

**AGENDA**  
**Aurora Planning Commission Meeting**  
Tuesday, August 4, 2015, at 7:00 P.M.  
City Council Chambers, Aurora City Hall  
21420 Main Street NE, Aurora, OR 97002

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**1. CALL TO ORDER OF THE AURORA PLANNING COMMISSION MEETING**

**2. CITY RECORDER DOES ROLL CALL**

**3. CONSENT AGENDA**

- a) Planning Commission – July, 2015
- b) City Council Minutes – NA, 2015
- c) Historic Review Board Meeting Minutes – June , 2015

**4. CORRESPONDENCE –**

- a) DLCDC Legislative Report for 2015
- b) DLCDC Directors Report for 2015

**5. VISITORS**

Anyone wishing to address the Aurora Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Aurora Planning Commission could look into the matter and provide some response in the future.

**6. PUBLIC HEARING**

- a) Discussion and or Action Comprehensive Plan Map Amendment (CPMA-2015-01) Zone Change (ZC 2015-01) for 21348 Hwy 99E.

**7. NEW BUSINESS**

- a) Discussion and or Action on Code Sections 16.36.050, 16.52.040, 10.08.040, 10.08.100 referencing parking, storage and RV parking & storage.

**8. OLD BUSINESS**

- a) Discussion and or Action on Medical and or Recreational Marijuana.
- b) Discussion and or Action on Aurora Corridor Study.

**9. Commission Action/Discussion**

- a) City Planning Activity (In Your Packets) Status of Development Projects within the City.

**10. ADJOURN**

**Minutes**  
**Aurora Planning Commission Meeting**  
Tuesday, July 7, 2015, at 7:00 P.M.  
City Council Chambers, Aurora City Hall  
21420 Main Street NE, Aurora, OR 97002

**STAFF PRESENT** Kelly Richardson, City Recorder

**STAFF ABSENT:** Renata Wakeley, City Planner

**VISITORS PRESENT:** None

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**1. CALL TO ORDER OF THE CITY COUNCIL MEETING**

Meeting was called to order by Chairman Schaefer at 7:01 pm

**2. CITY RECORDER DOES ROLL CALL**

Chair Schaefer - Present  
Commissioner McNamara- Present  
Commissioner Fawcett - Absent  
Commissioner Gibson - Present  
Commissioner Rhoden-Feely - Present  
Commissioner Weidman - Absent  
Commissioner TBA

**3. CONSENT AGENDA**

- a) Planning Commission Minutes – May, 2015
- b) City Council Meeting Minutes – April, 2015
- c) Historic Review Board Minutes – April, 2015

Motion to approve the consent agenda as presented was made by Commissioner Gibson and is seconded by Commissioner McNamara. Motion approved by all.

**4. CORRESPONDENCE –**

- a) Supreme Court Commercial Sign Decision, Ed Sullivan
- b) Raison Grower sued and won. Chair Scheafer explains that this issue really had more to do with the takings law.

**5. VISITORS**

Anyone wishing to address the Aurora Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Aurora Planning Commission could look into the matter and provide some response in the future.

Aaron Ensign, informs the group that he is interested in the position on Planning and gives a brief history. He states that he has a background in property development and has volunteered in various school activities.

A motion is made to recommend Aaron Ensign to City Council for the open position on Planning Commission by Chair Schaefer and is seconded by Gibson. Passed by all.

**6. NEW BUSINESS**

- a) Discussion and or Action on Bixler project, Chair Schaefer explains the background regarding the project and the location of the property. The property is located along 99E just in front of the Hazel Nut Factory originally he had divided the lot into 4 sections and now wants to undo that which is basically a re-plat of the property. Since we don't have code for that it would essentially be a partition. The City Planner is handling all of the details and will address it further at the August meeting.

Discussion regarding the Corcoran rezoning and points out that this is a mapping error and at this point we are doing a city initiated rezoning of the property to make it clean and have if corrected properly. There will be a hearing next month.

Let's look at the code language regarding RV's at the August meeting.

**7. OLD BUSINESS**

- a) None

**8. COMMISSION/DISCUSSION**

- a) City Planning Activity (in your packets) Status of Development Projects within the City.

**9. ADJOURN**

Chair Schaefer adjourned the July 7, 2015 Aurora Planning Commission Meeting at 7:52 P.M.

