



**City of Sutherlin  
Planning Commission – Special Meeting  
Monday, April 6, 2015  
6:00 p.m. – Sutherlin Civic Auditorium**

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## **Agenda**

- **Pledge of Allegiance**
- **Welcome and Introductions**
- **Introduction of Media**
- **Public Hearing – Land Use Code Amendment  
Special standards applicable to Marijuana Dispensaries and Marijuana Retail Stores**
- **Recommendation to City Council regarding special standards for marijuana dispensaries and retail stores**
- **Public Comment**
- **Commission Comments**
- **Adjournment**

**TO:** Sutherlin Planning Commission  
**FROM:** Vicki Luther, Director & Carole Connell, City Planner  
**DATE:** March 31, 2015  
**SUBJECT:** Sutherlin Development Code Text Amendments

**File:** Marijuana Dispensary Code Provisions  
Proposed Sutherlin Development Code amendments establishing medical and retail marijuana dispensary definitions and regulations

**This matter is scheduled for a public hearing at the Sutherlin Civic Auditorium on April 6, 2015 before the Sutherlin Planning Commission at 6pm**

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## **I. EXECUTIVE SUMMARY**

Current law requires Planning Commission consideration and City Council approval of any amendment to the Sutherlin Development Code (SDC). The City of Sutherlin is proposing to make code amendments as follows:

### Proposed Amendments:

1. SDC Section 1.3 Definitions of Title 16 of the Sutherlin Municipal Code is amended to add the following definitions:

**Medical Marijuana Dispensary** – Any facility or operation designed, intended or used for purposes of delivering, dispensing, or transferring marijuana to Oregon Medical Marijuana Registry Identification Card holders pursuant to ORS 475.300-475.346.

**Marijuana Retail Store** – Any facility or operation designed, intended or used for purposes of selling marijuana items to a consumer.

**Preschool** – An educational program for children five years old or younger, where the children are enrolled on a regular basis and are typically in attendance for no more than four hours per day.

2. SDC Commercial Districts Table 2.3.110 – Permitted Uses of Title 16 of the Sutherlin Municipal Code is amended to add the following use and to the commercial category of uses:

<b>Commercial</b>	<b>C-1</b>	<b>C-3</b>
Marijuana dispensary	N	S

3. A new SDC subsection 2.3.140 to specify special standards (“S”) applicable to a Medical Marijuana Dispensary and a Marijuana Retail Store is added to Title 16 of the Sutherlin Municipal Code specifying as follows:

**2.3.140 Medical Marijuana Dispensary or Marijuana Retail Store.** A marijuana dispensary may not be located within 1000 feet of another marijuana dispensary nor within 1,000 feet of real property of a public or private elementary, secondary or career school, child care center or family child care provider, or a preschool. In addition, a marijuana dispensary may not be located within 1000 feet of a property zoned residential or otherwise lawfully used for residential purposes. The maximum hours of operation for the facility shall be 7:00 a.m. through 10:00 p.m. No mobile facility or services shall be authorized. The facility shall comply with all applicable parking, setback, signage and other property development standards of the C-3 Zone. In addition, the State of Oregon must license a marijuana dispensary before it may operate in Sutherlin and the dispensary owner or operator must maintain the license throughout its operation.

**REQUESTED ACTION** - Based on the findings in this report, city staff recommends that the Planning Commission find the Development Code amendments satisfy the approval criteria for the proposed land use actions and recommend approval of the amendments, or as they may be modified at the hearings.

## II. GENERAL INFORMATION

The City Council directed city staff to initiate the proposed amendment after discussions and conclusions that the amendments would be necessary and beneficial to the city.

**Applicant:** City of Sutherlin

**Subject Property:** Legislative – C-3 Zone

## III. PROCEDURES

### Purpose of the Amendments:

In accordance with Oregon law, Sutherlin adopted a moratorium on medical marijuana facilities (dispensaries) that will expire on May 1, 2015. Beginning in January 2016, Oregon law will permit the sale of marijuana for recreational purposes in addition to medical purposes. Sutherlin may lawfully impose regulations on both medical and recreational marijuana sales.

