

CITY OF COOS BAY CITY COUNCIL
Agenda Staff Report

MEETING DATE December 6, 2016	AGENDA ITEM NUMBER
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TO: Mayor Benetti and City Councilors

FROM: Eric Day, Community Development Director

THROUGH: Rodger Craddock, City Manager

ISSUE: Business License Amendment and Land Use Regulations – Marijuana Use

SUMMARY:

As presented at the November 22nd City Council/URA work session (work session report is attached), staff is seeking Council direction on two different topics:

1. Should the City implement land use restrictions on the distribution (retail sales) and/or processing of marijuana and cannabis related products by the state licensed and/or registered marijuana businesses over and above the State of Oregon's land use requirements. The imposition of any restrictions would necessitate a moratorium on their use. Staff is recommending no further restrictions on marijuana dispensaries, but a six-month moratorium on the processing of cannabis related products. The proposed resolution is attached.
2. Adoption of an amendment to the City business license ordinance as approved by the voters at this past election. The amendment would allow the retail sales of marijuana and cannabis related products within the City limits. The proposed ordinance is attached.

ACTION REQUESTED:

Staff recommends that the Council allow dispensaries without new land use restrictions. Staff further recommends that a moratorium be placed on the processing or manufacture of marijuana related products until such a time that the Planning Commission and Council have time to hold public hearings to gather public input and process a development code text amendment restricting their use and/or location. Staff recommends that this moratorium be for a period of six months.

The Council will need to hold a public hearing to take public input on the draft ordinance for the business license amendment. Staff is recommending that the ordinance be deemed an emergency ordinance so that the modification can be acted upon by staff starting on December 8th, 30-days after the election took place.

ATTACHMENTS

November 22nd Council / URA work session report.

Proposed resolution placing a six-month moratorium on the processing of cannabis related products.

Proposed ordinance amending the City's business license program which removes the prohibition against state registered and/or licensed marijuana businesses.

CITY OF COOS BAY CITY COUNCIL
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MEETING DATE November 22, 2016	AGENDA ITEM NUMBER
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TO: Mayor Benetti and City Councilors

FROM: Eric Day, Community Development Director

THROUGH: Rodger Craddock, City Manager

ISSUE: Business License Amendment and Land Use Regulations – Marijuana Use

BACKGROUND:

The City's current business license ordinance prohibits any use that is not in conformance with State and Federal law. As marijuana related uses are not permitted under Federal law the City has not been issuing business licenses for this use. Early in 2016 the City Council decided to send the current business license requirements to a public vote during the general election this past November. The public voted to remove the Federal restriction on the license in relation to marijuana businesses, which is lawful under Oregon Law.

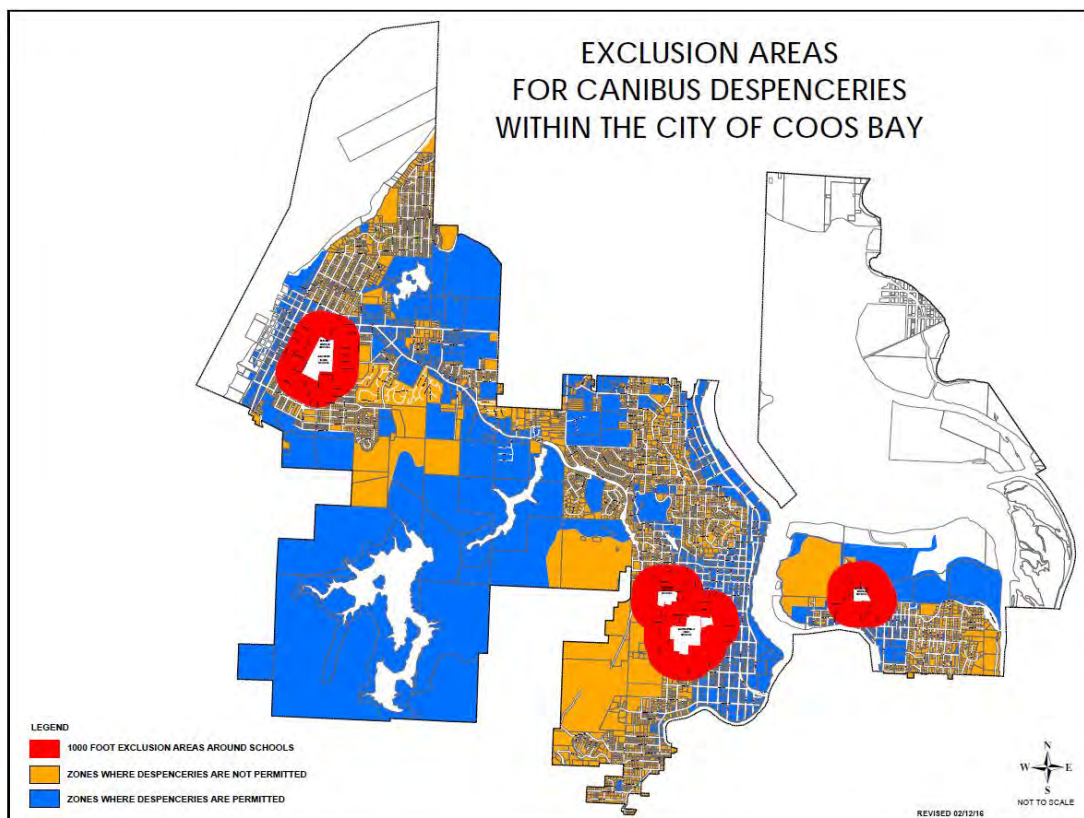
During the March 1st, 2016 City Council meeting staff brought forward the question of timing for land use regulations in conjunction with the possible successful passage of the marijuana related vote. The question was asked of the Council if they wanted staff to do any possibly needed land use text amendment(s) to the development code and have them ready to go into place soon after the vote has been taken. The amendments would be needed if the Council wanted to further restrict the use past what the State is requiring. Any land use amendments would take approximately 6 months to process. At that time the Council gave direction to not move forward with any amendments because if the vote would not have passed it would have resulted in wasted staff and committee time as well as City-wide noticing costs. The Council elected to wait until after the vote to begin working on any needed land use amendments.

