (Idaho fescue)
Festuca roemerii Yu.E. Alexeev (Roemer's fescue)
Festuca rubra L. (red fescue)
Hierochloa occidentalis Buckley (California sweetgrass)
Koeleria macrantha (Ledeb.) Schult. (prairie Junegrass)
Melica harfordii Bol. (Harford's oniongrass)
Melica spectabilis Scribn. (purple oniongrass)
Melica subulata (Griseb.) Scribn. (Alaska oniongrass)
**Poa piperi* Hitchc. (Piper's bluegrass)
Poa pratensis L. (Kenrucky bluegrass)
Schedonorus phoenix (Scop.) Holub (tall fescue)
Trisetum canescens Buckley (tall trisetum)
Vulpia bromoides (L.) Gray (six weeks fescue)

POTAMOGETONACEAE (Pondweed Family)

Potamogeton sp. (pondweed)

TYPHACEAE (Cattail Family)

Typha latifolia L. (broadleaf cattail)

Nancy J. Brian has been the District Botanist for the Coos Bay District since 2001. Prior to that, she was the Botanist for Grand Canyon National Park.

**PRELIM
DECISION MEMO
USFS**



Preliminary Decision Memo

RF-38 Test Drilling for Red Flat Nickel Corporation

Rogue River-Siskiyou National Forest Service
Gold Beach Ranger District
Curry County, Oregon

Project website: http://www.fs.fed.us/nepa/nepa_project_exp.php?project=41652

Introduction

We have received a plan of operations from Red Flat Nickel Corporation to drill 35 holes, 3-inches in diameter and a maximum of 50 feet deep. The purpose is to obtain core samples to test for minerals on the proponent's existing claims on Forest Service lands. Drilling would be in previously disturbed areas and a minimum of 200 feet from perennial or intermittent streams or springs. Drill sites cover a cumulative area of less than one acre. No road construction or reconstruction would occur. All activities would take place on the Gold Beach Ranger District of the Rogue River-Siskiyou National Forest.

We prepared this preliminary decision memo (DM) to determine whether extraordinary circumstances exist which would preclude the use of a categorical exclusion to allow implementation of this test drilling. By preparing this decision memo, we are fulfilling agency policy and direction to comply with the National Environmental Policy Act (NEPA).

Proposed Project Location

Map - Figure 1 displays the perimeter of the project area and the vicinity of proposed activities. Drill locations are approximately 500 feet apart on or adjacent to existing classified and unclassified roads. Many unclassified roads are not mapped.

The project area is located approximately eight miles east-southeast of the city of Gold Beach, Curry County, Oregon. The area is known as Red Flat and lies within the Hunter Creek and North Fork Pistol River watersheds. Lands are entirely managed by the Forest Service. Access is via Hunter Creek Road (NFS 3680) to NFS 1703 road. The legal description is: Township 37 South, Range 13 West - Sections 18, 19, 30, 31 and 32 (Willamette Meridian).

All proposed drilling would occur on previously disturbed ground, such as on the side of open roads or within the bed of non-system, low use roads. Drill sites are within the perimeter of the existing minerals claims; an area of approximately 1100 acres.

The Red Flat area was extensively explored for minerals up to about 1978. As a result, there are numerous non-designated secondary (unclassified) roads that were constructed for exploration activities. Many of these remain open and passable by 4x4 vehicles. In addition, there are a number of east-west trending trenches that were excavated in the area.

Figure 1. Map of project area and vicinity.

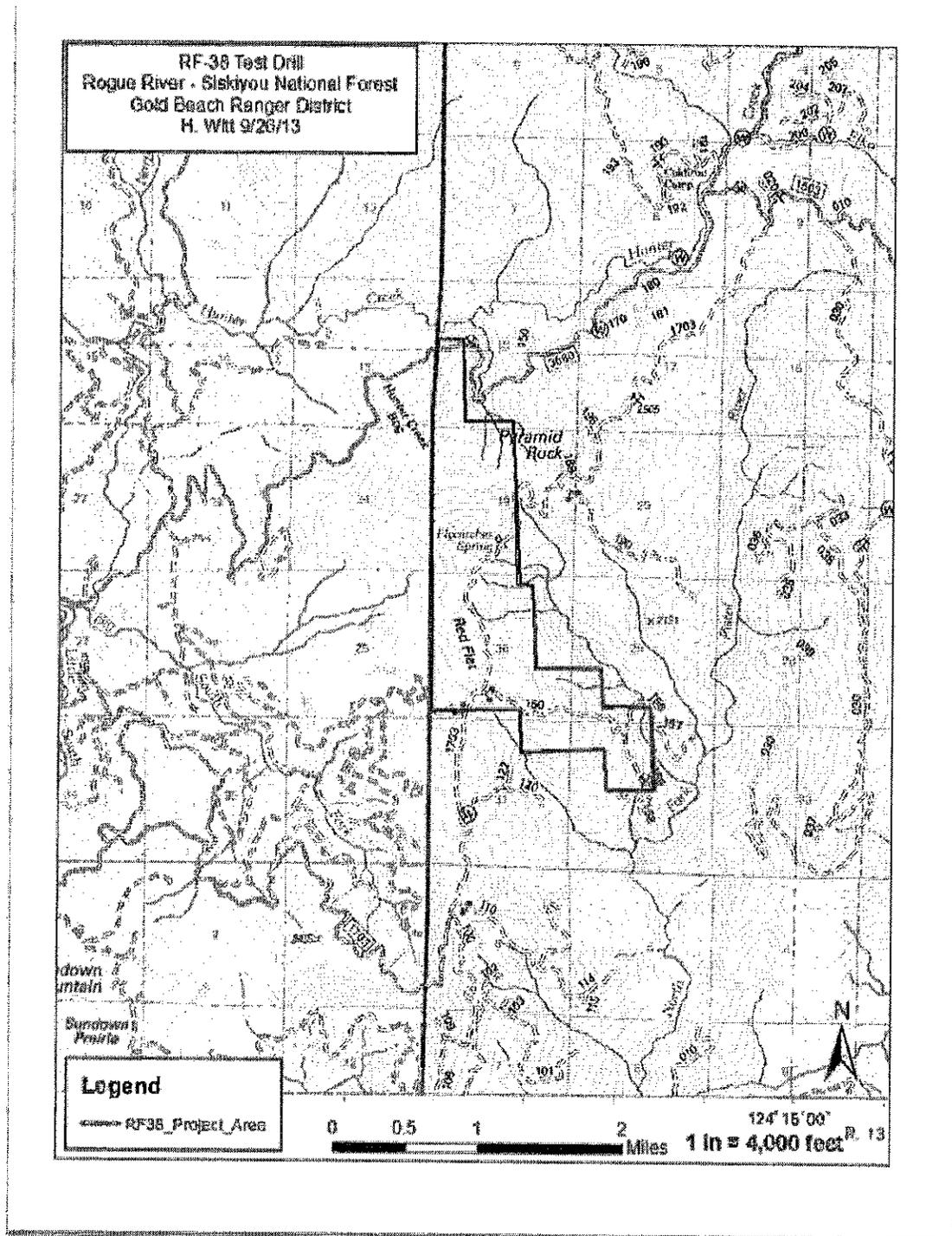
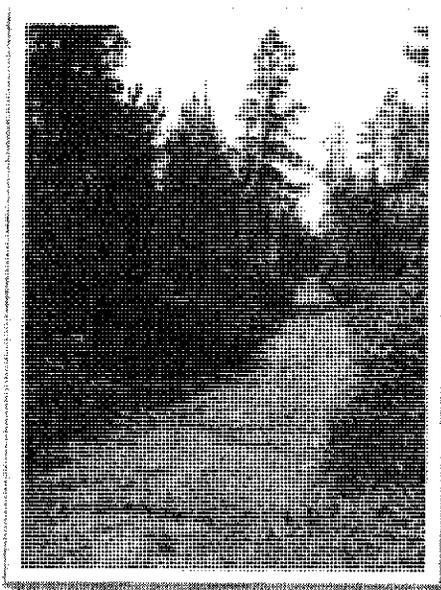


Figure 2. Geology and vegetation.



Geology and vegetation (Figure 2) - The project area is primarily composed of lateritic soils with outcrops of serpentinite and peridotite rocks. Overstory vegetation consists primarily of Port-Orford-cedar, Douglas fir and Jeffery pine. Understory vegetation is primarily manzanita species, tanoak, huckleberry oak, and myrtlewood (shrub form).

Land use designations – The project area is within lands designated as late seral reserve and matrix in the Northwest Forest Plan (USDA Forest Service and USDI Bureau of Land Management 1994). The Red Flat Botanical Area was designated in the “Siskiyou National Forest Land and Resource Management Plan” (USDA Forest Service 1989b).

Special designations – The Red Flat Botanical Area is within the project area at T37S-R13W-Sections 18 and 19. It is contiguous with the east edge of the

Hunter Creek Bog ACEC (Area of Critical Environmental Concern) on BLM (Bureau of Land Management) lands. Flycatcher Springs is also located in Section 19.

Purpose and Need

There is a need for the Forest Service to respond to the claimant’s plan of operations (dated November 8, 2012) to test drill for minerals on National Forest System lands open to mineral entry. Our goal is to ensure proposed activities would be conducted “so as, where feasible, to minimize adverse environmental impacts on National Forest surface resources” by regulating functions, work, and activities connected with developing locatable minerals on National Forest System land (36 CFR 228.8).

Management Direction

This document only includes actions over which the Forest Service has discretion. The decision is not whether to allow minerals exploration (because current law already authorizes those and other mining activities) but whether additional protection measures are warranted to minimize adverse environmental impacts to Forest Service resources.

Therefore, the Forest Service is conducting this environmental review in response to the proposed plan of operations submitted by the proponents and in fulfillment of specific requirements set forth in subpart A of the Forest Service’s minerals regulation (36 CFR 228). This review satisfies the agency’s ongoing stewardship responsibility for National Forest System lands.

Code of Federal Regulations (36 CFR 228) - The Forest Service is neither advocating nor proposing the claimant’s plan of operations. The claimant initiated this minerals exploration proposal and has a possessory right to conduct mineral exploration and extraction operations on their claims.

However, the regulations at 36 CFR 228 create a dual need for Forest Service action as follows:

1. The agency is legally required to respond to the proponent's request to conduct exploration and related activities in the submitted plan of operations (36 CFR 228.5).
2. The agency is required to ensure that "All operations are conducted so as, where feasible, to minimize adverse environmental impacts on National Forest surface resources..." (36 CFR 228.8).

The Forest Service applies regulations found at 36 CFR 228.4(a). They provide the requirements for authorizing mining operations, conducting environmental analyses to assess the impacts of the operation, applying terms and conditions to minimize impacts to surface resources, and requiring bonding where appropriate for restoration of affected lands. Presuming other applicable state and federal laws are met, mining is authorized under 36 CFR 228.4(a) after the Forest Service completes its analysis, applies its terms and conditions, and collects bonding (if necessary).

Siskiyou LRMP - Authorizing mining activities on National Forest System lands is based on management direction from the *1989 Siskiyou National Forest Land and Resource Management Plan* (Siskiyou LRMP), as amended, to "facilitate mineral exploration and development while protecting surface resources and environmental quality" (p. IV-2)(USDA Forest Service 1989a).

Mining Law, Regulation, and Policy

The General Mining Law of 1872 (17 Stat. 91; 30 U.S.C. § 21 et seq.) grants a statutory right to enter upon public lands to prospect, explore, develop, mine, or process mineral resources, unless the lands in question are withdrawn from entry. While the law has been amended or supplemented by the Multiple Use Mining Act of 1955 (69 Stat. 368; 30 U.S.C. § 612), the Mining and Minerals Policy Act of 1970 (84 Stat. 1876; 30 U.S.C. § 21a), and other statutes, much of the nation's public lands remain "free and open" to United States citizens for mineral exploration (30 U.S.C. § 22).