Process: A decision must be reached by applying text amendment approval criteria in the City's Development Code. Before the Sutherlin Planning Commission can make a formal recommendation to the City Council concerning this request, a legislative public hearing must be held in which the Planning Commission reviews a staff report, takes written and oral testimony, considers the facts, applies the appropriate criteria and adopts Findings of Fact which justify its decision and recommendation.

After the public hearing, the Planning Commission must make a recommendation to the City Council and the Council will consider the Commission's recommendation, hold a public hearing, and make a decision to grant, amend or deny the request. Final action is Council adoption of an ordinance to amend the Development Code.

#### IV. DECISION CRITERIA AND FINDINGS

State statute requires that proposed amendments to Sutherlin's Development Code be consistent with the Statewide Planning Goals. The legislative amendment is processed as a Type IV procedure per Development Code Section 4.2.150. Section 4.11 of the code (*Amendments to the Sutherlin Code and Land Use Plans*) provides specific local criteria for approving a plan amendment and zone change. The requested amendments to the Development Code are measured here against the applicable state and city planning goals, as well as all of the city text amendment criteria.

#### CONSISTENCY WITH THE STATEWIDE PLANNING GOALS

**Goal 1: Citizen Involvement.** To provide for widespread citizen involvement in the planning process, and to allow citizens the opportunity to review and comment on proposed changes to comprehensive land use plans prior to any formal public hearing to consider the proposed changes.

**Findings:** Since acknowledgement of the City's Comprehensive Plan, the City of Sutherlin has been responsible for ensuring continued citizen and agency involvement in planning matters and land use decisions. Therefore notice of the proposed amendments was sent to Douglas County and the Department of Land of Conservation and Development (DLCD) as required. DLCD has the right to comment on the proposal prior to City Council approval at a final hearing. Notice was published on the City web site. On March 18, 2015 notice was published in the *News-Review*, a local newspaper of general circulation. Written evidence relied on by the land use decision makers was available for public review at Sutherlin City Hall seven days prior to the first public hearing. Sutherlin has fulfilled its citizen involvement process through the city website, publication of a public hearing notice and contact information in the newspaper, and by facilitating informed public participation during the public hearing itself. In addition, the City's decision can be appealed to the Land Use Board of Appeal (LUBA).

**Goal 2: Land Use Planning.** To establish a land use planning process and policy framework as a basis for all decisions and actions related to land use and to ensure a factual base for such decisions and actions.

**Findings:** Sutherlin's acknowledged Comprehensive Plan and implementing ordinances provide a state-approved process for land use decision making, and a policy framework derived from a proper factual base. The City's Comprehensive Plan and implementing ordinances provide the local criteria by which the proposal is judged.

Due to existing medical marijuana statutes and a 2014 voter approved Measure 91 approving the recreational use, possession, production and sale of marijuana, the City of Sutherlin determined there was a need to regulate sale of the product. Property potentially affected by the text amendments include land zoned Community

Commercial C-3. The amendments to the code provide definitions, location and special standards and limitations for locating medical and retail marijuana dispensaries in the city and to implement state statutes.

**Goal 9: Economy.** To provide for the economic needs of citizens of the State

**Findings:** The amendment is relevant to state economic goals and policies. The creation of additional business entities that will provide a combination of employment and local shopping opportunities in the C-3 zone will expand employment opportunities in the City. Marijuana facilities were specifically not authorized in industrial zones to avert the potential reduction in land supply for manufacturing and other employment intensive land uses. The subject facilities were also not located in the Downtown Commercial C-1 zone because of its proximity to residential and school uses. The proposed amendments do not conflict with the goal to meet the economic needs of the citizens of the State.

**Goal 12: Transportation.** To provide and encourage a safe, convenient, and economic transportation system

**Findings:** The state Transportation Goal 12 is applied whenever considering plan, code and zone amendments. Specific transportation-related policies and development standards are also included within the Sutherlin Comprehensive Plan and land use ordinances to assure that the intent of the statewide transportation goal is implemented through the application of both state and local policies and standards at the time of development.

The intent of Goal 12 is also implemented by the State Transportation Planning Rule (OAR 660, Division 12). The OAR 660-12-060(1) requires that "amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and level of service of the facility".