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Chair Schaefer

ATTEST:

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Kelly Richardson, CMC  
City Recorder

**Minutes**  
**Aurora Historic Review Board Meeting**  
Thursday, June 25, 2015, at 7:00 P.M.  
City Council Chambers, Aurora City Hall  
21420 Main Street NE, Aurora, OR 97002

**STAFF PRESENT** Kelly Richardson, CMC City Recorder

**STAFF ABSENT:** None

**VISITORS PRESENT:** Bill Graupp, Mayor  
John Berard, Aurora

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**1. CALL TO ORDER OF THE HISTORIC REVIEW BOARD MEETING**

The meeting of June 25, 2015 was called to order by Chair Abernathy at 7:00 pm

**2. CITY RECORDER DOES ROLL CALL**

Chair Abernathy – Present  
Member Berard - Absent  
Member Frochen – Present  
Member Fraser – Present  
Member Townsend - Absent

**3. CONSENT AGENDA**

- a) Historic Review Board Meeting Minutes – May, 2015, on pg 1 John Berard is spelled incorrectly and then in the last paragraph I change to John Berard.
- b) City Council Minutes – May, 2015
- c) Planning Commission – May, 2015

A motion to approve the Historic Review Board minutes of May 28, 2015, as amended was made by Member Frochen and is seconded by Member Fraser. Passed by all.

**4. CORRESPONDENCE - NA**

**5. VISITORS**

Anyone wishing to address the Historic Review Board concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Historic Review Board could look into the matter and provide some response in the future. No comments were made during this section.

**6. NEW BUSINESS**

- a) Discussion and or Action on Window Application from Michael Sills located at 21328 Hwy 99E.

A motion is made to deny the application as presented based on 17.40.190 as the materials are not consistent with the code by board member Frochen and is seconded by board member Fraser. Motion passed by all.

**7. OLD BUSINESS**

- a) Discussion and or Action on the 2015 CGL Grant no updates at this time except to say that the June progress report has been submitted.

**Action: Look into the vehicles for sale on Ehlen & Airport Rd.**

**8. ADJOURN**

**Chairman Abernathy adjourned the meeting of June 25, 2015 at 7:15 pm.**

  
Gayle Abernathy, Chairman

ATTEST:

  
Kelly Richardson, CMC  
City Recorder

**CITY OF AURORA PLANNING COMMISSION  
STAFF REPORT**

**FILE NUMBER:** ZC-2015-01 and CPMA-2015-01  
**HEARING DATE:** August 4, 2015

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**APPLICANT:** City of Aurora

**OWNER:** Timothy & Susan Corcoran, PO Box 73, Aurora, OR 97002

**REQUEST:** Zone Change and Comprehensive Plan Map Amendment

**SITE LOCATION:** 21348 Hwy 99E, Aurora, OR 97002  
Property ID R98010, Map 041.W.12BA, Tax Lot 3000

**SITE SIZE:** 0.166 acres

**ZONING:** Low Density Residential (R-1) Zone with Historic Residential (HR) Overlay

**COMP PLAN DESIG:** Low Density Residential with Historic District Overlay

**CRITERIA:** Aurora Comprehensive Plan  
Chapter IX. Policies

Aurora Municipal Code (AMC)  
Chapter 16.76 Procedures for Decision Making – Quasi-Judicial

**ENCLOSURES:** Exhibit A: Assessor Map

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**I. REQUEST**

Applicant has requested the following two actions:

- 1) Zone change from Low Density Residential (R-1) with Historic Residential (HR) Overlay to Commercial (C) with Historic Commercial (HC) Overlay; and
- 2) Comprehensive Plan map amendment from Low Density Residential with Historic District to Commercial with Historic District

**II. PROCEDURE**

Procedures and standards dictating review of map amendments and zone changes are provided in AMC 16.80.30. Quasi-judicial amendments shall be in accordance with the procedures set forth in Chapter 16.76. The Council shall decide the applications on the record. A quasi-judicial application may be approved, approved with conditions or denied.

The decision on an amendment to the Comprehensive Plan Map must precede the decision on a proposed zone change. Plan map amendments are not subject to the one hundred twenty (120) day decision making

period prescribed by state law and such amendments may involve complex issues. The applicant requested consolidation of the plan map amendment and a zone change and waived the one hundred twenty (120) day time limit prescribed by state law for zone change and permit applications.