Under current mining law, citizens of the United States are authorized to file mining claims, conduct mining operations on those claims, and hold conditional property rights (conditioned on compliance with applicable law and regulation) to the locatable minerals extracted from these claims. Under this law and related case law, the United States Department of Agriculture (USDA) Forest Service has no authority to prohibit an otherwise reasonable plan of operations for such mining (i.e., one that can be characterized as the logical next step in the orderly development of a mine). For example, reasonable operations often begin with small-scale sampling, followed by larger scale sampling, then on to small-scale production for bulk testing purposes, and then perhaps launching into a large-scale development. The idea is that each successive phase is justified by the value of the minerals found in the prior smaller phase of operation. The minerals exploration operation being evaluated here is determined to be a reasonable operation in this orderly development process.

Public Involvement and Consultation

The RF-38 Test Drill project was first made available to the public on April 1, 2013, with publication of the SOPA (schedule of proposed actions) for the Rogue River-Siskiyou National Forest (<http://www.fs.fed.us/sopa/forest-level.php?110610>).

We consulted with (or reviewed consultation requirements for) the following agencies during the development of this decision memo:

- *Confederated Tribes of the Siletz* - Consultation with the Siletz Tribe occurred. No responses have been received to date.
- *U. S. Fish and Wildlife Service* - No consultation is needed with USF&WS because no effects would occur that might impact federally-listed species.
- *National Marine Fisheries Service* - No consultation is needed with NMFS because no effects would occur that might impact federally-listed anadromous fish species.

Proposed Action

A detailed description of the proposed action is contained within the plan of operations (dated November 8, 2012) submitted to the Forest Service, and is incorporated herein. The following summarizes that plan.

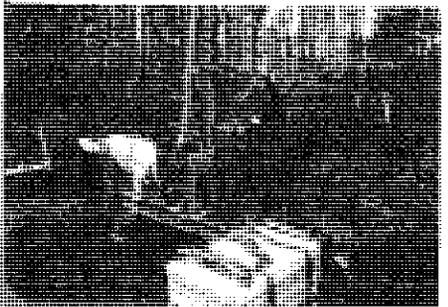
Key Activities

- Drill 35 3-inch diameter holes to a maximum depth of 50 feet to obtain core samples for testing from previously disturbed areas in, or adjacent to, existing classified and unclassified roads.
- Brush and remove down trees from approximately 1200 feet of existing unclassified road within the road template.
- No new road construction or road reconstruction would occur.
- Reclaim drilling locations to their original condition, as closely as possible.

The Forest Service received a plan of operations from Red Flat Nickel Corp. to drill 35 holes to obtain core samples of minerals on their claims ORMC #161335-161434. These claims are in the area known as Red Flat in the Hunter Creek and Pistol River watersheds. Operations would occur over a 4 to 6 week period (45 days maximum). No road construction or new ground disturbance would occur. Approximately 1200 feet of brushing and down log clearing within the road prism is needed along one existing unclassified road in T37S-R13W-Section 19.

The 35 drill sites would be in previously disturbed areas adjacent to existing secondary roads (unclassified by Forest Service) on bare lateritic soils, free of vegetation. A total of approximately one acre would be occupied over the life of the project with no more than one-tenth acre occupied at any one time. Each drill hole would be 3-inches in diameter and drilled to a maximum depth of 50 feet. Project activities and visual impacts would not generally exceed 2 days per hole.

Figure 3. Drilling rig.



A low impact, light drilling rig (Figure 3) would be moved to each site by truck and lifted by boom onto a temporary 4-foot by 11-foot raised metal platform. Prior to beginning drilling at the next location, sealing of the hole, spreading of drill cuttings to blend with the natural slope, and removal of all equipment and materials would occur.

Fuel and petroleum products would be used in equipment and vehicles. Appropriate spill

prevention and containment measures would be employed.

Municipal water would be used during drilling operations (up to 1,000 gallons per drill hole; up to 35,000 gallons total). Potable water would be purchased from a municipal source (likely Gold Beach) and transported to the site via truck and either stored in the truck or in a 5,000 gallon water tank. If needed, two drilling additives (Bio-Cut Plus and DD2000) might be mixed with the water to improve sample recovery or maintain drill-hole stability. The proponent indicates that both additives are non-hazardous and biodegradable (MSDS on file; no hazards indicated).

Protection Measures Summarized from the Plan of Operations

In the plan of operations, the proponent states they would implement measures to prevent or minimize impacts to surface resources. The complete list is described in the plan of operations, but is summarized as follows:

1. Comply with the requirements for environmental protection described in 36 CFR 228.8 for: a) air quality; b) water quality; c) solid wastes; d) scenic values; e) fisheries and wildlife habitat; f) roads; and g) reclamation (which includes control of erosion, water runoff, and toxic materials; reshaping and revegetation of disturbed areas; and the rehabilitation of fish and wildlife habitat). (Plan of Operations, section V.)

Water and soil resources

2. Only water of domestic drinking quality would be used and brought from an off-site municipal source.
3. Drill holes would be a minimum of 200 feet from any intermittent or perennial springs or watercourses. In addition, an absorbent barrier would be installed between any equipment and a watercourse. No drill holes would occur within 300 feet of Hunter Creek Bog or within the Flycatcher Springs area.
4. Spill containment materials and trays would be used under equipment. Spill response kits would be readily available.
5. Best management practices (BMPs) would be followed to limit potential erosion. No water is anticipated to return to the surface during the drilling process because of porous soils; however, in the event it does, the water would be directed away from the drilling location and allowed to naturally infiltrate.
6. Drill holes will be plugged and abandoned immediately after completion in accordance with Oregon Administrative Rules (OAR) 690-220-0030 and OAR 632-033-0025.
7. Excess soil would be spread to a maximum depth of one inch and the natural grade restored.

Port-Orford-cedar root disease (*Phytophthora lateralis*)

8. Vehicles would be thoroughly cleaned prior to entering areas gated to prevent the spread of Port-Orford-cedar root disease.

Areas of significance

9. Hunter Creek Bog ACEC and Flycatcher Springs - No drilling or associated activities would occur in the Flycatcher Springs area or within 300 feet of the Hunter Creek Bog ACEC boundary.

Permits

Exploration and mining operations commonly have environmental requirements enforced by state and federal permits. It is the responsibility of the operator to obtain and maintain all necessary permits and to comply with all their regulations. Possible permits include, but are not limited to, an exploration permit from Oregon Department of Geology and Mineral Industries (DOGAMI).

Mitigation Measures

The Forest Service has identified the following additional design and mitigation measures (Table 1) needed to minimize adverse environmental impacts to surface resources. These measures are in addition to those proposed by the proponent and will be incorporated into the final plan of operations and adhered to by the operator(s). These measures would be effective in protecting sensitive species and reducing the risk of spreading Port-Orford-cedar root disease and weeds.

Table 1. Additional design and mitigation measures.

No.	Resource	Description	Applicable Dates
1	Botany	Invasive plants - Make sure all machinery is clean and free of invasive plant seed by spraying under carriages and wheel wells of vehicles with a pressure sprayer before driving on site.	All
2	Botany	Sensitive plants – Protect sensitive plant species and, to the extent possible, avoid botanical areas (such as Red Flat Botanical Area).	All
3	Fish	No additional measures.	None
4	Wildlife	Spotted owl: Within 65 yards of nest sites or habitat, no project activities March 1 through September 30. Currently no suitable nesting habitat or nest sites are known within disturbance distances (65 yards) of proposed activities. If potential habitat or owls are discovered, apply restrictions and notify the Forest Service wildlife biologist.	1 Mar. – 30 Sept.
5	Wildlife	Marbled murrelet – Within 120 yards of suitable habitat or occupied sites, no project activities April 1 through September 15. Currently no nesting habitat or occupied sites are known within disturbance distances (120 yards) of proposed activities. If potential habitat or murrelets are discovered, apply restrictions and notify the Forest Service wildlife biologist.	1 April – 15 Sept.
6	Port-Orford-cedar	<ul style="list-style-type: none"> a. Project scheduling - Schedule test drilling to occur during the dry season (generally June 1 – Sept. 30). If not possible, contact the Forest Service POC specialist. b. Unit scheduling – Conduct drilling work in uninfested areas prior to working in areas infested with <i>Phytophthora lateralis</i>. c. Wash project equipment – Wash project equipment prior to working in uninfested areas and/or after working in infested areas. d. Utilize uninfested water – Use uninfested water source for equipment washing or treat water with Clorox bleach to prevent/reduce the spread of POC root disease (use one gallon Clorox Ultra bleach per 1,000 gallons of water). 	All
7	Port-Orford-cedar	FS Road #1703-150 use from Oct. 1-May 31 requires a waiver: For activities during the wet season (October 1 to May 31), obtain a POC waiver from FS prior to drilling on this road.	1 Oct. – 31 May

Reasons for Categorical Exclusion

No extraordinary circumstances exist which preclude use of a categorical exclusion (CE); therefore, this proposal is excluded from further analysis.

Project activities fall within CE category 32.2(8) from Forest Service Handbook 1909.15 as quoted below:

- (8) Short-term (1 year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and equipment, construction of less than 1 mile of low standard road, or use and minor repair of existing roads. 36 CFR 220.6(e)(8).

Relationship to Extraordinary Circumstances¹

The following resource conditions have been considered in determining whether extraordinary circumstances related to the proposed action warrant further analysis and documentation in an environmental assessment (EA) or environmental impact statement (EIS). This section summarizes the results of resource reports and biological evaluations included in the project record.

(1) Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species.

Per the Endangered Species Act (ESA) of 1973, as amended, federal activities cannot jeopardize the continued existence of any species listed or proposed for listing, nor result in the adverse modification of that species' critical habitat. Proposed activities would be in compliance with the provisions of that act.

Plants – There is one ESA-listed plant species with potential habitat in the project area: Red Mountain rockcress (*Arabis macdonaldiana*). There would be **no effect** on this species because surveys were conducted and there is no suitable habitat at the proposed drilling sites.

There are three Forest Service sensitive plant species with potential habitat in the project area: Waldo gentian (*Gentiana setigera*), Veva's erigeron (*Erigeron stanselliae*), and Western bog violet (*Viola primulifolia* ssp. *occidentalis*). None of these species were found to be directly in harm's way of proposed test drilling. Should additional sensitive plants be found, they would be protected (Table 1, #2). Because of the small scale of the proposed drilling (0.69 acre), anticipated effects (if any) on plant species would be inconsequential at the population level.

The Red Flat Botanical Area contains three proposed drilling sites. There would be **no effect** on sensitive botanical species because no plants were located during surveys within the area of drilling sites.

¹ Forest Service Handbook 1909.15 Sec. 31.2: *The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion (CE). It is the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions and if such a relationship exists, the degree of the potential effect of a proposed action on these resource conditions that determine whether extraordinary circumstances exist. (36 CFR 220.6(b)).*

The potential to spread non-native invasive plant species would be negligible because vehicles would be washed and cleaned of invasive plant material before driving on site (Table 1, #1).

Fish - The proposed activities will have **no effect** on threatened, endangered or sensitive fish species and is in compliance with the Aquatic Conservation Strategy. There would be no measurable effects on fish species or their habitats because no drilling or other project activities would occur within 200 feet of any intermittent or perennial springs or watercourses. In addition, an absorbent barrier would be installed between any equipment and a watercourse. No drill holes would occur within 300 feet of Hunter Creek Bog or in the Flycatcher Springs area. Best management practices (BMPs) would be followed to limit potential erosion. No water is anticipated to return to the surface during the drilling process because of porous soils; however, in the event it does, the water would be directed away from the drilling location and allowed to naturally infiltrate. Drill holes will be plugged and abandoned immediately after completion.

Wildlife - There would be **no effect** on ESA- listed wildlife species (northern spotted owl and marbled murrelet) or their habitat from the proposed activities as mitigated (Table 1).

Habitat for owls and murrelets would not be measurably affected because no trees would be removed or altered and project activities would occur in previously disturbed areas within the road prism. A portion of the project area is in designated critical habitat for murrelets, but there will be no effects to the primary constituent elements of murrelet habitat (large trees with platforms).