In order to ensure that the proposed Development Code text amendments comply with the requirements of the Transportation Planning Rule, the City of Sutherlin has adopted the following standards for Plan amendment applications:

“(1) The applicant shall certify the proposed land use designations, densities or design standards are consistent with the function, capacity and performance standards for roads identified in the Sutherlin Transportation System Plan (TSP).

(a) The applicant shall cite the identified Comprehensive Plan function, capacity and performance standards of the road used for direct access and provide findings that the proposed amendment will be consistent with the TSP.

(b) The jurisdiction providing direct access (City, County or ODOT) may require the applicant to submit a Traffic Impact Study certified by a Traffic Engineer that supports the findings used to address §6.500.2.a(1)(a).”

**Findings:** The City finds that there is no zone map or plan designation changes, no density changes or street design changes associated with the proposed amendments that would alter projected traffic impacts. Further, the amendments do not involve new site specific development that would require a Traffic Impact Study. It is presumed that the traffic generated from said facilities will be similar to retail use which is already permitted in the C-3 zone and accounted for in the TSP traffic projections.

The City finds that the code amendments will not cause a change in the existing level of service to any city, county or state street. The requested amendments do not conflict with the requirements of Goal 12 and the TPR.

## **COMPLIANCE WITH THE CITY OF SUTHERLIN DEVELOPMENT CODE AND LAND USE PLANS**

**Amendment Approval Criteria:** Section 4.11.110 C of the Sutherlin Development Code provides the following criteria for approval:

*“The planning commission’s recommendation and the city council’s decision shall be based on the following approval criteria”:*

**Criteria 1:** *For a proposed amendment to the city’s development code, the proposed amendment is consistent with applicable provisions of the comprehensive plan, including inventory documents and facility plans incorporated therein.*

**Findings:** The proposed amendments add marijuana related definitions and allow a marijuana dispensary or retail store in the C-3 Commercial Zone. Findings assuring compliance with statewide planning goals are addressed in the previous section of this document. Compliance with the relevant City Plan policies, inventory documents and facility plans are addressed as follows:

### A. City Economic Goal Compliance

Comp Plan Economic Policy # 3: *The city shall promote industrial and commercial development with local capital, entrepreneurial skills, and skills of the resident labor force while continuing to attract outside investments.*

Comp Plan Policy #: *The city shall ensure that adequate land areas are designated for development of regional and community retail trade and services.*

**Findings:** The above policies support the proposed amendments. The purpose of the proposed amendment to the definitions and C-3 zone is to define and provide opportunities for the sale of marijuana in compliance with state law and the regulations of a controlled substance. As proposed the amendments restrict said facilities from locating in close proximity to schools and residential areas with large populations of minors.

B. Transportation Plan Conformance

The Comprehensive Plan policies related to transportation are in the Sutherlin Transportation System Plan (TSP).

**Findings:** The amendments do not involve new, site specific development that would require a Traffic Impact Study. It is presumed that the traffic generated from said facilities will be similar to small retail uses already permitted in the C-3 zone. The City finds that the code amendments will not cause a change in the existing level of service to any city, county or state street. The requested amendments do not conflict with the requirements of the Sutherlin TSP.

*Criteria 2: For a proposed amendment to a land use plan text the amendment must be consistent with the applicable statewide planning goals and city comprehensive plan including inventory documents and facility plans incorporated herein.*

**Findings:** The subject amendments do not include an amendment to the Sutherlin Comprehensive Plan text therefore, this criterion is not applicable.

## V. CONCLUSION

The City finds the subject amendments are desirable, appropriate and in compliance with city and state planning policies, rules and plans.

## VI. ACTION ALTERNATIVES

1. Close the public hearing, deliberate and pass a motion to **recommend approval** of the proposed marijuana-related amendments to the Sutherlin Development Code.
2. Pass a motion to **continue the public hearing** to a specified date and time, or to close the public hearing and to leave the record open to a specified date and time for submittal of additional evidence and rebuttal.
3. Close the public hearing, deliberate and pass a motion to **recommend denial** of the proposed marijuana-related amendments on the grounds that the proposal does not satisfy the applicable approval criteria.