Notice of the August 4, 2015 and August 11<sup>th</sup> hearings was provided on July 23, 2015 to the applicant, owners of the subject property, and all owners of property within 200' of the subject property. Notice was also mailed to the Department of Land Conservation and Development and Aurora Public Works. Appeals are governed by AMC 16.76.260 and 16.78.120 and 16.80.030.

### III. CRITERIA AND FINDINGS

*Subchapter 16.80.030 provides the criteria for amendments to the Code, Comprehensive Plan, and Maps and states quasi-judicial amendments shall be in accordance with the procedures set forth in 16.76. The City Council shall decide the applications on the record. A quasi-judicial application may be approved, approved with conditions, or denied.*

**FINDINGS:** Aurora Municipal Code (AMC) sections 16.76.020 through 16.76.110 outline the procedures for the application process, noticing requirements, approval authorities, and hearings procedures. Noticing requirements are summarized above. The Planning Commission makes a recommendation to the City Council for final decision. Staff finds the criteria under 16.76.020 through 16.76.110 are met.

#### *Aurora Comprehensive Plan, Chapter IX. POLICIES*

##### *J. Historic Resource Policies (Goal 5)*

**Objective:** Protect the community's historic character and sense of identity by conserving buildings and sites of historic significance and increasing the zone of control to include more of the original colony property.

**FINDINGS:** Staff finds the proposed rezone will maintain the historic overlay zone and, based upon input from the property owner, will conserve buildings and properties of historic significance.

##### *K. Economic Policies (Goal 9)*

2. *The City will encourage the preservation and enhancement of the community's historic character.*

**FINDINGS:** The proposed rezone and map amendment affects property located in the City's historic district. The zone change and map amendment will allow a dilapidated residential structure in the historic district to be refurbished and used for commercial purposes. On February 26, 2015, the Historic Review Board (HRB) heard and subsequently approved the property owners request to refurbish the roof, paint, windows, foundation, and doors of the existing structure. Based on the proposed use and the approval of the HRB, Staff finds the request will encourage the preservation and enhancement of the community's historic character.

3. *The City will promote the retention and expansion of existing business activities while promoting the recruitment of new businesses.*

**FINDINGS:** The property abutting the subject property to the north currently houses the Aurora Family Health Clinic. The proposed rezone and map amendment will allow the health clinic to expand into the subject property. Preliminary renderings submitted by the property owner show an expansion and remodel of the existing residential structure on the subject property for the purpose of accommodating the Aurora Family Health Clinic. Upon approval of a rezone and map amendment, the construction and change in use

would be subject to Site Development Review. Staff finds the request will promote retention and expansion of existing business activities.

***Aurora Municipal Code (AMC)***

***16.76 Procedures for Decision Making – Quasi-Judicial***

***16.76.120 Standards for the decision. An application for quasi-judicial comprehensive plan map amendment or zone change shall be based on proof by the applicant that the application fully complies with:***

- 1. Applicable policies of the city comprehensive plan and map designation; and*

**FINDINGS:** Applicable Comprehensive Plan policies are addressed above. Staff finds the request complies with applicable Comprehensive Plan policies and this criteria is met.

- 2. The relevant approval standards found in the applicable chapter(s) of this title, the public works design standards, and other applicable implementing ordinances, including but not limited to, the Aurora Design Review Guidelines for Historic District Properties.*

**FINDINGS:** As stated above, on February 26, 2015, the HRB heard and subsequently approved the property owners request to refurbish the roof, paint, windows, foundation, and doors of the existing structure. Upon approval of the proposed rezone and map amendment, Historic District overlays will continue to apply, and any commercial development will be subject to Site Development Review and the Public Works Design Standards. Staff finds the request meets the criteria.

- 3. In the case of a quasi-judicial comprehensive plan map amendment or zone change, the change will not adversely affect the health, safety and welfare of the community.*

**FINDINGS:** The proposed rezone and map amendment will result in Commercial (C) zoning of the subject property with Historic Commercial Overlay (HCO) zone, which will allow the dilapidated dwelling currently on site to be refurbished and used for commercial purposes. The redevelopment of a vacant and dilapidated structure will remove a potential safety and welfare hazard. Furthermore, preliminary plans for the subject property include an expansion of the neighboring Aurora Family Health Clinic. Notice of the proposed zone change and comprehensive plan map amendment was also mailed to property owners within 200 feet and provided to Aurora Public Works. At the writing on this staff report, Staff had no received written testimony regarding the subject application. Consequently, Staff finds the request will not adversely affect the health, safety, and welfare of the community. Staff finds this criteria is met.