Disturbance to owls and murrelets is not expected to occur because no suitable nesting habitat has been identified within disturbance distances of proposed activities. Beyond these distances, effects from disturbance would not be measurable. If potential habitat or birds are discovered within disturbance distances, activities would cease during the breeding season (Table 1, #4 and #5) or drilling sites would be moved.

Other Forest Service sensitive wildlife species or their habitat would not be measurably impacted because no trees or sensitive habitat types would be removed or altered, drilling would occur in roads and previously disturbed areas, and drilling is of small scale (less than one acre cumulative over 35 drill sites) and short duration (≤ 2 days at each drill site). No aquatic species would be impacted because drilling would not occur within 200 feet of water and spill containment measures would be employed.

Disturbance effects to other species from drilling would be minimal at distances of greater than 100 feet from the drill site. Sound levels for the Viper drill averaged 65.9 dB (decibels) at 100 feet (99.0 dB at 1 foot), as tested by the project proponent. This sound level is comparable to a normal conversation at 3 feet (which is 60-65 dB)².

(2) Flood plains, wetlands, or municipal watersheds.

Floodplains – There would be no effects on floodplains because activities would not occur in or modify floodplains. The purpose of Executive Order 11988 is to avoid adverse impacts associated with the occupancy and modification of floodplains.

² Source: <http://www.gcaudio.com/resources/howtos/loudness.html>. Accessed 10/22/13.

Wetlands – There would be no effects on wetlands because activities would not occur in or adjacent to wetlands. The purpose of Executive Order 11990 is to avoid adverse impacts associated with destruction or modification of wetlands.

Municipal watersheds – There would be no effects on municipal watersheds because no water will be extracted or vegetation removed during project activities. A maximum of 35,000 gallons municipal water would be purchased and transported by a water truck to the project area to be used during drilling operations (up to 1000 gallons per drill hole).

(3) Congressionally designated areas such as wilderness, wilderness study areas, or national recreation areas.

There would be no effects on congressionally designated areas because none are located in or adjacent to the project area.

(4) Inventoried roadless areas or potential wilderness areas.

There would be no effects on roadless or potential wilderness areas because none are located in or adjacent to the project area.

(5) Research natural areas.

There would be no effects on native religious or cultural sites within the project area. The Forest consulted with the Confederated Tribes of the Siletz Indians of Oregon for their concerns regarding the project. No concerns were noted.

(6) American Indians and Alaska Native religious or cultural sites.

There would be no effects on native religious or cultural sites within the project area because sites were not located during surveys and are not known to occur in the project area.

(7) Archaeological sites, or historic properties or areas.

There would be no effects on archaeological sites or historic properties because none were located during surveys, and known properties in the area do not lie in the project's area of potential effect (APE).

Consistency Findings

I find activities proposed in the RF-38 Test Drilling project to be consistent with direction in the 1989 Siskiyou National Forest Land and Resource Management Plan, as amended. This action has been analyzed under other laws, regulations and agreements applicable to the management of National Forest System lands and resources, including: 16 USC 1604(g)(3), 36 CFR 219.14 and 36 CFR 219.27 (b). I find this decision to be consistent with the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality regulations for implementing NEPA, 40 CFR 1500-1508, July 1, 1986; the Multiple-use Sustained Yield Act of 1960; and the National Forest Management Act of 1976. I also find this project to be in compliance with the Endangered Species Act of 1973, as amended, and the Historic Preservation Act.

My Decision and Rationale

My decision does not grant approval to begin project activities. A final plan of operations will be authorized after the proponent agrees to implement and incorporate the additional mitigation measures described in Table 1 into their plan of operations of November 8, 2012.

It is my decision to authorize this action based on my review of the site evaluation and effects analysis completed by resource specialists. Specialists have determined activities will have negligible (or no measurable) adverse effects on botanical, wildlife, fish, cultural, water, and other resources. Effects would be minimal in part due to the effectiveness of the mitigation measures proposed by specialists in Table 1.

I have found that a categorical exclusion is appropriate because, while extraordinary circumstances are present, effects on resources are minimal. My decision is based on the limited context, duration, and intensity of this project as detailed in specialist reports and summarized above (relationship to extraordinary circumstances). I concur with specialists that implementation will result in little or no adverse environmental effects to the physical, biological, or social components of the environment.

Administrative Review (Appeal) Opportunities

Only those who provide comment or express interest in this proposal during this comment period will be eligible to appeal the decision pursuant to 36 CFR part 215 regulations. Comments will be accepted for 30 calendar days following the publication of the legal notice of availability of this document in the Curry County Reporter, Gold Beach, Oregon.

In light of a recent court ruling (Sequoia ForestKeeper v. Tidwell, 11-cv-00679-LJO-DLB (E.D. Cal.)), the Forest Service is providing public notice, comment, and opportunity for administrative appeal for projects and activities documented with a "Decision Memo" (36 CFR 220.6(e)) until new instructions are issued by the Washington Office, or the Agency issues regulations addressing the Court's ruling.

Implementation Date

The RF-38 Test Drill Project will not be implemented before 50 calendar days following the publication of a legal notice of my final decision in the Curry County Reporter. If appeals are filed, implementation can occur on or after the 15th business day following the date of the last appeal disposition.

Contact

Additional information regarding this decision may be obtained at the Gold Beach Ranger District, 29279 Ellensburg Avenue, Gold Beach, OR 97444. You may also contact Holly Witt (Environmental Coordinator) at (541) 247-3688 or email hfwitt@fs.fed.us. Documents are also available at: http://www.fs.fed.us/nepa/nepa_project_exp.php?project=41652.



11/6/13

Tina C. Lanier
District Ranger

Date

References

- USDA Forest Service. 1989a.** Final EIS - Land and Resource Management Plan - Siskiyou National Forest. Portland, OR: USDA Forest Service, Pacific Northwest Region.
- USDA Forest Service. 1989b.** Land and Resource Management Plan - Siskiyou National Forest. Portland, OR: USDA Forest Service, Pacific Northwest Region.
- USDA Forest Service; USDI Bureau of Land Management. 1994.** [Northwest Forest Plan] Record of decision for amendments to Forest Service and Bureau of Land Management planning documents within the range of the northern spotted owl [and] standards and guidelines for management of habitat for late-successional and old-growth forest related species within the range of the northern spotted owl. 1 vols. Portland, OR.



Forest
Service

Rogue River-Siskiyou
National
Forest

Gold Beach Ranger District
29279 Ellensburg Ave
Gold Beach, OR 97444-7719
541-241-3600

File Code: 1950
Route To:

Date: November 6, 2013

Subject: RF-38 Test Drill Preliminary Decision Memo

To: Interested Participant

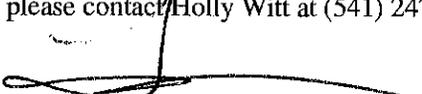
The Gold Beach Ranger District, Rogue River-Siskiyou National Forest, has prepared a Preliminary Decision Memo for test drilling to obtain core samples of minerals on an existing claim in the Red Flat area about eight miles east-southeast of the city of Gold Beach, Curry County, Oregon. Activities would consist of drilling 35 holes, 3-inches in diameter to a maximum depth of 50 feet. Drilling would occur in previously disturbed areas in or adjacent to existing classified and unclassified roads via a portable low impact drilling rig. Water needed for the drilling process will be obtained from a municipal source and trucked to the site. No tree removal, road construction, or road reconstruction would occur. About one acre in total would be occupied over the life of the project and holes would be about 500 feet apart. After drilling, each hole would be plugged and the area restored to its original condition, to the extent possible.

The preliminary decision is available at http://www.fs.fed.us/nepa/nepa_project_exp.php?project=41652. In light of a recent court ruling (*Sequoia ForestKeeper v. Tidwell*, 11-cv-00679-LJO-DLB (E.D. Cal.)), the Forest Service will provide public notice, comment, and opportunity for administrative appeal for projects and activities documented with a "Decision Memo" (36 CFR 220.6(e)) until new instructions are issued by the Washington Office, or the Agency issues regulations addressing the Court's ruling.

Only those who provide comment or express interest in this proposal during this comment period will be eligible to appeal the decision pursuant to 36 CFR part 215 regulations. Individuals and organizations wishing to be eligible to appeal must meet the information requirements of 36 CFR 215.6. Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record and will be available for public inspection.

Comments will be accepted for 30 calendar days following publication of this notice in the Curry County Reporter. The publication date in the newspaper of record is the exclusive means for calculating the comment period for this analysis. Those wishing to comment should not rely upon dates or timeframes provided by any other source. The regulations prohibit extending the length of the comment period. It is the responsibility of persons providing comments to submit them by the close of the comment period.

Please submit electronic comments to comments-pacificnorthwest-siskiyou-goldbeach@fs.fed.us. Submit written and hand-delivered comments to: Tina Lanier, District Ranger, Gold Beach Ranger District, 29279 Ellensburg Ave, Gold Beach, OR 97444; or fax to (541) 247-3617. Business hours are: 8:00 AM-4:30 PM, Monday through Friday, excluding holidays. Oral comments must be submitted during normal business hours in person or to (541) 247-3600. In cases where no identifiable name is attached to a comment, a verification of identity will be required for appeal eligibility. If using an electronic message, a scanned signature is one way to provide verification. For additional information please contact Holly Witt at (541) 247-3688 or hf Witt@fs.fed.us.


TINA C. LANIER
District Ranger



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**PORTION OF
CURRY COUNTY
COMP PLAN**

4. County parks (also identified on Recreational Resources Map).

Mapping of City open space lands can be best identified by consulting the comprehensive plans for the cities of Port Orford, Gold Beach and Brookings.

As can be seen from Table 5.2A, Curry County has abundant open space lands with almost 60% of its land area fitting the definition of open space. This amounts to almost 35 acres of open space per person living in the county. The presence of such large areas of open space adds to the attractiveness of the county both for visitors and residents.

The abundance of open space available in the county is reflected in the lifestyle of the county residents by their great interest in outdoor recreation.

5.3 MINERAL AND AGGREGATE RESOURCES

(Amended by Ordinance 98-5, adopted October 19, 1998. Repealed and replaced this section.)

Curry County has a wide variety of mineral resources ranging from ores of gold, silver, platinum, copper and nickel to gravel, sand and rock as building and construction material. The presence of these resources in the county is related to the complex geologic history of the area and the diverse bedrock geologic units exposed in this geologic province. Mineral resources of the county are generally scattered evenly over the entire area of the county; although certain ores are confined to specific sites or districts.

Preliminary inventory mapping of the mineral and aggregate resources was done on a county-wide basis using a base map identical to other resource inventory maps. Basically, the inventory data consists of plotting mines and prospects, stone quarries, and sand and gravel pits by location. In addition, the county mapped the known extent of marine terrace deposits known to contain chrome "black sands" and the extent of nickel laterites. The source of the data for this map was from a study of the mineral resources of Curry County by the State of Oregon (DOGAMI, 1977). This reference contains as much information about the locations, extent of the mineral deposits and potential for future production as is presently known. The mineral and aggregate inventory has been updated with information from the 1991 Mineral Information Layer for Oregon by County (MILOC) database (Gray, 1991).

5.3.1 Chrome

Chromite is the only commercial source of chromium metal and is found in minable quantities in Curry County. In the county chromite occurs in the ultramafic rocks (periodite and serpentinite) and in placer deposits of marine black sands. Chromite production in the county has been restricted to periods of wartime emergency. Chromite was first mined in 1918, and then again from 1941 to 1958. The largest producer was the Sourdough Baldface mine which had a total production of 1,567 long

tons (DOGAMI, 1977). In addition to the chromite, black sand deposits are found on the coastal terraces and beaches. The black sands contain several minerals of potential value, including gold, platinum, magnetite, garnet, zircon, and ilmenite. Several of these black-sand deposits have been explored and periodically mined since before the turn of the century. Production data from these sources does not indicate very sizable production from any of the black sand deposits.

