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UMATILLA COUNTY RECORDS

THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

In the Matter of Land Use)
Regulation of Marijuana Within) ORDINANCE NO. 2015-07
Umatilla County)

WHEREAS the Board of Commissioners has ordained Ordinance No. 83-04, adopting the County Land Development Ordinance, codified in Chapter 152 of the Umatilla County Code of Ordinances;

WHEREAS on April 2, 2014, the Board of Commissioners adopted Ordinance No. 2014-02, imposing a moratorium on Marijuana Dispensaries in Umatilla County, through May 1, 2015, which was continued to December 31, 2015 under Ordinance No. 2015-02;

WHEREAS on April 17, 2014, the Board of Commissioners created and appointed a Umatilla County Marijuana Dispensary Study Committee to review the options available to Umatilla County for the regulation of marijuana dispensaries and to provide to the Board available alternatives prior to the expiration of the period for the moratorium;

WHEREAS the 2015 Oregon Legislature adopted House Bill 3400, Chapter 614, 2015 Oregon Laws, providing for local opt out of any one or more category of marijuana business, and authorizing reasonable regulations on marijuana businesses and restricting certain marijuana related uses in exclusive farm zones;

WHEREAS the Umatilla County Marijuana Study Committee made two formal recommendations to the Board of Commissioners, set out in its July 29, 2015 Memorandum: (1) Follow the "opt out" provisions set forth in HB 3400A and continue with the moratorium on medical marijuana dispensaries and recreational marijuana, and (2) Adopt land use code changes;

WHEREAS on August 5, 2015, the Board of Commissioners adopted Ordinance No. 2015-06, prohibiting marijuana processing sites, medical marijuana dispensaries, marijuana producers, marijuana processors, marijuana wholesalers, and marijuana retailers registered and licensed under State law;

WHEREAS the Umatilla County Planning Commission held a public hearing on April 23, 2015, continued to July 23, 2015, regarding proposed amendments to define medical marijuana and recreational marijuana and related land uses to clarify allowed uses and exemptions related to marijuana, and forwarded the proposed amendments to the Board of Commissioners with a recommendation for adoption;

WHEREAS the Board of Commissions held a public hearing on September 22, 2015, to consider the proposed amendments, and voted to approve the amendments to the Land Development Ordinance.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains the adoption of the following amendments to the County Land Development Ordinance, codified in Chapter 152 of the Umatilla County Code of Ordinances, to amend as follows (Strikethrough text is deleted; Underlined/Italicized text is added):

§152.003 DEFINITIONS.

FARM USE. *UCDO definition of farm Use is the same as ORS 215.203. HB 3400A Section 34 makes clear that marijuana is a farm use as defined in ORS 215.203.*

HEMP OR INDUSTRIAL HEMP. *Hemp or industrial hemp shall have the same meaning as defined in ORS 571.305. Growing of Hemp requires a permit from the Oregon Department of Agriculture. Hemp is prohibited in residential zones.*

MEDICAL MARIJUANA DISPENSARY (MMJ) OR LABORATORY. *A Medical Marijuana Dispensary shall be the same as defined in OAR 333-008-1050 and licensed by the Oregon Health Authority and registered as a business with the Office of the Secretary of State.*

MEDICAL MARIJUANA (MMJ) GROW FACILITY OR OPERATION PROPERTY. *A Medical Marijuana (MMJ) Grow Site or Grow operation shall be the same as defined*

in OAR 333 Division 8 where a single parcel of land is used as a grow operation for more than four MMJ cardholders (or patients). A medical marijuana grow facility may also be defined as an operation (single parcel of land) where marijuana is grown for four or more medical marijuana cardholders or persons who consume marijuana for medical purposes.

MEDICAL MARIJUANA PROCESSING FACILITY. *A Medical Marijuana Processing Facility is a place where marijuana is processed for human consumption.*

PAIN MANAGEMENT CLINIC. *A pain management clinic is a business or clinic where professional treatment is provided to persons who have chronic pain or addictions.*

RECREATIONAL MARIJUANA. *Recreational marijuana is marijuana consumed for non-medical purposes. The definition shall be the same as defined in (Measure 91, Oregon Revised Statutes) and as*

subsequently amended in Oregon Revised Statute. The growing, harvesting or processing of marijuana for recreational purposes is considered a for-profit business.

RECREATIONAL MARIJUANA BUSINESS. A recreational marijuana facility or business is a place where marijuana is sold or traded for profit and intended for non-medical purposes.