***B. Consideration may also be given to:***

- 1. Proof of a substantial change in circumstances or a mistake in the comprehensive plan or zoning map as it relates to the property which is the subject of the development application; and*
- 2. Factual oral testimony or written statements from the parties, other persons and other governmental agencies relevant to the existing conditions, other applicable standards and criteria, possible negative or positive attributes of the proposal or factors in subsections (A) or (B)(1) of this section.*

**FINDINGS:** Properties to the north, south and west of the subject property are zone Commercial (C) with a Historic Commercial Overlay (HCO) zone. The property owner and Staff were able to locate

documentation regarding the property zoning which conflicts with the current Residential zone shown on City maps and County assessor records. Staff believes that, at some point in the past during a map update, the City inadvertently mislabeled the subject property as Residential with a Historic Residential Overlay as previous land use applications for the subject property have identified it as Commercial with no evidence that the property was rezoned to Residential.

#### **IV. CONCLUSIONS AND RECOMMENDATIONS**

Based on the findings in the staff report, Staff recommends that the Planning Commission **approve** the request, subject to the following conditions of approval:

- 1) Future development shall occur in accordance with plans approved by the city.
- 2) Future development shall comply with all City of Aurora and State of Oregon development, building and fire codes.

#### **V. PLANNING COMMISSION OPTIONS / SAMPLE MOTIONS**

- 1) Recommend the City Council approve the request for Comprehensive Plan Map Amendment and Zone Change (File ZC-2015-01 and CPMA-2015-01) and adopt the findings and conditions contained in the Staff Report.
- 2) Recommend the City Council approve the request for Comprehensive Plan Map Amendment and Zone Change (File ZC-2015-01 and CPMA-2015-01), with findings/conditions as amended by the Planning Commission (stating revised findings/conditions).
- 3) Recommend the City Council deny the request for Comprehensive Plan Map Amendment and Zone Change (File ZC-2015-01 and CPMA-2015-01), with amended findings that the request does not meet the applicable approval criteria.
- 4) Continue the hearing (to a date and time certain) if additional information is needed to determine whether applicable standards and criteria are sufficiently addressed.

04 1W 13BA  
AURORA

MARION COUNTY, OREGON  
NE1/4 NW1/4 SEC13 T4S R1W W.M.  
SCALE 1" = 100'

- LEGEND**
- LINE TYPES**
- Historic Boundary
  - Equipment
  - Electric Line
  - Gas Line
  - Water Line
  - Sanitary Sewer
  - Storm Sewer
  - Telephone
  - Other
- SYMBOL TYPES**
- Survey Monument
  - Section Corner
  - Well
  - Water Meter
  - Electric Meter
  - Other
- NUMBERS**
- Code Number
  - 000 00 00 0