5.3.2 Gold

Gold and gold mining has played an important part in the history of Curry County from the standpoint of attracting people to the area and bringing about the first settlement of the county. During the 1850's, the first mining activity in Curry County was gold prospecting along the beaches in the vicinity of Port Orford and Gold Beach. The more important gold producing beaches were at Ophir, Pistol River, Gold Beach, Port Orford and Cape Blanco (Horner, 1918). The best producing river gravels were the Sixes River, upper Chetco River and Boulder Creek and Mule Creek on the Rogue River. Total production figures for gold from the county are incomplete but Curry County is one of the smaller gold-producing counties in the state ranking behind the neighboring Jackson, Josephine, Douglas and Coos Counties. Future potential for gold production in Curry County is probably limited to mining of deposits in the Mule Creek and upper Chetco areas (DOGAMI, 1977). Gold prospecting, however, does provide a form of recreational activity to many county residents especially in the Sixes River area.

5.3.3 Nickel Laterites

Nickel laterites are a soil type that is derived from the chemical weathering and leaching of peridotite and contain nickel. Peridotite and serpentine rock types contain about 0.2% nickel but the weathering process of converting the rock to a soil concentrates the nickel in the soil (DOGAMI, 1977). These nickel-rich soils are found in various parts of the county and are probably the only ore that has potential for commercial production in the foreseeable future.

Nickel laterites are predominantly located in the southeastern part of the county specifically in the vicinity of Red Flat (the upper Hunter Creek area) and Chrome Creek drainage (see Mineral Resource Inventory Map). There are seventeen separate areas of nickel-bearing laterite in Curry County which have been described in detail in the Department of Geology and Mineral Industries report (DOGAMI, 1977). Several of these have great potential for future production subject to the world market potential for nickel and reclamation costs following strip mining. Sampling of the Red flat deposits in Curry County for nickel mining was carried out under U. S. Forest Service permit between 1985 and 1990.

5.3.4 Other Minerals

Curry County has also had production or is known to have potentially minable quantities of the following materials: cobalt, copper, silver, iron, manganese, mercury, platinum, asbestos, borax, and gemstones. Most of these occurrences are widely



ORDINANCES & RESOLUTIONS

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 9. a.
Council Meeting Date: February 10, 2014

TITLE: Second Reading Ordinance 650

SUMMARY AND BACKGROUND:

The GBZ-1301 zone change was approved by the Council at the December meeting. The Final Order was adopted in January, and the first reading of Ordinance 650 amending the comp plan and zoning maps was also completed. A second and final reading is required to fully complete the process.

FINANCIAL IMPACT:

None at this time.

DOCUMENTS ATTACHED:

- Ordinance 650

REQUESTED MOTION/ACTION:

Motion to approve the second reading of the ordinance by title only

SAMPLE MOTION FOR ORDINANCE

I make the motion that the Council approve the second reading of Ordinance 650 by title only.

I will then read the title of the ordinance into the record.

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

ORDINANCE NO. 650

**AN ORDINANCE ADOPTING A CHANGE IN THE CITY OF GOLD BEACH
COMPREHENSIVE PLAN MAP AND ZONING MAP ON A PARCEL IDENTIFIED
AS ASSESSOR MAP NO. 3715-01AA TAX LOT 4400**

RECITALS:

1. A request was filed to change the comprehensive plan map and zoning map designation from Residential (3-R) to Commercial (4-C) on a portion of a parcel split zoned Residential (3-R) and Commercial (4-C) and identified as **Assessor Map No. 3715-01AA tax lot 4400**.
2. A hearing was held before the City Council as a matter duly set upon the agenda of the regular December monthly City Council meeting after giving public notice as required by City ordinance and ORS 197.763. The public hearing was held on Monday, December 9, 2013.
3. At the public hearing evidence and testimony was presented by administrative staff in the form of a staff report and exhibits. The hearing was conducted according to the rules of procedure and conduct of hearings on land use matters as set forth in the Gold Beach Zoning Ordinance. The City Council received oral and written testimony concerning the application.
4. At the December 9, 2013 hearing the City Council, upon a motion duly made and seconded, voted to APPROVE the request based on decision criteria, findings of fact, and conclusions of law. A Final Order approving the request was adopted by the City Council on January 13, 2014.

NOW, THEREFORE, THE CITY OF GOLD BEACH ORDAINS AS FOLLOWS:

1. **This ordinance amends the City of Gold Beach Comprehensive Plan Map from Residential to Commercial and the City of Gold Beach Zoning Map from Residential 3-R to Commercial 4-C on property identified as Assessor Map No. 3715-01AA tax lot 4400.**
2. This amendment is approved in accordance with Article VIII of the Gold Beach Zoning Ordinance.
3. The GBZ-1301 Final Order is hereby incorporated into this decision by reference and attached as EXHIBIT A.

PASSED and ADOPTED by the City Council of the City of Gold Beach, State of Oregon, on this _____ day of _____ 2014.

Karl Popoff, Mayor

ATTEST:

Jodi Fritts, City Administrator

	AYES	NAYS
First Reading Date January 13, 2014	4	0
Second Reading Date February 10, 2014		

Candy Cronberger, City Recorder

EXHIBIT A – GBZ-1301 Final Order

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 9. b.
Council Meeting Date: February 10, 2014

TITLE: First Reading Ordinance 647 FOG

SUMMARY AND BACKGROUND:

We reviewed a revised FOG ordinance several times last year. As you may recall, the State Building Codes Division requested that we make changes to our proposed ordinance. I made the changes for your review last month and we held a public hearing on the proposed changes. No comments were received.

This will be the first reading of the ordinance.

FINANCIAL IMPACT:

None at this time.

DOCUMENTS ATTACHED:

The Ordinance No. 647 which amends the City Utility Code

REQUESTED MOTION/ACTION:

If the council is satisfied with the ordinance, we will need a motion to approve the first reading.

SAMPLE MOTION:

I make a motion that the City adopt Ordinance No.647 and approve the first reading by title only.

If approved, I will read the ordinance title into the record. If the first reading is approved, the second reading will be in March.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council

Will Newdall, Public Works Superintendent

ORDINANCE NO. 647

**AN ORDINANCE AMENDING SECTIONS 3.410, 3.425, 3.445, 3.455, AND
3.460 OF THE GOLD BEACH UTILITY CODE**

WHEREAS, the City of Gold Beach wishes to ensure that its public sewer remains in good working condition and complies with applicable requirements of the Oregon Department of Environmental Quality and United States Environmental Protection Agency regarding the regulation of the discharge of fats, oils, greases and other substances into the public sewer;

NOW, THEREFORE; THE CITY OF GOLD BEACH ORDAINS AS FOLLOWS:

Section 1. Section 3.410 of the Gold Beach Utility Code is amended to read as follows:

3.410 **Definitions.** Unless the context specifically indicates otherwise, the meaning of terms used in this sewer code shall be as follows:

(1) “BOD” (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

(2) “Building Drain” shall mean that part of the lowest piping of a drainage system that receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning two (2) feet (610 mm) outside the building wall. (Oregon Plumbing Specialty Code definition)

(3) “Building Sewer” shall mean that part of the horizontal piping of a drainage system that extends from the end of the building drain and that receives the discharge of the building drain and conveys it to a public sewer, private sewer, private sewage disposal system, or other point of disposal. (Oregon Plumbing Specialty Code definition)

(4) “Building Sewer Combined” shall mean a building sewer that conveys both sewage and storm water or other drainage. (Oregon Plumbing Specialty Code definition)

(5) “Commercial user” shall mean any premises used for commercial or business purposes.

(6) “Domestic Sewage” shall mean the liquid and water-borne wastes derived from the ordinary living processes, free from industrial wastes, and of such character as to permit satisfactory disposal, without special treatment, in the public sewer or by means of a private sewage disposal system. (Oregon Plumbing Specialty Code definition)

(7) “Equivalent Residential Unit (ERU)” shall mean a volume of wastewater which incurs the same costs for operations and maintenance as the average volume of domestic waste discharged from an average residential dwelling unit in the treatment works service area. For

purposes of making this determination the City shall utilize the metered water use records of the City. Where a user believes his wastewater discharge to the treatment works is substantially different than his water consumption, an appropriate adjustment shall be made providing the user demonstrates to the satisfaction of the City the actual wastewater discharge. The volume attributed to an ERU where the BOD, suspended solids or other characteristic of the wastewater discharged by a user is significantly greater than domestic waste shall be adjusted to account for the difference in the costs of treatment. The superintendent shall file a list of ERU's for each commercial establishment.

(8) "FOG" shall mean a substance or material discharged into the public sewer that has the potential to partially or completely obstruct a building sewer or any sewage works. FOG includes both polar and non-polar FOG.

(9) "FOG Generator" shall mean any commercial user that discharges FOG into the public sewer, including but not limited commercial users that operate food service establishments, commercial laundries, car washes, filling stations, commercial garages, and similar businesses with any type of washing facilities (including pressure washing and steam cleaning).

(10) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

(11) "Industrial Waste" shall mean any and all liquid or water-borne waste from industrial or commercial processes, except domestic sewage. (Oregon Plumbing Specialty Code definition)

(12) "Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

(13) "Non-polar FOG" shall mean FOG not of animal or vegetable origin, including but not limited to petroleum oil, grease, grit, sand, and lint.

(14) "Person" shall mean any individual, firm, company, association, society, corporation or group.

(15) "Ph" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(16) "Polar FOG" shall mean FOG of animal or vegetable origin, including but not limited to fats and oils.

(17) "Properly shredded garbage" shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

(18) "Public Facilities User" shall mean any public owned facility user including but not limited to: publicly owned recreational, medical, correctional, educational, or other similar facility. Examples are fairgrounds, hospitals and assisted living facilities, jails, and schools.

(19) "Public Sewer" shall mean a common sewer directly controlled by public authority. (Oregon Plumbing Specialty Code definition)

(20) "Residential User" shall mean user of a single family dwelling.

(21) "Sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

(22) "Service area" shall mean all the area served by the Gold Beach sewage works.

(23) "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and stormwaters as may be present.

(24) "Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

(25) "Sewage works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

(26) "Sewer" shall mean a pipe or conduit for carrying sewage.

(27) "Sewer user" shall mean any person specifically requesting sewer service or using city sewers.

(28) "Shall" is mandatory; "may" is permissive.

(29) "Slug" shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration or flows during normal operation.

(30) "Storm Sewer" shall mean a sewer used for conveying rainwater, surface water, condensate, cooling water, or similar liquid wastes. (Oregon Plumbing Specialty Code definition)

(31) "Superintendent" shall mean the superintendent of sewage works and/or of water pollution control of the City of Gold Beach, or his authorized deputy, agent or representative.

(32) "Suspended solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

(33) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(34) Any words or phrases which are not particularly defined herein shall be construed as defined in the Zoning Code of the City of Gold Beach, and if not defined therein, then as defined by the Oregon Plumbing Specialty Code.

Section 2. Section 3.425 of the Gold Beach Utility Code is amended to read as follows:

3.425 Building Sewers and Connections.

(1) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.

(2) There shall be four classes of building sewer permits:

(a) Residential, which shall include single-family residences, apartments, duplexes and courts.

(b) Residential/commercial, which shall cover hotels and motels, etc.

(c) Commercial, which shall cover commercial non-residential uses.

(d) Industrial, for service to establishments producing industrial waste.

(3) Prior to receiving city sewer service, a person shall make application to the City Administrator for a sewer hookup permit, on a form prescribed by the City. The application shall include consent to allow city inspectors to enter onto the premises during business hours to inspect, observe, measure, sample, and test sewage discharges. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the City Administrator or the superintendent. The applicant shall state the use for which sewer service is required.

(4) If the applicant is a FOG generator, in addition to the application materials required by paragraph (3) of this section, the applicant must also submit the following management plan for the City's review and approval, which shall include:

(a) The name or position of the staff person in charge of compliance with the City's sewer regulations;

(b) Identification of the sources of FOG discharged by the user;

(c) An employee training manual with new employee training and continuous education programming regarding discharge of FOG;

- (d) A description of disposal and recycling programs for FOG utilized by the user;
- (e) A list of housekeeping practices related to FOG;
- (f) Copies of signs or notices to be posted at drainage stations related to disposal of FOG;
- (g) Emergency contact information to enable the City to contact the user on a 24 hour basis; and
- (h) A requirement for documentation of actions taken to reduce discharge of FOG, including but not limited to training sign off sheets and maintenance, cleaning, and incident reports.