## VII. EXHIBITS

- A. DLCDD Notice of Proposed Amendment.
- B. Planning Commission & City Council Public Hearing notice



## NOTICE OF A PROPOSED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.:

Received:

Local governments are required to send notice of a proposed change to a comprehensive plan or land use regulation **at least 35 days before the first evidentiary hearing**. (See [OAR 660-018-0020](#) for a post-acknowledgment plan amendment and [OAR 660-025-0080](#) for a periodic review task). The rules require that the notice include a completed copy of this form.

Jurisdiction: **City of Sutherlin**Local file no.: **ZBEH-TA-2015-01**

Please check the type of change that best describes the proposal:

- Urban growth boundary (UGB) amendment** including more than 50 acres, by a city with a population greater than 2,500 within the UGB
- UGB amendment** over 100 acres by a metropolitan service district
- Urban reserve designation**, or amendment including over 50 acres, by a city with a population greater than 2,500 within the UGB
- Periodic review task** – Task no.:
- Any other change** to a comp plan or land use regulation (*e.g.*, a post-acknowledgement plan amendment)

Local contact person (name and title): David Doughman, City Attorney

Phone: 503-226-7191 E-mail: david@gov-law.com

Street address: 1750 SW Harbor Way, #380 City: Portland Zip: 97201-

**Briefly summarize the proposal** in plain language. Please identify all chapters of the plan or code proposed for amendment (maximum 500 characters):

**The city is amending its development code to impose land use restrictions on marijuana dispensaries. A staff report will be available a week before the first hearing and interested persons may obtain a copy from the city recorder. THE DATE OF THE HEARING HAS BEEN CHANGED FROM APRIL 1 TO APRIL 6.**

Date of first evidentiary hearing: 04/06/2015

Date of final hearing: 04/06/2015

- This is a revision to a previously submitted notice. Date of previous submittal: 02/25/2015

Check all that apply:

- Comprehensive Plan text amendment(s)
- Comprehensive Plan map amendment(s) – Change from \_\_\_\_\_ to \_\_\_\_\_  
Change from \_\_\_\_\_ to \_\_\_\_\_
- New or amended land use regulation
- Zoning map amendment(s) – Change from \_\_\_\_\_ to \_\_\_\_\_  
Change from \_\_\_\_\_ to \_\_\_\_\_
- An exception to a statewide planning goal is proposed – goal(s) subject to exception:
- Acres affected by map amendment:

Location of property, if applicable (site address and T, R, Sec., TL): N/A

List affected state or federal agencies, local governments and special districts: N/A



# NOTICE OF A PROPOSED CHANGE – SUBMITTAL INSTRUCTIONS

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1. Except under certain circumstances,<sup>1</sup> proposed amendments must be submitted to DLCD's Salem office at least 35 days before the first evidentiary hearing on the proposal. The 35 days begins the day of the postmark if mailed, or, if submitted by means other than US Postal Service, on the day DLCD receives the proposal in its Salem office. **DLCD will not confirm receipt of a Notice of a Proposed Change unless requested.**

2. A Notice of a Proposed Change must be submitted by a local government (city, county, or metropolitan service district). DLCD will not accept a Notice of a Proposed Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of a Proposed Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 1 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

Attention: Plan Amendment Specialist  
Dept. of Land Conservation and Development  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540

This form is available here:

<http://www.oregon.gov/LCD/forms.shtml>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us) with the subject line "Notice of Proposed Amendment."

Submittals may also be uploaded to DLCD's FTP site at [http://www.oregon.gov/LCD/Pages/papa\\_submittal.aspx](http://www.oregon.gov/LCD/Pages/papa_submittal.aspx).

E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 1 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of a Proposed Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or.xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

6. **Text:** Submittal of a Notice of a Proposed Change for a comprehensive plan or land use regulation text amendment must include the text of the amendment and any other information necessary to advise DLCD of the effect of the proposal. "Text" means the specific language proposed to be amended, added to, or deleted from the currently acknowledged plan or land use regulation. A general description of the proposal is not adequate. The notice may be deemed incomplete without this documentation.

7. **Staff report:** Attach any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained.

8. **Local hearing notice:** Attach the notice or a draft of the notice required under ORS 197.763 regarding a quasi-judicial land use hearing, if applicable.