**NOTES**

1. This map is prepared for assessment purposes only.

2. The map is based on the most recent aerial photography available.

3. The map is not to be used for legal purposes.

4. The map is not to be used for engineering purposes.

5. The map is not to be used for surveying purposes.

**CANCELLED NUMBERS**

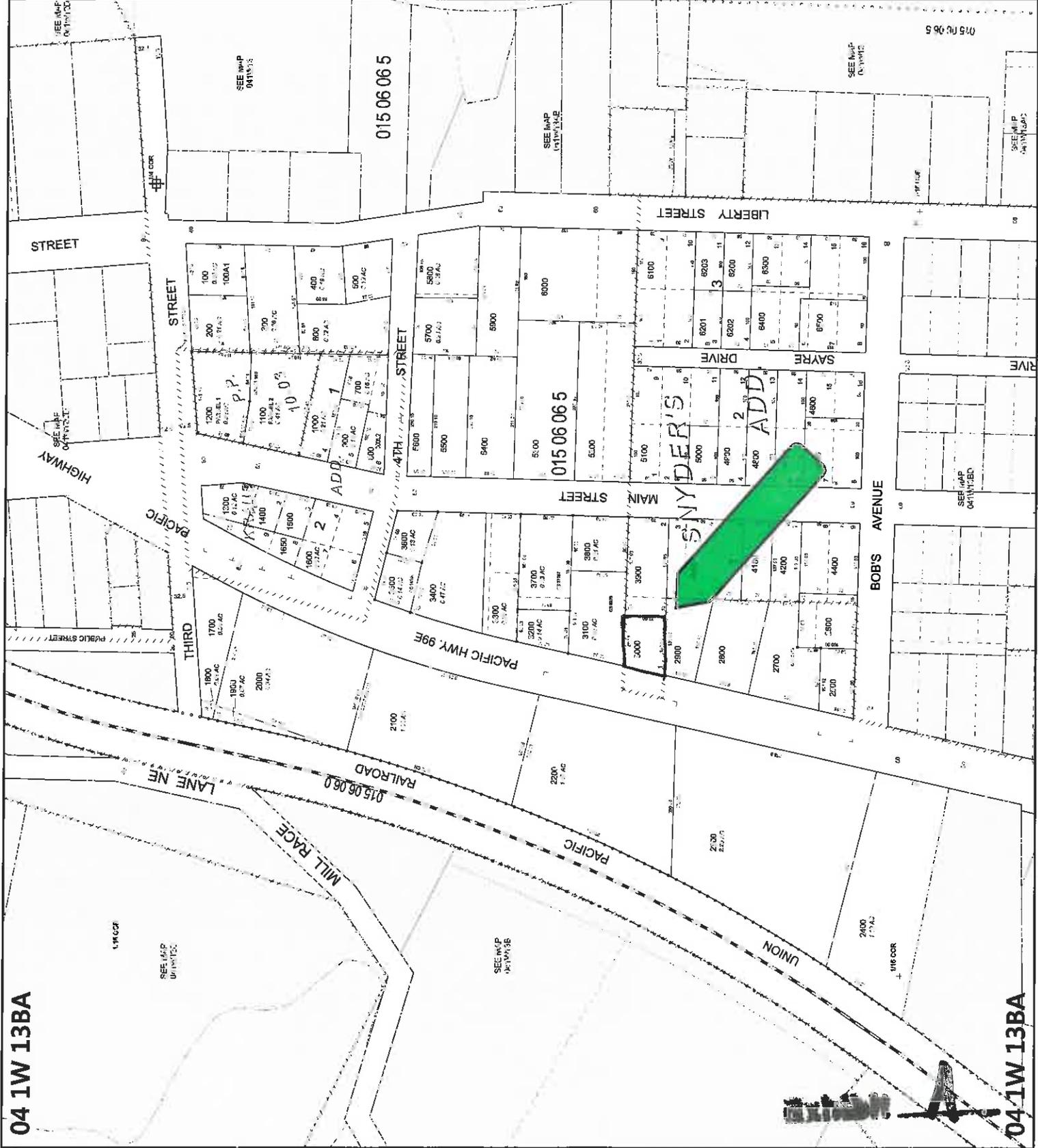
400
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DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY.



FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT  
WWW.CO.MARION.ORG

PLAT DATE: 4/15/2015  
**AURORA**  
04 1W 13BA



## **Agenda Item a) New Business, various code sections referring to parking and or storage of vehicles and RV vehicles.**

### **16.36.050 Occupying recreational vehicles.**

It is unlawful for any recreational vehicle, to be occupied, lived in or otherwise used as a residence within the city, unless such use is specifically approved by the city under Chapter 16.52, except a private, residentially zoned property is permitted to use a recreational vehicle to house non-paying guests no more than a total of ten (10) days in a calendar year.

(Ord. 415 § 7.94.050, 2002)

### **16.52.040**

D. Subject to approval by the Planning Commission, a recreational vehicle may be occupied as a temporary residence in a residential zone when a building permit has been issued for construction of a primary residence on the same lot or parcel.

### **10.08.040 Bus, camper, motor home recreational vehicle and boat restrictions.**

A. No person shall at any time park or leave standing a camper, house trailer, motor bus, motor truck, motor home, boat trailer, vehicle with camper, or recreational vehicle, whether attended or unattended, on any public highway, public street or other public way within the city limits, for a period greater than thirty (30) minutes, between the hours of 12:01 a.m. and 6:00 a.m.