(5) If the use for which sewer service is required changes so that a different class of building sewer permit would be applicable, the sewer user shall apply for a new permit and pay all charges required for an initial permit.

(6) All costs and expense incident to the installation and connection of the building sewer, and any inceptor or other device required by section 3.445(6) of this code shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(7) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(8) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this Code.

(9) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements, rules and regulations as now composed or in the future amended by the state of Oregon through its authorized and delegated representative in administering a state sewer code. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(10) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged from the building.

(11) No person shall make connection of roof downspouts, exterior foundation drains, area way drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(12) The connection of the building sewer into the public sewer shall conform to the requirements, rules and regulations as now composed or in the future amended by the state of Oregon through its authorized and delegated representative in administering a state sewer code. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(13) The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(14) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City. In addition, when any sewer work involves street or alley pavement cuts or tunneling, the work shall be performed in accordance with the provisions of the Gold Beach Local Improvement Code.

Section 3. Section 3.445 of the Gold Beach Utility Code is amended to read as follows:

3.445 Use of the Public Sewers.

(1) No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process water to any sanitary sewer.

(2) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as building sewers combined or storm sewers or to a natural outlet approved by the superintendent. Industrial cooling water or unpolluted process waters may be discharged, or approval of the superintendent, to a storm sewer, building sewer combined or natural outlet.

(3) No person shall discharge or cause to be discharged any of the following-described waters or wastes to any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the

receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/l as CN in the wastes as discharged to the public sewer.

(c) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails; and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(4) No person shall discharge or cause to be discharged the following-described substances, materials, waters or wastes if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as to quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than 150°F (65°C).

(b) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° and 150°F (0° and 65°C).

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the superintendent.

(d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions, whether neutralized or not.

(e) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent for such materials.

(f) Any waters or wastes containing phenols or other taste- or odor-producing substance in such concentrations exceeding limits which may be established by the superintendent, as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.

(g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(h) Any waters or wastes having a pH in excess of (9.5).

(i) Materials that exert or cause:

(i) Unusual concentration of inert suspended solids such as, but not limited to, fullers earth, lime slurries, and lime residues; or of dissolved solids such as, but not limited to, sodium chloride and sodium sulfate.

(ii) Excessive discoloration such as, but not limited to, dye wastes and vegetable tanning solutions.

(iii) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(iv) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(k) Effluent containing more than 100 mg/liter of polar FOG

(j) Effluent containing more than 250 mg/liter of non-polar sediments including sand, lint, and grit.

(5) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in section (4) above, and which in the judgment of the superintendent may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

(a) Reject the wastes;

- (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (c) Require control over quantities and rates of discharge; and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges;
- (e) Require installation of grease interceptors, traps, or biological processes that comply with standards adopted by the City prior to discharging into the public sewer.

If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent, and subject to the requirements of all applicable codes, ordinances and laws.

If the superintendent requires installation of grease interceptors, traps or biological processes the grease inceptor, trap or biological process must be accessible for sampling, cleaning and inspection, must be properly maintained by the FOG generator, and must remain in continuous operation. The FOG generator must also provide a suitable location to allow city staff to sample representative effluent discharged by the FOG generator.

(6) Where preliminary treatment or flow-equalizing facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

(7) When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a sampling port, together with such necessary meters and other appurtenances in the building sewer as to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

(8) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Code shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not

always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pH's are determined from periodic grab samples.)

(9) No statement contained in this Code shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore by the industrial concern.

(10) Industrial users shall comply with Section 204 of PL 92-500 and the rules and regulations regarding Industrial Cost Recovery as published in the August 21, 1973, Federal Register, Volume 38, Number 161.

Section 4. Section 3.455 of the Gold Beach Utility Code is amended to read as follows:

3.455 Powers and Authority of Inspectors.

(1) With the consent of the property owner or other person with possession or control of the property, he superintendent and other duly authorized employees of the City bearing proper credentials and identification may enter onto private property for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Code. The superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(2) In the event that the superintendent cannot gain permission to enter onto private property from the property owner or other person with possession or control of the property, the superintendent may seek entry through any legal means including, without limitation, making application to any court of competent jurisdiction for issuance of a warrant. The warrant application will identify the premises upon which entry is sought, and the purpose for which entry is desired.

(3) The superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Section 5. Section 3.460 of the Gold Beach Utility Code is amended to read as follows:

3.460 Procedure for Disconnection; Appeal Procedure; Penalties.

In every case where a sewer account is not paid by the 25th day of the month after the bill is presented, or where any premises is in violation of this Code, the following steps may be taken:

(1) In the case where the violation is a delinquency in the sewer bill, the Sewer Department shall send written notice to the last known address of the sewer user and to the premises as reflected by City records, that water service will be disconnected ten (10) days after the date of said notice unless the arrearage is immediately corrected. Said notice shall indicate the amount of all arrearages, including penalty fees and shall indicate that if any person disputes the amount owing, they can appeal to the City Administrator in the manner provided in subsection (3) of this section.

(2) In the case of any other violation, the City Sewer Department shall send written notice to the last known address of the sewer user and to the premises as reflected by the city records that water service will be disconnected twenty (20) days after receipt of said notice, unless the violation is corrected prior to that date. Said notice shall indicate specifically the violation causing the disconnection and shall indicate that if any affected person disputes the violation stated in the notice, they can appeal to the City Administrator and the City Council in the manner provided in subsection (3) of this section. Should the violation not be abated within the said twenty (20) days after receipt of the notice, the superintendent shall be instructed by written order from the City Administrator's office to immediately terminate the water service to the subject property unless an appeal has been filed pursuant to subsection (3) of this section.

(3) A customer, occupant or owner of the premises who questions or disputes the correctness of a notice of intent to disconnect service may file with the City Administrator a request for a hearing within seven (7) days of the date of the notice. If a hearing has been timely requested, the City Administrator shall hold an informal conference to attempt to resolve the matter. In the case of a notice of intent to disconnect service for non-payment, the decision of the City Administrator shall be delivered at the conclusion of the informal conference and shall be final. In other cases, if no informal resolution is achieved, the City Council shall hold a hearing and consider relevant evidence presented by the appellant and the City. The Council shall determine whether the reasons prompting the notice of intent to disconnect are correct. Notice of the decision of the Council shall be mailed by first class mail to the customer at the billing address and to the occupant of the premises and to any other address specified by the appellant. In the event of an appeal to the City Council, service shall not be terminated until three (3) days after mailing of the notice of the decision. A notice of intent to disconnect service shall include information about the appeal process contained in this subsection.

(4) Where the violation is failure to pay delinquent sewer fees and penalties, water service may be reinstated upon payment of those fees. For any other violation, water service shall not be reinstated until such time that all violations have been cured, and a new application has been made and all fees required for initial application have been paid.

(5) Any person violating any of the provisions of this Code shall become liable to the City for any expense, loss or damage occasioned to the City by reason of such violation.

Section 6. Commercial, industrial, and public facilities users discharging into the public sewer at the time this ordinance is effective will be required to comply with the requirements of Section 3.445(4). If the commercial, industrial, or public facilities user does not comply with Section 3.445(4), notwithstanding Section 3.460(2) of the Gold Beach Utility Code, the City may proceed to notify the commercial, industrial, or public facilities user of the failure to comply with this section and to immediately terminate water service to the premises. The commercial, industrial, or public facilities user shall have all the appeal rights provided in Section 3.460(3) of the Gold Beach Utility Code. In addition to termination of water service the City may assess a penalty for failure to comply with this section subject to the fee schedule in effect at that time. Each day of non-compliance with this section constitutes a separate violation.

PASSED and ADOPTED by the City Council of the City of Gold Beach, State of Oregon, on the _____ day of _____, 2014.

Karl Popoff, Mayor

ATTEST:

Jodi Fritts, City Administrator

	AYES	NAYS
First Reading Date		
Second Reading Date		

Candy Cronberger, City Recorder

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 9 c.
City Council Meeting Date: February 10, 2014

TITLE: Resolution R1314-08 Council Rules

SUMMARY AND BACKGROUND:

The current Council Rules were adopted by resolution R0910-02 in September of 2009. Council Rules were first adopted as resolution 9697-02. Amending resolutions over the subsequent years: 9899-05, 0102-26, 0203-03, 0809-09, and 0809-18.

I proposed an addition to Rule 9(a) which I mentioned to the Council in November. I prepared the revision for the January meeting but we didn't have the opportunity to review the rules in-depth. I have formatted the rules for a resolution. If no addition changes are proposed we can adopt the resolution tonight. If further changes are discussed we can bring the resolution back for March.

FINANCIAL IMPACT:

None

DOCUMENTS ATTACHED:

Resolution R1314-08 Rules of the City Council

REQUESTED MOTION/ACTION:

If the proposed council rules are acceptable—a motion to approve. If additional are requested we will bring it back next month with the changes.

SAMPLE MOTION TO APPROVE WITH NO ADDITIONAL CHANGES

I make the motion that the Council adopt Resolution R1314-08, a resolution adopting rules of the Gold Beach City Council as provided in the City Charter, Chapter IV, Section 13 and rescinding Resolution R0910-02 and any other resolutions that may be in conflict.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council

RESOLUTION R1314-08

A RESOLUTION ADOPTING RULES OF THE GOLD BEACH CITY COUNCIL AS PROVIDED IN THE CITY CHARTER, CHAPTER IV, SECTION 13 AND RESCINDING RESOLUTION R0910-02 AND ANY OTHER RESOLUTIONS THAT MAY BE IN CONFLICT

Rules of the City Council City of Gold Beach

Rules of the City Council as provided in the Gold Beach City Charter, Chapter IV, Section 13. Rules may be clarified by the City Charter but nothing herein may take precedence over the City Charter, as may be amended from time to time. Rules may be amended by Council Resolution.

COUNCIL MEETINGS

RULE NO. 1 **Regular Council Meetings** Council shall hold its regular meetings at least once a month on a date, or dates, to be specified from time to time by the Council. In no case shall less than one meeting be held in each month, in conformance with the City Charter. Regular meetings shall be held at a time and at a place that it designates and to last no longer than 10:30 P.M., unless there is a unanimous consent to continue beyond that time.

RULE NO. 2 **Special Meetings** Special council meetings may be called by the Mayor, or any two Councilors, or the City Administrator.

RULE NO. 3 **Executive Sessions** Executive sessions of the Council may be called by the Mayor, or any two Councilors, or the City Administrator. Only members of the Council, the City Administrator and others invited by the Council or City Administrator shall attend executive sessions. Representatives of the news media may attend all executive sessions, except those where the Council deliberates and meets with its labor negotiator, but nothing said in executive session may be disclosed or published by the media or by any other meeting attendees, including the Mayor and Councilors.

RULE NO. 4 **Adjourned Meetings** Any meeting of the Council may be continued or adjourned from day to day or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting thereafter.

THE PRESIDING OFFICER

RULE NO. 5 **Presiding Officer** The Mayor shall be the Presiding Officer at all regular, special and executive meetings of the Council of which the Mayor is in attendance. The Mayor shall be limited only to such limitations as those imposed by Section 17 of the City Charter, reason for acting as Presiding Officer. The Mayor may speak on all questions of order in preference to any other member. The Mayor, or in the absence of the Mayor, the Mayor Pro Tem, shall take the chair at the hour appointed for the Council to meet and shall

immediately call the members to order. The City Administrator or Recorder shall enter in the minutes of the meeting the names of the members present.

RULE NO. 6 **Mayor Pro Tem** At its first meeting in January of each year, the Council shall appoint a Mayor Pro Tem from its membership. Whenever the Mayor is unable, on account of absence, illness or other cause, to perform the functions of the office, the Mayor Pro Tem shall act as Mayor. Section 19, paragraphs (3) and (4) of the City Charter shall provide further guidance, regarding the Mayor Pro Tem.