§ 152.056 USES PERMITTED OUTRIGHT.

In an EFU zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to § 152.007:

(A) Farm use, as defined in ORS 215.203 and set out in § 152.003, except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.283(1). For the purpose of this section, farm use does not include customary accessory uses and structures (e.g. corrals, pens, barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators and chemical storage), which are permitted subject to approval of a zoning permit per § 152.026.

Notwithstanding (A) above, the following are not permitted uses in the EFU Zone:

(1) A new dwelling used in conjunction with a marijuana crop;

(2) A farm stand in conjunction with a marijuana crop; and

(3) A commercial activity carried on in conjunction with a marijuana crop.

§ 152.081 USES PERMITTED OUTRIGHT.

In a GF Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to §§ 152.007:

(A) Farm use, as defined in ORS 215.203 and § 152.003, except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.283(1). For the purpose of this section, farm use does not include customary accessory uses and structures (e.g. corrals, pens, barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators and chemical storage), which are permitted subject to approval of a zoning permit per § 152.026.

Notwithstanding (A) above, the following are not permitted uses in the GF Zone:

(1) A new dwelling used in conjunction with a marijuana crop;

(2) A farm stand used in conjunction with a marijuana crop; and

(3) A commercial activity carried on in conjunction with a marijuana crop.

§152.102 USES PERMITTED

(A) Uses permitted outright. In a NR Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to §152.027: farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals or hogs; the growing, harvesting and processing of marijuana in accordance with

Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

§ 152.116 USES PERMITTED.

(A) Uses permitted outright. In a UC Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in § 152.003, except livestock feed yards and sales yards; hog or poultry farms and the raising of fur bearing animals or hogs; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(9). For the purpose of this section, FARM USE includes customary accessory uses (e.g. corrals, pens, barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators, or personal use chemical storage facilities);

§ 152.131 USES PERMITTED.

(A) Uses permitted outright. In a RR-2 Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in § 152.003, except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals or hogs; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and except the dwelling and other buildings customarily provided in

conjunction with farm use referred to in ORS 215.203(2)(a).

§ 152.156 USES PERMITTED.

(A) Uses permitted outright. In a RR-4 Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in § 152.003, except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals or hogs; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

§ 152.161 USES PERMITTED.

(A) Uses permitted outright. In a RR-10 Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to §152.027:

(1) Farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards and sale yards; hog or poultry farms and the raising of fur bearing animals or hogs; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

§ 152.171 USES PERMITTED.

(A) Uses permitted outright. In a MUF Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards, mink farms, poultry farms, the raising of hogs, and the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes;

§ 152.216 USES PERMITTED.

(A) Uses permitted outright. In an FR Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards, mink farms, poultry farms, the raising of hogs, and the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes;

§ 152.231 USES PERMITTED.

(A) Uses permitted outright. In a MR Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use as defined in ORS 215.203 and set out in § 152.003, excluding livestock feed yards, mink farms, poultry farms, the raising of hogs; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and private or public schools;

§ 152.239 LIMITATIONS ON USE.

(A) Retail Sales & Service Uses in the DI Zone. Retail sales and service uses permitted in the DI Zone are subject to the following limitations:

(1) A maximum of 5 percent of the developable acreage within the Depot Industrial Zone (excluding the restricted area of Subarea 3) may be allocated to retail and service uses.

(2) Retail and service uses may only be located in Subarea 1.

(B) Use Limitations in Portion of Subarea 3. Retail sales and service uses permitted in the DI Zone are subject to the following limitations:

(1) A portion of Subarea 3 (Coyote Coulee) will not be available for industrial development because on-going environmental monitoring requirements and habitat values.

(2) The limited use area is shown with cross-hatch on Figure 1.

(C) General Limitations on all uses.

(1) A use is prohibited and shall be in violation of this chapter if it violates an environmental quality statutes or regulation of the state or federal government.

(2) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard.

(3) Points of access from a public street

or county road to properties in the Depot Industrial Zone shall be located so as to minimize traffic congestion and shall comply with the county Transportation System Plan and obtain necessary Road Access Permits.

(D) The growing, harvesting or processing of marijuana is prohibited in this zone.

§ 152.248 LIMITATIONS ON USES.

In the RSC Zone, the following limitations and conditions shall apply:

(A) Outside storage areas shall be screened with a site obscuring fence so that the area shall not be exposed to view from without the property;

(B) Outside display of any scrap or salvage material shall be prohibited.