B. A recreational vehicle, house trailer, or motor home may be parked on a public street longer than the period allowed in Section 10.08.040 (A) if;

1. It is owned by the resident or guest of the resident of the property in front of which it is parked, and
2. It is parked on the public street no longer than ten (10) days in any calendar year, and
3. Such vehicle is parked in a manner, which does not interfere with traffic or create a hazard by obstructing the view of drivers. (Ord. 431, 2004; repealing Ord. 352)

### **10.08.100 Storage prohibited.**

Storage of any vehicle on a highway, or upon any public street or public way within the City is prohibited. Parking, for any period of more than seventy-two hours after a complaint is received by the Police Department, except that this subsection shall be subject to the limits elsewhere prescribed in the city motor vehicle regulations or as may be prescribed by the Oregon State Motor Vehicle Code. It shall constitute prima facie evidence of storage of a vehicle if the same is not moved for a period of seventy-two (72) hours. The continuity of the time shall not be deemed broken by movement of the vehicle

when the vehicle leaves the block where it was located. Any vehicle mentioned in this subsection parked on the right-of-way of any highway, or upon any public street or public way within the City in violation of this subsection may be treated as an abandoned vehicle. (Ord. 431, 2004; repealing Ord. 352)

**10.08.060 Violation penalty.**

A. Each day or period of violation as defined in this Chapter that a violation of this Chapter is committed or permitted to continue shall constitute a separate offense with a maximum penalty of \$500.00 per offense, subject to the applicable sections of the Oregon Vehicle Code, and as modified by resolution of the City Council.

B. Any owner, driver, or chauffeur of any vehicle or combination of vehicles using streets in violation of this Chapter shall be jointly and severally liable to the City of Aurora for all damage done to the streets as a result of the any such violation. (Ord. 431, 2004; repealing Ord. 352)

Examples of the ORS and Marion County Codes will be in electronic format only unless specifically requested prior to the meeting.

## 2015 Marijuana Legislation: What Local Governments Need to Know

### Bills

- HB 3400: Omnibus bill that amended the Oregon Medical Marijuana Act and the Measure 91
- HB 2041: Revised the state tax structure for commercial marijuana
- SB 460: Authorized early sales of commercial marijuana by medical marijuana dispensaries
- SB 844: Miscellaneous provisions

### Home Rule

Home rule is the power of a local government to set up its own system of governance and gives that local government the authority to adopt ordinances without having to obtain permission from the state. City governments in Oregon derive home rule authority through the voters' adoption of a home rule charter as provided for in the Oregon Constitution. A home rule charter operates like a state constitution in that it vests all government power in the governing body of a municipality, except as expressly stated in that charter, or preempted by state or federal law. Where the Legislature's intent to preempt local governments is not express and where the local and state law can operate concurrently, there is no preemption. As a result, generally a negative inference that can be drawn from a statute is insufficient to preempt a local government's home rule authority.

Although this document summarizes the provisions of HB 3400A, cities may be able to impose regulations in addition to those authorized under HB 3400A under their home rule authority.

### Local Government Ban (effective June 30, 2015)

#### What Cities Can Ban (HB 3400A §§ 133(2), 134(1))

There are 7 types of marijuana activities regulated under HB 3400A. Cities can ban any of the following 6 marijuana activities:

- Medical marijuana processors (preparing edibles, skin and hair products, concentrates, and extracts)
- Medical marijuana dispensaries
- Commercial marijuana processors (preparing edibles, skin and hair products, concentrates, and extracts)
- Commercial marijuana producers (growers)
- Commercial marijuana wholesalers
- Commercial marijuana retailers

Cities cannot ban medical marijuana grow sites. However, the law places limits on the number of plants and the amount of marijuana that can be located at any one medical marijuana grow site (HB 3400A §§ 82, 82a):

- *General Rule*: 12 mature plants per grow site in residential zones; 48 mature plants per grow site in all other zones

- *Grandfathering*: If all growers at the site had registered with the state by January 1, 2015, the grow site is limited to the number of plants at the grow site as of December 31, 2015, not to exceed 24 mature plants per grow site in residential zones and 96 mature plants per grow site in other zones
- *Usable marijuana*: A grower may possess the amount of usable marijuana harvested from the plants not to exceed 12 pounds per plant for outdoor grow sites and 6 pounds per plant for indoor grow sites.

### How Cities Can Ban

Under HB 3400A, there are two avenues for cities to ban marijuana activities, but one of those avenues is available only to certain cities and only during a limited time period.