RULE NO. 7 **Temporary Mayor Pro Tem** In case of the absence of the Mayor and Mayor Pro Tem, the City Administrator shall call the Council to order and call the roll of the members, and if a quorum is found to be present the Council shall proceed to elect, by a majority vote of those present, a Temporary Mayor Pro Tem of the meeting to act until the Mayor or Mayor Pro Tem appears. Upon the arrival of the Mayor or Mayor Pro Tem, the Temporary Mayor Pro Tem shall immediately relinquish the chair upon conclusion of the business immediately before the Council.

RULE NO. 8 **Quorum** A majority of the Council shall constitute a quorum to do business but a less number may meet and adjourn from time to time and compel attendance of absent members.

RULE NO. 9 **Decorum and Order** The Mayor shall preserve decorum and decide all questions or order, subject to appeal of Council.

- a) During Council Meetings the Councilors shall preserve order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings or refuse to obey the orders of the Mayor or the rules of the Council. **When addressing Councilors, Mayor, staff, or audience formal titles shall be used to be courteous and respectful (i.e. Mayor Smith, Councilor Smith, Chief Smith, Mr. Smith, Mrs./Ms. Smith, etc.).** Every Councilor desiring to speak shall address the chair and upon recognition by the Mayor, shall limit comments to the question under debate. Every Councilor desiring to question the administrative staff shall address questions to the City Administrator, who shall be entitled to either answer the inquiries or designate a staff member for that purpose. A Councilor, once recognized, shall not be interrupted while speaking unless called to order by the Mayor, or unless a point of order is raised while the Councilor is speaking, the Councilor shall cease speaking immediately until the question of order is determined. If ruled to be in order the Councilor shall be permitted to proceed; if ruled to not be in order the Councilor shall remain silent or shall alter his or her remarks as to comply with the rules of the Council.
- b) Members of the administrative staff and employees of the City and other persons attending Council meetings also shall observe the same rules of procedure, decorum and good conduct, applicable to the members of the Council. Any person making personal, impertinent and slanderous remarks or who becomes boisterous while addressing the Council or attending the Council meeting, shall be removed from the room if the Sergeant-At-Arms is so directed by the Mayor.

Such person or persons shall be barred from further audience before the Council. Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted by the Mayor who may direct the Sergeant-at-arms to remove such offenders from the room. Aggravated cases shall be prosecuted by an appropriate complaint signed by the Mayor. In case the Presiding Officer should fail to act, any member of the Council can move to require the Presiding Officer to act to enforce the rules and the affirmative vote of the majority of the Council present shall require the Mayor to act.

- c) Any citizen desiring to address the Council shall be recognized by the Mayor. A citizen addressing the Council shall limit remarks to the item under discussion, and shall be allowed a maximum of 5 minutes to speak. The Mayor may allow additional time for individual citizen comments, upon a majority vote from the Council. All comments shall be addressed to the Council as a whole and not to any individual member thereof. All comments addressed to any administration of the City shall be addressed to the City Administrator and not to any individual City employee. Citizens shall not be disorderly, abusive, or disruptive, nor shall they present irrelevant, immaterial, or unduly repetitious testimony. No persons other than members of the Council and the person having the floor shall enter into any discussion, either directly or through a member of the Council without the permission of the Mayor.

RULE NO. 10 **Sergeant-At-Arms** The Chief of Police or such members of the Police Department as designated by the Chief of Police will be Sergeant-At-Arms at Council Meetings. The Sergeant-At-Arms shall carry out all orders or instructions given by the Mayor for the purpose of retaining order and decorum at the council meetings. The Sergeant-At-Arms will only attend meetings if requested by the Mayor or the City Administrator.

EMPLOYEES

RULE NO. 11 **City Administrator** The City Administrator shall attend all meetings of the Council unless excused by the Council. The City Administrator shall make recommendations to the Council and shall take part in all discussions concerning the welfare of the City and shall perform such other duties in the meeting as ordered by the Mayor or Councilors. No elected official shall be eligible to receive appointment as City Administrator during the term for which that official is elected.

RULE NO. 12 **City Attorney** The City Attorney shall either in person or by deputy attend meetings of the Council when requested to do so by the Mayor, two Councilors or the City Administrator. Any elected official desiring an informal oral opinion should request same through the City Administrator. Written or oral opinions shall be authorized by City Administrator or the City Administrator's designee.

RULE NO. 13 **Officers and Employees to Attend** Any member of the City Council may request the City Administrator to direct any employee to attend any regular, special or executive meeting to confer with the Council on matters relating to the City.

DUTIES AND PRIVILEGES OF MEMBERS

RULE NO. 14 **Right to Floor** When recognized by the Mayor, a Councilor shall confine comments to the questions under debate, avoid personalities and refrain from impugning the motives of any member's argument or vote. No member shall address the Mayor or demand the floor while any vote is being taken.

RULE NO. 15 **Right to Appeal** Any Councilor may appeal to the Council from a ruling of the Mayor, and if the appeal is seconded, the member making the appeal may briefly state reasons for the same and the Mayor may briefly explain the ruling; but there shall be no debate on the appeal and no other Councilor shall participate in the discussion. The Mayor shall then put the question, "Shall the decision of the Chair stand as the decision of the Council?" If the majority of the members vote "AYE", the ruling of the Mayor is sustained; otherwise it is overruled.

RULE NO. 16 **Voting** When the question has been called for, the Mayor shall ask for the voice vote by consecutive numerical position. At each succeeding meeting at which a roll call is taken, the Councilor who voted second during the previous meeting, shall vote first. After a vote has been taken, the Mayor shall announce the results of the vote. Every Councilor present when a question is called shall vote either AYE or NAY. No Councilor present at a Council meeting shall abstain from voting without first stating reasons in detail at the meeting.

RULE NO. 17 **Debate** No motion shall be debated until it has been seconded and announced by the Mayor. Any Councilor may request that a motion be reduced to writing and read by the City Administrator. Councilors shall limit their remarks on a subject to five minutes unless granted additional time by the majority of the Council. No Councilor shall be allowed to speak more than once upon any subject, until every other member choosing to speak thereon has spoken. No Councilor shall speak more than twice upon any subject without approval of the Council.

RULE NO. 18 **Personal Privilege** The right of a Councilor to address the Council on a question of personal privilege shall be limited to cases in which the Councilor's integrity, character or motives are assailed, questioned or impugned.

RULE NO. 19 **Dissent and Protest** Any Councilor shall have the right to express dissent from or protest against any Ordinance, Resolution or decision of the Council and have the reason, entered into the Council minutes. Such dissent or protest must be filed in writing, couched in respectful language and presented to the Council not later than the next regular meeting following the date of passage of the Ordinance, Resolution or decision.

RULE NO. 20 **Excusal During the Meeting** No Councilor may leave a Council meeting while in session without permission from the Mayor.

RULE NO. 21 **Code of Ethics** Councilors shall conduct themselves as to bring credit upon the City as a whole, so as to set an example of good ethical conduct for all citizens of the community. Councilors shall bear in mind at all times the responsibility to the

entire electorate, shall refrain from actions benefiting special interest groups at the expense of the City as a whole and shall do everything in their power to insure an equal and impartial law enforcement throughout the City at large without respect to race, color, creed, gender, or the economic or social position of individual citizens.

RULE NO. 22 **Council Procedure - Order of Business** The business of all regular meetings of the Council shall be transacted in the following order:

- 1} Pledge of Allegiance
- 2} Roll Call
- 3} Special Orders of Business
- 4} Consent Calendar
- 5} Citizens Comments
- 6} Public Hearings
- 7} Citizen-Requested Agenda Items
- 8} Public Contracts and Purchasing
- 9} Ordinances and Resolutions
- 10} Miscellaneous Items (including policy discussions and determination)
- 11} City Administrator's Report
- 12} Mayor and Council Comments
- 13} Citizen Comments
- 14} Executive Session
- 15} Adjournment

When it appears to be in the best interest of the public, the Mayor may, upon approval of a majority of the Councilors present, change the order of business specified above.

RULE NO. 23 **Special Order of Business** Agenda items that are of special importance to the Council may be treated as Special Orders of Business. Special Orders of Business agenda items have transaction precedence over all other items except the Flag Salute and Roll Call.

RULE NO. 24 **Consent Calendar** The approval of minutes, warrants and other routine agenda items may be placed on the Consent Calendar. Discussion of the Consent Calendar shall be limited to five minutes. Any item placed on the Consent Calendar shall be removed at the request of the Mayor or a Councilor prior to the vote being taken on the Consent Calendar items. All remaining items on the Consent Calendar shall be disposed of by a single motion "to adopt the Consent Calendar" which shall not be debatable. Adoption of the Consent Calendar shall be by the affirmative vote of all Council members present at the time the vote is taken and shall have the same effect as a separate vote for each item. If there are dissenting votes, each item on the Consent Calendar shall be voted upon separately in the usual manner.

RULE NO. 25 **Agendas** Staff shall prepare an agenda for every regular, and if requested, for every special Council meeting. Items may be placed on the agenda by any person, but such items shall be presented to the City Administrator or designee in writing at least six days prior to the meeting at which they are to be discussed. Agendas and

informational material for regular meetings shall be distributed to the Council at least four days prior to the meeting. Items may be added to the agenda in accordance with Council Rule 26. New business brought before the Council in a meeting may be referred to the City Administrator for a report at a future Council meeting.

RULE NO. 26 **Additions to Agenda** A request to add an item for Council consideration to the Council agenda may be presented at the Council meeting but shall require a majority concurrence of the Councilors present to be so added. Decisions on added agenda items that were not advertised on the agenda could be challenged.

RULE NO. 27 **Precedence of Motions** When a question is before the Council no motion shall be entertained except:

- 1} to abide by the rules
- 2} to adjourn
- 3} to fix the hour of adjournment
- 4} to lay on the table
- 5} for the previous question
- 6} to postpone to a certain date
- 7} to refer
- 8} to amend
- 9} to postpone indefinitely

These motions shall have precedence in the order indicated. Any such motion except a motion to amend shall be put to a vote without debate.

RULE NO. 28 **Motions to be Stated by Presiding Officer - Withdrawal** When a motion is made and seconded it shall be stated by the originator or the Mayor before debate. A motion may not be withdrawn without the consent of the Councilor seconding it.

RULE NO. 29 **Motion to Adjourn - When not in Order - When Not Debatable** A motion to adjourn will be in order at any time except as follows:

- 1} when made as an interruption of a member while speaking
- 2} when the previous question has been ordered
- 3} while a vote is being taken

A motion to adjourn is debatable only as to the time to which the meeting is adjourned.

RULE NO. 30 **Motion to Lay on the Table** A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion should prevail, consideration of the subject may be resumed only upon motion of a Councilor voting with the majority and with the consent of two-thirds of the Councilors present.

RULE NO. 31 **Division of Question** If the question contains two or more divisible propositions the Mayor may, upon request of the Councilors, divide the same.

RULE NO. 32 **Motion to Postpone** All motions to postpone, excepting to postpone indefinitely, may be amended as to time. If a motion to postpone indefinitely is carried, the principal question shall be declared defeated.

RULE NO. 33 **AYES and NAYS** On the passage of every Ordinance the vote shall be taken by AYES and NAYS and entered upon the record.

RULE NO. 34 **Motion to Reconsider** Any Councilor who voted with the majority may move for a reconsideration of an action at the same or the next regular meeting. Once a matter has been reconsidered, no motion for further reconsideration thereof shall be made without unanimous consent of the Council.

RULE NO. 35 **Procedure in Absence of Rule** In all cases not provided for by these rules, the Council shall be governed by the laws and practice laid down in Robert's Rules of Order, Revised Edition.

RULE NO. 36 **Suspension of Rules** No rule shall be suspended except by the vote of the majority of Councilors present at the meeting. A motion to suspend a rule is not debatable.

RULE NO. 37 **Anonymous Communication** Anonymous and unsigned communications shall not be introduced in Council meetings.

CITY BOARDS, COMMISSIONS, LAY-COMMITTEES AND COUNCIL COMMITTEES

RULE NO. 38 **Appointments to the City Boards, Commissions, Lay Committees**
All appointments to City Boards, Commissions and Lay-Committees shall be made in accordance with the Oregon Revised Statutes, City Charter, and City Code. Appointees shall not be appointed to more than two Boards or Commissions at a time.