9. **Maps:** Submittal of a proposed map amendment must include a map of the affected area showing existing and proposed plan and zone designations. A paper map must be legible if printed on 8½" x 11" paper. Include text regarding background, justification for the change, and the application if there was one accepted by the local government. A map by itself is not a complete notice.

10. **Goal exceptions:** Submittal of proposed amendments that involve a goal exception must include the proposed language of the exception.

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<sup>1</sup> 660-018-0022 provides:

- (1) When a local government determines that no goals, commission rules, or land use statutes apply to a particular proposed change, the notice of a proposed change is not required [a notice of adoption is still required, however]; and
- (2) If a local government determines that emergency circumstances beyond the control of the local government require expedited review such that the local government cannot submit the proposed change consistent with the 35-day deadline, the

local government may submit the proposed change to the department as soon as practicable. The submittal must include a description of the emergency circumstances.

If you have any questions or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0017 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

**Notice checklist. Include all that apply:**

- Completed Form 1
- The text of the amendment (e.g., plan or code text changes, exception findings, justification for change)
- Any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained
- A map of the affected area showing existing and proposed plan and zone designations
- A copy of the notice or a draft of the notice regarding a quasi-judicial land use hearing, if applicable
- Any other information necessary to advise DLCD of the effect of the proposal

**Affidavit of Publication**

**The News-Review**  
OF DOUGLAS COUNTY

Roseburg, Oregon

ISSUED DAILY EXCEPT MONDAY

STATE OF OREGON }  
COUNTY OF DOUGLAS } ss.

I, SAM HOLLENBECK, being first duly sworn, depose and say that I am the Business Manager, of The News-Review, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Roseburg in the aforesaid county and state; that the

**#2104 Legal Notice of**

**Marijuana Code Provisions Hearing**

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for 1 successive and consecutive days in the following issue:

March 18, 2015.

The fee actually charged by such newspaper for such publication is \$ 183.20.

Subscribed and sworn to before me this 18<sup>th</sup> day of March, 2015.

Notary Public of Oregon



**NOTICE OF PUBLIC HEARING**  
**NOTICE IS HEREBY GIVEN** that the Sutherlin Planning Commission will conduct a public hearing on Monday, April 6, 2015, at 6:00 PM in the Sutherlin Civic Auditorium, 175 East Everett Street, East Everett, Oregon.  
**AND NOTICE IS HEREBY GIVEN** that the Sutherlin City Council will conduct a public hearing on Monday, April 6, 2015, at 7:00 PM in the Sutherlin Civic Auditorium, 175 East Everett Street.  
The purpose of the hearings is to take public testimony, either written or oral, with the use of code amendment, use code provisions, etc. (Mariano dispensary).  
The City of Sutherlin is proposing an amendment to the Sutherlin Development Code as follows:  
Amend title 16, Sutherlin Municipal Code, Commercial Use, table 2, 10, to permit retail marijuana dispensaries in the Commercial C-3 Zone, subject to special standards.  
Persons who can demonstrate that they are affected by the proposed land use action, may request that status in this matter by filing a written statement with the Sutherlin Planning Department, appearing at the hearing and requesting party status. Written statements must contain the name, address and telephone number of the person filing the statement.  
Now the person qualifies as a party. Comments the party wishes to make concerning the application, and whether the person desires to appear and be heard at the hearing. Written statements must be filed with the City Planner, 126 Central Avenue, Sutherlin, Oregon 97479 no later than 5:00 PM on April 6, 2015.  
The public hearings will include presentation to the staff report and presentations by the City of Sutherlin and qualifying parties in support of the application. Qualifying parties in opposition will then be heard. Failure of an issue to be raised at the hearing, whether in writing or by oral testimony or failure to provide statements or evidence in sufficient specificity to afford the planning commission and parties an opportunity to respond to the issue, will preclude an appeal on that issue and may increase the applicant's standing in the event an appeal is filed. Copies of the staff report and all other documents to be used by the City to make its decision will be available for inspection at City Hall at no cost seven days prior to the hearing.  
Photocopies will be provided to interested parties at a reasonable cost. For more information on this application, contact Vicki Lythe, Community Development Director, at (541) 459-2856 during normal business hours.  
**AMERICANS WITH DISABILITY ACT NOTICE**  
**PLEASE CONTACT THE OFFICE OF THE CITY RECORDER, 126 CENTRAL AVENUE, SUTHERLIN, OREGON 97479 (541) 459-2856 AT LEAST 48 HOURS PRIOR TO THE SCHEDULED MEETING TIME IF YOU NEED AN ACCOMMODATION. TDD USERS: PLEASE CALL OREGON TELECOMMUNICATIONS RELAY SERVICE AT 1-800-475-8749.**