#### *Option 1: Voter Referral (HB 3400A § 134)*

All cities have the option of banning any of the marijuana activities listed above through the following voter referral process:

- The city council adopts an ordinance that prohibits any of the 6 marijuana activities listed above.
- The city council provides the text of the ordinance to the Oregon Health Authority (if prohibiting medical marijuana activities) and/or the Oregon Liquor Control Commission (if prohibiting commercial marijuana activities).
- The OHA and OLCC will stop registering and licensing the prohibited activities until the next statewide general election.
- The city council refers the ordinance to the voters at a statewide general election (November elections in even-numbered years).

#### *Option 2: Ban Adopted by the City Council (HB 3400A § 133)*

- A city council can adopt a ban on any of the 6 marijuana activities listed above by enacting an ordinance only if the following conditions are met:
  - The city is located in Baker, Crook, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, or Wheeler County;<sup>1</sup> AND
  - The city council adopts the ordinance by December 24, 2015 (180 days after the effective date of the legislation)
- The city council must provide the text of the ordinance to the Oregon Health Authority (if prohibiting medical marijuana activities) and/or the Oregon Liquor Control Commission (if prohibiting commercial marijuana activities).
- The OHA and OLCC will stop registering and licensing the prohibited activities.

#### Effect on Existing Medical Marijuana Processors & Dispensaries (HB 3400 §§ 133(6), (7), 134(6), (7), 135)

- Dispensaries registered with the state by the time the city adopts a prohibition ordinance, or that had applied to be registered by July 1, 2015, are not subject to the prohibition if they have successfully completed a city or county land use application process.

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<sup>1</sup> HB 3400A allows a city council ban for cities located in counties that voted against Measure 91 by 55 percent or more.

- Medical marijuana processors registered with the state by the time the city adopts the prohibition ordinance are not subject to the prohibition if they have successfully completed a city or county land use application process.

#### Tax Implications (HB 3400A §§ 133(5), 134(5); HB 2041 §14(4))

- *Local Tax:* A city that adopts an ordinance prohibiting marijuana activities in its jurisdiction may not impose a local tax on marijuana. (HB 3400A §§ 133(5), 134(5))
- *State Tax:* A city that adopts an ordinance prohibiting marijuana activities is not eligible to receive state marijuana tax revenues from the 17 percent state tax imposed on commercial sales of marijuana. (HB 2041 § 14(4))
  - Collectively, cities will receive 10% of the state marijuana tax revenues, distributed as follows to cities that do not prohibit marijuana activities (HB 2041 § 14(2)):
    - Before July 1, 2017, distributed proportionately based on population
    - After July 1, 2017, distributed based on the number of licensees in the city, with 50 percent distributed based on the number of producer, processor, and wholesale licensees and 50 percent distributed based on the number of retail licensees

#### **Local Government Tax (HB 3400A § 34a) (operative January 1, 2016)**

#### What Cities Can Tax

Under HB 3400A, cities may impose up to a 3 percent tax on sales made by those with commercial retail licenses.

#### How Cities Can Impose a Tax

Cities may adopt an ordinance imposing the tax, but it must be referred to the voters at the next statewide general election (meaning a November election in an even-numbered year). However, cities may not impose a local tax if they have prohibited marijuana activities through a local ban.

#### **Time, Place, and Manner Restrictions (medical provisions operative March 1, 2016; commercial provisions operative January 1, 2016)<sup>2</sup>**

#### State Law Restrictions

- Medical and Commercial Marijuana Processors: Cannot locate in residential zones if processing marijuana extracts. (HB 3400 §§ 14(2)(c), 85(3)(a))
- Medical Marijuana Dispensaries and Commercial Retail Stores
  - Cannot locate in residential zones (HB 3400 §§ 16, 86)
  - Cannot locate within 1000 feet of certain public and private schools, unless the school is established after the marijuana facility (HB 3400 §§ 16, 17, 86, 86a)

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<sup>2</sup> Although these provisions do not take effect immediately, some of these provisions are already part of existing state law. Cities should consult their city attorney when enacting time, place, and manner restrictions.