All appointees submitting applications for appointments shall be interviewed by the Mayor and Councilors prior to being appointed. Exceptions may be made for incumbents that are resubmitting applications for the same positions for an additional term.

The City Administrator shall give written notice to all Councilors the expiration of the term of office of all members of City Boards, Commissions and Laymen Committees at least thirty (30) days prior to expiration date of said term of office. Within 10 days of the close of the time set to receive applications, the City Administrator shall submit the name of applicants to Councilors in writing. All appointments and reappointments shall be made by majority vote of the Council.

RULE NO. 39 **Council Committees** Council Committees shall be appointed by the Mayor subject to confirmation by the Council. Membership on such Council Committees shall include only members of the Council. All Council Committees shall have a Chairman and Secretary, either appointed by the Mayor or by a majority vote of the Committee in the absence of an appointed Chairman and Secretary.

RULE NO. 40 **Council Committee Meetings** Council Committee meetings shall meet on call of the Chairman or any two members. Such Committees shall report to the

Council without unnecessary delay upon matters referred to them. A majority of the members of a Committee shall constitute a quorum.

RULE NO. 41 **Additional Boards, Commissions, Lay-Committees and Council Committees** At any time, the Council may, by a majority vote of Councilors, at any regular meeting, establish any City Board, Commission, Council Committee or Lay-Committee that it deems necessary. Appointments shall be made in conformance with Rule No. 38 of these Council Rules.

RULE NO. 42 **Student Liaison Positions** Student Liaisons may be appointed by the Mayor subject to confirmation by the Council. A student liaison position is considered as that of an interested citizen. Comments from the student liaison will be invited at such times as comments from the audience are invited. The Student Liaison shall be given an opportunity to give a “student liaison report” on each meeting agenda.

RULE NO. 43 **Council Liaison Positions** The Mayor may from time to time appoint individual Councilors as liaisons to local, regional or state organizations, agencies or groups, as the Mayor may determine that such liaison is of direct benefit to the City. Any Councilor Liaison appointment must be voluntary and desired by the affected Councilor, as well as deemed beneficial by the associated organization, agency or group the Councilor is appointed to. The length of any liaison term shall continue until relinquished by the Councilor or terminated by the Mayor, or organization, agency or group to which the Councilor is appointed. Each Councilor may make brief reports of their liaison activities at each regular Council meeting.

RULE NO. 44 **Lists of Boards, Commissions, Lay-Committees and Council Committee Members** The City Administrator shall prepare and keep current a list of all members, date appointed, length of term, address and phone number of all City of Gold Beach Boards, Commissions, Lay-Committees and Council Committees. A copy of this list shall be given to all members of the Council at least yearly or when the membership of any Committee changes. A current list shall be kept on file and in the City Business Office.

Footnotes:

- a) The word “shall” is mandatory, the word “may” is permissive.

Passed by the City Council of the City of Gold Beach, County of Curry, State of Oregon, this 10th day of February, 2014.

Karl Popoff, Mayor

ATTEST:

Candy Cronberger, City Recorder



MISC. ITEMS

(including policy discussions and determinations)

GOLD BEACH CITY COUNCIL AGENDA REPORT



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

TITLE: Urban Renewal Update

SUMMARY AND BACKGROUND:

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

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

FINANCIAL IMPACT:

- None at this time

DOCUMENTS ATTACHED:

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

REQUESTED MOTION/ACTION:

None—information only.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council

CURRY COUNTY ASSESSOR'S OFFICE

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

Tracy A Garner
Chief Deputy Assessor

Phone (541) 247-3288

MACK ARCH ON THE CURRY COAST

January 22, 2014

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

RE: Certification of Urban Renewal Frozen Values

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

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

Dated this 22nd day of January 2014.



Jim Kolen
Assessor Curry County

Table 14 - Projected Growth Rates and Assessed Values

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



Source: ECONorthwest

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



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

TITLE: Pending Charter Cable Franchise Expiration

SUMMARY AND BACKGROUND:

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

FINANCIAL IMPACT:

- None at this time

DOCUMENTS ATTACHED:

- Copy of the current franchise agreement

REQUESTED MOTION/ACTION:

None at the moment but please consider possible discussion points.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council

ORDINANCE #589

CABLE TELEVISION FRANCHISE ORDINANCE

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

THE CITY OF GOLD BEACH ORDAINS AS FOLLOWS:

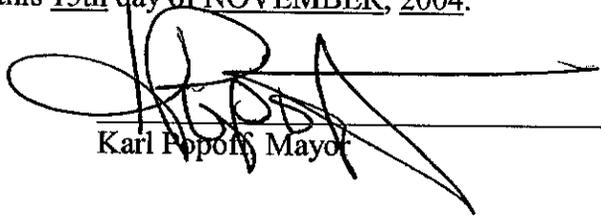
Section 1. The City of Gold Beach, Oregon (the "Franchising Authority") desires to make available to its residents a Cable System subject to certain terms and conditions the Franchising Authority believes to be necessary and appropriate.

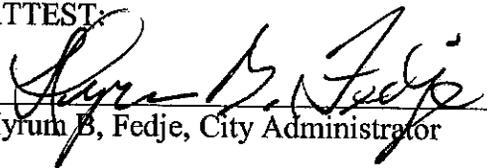
Section 2. The Franchisee desires to continue to construct, install and maintain a Cable System within the jurisdictional limits of the Franchising Authority;

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

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

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


Karl Popoff Mayor

ATTEST:

Hyrum B. Fedje, City Administrator

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

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

CHARTER FRANCHISE AGREEMENT

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

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

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

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

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

SECTION 1
Definition of Terms

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

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

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

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

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

SECTION 2 **Grant of Franchise**

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

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

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

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

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

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

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

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

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

SECTION 3
Franchise Renewal

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

SECTION 4
Indemnification and Insurance

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

4.2 Insurance.

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

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

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

SECTION 5
Service Obligations

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

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

SECTION 6
Service Availability

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

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

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

SECTION 7
Construction and Technical Standards

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

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

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

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

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

SECTION 8
Conditions on Street Occupancy

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 9 **Service And Rates**

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

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

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

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

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

SECTION 10 **Franchise Fee**

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

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

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

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

SECTION 11
Transfer of Franchise

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

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

SECTION 12
Records, Reports And Maps

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

12.2 Records Required.

The Grantee shall at all times maintain:

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

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

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

SECTION 13
Community Programming

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

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

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

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

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

SECTION 14 **Enforcement Or Revocation**

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

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

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

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

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

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

14.5 Revocation.

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

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

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

SECTION 15
Miscellaneous Provisions

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

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

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

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

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

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

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

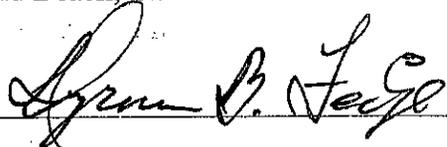
15.6 Entire Agreement. This Franchise sets forth the entire agreement between the parties respecting the subject matter hereof. All agreements, covenants, representations and warranties, express and implied, oral and written, of the parties with regard to the subject matter hereof are contained herein.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

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

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

Considered and approved this 27 day of April, 2004.

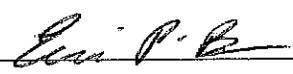
City of Gold Beach, OR

Signature: 

Name/Title: Hyrum B. Fedje, City Administrator

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

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

Signature: 

Name/Title: Eric P. Brown

SVP Western Division Operations

Date: 6/28/04

GOLD BEACH CITY COUNCIL AGENDA REPORT



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

TITLE: Medical Marijuana Update

SUMMARY AND BACKGROUND:

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

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

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

FINANCIAL IMPACT:

- None at this time

DOCUMENTS ATTACHED:

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

REQUESTED MOTION/ACTION:

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

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council
Chief Andrews

**TEMPORARY OARS
MEDICAL MARIJUANA
DISPENSARIES**

Temporary Rules for the Medical Marijuana Dispensary Program

Jan. 15, 2014

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

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

DIVISION 8

MEDICAL MARIJUANA

Medical Marijuana Facilities

333-008-1000

Applicability

- (1) A person may not establish, conduct, maintain, manage or operate a facility on or after March 1, 2014, unless the facility has been registered by the Authority under these rules.
 - (2) Nothing in these rules exempts a PRF, an employee of a registered facility, or a registered facility from complying with any other applicable state or local laws.
 - (3) Registration of a facility does not protect a PRF or employees from possible criminal prosecution under federal law.
- Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: ORS 475.314

333-008-1010

Definitions

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

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1020

Application for Medical Marijuana Facility Registration

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

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1030

Fees

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

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

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

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

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

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

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

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

(b) The Authority denies an application; or

(c) An applicant withdraws an application.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1040

Application Review

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

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

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

(b) Inspect the premises of the proposed facility.

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

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

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

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1050

Approval of Application

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1060

Denial of Application

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1070

Expiration and Renewal of Registration

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

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

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

(b) The required renewal fees;

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1080

Notification of Changes

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

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

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

(c) A decision to change the PRF;

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1090

Required Closures

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

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

333-008-1100

Business Qualifications for Medical Marijuana Facility Registration

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

333-008-1110

Locations of Medical Marijuana Facilities

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1120

Person Responsible for a Medical Marijuana Facility (PRF)

(1) A PRF must:

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

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

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

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

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

(2) A PRF may not:

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1130

Criminal Background Checks

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

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

(A) First, middle and last name;

(B) Any aliases;

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

333-008-1140

Security for Registered Facilities

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

- (A) Identified as a restricted access area and clearly identified by the posting of a sign not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height that reads “Restricted Access Area – No Minors Allowed”;
 - (B) Supervised by the PRF or an employee of the registered facility at all times when a patient or designated primary caregiver is present; and
 - (C) Separate from any area where usable marijuana or immature plants are being transferred to a registered facility.
- (5) During all hours when the registered facility is not open for business the PRF must ensure that:
- (a) All entrances to and exits from the facility are securely locked and any keys or key codes to the facility remain in the possession of the PRF or authorized employees;
 - (b) All usable marijuana is kept in a safe; and
 - (c) All immature plants are in a locked room.
- (6) The PRF must ensure that:
- (a) Electronic records are encrypted, and securely stored to prevent unauthorized access and to ensure confidentiality;
 - (b) There is an electronic back-up system for all electronic records; and
 - (c) All video recordings and archived required records not stored electronically are kept in a locked storage area. Current records may be kept in a locked cupboard or desk outside the locked storage area during hours when the registered facility is open.
- Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1150

Alarm System for Registered Facilities

- (1) Prior to opening for business, a PRF must ensure that a registered facility has a security alarm system, installed by an alarm installation company, on all facility entry or exit points and perimeter windows.
- (2) At the time of application a PRF must submit to the Authority documentation of the:
 - (a) Alarm system that is installed or proposed for installation;
 - (b) Company that installed the system or plans to install the system;
 - (c) Features of the system that meet the criteria of this rule.
- (3) A PRF must ensure that the facility is continuously monitored by the alarm system.
- (4) The security alarm system for the registered facility must:
 - (a) Be able to detect movement inside the registered facility;
 - (b) Be programmed to notify a security company that will notify the PRF or his or her designee in the event of a breach; and
 - (c) Have at least two “panic buttons” located inside the registered facility that are linked with the alarm system.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1160

Video Surveillance Equipment for Registered Facilities

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

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

333-008-1170

Required Camera Coverage and Camera Placement for Registered Facilities

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

333-008-1180

Video Recording Requirements for Registered Facilities

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1190

Testing

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

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

(a) A unique identifier;

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

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

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

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

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

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

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

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

(i) Chlorinated Hydrocarbons;

(ii) Organophosphates;

(iii) Carbamates; and

(iv) Pyrethroids; and

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

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

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

(a) Uses valid testing methodologies; and

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

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1200

Operation of Registered Facilities

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

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

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

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

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

333-008-1210

Record Keeping

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

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

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

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

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

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

(d) Monitor date of testing and testing results;

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

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

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

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1220

Labeling

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

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

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

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

(d) Potency information; and

(e) Who performed the testing.