March 31, 2015

To: Vicki Luther, Community Development Director  
From: Carole Connell, City Planner

### **Purpose and Summary of Marijuana Amendments**

The State of Oregon, functioning through the State Legislature's adoption of Senate Bill 1531 in March of 2014, directed that medical marijuana facilities (MMJ) shall be permitted in communities throughout Oregon, established the terms and conditions for such placement, and delegated rule making and administrative authority for the program to the Oregon Health Division. Immediately following the initial adoption, the legislature provided for local governments a process to adopt a moratorium on placement for up to one year. The City declared a moratorium on medical marijuana facilities until May 1, 2015.

As the moratorium deadline comes to an end the City has three options:

1. To prohibit such uses based on the provisions of the zoning code that require all businesses to be in compliance with state, federal and local laws, a position that is litigating now in other communities; or
2. Allowing the facilities to be placed where directed by the state law; or
3. Enacting local provisions to regulate time, place and manner for such sales.

During the period of the moratorium, Oregon voters adopted Ballot Measure 91 in November of 2014. The measure provides for the recreational sale, possession, growing and use of marijuana, and also enabled facilities that may be placed in communities for the sale of the products.

The City is faced with a basic policy decision on whether or not to proceed in developing "time, place and manner" regulations for the industry, resolving conflicts with existing code provisions for business licensing, and specifically designating the land use code provisions that will be applicable to the four types of defined marijuana businesses and licenses in the measure including retail, wholesale, processing, and production.

In each case, the City may elect to establish standards that exceed those contained in the measures, if there are findings based on nuisance law that this business will be more disruptive, has the potential to create issues, or may require additional regulation due to the nature and character of the clients or the basic business. The OLCC will be developing regulations around producing (growing), processing and wholesaling of marijuana in months ahead. The City has determined they can wait for those and other rules adopted by the state before proceeding beyond the development of zoning standards for medical and recreational sales.

In any case, doing nothing will allow medical and retail marijuana sales anywhere the state rules allow for. An outright prohibition has a very good chance of being litigated. Cities and LOC are following the Cave Junction lawsuit to determine if outright prohibition is legal..

The Oregon Medical Marijuana Act provides for minimum spacing and distance from certain facilities, along with provisions for zones in which medical marijuana facilities may be placed. The statutory provisions are as follows:

HB1531 Enrolled provides in part:

- “(3) To qualify for registration under this section, a medical marijuana facility:**
- (a) Must be located in an area that is zoned for commercial, industrial or mixed use or as agricultural land and may not be located at the same address as a marijuana grow site;**
  - (b) Must be registered as a business or have filed a pending application to register as a business with the Office of the Secretary of State;**
  - (c) Must not be located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors;**
  - (d) Must not be located within 1,000 feet of another medical marijuana facility;**
  - and**
  - (e) Must comport with rules adopted by the authority ....”**

An interpretive document produced by Oregon Health Authority in the form of Questions and Answers, identifies the State definition of what constitutes a “school” as provided in the act:

**What kinds of schools do dispensaries need to be 1,000 feet away from?**

**A.** Private or public schools, primary, secondary, or career schools.

- Primary – institutions containing any combination of grades kindergarten through 8th or age level equivalent
- Secondary – institutions containing any combination of grades 9th through 12th or age level equivalent, including junior high schools which include 9th grade
- Career – private, proprietary, professional, technical, business or other schools of instruction, organizations or persons offering any instruction or training for the purpose or purported purpose of instruction, training or preparing persons for any profession at a physical location attended primarily by minors

Absent from this definition is any consideration for day care or similar minor facilities, or for parks and playgrounds.