(C) The growing, harvesting or processing of marijuana is prohibited in this zone.

§ 152.254 LIMITATIONS ON USES.

In the RRSC Zone, the following limitations and conditions shall apply:

(A) Outside storage areas shall be screened with a site obscuring fence so that the area shall not be exposed to view from without the property;

(B) Outside display of any scrap or salvage material shall be prohibited.

(C) Except as provided in Paragraphs D through F of this Section, buildings shall not

exceed 3,500 square feet of floor space.

(D) Greenhouses, nurseries, mobile home parks, travel trailer parks, and animal hospitals or veterinary clinics primarily devoted to the treatment of large animals may have buildings in excess of 3,500 square feet of floor space.

(E) New hotels and motels are allowed up to a maximum of 35 units, with no limitation on square footage.

(F) Structures that existed on July 1, 2005 may expand to a building size of 4,500 square feet or to a size that is 50% larger than the building size that existed on July 1, 2005, whichever is larger.

(G) Notwithstanding the size limitations for structures contained in this chapter, a lawfully approved or lawfully constructed structure existing as of July 1, 2005 shall not be considered a non-conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.

(H) The growing, harvesting or processing of marijuana is prohibited in this zone.

§ 152.261 USES PERMITTED.

(A) Uses permitted outright. In a CRC Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to § 152.027:

(1) Farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards and sale yards; hog or poultry farms; the raising of fur bearing

animals; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

§ 152.278 LIMITATIONS ON USES.

In the TC Zone, the following limitations on uses shall apply:

(A) Outside storage areas shall be screened with a site obscuring fence so that the area shall not be exposed to view from the traveling public and surrounding properties;

(B) Storage of scrap or salvage materials shall be prohibited.

(C) The growing, harvesting or processing of marijuana is prohibited in this zone.

§ 152.284 LIMITATIONS ON USES.

In the RTC Zone, the following limitations on uses shall apply:

(A) Outside storage areas shall be screened with a site obscuring fence so that the area shall not be exposed to view from the traveling public and surrounding properties;

(B) Storage of scrap or salvage materials shall be prohibited.

(C) Except as provided in Paragraphs D and E of this Section, buildings shall not exceed 3,500 square feet of floor space.

(D) Motels and hotels that existed on July 1, 2005 may expand up to 35 units or up to 50% of the number of existing units, whichever is larger, with no limitation on square footage.

(E) Structures that existed on July 1, 2005 may expand to a building size of 4,500 square feet or to a size that is 50% larger than the building size that existed on July 1, 2005, whichever is larger.

(F) Notwithstanding the size limitations for structures contained in this chapter, a lawfully approved or lawfully constructed structure existing as of July 1, 2005 shall not be considered a non-conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.

(G) The growing, harvesting or processing of marijuana is prohibited in this zone.

§ 152.291 USES PERMITTED.

(A) Uses permitted outright. In an AB Zone, the following uses and their accessory uses are permitted without a zoning permit pursuant:

(1) Farm use as defined in ORS 215.203 and set out in §152.003, except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

§ 152.304 LIMITATIONS ON USE.

(A) All business, commercial and industrial activities, and storage allowed in an LI, Light Industrial, Zone shall be conducted wholly within a building or shall be screened from view from adjacent public roads or surrounding properties in farm, residential or commercial zones, unless the entire activity is conducted more than 500 feet from said surrounding property or road. Outdoor storage of farm and forest products or equipment shall not be subject to this limitation;

(B) All off street loading areas shall be screened from view if adjoining properties are in a residential zone;

(C) All noise, vibration, dust, odor, smoke, appearance or other objectionable factors involved in any activity shall comply with appropriate state and federal regulations.

(D) The growing, harvesting or processing of marijuana is prohibited in this zone.

§152.310 LIMITATIONS ON USE.

(A) All business, commercial and industrial activities, and storage allowed in an RLI, Rural Light Industrial, Zone shall be conducted wholly within a building or shall be screened from view from adjacent public roads or surrounding properties in residential or commercial zones, unless the entire activity is conducted more than 500 feet from said surrounding property or road. Outdoor storage of farm and forest products or equipment shall not be subject to this limitation;

(B) All off street loading areas shall be screened from view if adjoining properties are in a residential zone;

(C) All noise, vibration, dust, odor, smoke, appearance or other objectionable factors involved in any activity shall comply with appropriate state and federal regulations.

(D) A lawfully approved or lawfully constructed structure existing as November 12, 2005 shall not be considered a non-conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.