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1230

Transfers to a Registered Facility

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

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

- (a) The patient's name, OMMP card number and expiration date and contact information;
 - (b) The name and contact information of the individual who is authorized to transfer the usable marijuana or immature marijuana plants to the registered facility and that individual's OMMP card number and expiration date;
 - (c) The name and address of the registered facility that is authorized to receive the usable marijuana or immature marijuana plants; and
 - (d) The date the authorization expires, if earlier than the expiration date of the patient's OMMP card.
- (2) Only a patient, the patient's designated primary caregiver, or the patient's grower may be authorized to transfer usable marijuana or immature plants to a registered facility.
- (3) The original Authorization to Transfer form must be provided to the registered facility to which a transfer may be made by the patient or person authorized to transfer the usable marijuana or immature plants. The patient should retain a copy of the Authorization to Transfer form for his or her records and provide a copy to the person authorized to transfer the usable marijuana or immature plants.
- (4) An Authorization to Transfer form automatically expires on the date the patient's OMMP card expires, unless the patient has specified an earlier expiration date. If the patient renews his or her OMMP card the patient may execute a new Authorization to Transfer form in accordance with this rule.
- (5) Once usable marijuana or an immature plant is transferred to a registered facility pursuant to a valid Authorization to Transfer form, the usable marijuana or immature plant is no longer the property of the patient unless the usable marijuana or immature plants are returned by the registered facility.
- (6) Prior to a registered facility accepting a transfer of usable marijuana or immature plants the PRF must ensure that:
- (a) It has a valid Authorization to Transfer form on file that authorizes the individual that is transferring the usable marijuana or immature plants to make the transfer; and
 - (b) The individual transferring the usable marijuana or immature plants is the individual authorized to make the transfer.
- (7) A PRF must ensure that when a registered facility accepts a transfer of usable marijuana or an immature plant the batch of usable marijuana and each immature plant are segregated in accordance with the testing rule, OAR 333-008-1190 and that the following information is documented, as applicable:
- (a) The unique identifier;
 - (b) The weight in metric units of all usable marijuana received by the registered facility;
 - (c) The number of immature plants received by the registered facility;
 - (d) The amount of a finished product received by the registered facility, including, as applicable, the weight in metric units, or the number of units of a finished product;
 - (e) A description of the form the usable marijuana was in when it was received, for example, oil or an edible product;
 - (f) Who transferred the usable marijuana or the immature plant, the individual's OMMP card number and expiration date of the card, a copy of the individual's picture identification, the date

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

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

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

(9) A PRF must ensure that:

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1240

Transfers to a Patient or Designated Primary Caregiver

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

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

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

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

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

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

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

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

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

(f) A description of what was transferred;

(g) The date of the transfer; and

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

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1250

Inspections

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

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

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

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

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

Stat. Auth.: ORS 431.262, 475.314, 475.338

Stats. Implemented: ORS 431.262, 475.314

333-008-1260

Violations

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

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

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

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

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

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

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

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

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

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

or

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1270

Enforcement

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 431.262, 475.314, 475.338

Stats. Implemented: ORS 431.262, 475.314

333-008-1280

Confidentiality

- (1) Any criminal background information received by the Authority about a PRF during the criminal background check process is confidential and is not subject to disclosure without a court order.
 - (2) The name of a PRF and the address of a registered facility is confidential and is not subject to disclosure without a court order, except as provided in section (5) of this rule, or unless a PRF has authorized disclosure.
 - (3) If an application has been denied, the information submitted to the Authority in an application for registration of a facility is not confidential and may be subject to disclosure under ORS 192.410 through 192.505.
 - (4) A final order revoking the registration of a facility is not confidential and may be posted on the Authority's website or otherwise made public by the Authority.
 - (5) Authorized employees of state and local law enforcement agencies may verify with the Authority at all times whether:
 - (a) A location is the location of a registered facility; or
 - (b) A person is listed as the PRF of a registered facility.
- Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: ORS 475.314, 475.331

333-008-1290

Change of Location

- (1) A registered facility that changes location must submit a new application that complies with OAR 333-008-1020.
 - (2) A facility may not operate at a new location unless it is registered by the Authority.
- Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: ORS 475.314

Oregon Medical Marijuana Program proposed revised rules

333-008-0010

Definitions

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

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

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

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

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

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

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

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

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

(20) ~~9~~ "Patient" has the same meaning as "registry identification cardholder."

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

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

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

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

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

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

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

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

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

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

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

333-008-0020

New Registration Application and Verification

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

333-008-0025

Marijuana Grow Site Registration

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

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

(a) The name of the grower;

(b) The date of birth of the grower;

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

(d) The mailing address of the grower;

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

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

- (3) The Authority shall conduct a criminal background check on the grower as authorized under ORS 475.304.
- (a) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offense occurred on or after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder for five years from the date of conviction.
- (b) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offenses occurred after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.
- (c) The Authority shall notify a patient by certified mail that the grower is ineligible and the patient will be allowed the opportunity to identify another grower.
- (4) The Authority shall issue a marijuana grow site registration card to a patient who has met the requirements of section (2) of this rule, unless the grower is disqualified under section (3) of this rule.
- (5) A grower must display a marijuana grow site registration card for each patient for whom marijuana is being produced, at the marijuana grow site at all times.
- (6) All usable marijuana, plants, seedlings and seeds, associated with the production of marijuana for a patient by a grower, are the property of the patient and must be provided to the patient, or, if the marijuana is usable marijuana or an immature marijuana plant, transferred to a registered medical marijuana facility, upon request.
- (7) All marijuana produced for a patient must be provided to the patient or designated primary caregiver when the grower ceases producing marijuana for the patient.
- (8) A grower must return the grow site registration card to the patient to whom the card was issued when requested to do so by the patient or when the grower ceases producing marijuana for the patient.
- (9) A patient or the designated primary caregiver of the patient may reimburse the grower for the costs of supplies and utilities associated with production of marijuana for patient. No other costs associated with the production of marijuana for the patient, including the cost of labor, may be reimbursed.
- (10) A grower may produce marijuana for no more than four patients or designated primary caregivers concurrently.
- (11) The Authority may not register a grow site if the location of the grow site is the same location as a medical marijuana facility.

Stat.Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

333-008-0045

Interim Changes

- (1) A patient shall notify the Authority within 30 calendar days of any change in the patient's name, address, telephone number, attending physician, designated primary caregiver, grower or grow site address.
- (2) A patient shall notify, as applicable, the designated primary caregiver, and the grower, and the person responsible for a medical marijuana facility of any changes in status including, but not limited to:

(a) The assignment of another individual as the designated primary caregiver for the patient;

(b) The assignment of another individual as a grower for the patient;

(c) The revocation of an Authorization to Transfer form under OAR 333-008-1230; or

(~~d~~e) The end of eligibility of the patient to hold a registry identification card.

(3) If the Authority is notified by the patient that a designated primary caregiver or a grower has changed, the Authority shall notify the designated primary caregiver or the grower by mail at the address of record confirming the change in status and informing the caregiver or grower that their card is no longer valid and must be returned to the Authority within seven calendar days.

(4) A patient who has been diagnosed by an attending physician as no longer having a debilitating medical condition or whose attending physician has determined that the medical use of marijuana is contraindicated for the patient's debilitating medical condition shall return the registry identification card and all associated OMMP cards to the Authority within 30 calendar days of notification of the diagnosis or notification of the contraindication. If, due to circumstances beyond control of the patient he or she is unable to obtain a second medical opinion about the patient's continuing eligibility to use medical marijuana before the 30-day period has expired, the Authority may grant the patient additional time to obtain a second opinion before requiring the patient to return the registry identification card and all associated cards.

(5) Change forms may only be submitted to the Authority via mail or in person at the OMMP office.

(6) If a patient's designated primary caregiver, grower or grow site has changed, the non-refundable fee to receive a replacement card is \$100. If the patient qualifies for the reduced application fee of \$20, the non-refundable fee to receive a replacement card is \$20.

(7) If a patient is registering a new grow site at any time other than when submitting a new application or a renewal application, a grow site registration fee will not be charged.

Stat. Auth.: ORS 475.309 & 475.312

Stats. Implemented: ORS 475.309 & 475.312

333-008-0050

Confidentiality

(1) The Authority shall create and maintain either paper or computer data files of patients, designated primary caregivers, growers, and grow site addresses. The data files shall include all information collected on the application forms or equivalent information from other written documentation, plus a copy of OMMP registry identification cards, effective date, date of issue, and expiration date. Except as provided in section (2) of this rule, the names and identifying information of registry identification cardholders and the name and identifying information of a pending applicant for a card, a designated primary caregiver, a grower, and a marijuana grow site location, shall be confidential and not subject to public disclosure.

(2) Names and other identifying information made confidential under section (1) of this rule may be released to:

(a) Authorized employees of the Authority as necessary to perform official duties of the Authority, including the production of any reports of aggregate (i.e., non-identifying) data or statistics;

(b) Authorized employees of state or local law enforcement agencies when they provide a specific name or address. Information will be supplied only as necessary to verify:

(A) That a person is or was a lawful possessor of a registry identification card;

- (B) That a person is or was a person responsible for a registered medical marijuana facility;
~~(B)(C)~~ That the address is or was a documented grow site, and how many people are authorized to grow at that grow site; or
(D) How many people a person was or is authorized to grow for; or
(E) That an address is or was the location of a registered medical marijuana facility.
(c) Other persons (such as, but not limited to, employers, lawyers, family members) upon receipt of a properly executed release of information signed by the patient, the patient's parent or legal guardian, designated primary caregiver or grower. The release of information must specify what information the Authority is authorized to release and to whom.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

333-008-0120

System to Allow Verification of Data at All Times

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

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

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

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

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 – 475.346

OTHER CITIES



Coos Bay puts year-long hold on medical marijuana dispensaries

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

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

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

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

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

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

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

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

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

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

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

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

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

Reporter Tim Novotny contributed to this report.

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

ORDINANCE 2013-1127

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

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

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

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

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

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

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

PASSED BY THE CITY COUNCIL this 4th day of November, 2013.

AYES 6 NAYS 0

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

Mayor Keith Tymchuk

ATTEST:

Deanna Schafer, City Recorder

ORDINANCE NO. 6073

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

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

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

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

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

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

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

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

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

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

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

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

Approval and adoption by the Council on this 21st day of January 2014.

Approved by the Mayor this 21st day of January 2014.

ATTEST: Amber Ames
Amber Ames, City Recorder

Arion Carlsson
Jerry Willey, Mayor Dr. Tom
Arion Carlsson

ORDINANCE NO. 966

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

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

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

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

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

5.08.110 LICENSE/PERMIT REQUIRED

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

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

CHAPTER 5.12

MEDICAL MARIJUANA FACILITIES

5.12.010 REGULATIONS

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

Section 3. Effective Date.

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

ADOPTED BY THE STAYTON CITY COUNCIL this __ day of _____, 2014.

CITY OF STAYTON

Signed _____, 2014

By: _____
A. Scott Vigil, Mayor

Signed _____, 2014

Attest: _____
Christine Shaffer, Interim City Administrator

APPROVED AS TO FORM:

David A. Rhoten, City Attorney

LETTER TO CRUMRINE

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

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

Gold Beach Cannabis Service

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

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



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

9133 Boardwalk Rogue River Rd., Gold Beach, OR 97444



City of Gold Beach

29592 Ellensburg Avenue • Gold Beach, OR 97444

Administration: 541-247-7029 • Police: 541-247-6671 • www.goldbeachoregon.gov

Visitor Center: 541-247-7526 • www.goldbeach.org

Thursday, February 06, 2014

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

RE: Questions presented to the City

Dear Mr. Crumrine:

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

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

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

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

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

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

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

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





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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,



Jodi Fritts-Matthey

jfritts@goldbeachoregon.gov

cc: Council and Mayor
Chief Andrews

GOLD BEACH CITY COUNCIL AGENDA REPORT



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

TITLE: Upcoming Meetings and Trainings

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

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

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