- Medical marijuana dispensaries cannot locate within 1000 feet of another dispensary (HB 3400A § 86)
- Medical marijuana dispensaries cannot locate at a grow site (HB 3400A § 86)
- Compliance with Zoning Requirements (HB 3400A § 34(4)): Before issuing any license, the OLCC must request a statement from the city that the requested license is for a location where the proposed use of the land is a permitted or conditional use. If the proposed use is prohibited in the zone, the OLCC may not issue a license. A city has 21 days to act on the OLCC's request, but when that 21 days starts to run varies:
  - If the use is allowed as an outright permitted use, 21 days from receipt of the request
  - If the use is a conditional use, 21 days from the final local permit approval.

What Cities Can Regulate (HB 3400A §§ 33, 89)

Although the League believes that the Legislature has not foreclosed other regulatory options, HB 3400A expressly provides that cities may impose reasonable regulations on the following:

- The hours of operation of retail licensees and medical marijuana grow sites, processing sites, and dispensaries
- The location of all 4 types of commercial licensees, as well as medical marijuana grow sites, processing sites, and dispensaries, except that a city may not impose more than a 1,000 foot buffer between retail licensees
- The manner of operation of all 4 types of commercial licensees, as well as medical marijuana processors and dispensaries
- The public's access to the premises of all 4 types of commercial licenses, as well as medical marijuana grow sites, processing sites, and dispensaries

The law also provides that time, place, and manner regulations imposed on commercial licensees must be consistent with city and county comprehensive plans, zoning ordinances, and public health and safety laws, which would be true of any ordinance imposed by a city.

**Early Sales (SB 460)**  
**(awaiting the Governor's signature – effective on passage)**

How Early Sales Work (SB 460 §§ 2, 3)

- Starting October 1, 2015, medical marijuana dispensaries may sell the following amounts of commercial marijuana to a person who is 21 or older:
  - 1/4 ounce of dried marijuana leaves and flowers per person per day
  - 4 marijuana plants that are not flowering
  - Marijuana seeds
- Starting January 4, 2016, sales of commercial marijuana from medical marijuana dispensaries will be subject to a 25 percent sales tax (HB 2041 § 21a)
- Commercial sales from medical marijuana dispensaries are allowed through December 31, 2016

How Cities Can Ban Early Sales (SB 460 § 2(3))

A city can adopt an ordinance prohibiting the early sale of commercial marijuana from medical marijuana dispensaries within its jurisdiction. No voter referral is required.

## **Timeline**

June 30, 2015 – HB 3400A becomes effective. However, many provisions of the law do not go into effect immediately.

July 1, 2015 – Personal possession of limited amounts of commercial marijuana is allowed for those 21 or older.

October 1, 2015 – Sales of commercial marijuana from medical marijuana dispensaries begin, unless a city has enacted an ordinance prohibiting early sales pursuant to SB 460 § 2(3).

December 24, 2015 – City councils that are eligible to adopt a prohibition on marijuana activities without a voter referral must have adopted the prohibition by this date.

January 1, 2016 – Most amendments to Measure 91 go into effect. In addition, after this date, medical marijuana growers may apply for an OLCC license to grow commercial marijuana at the same site.

January 4, 2016 – The OLCC must approve or deny commercial license applications as soon as practicable after this date. (HB 3400A § 171). In addition, medical marijuana dispensaries engaging in early sales of commercial marijuana must begin collecting a 25 percent state tax on those sales.

March 1, 2016 – Most amendments to the OMMA go into effect.

November 8, 2016 – Next statewide general election. Cities may refer measures on prohibition of marijuana activities and measures on local taxes at this election.

December 31, 2016 – Early sales of commercial marijuana from medical marijuana dispensaries end.

## August 2015 Update

### LAND USE APPLICATIONS

<u>Project</u>	<u>Status</u>
Building Permits/Correspondence	<ul style="list-style-type: none"><li>• Additional container/storage at PDX laser graphics</li></ul>
Sign Permits	
Manufactured Home Permit	
Land Use Applications	<ul style="list-style-type: none"><li>• MP-2015-01 Bixler</li></ul>

### ADDITIONAL PLANNING

<u>Project</u>	<u>Status</u>
ODOT 99E Corridor Study	<ul style="list-style-type: none"><li>• Staff has still not received the final adopted study. Emailed Dan Fricke at ODOT on 7/23 for more information.</li></ul>
Development Code updates	
Misc.	<ul style="list-style-type: none"><li>• Newsletter ideas?</li></ul>