(E) The growing, harvesting or processing of marijuana is prohibited in this zone.

§152.316 LIMITATIONS ON USE.

(A) All business, commercial and industrial activities, and storage allowed in an LRLI, Limited Rural Light Industrial Zone shall be conducted wholly within a building or shall be screened from view from adjacent public roads or surrounding properties in farm, residential or commercial zones, unless the entire activity is conducted more than 500 feet from said surrounding property or road. Outdoor storage of farm and forest products or equipment shall not be subject to this limitation;

(B) All off street loading areas shall be screened from view if adjoining properties are in a residential zone;

(C) All noise, vibration, dust, odor, smoke, appearance or other objectionable factors

involved in any activity shall comply with appropriate state and federal regulations.

(D) Expansion of structures that existed on November 12, 2005, shall be permitted under the following circumstances:

(1) If the use is not subject to a size limitation there shall be no limitations on expansion.

(2) If the use is subject to a size limitation, the use may expand to a building size of 40,000 square feet or to a size that is 50% larger than the building size that existed on November 12, 2005, whichever is larger

(E) Notwithstanding the size limitations for structures contained in this section, a lawfully approved or lawfully constructed structure existing as November 12, 2005, shall not be considered a non conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.

(F) The growing, harvesting or processing of marijuana is prohibited in this zone.

§ 152.323 LIMITATIONS ON USE.

(A) A use is prohibited which has been declared a nuisance by statute, by action of Commissioners or by a court of competent jurisdiction;

(B) A use is prohibited and shall be in violation of this chapter if it violates an environmental quality statute or regulation of the state or federal government;

(C) Materials shall be stored and grounds

shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard;

(D) Points of access from a public street or county road to properties in a HI Heavy Industrial Zone shall be located so as to minimize traffic congestion and direct traffic away from residential streets.

(E) The growing, harvesting or processing of marijuana is prohibited in this zone.

§152.329 LIMITATIONS ON USE.

(A) A use is prohibited which has been declared a nuisance by statute, by action of Commissioners or by a court of competent jurisdiction;

(B) A use is prohibited and shall be in violation of this chapter if it violates an environmental quality statute or regulation of the state or federal government;

(C) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard;

(D) Points of access from a public street or county road to properties in an RHI Rural Heavy Industrial Zone shall be located so as to minimize traffic congestion and direct traffic away from residential streets.

(E) The growing, harvesting or processing of marijuana is prohibited in this zone.

§ 152.334A LIMITATIONS ON USE.

(A) A use is prohibited which has been declared a nuisance by statute, by action of Commissioners or by a court of competent jurisdiction;

(B) A use is prohibited and shall be in violation of this chapter if it violates an environmental quality statute or regulation of the state or federal government;

(C) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard;

(D) Points of access from a public street or county road to properties in an LRHI Limited Rural Heavy Industrial Zone shall be located so as to minimize traffic congestion and direct traffic away from residential streets.

(E) Expansion of structures that existed on the date of this ordinance shall be permitted under the following circumstances:

(1) If the use is not subject to a size limitation there shall be no limitations on expansion.

(2) If the use is subject to a size limitation, the use may expand to a building size of 40,000 square feet or to a size that is 50% larger than the building size that existed on the date of adoption of this ordinance, whichever is larger

(F) Size limits on uses permitted in the LRHI Zone shall not apply to any properties for which an exception to Statewide Planning

Goal 14, Urbanization, has been approved.

(G) Notwithstanding the size limitations for structures contained in this ordinance, a lawfully approved or lawfully constructed structure existing as of the effective date of this ordinance shall not be considered a non conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.

(H) The growing, harvesting or processing of marijuana is prohibited in this zone.

§ 152.336 USES PERMITTED.


(A) Uses permitted outright. In a FU-10 Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in § 152.003, except livestock feed yards and sales yards; hog or poultry farms; the raising of fur-bearing animals; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm uses referred to in ORS 215.203(2)(a).


By unanimous vote of those present, the Board of Commissioners deems this Ordinance necessary for the immediate preservation of public peace, health, and safety; therefore, it is adjudged and decreed that an emergency does exist in the case of this Ordinance and it shall be in full force and effect from and after its adoption.

DATED this 22nd day of September, 2015.

UMATILLA COUNTY BOARD OF COMMISSIONERS


George L. Murdock, Chair


W. Lawrence Givens, Commissioner


William J. Elfering, Commissioner



ATTEST:
OFFICE OF COUNTY RECORDS


Records Officer