Also at that time staff provided the following information on future land use decisions for Council consideration. This information may still be pertinent to your decisions as we go forward on this topic. Cities within Oregon are taking a variety of different land use approaches to tackling the marijuana dispensary issue. The following spreadsheet shows a cross section of these approaches. Cities are required to use the state standards at a minimum but can further restrict the use by increasing other time, manner and place restrictions.

Jurisdiction	Land Use Requirements
State of Oregon	Minimum requirements: 1,000 ft. from public and private elementary, middle and high schools; 1,000 ft. from other dispensaries; not allowed in residential zones; 1,000 ft. from any grow sites.

Roseburg	State requirements plus non-licensed schools (charter schools) added to school requirement; 500 ft. from public spaces; 200 ft. from residential zones.
Coos County	State requirements plus cannot be located within 1,000 ft. from preschools, head start locations, community learning centers, and licensed daycare facilities; 250 ft. from residential zones.
Astoria	State requirements only
Clackamas County	State requirements plus added time, place and manner restrictions including odor, lighting, security, waste-management, water, access and hours.
Tualatin	Only allowed within the Light Manufacturing (ML), General Manufacturing (MG) and Manufacturing Business Park (MBP) zoning districts. Additionally, must be located 3,000 from any residential zone, City park, school or library. Cannot locate any facility within 2,000 ft. from any other marijuana facility. Facility cannot be larger than 3,000 sq. ft. Facility can only be open between 10:00 am and 8:00 pm.
North Bend	State requirements plus not allowing processing at dispensary sites.

The map below shows where the dispensary use could be located within city limits using only the State restrictions. Additionally, many other zones within the City would not allow the use as the current zoning does not allow for any retail sales. This includes public spaces such as parks, city buildings, and the large watershed area. Essentially, distribution stores could be located in the commercial and mixed use zones throughout the City. This generally includes the greater downtown commercial core and front street areas, along Ocean and Newmark and in the Empire commercial area.



Now that the vote has been passed and the business license requirements will be modified in the ordinance to reflect the change, staff is needing direction as to how to proceed. There are several options that the Council could select from going forward. Some of these options include:

Options	Ramifications
Allow uses as currently written in the Development Code	This would allow marijuana dispensaries and processing throughout the City as long as they meet state requirements. Marijuana grows would not be allowed.
Allow dispensaries and place a moratorium on processing	By placing a moratorium on the processing of marijuana products it would allow time for the City to include text in the development code restricting its location and/or review type or restricting the use outright. Staff is concerned about the processing or manufacturing use as several locations involved in this use have had fires related to the chemical extraction process.
Place a moratorium on both dispensaries and processing	By placing a moratorium on both the dispensing and processing of marijuana products it would allow time for the City to include text in the development code restricting its location and/or review type.

ADVANTAGES:

As the public voted to remove the marijuana use restriction from the business license this action would be in conformance with that vote.

DISADVANTAGES:

None identified

BUDGET IMPLICATIONS:

By allowing dispensaries within the City limits a modest license fee would be collected. (Generally \$25 per license issued)

ACTION REQUESTED:

Staff recommends that the Council allow dispensaries without new land use restrictions. Staff further recommends that a moratorium be placed on the processing or manufacture of marijuana related products until such a time that the Planning Commission and Council have time to hold public hearings to gather public input and process a development code text amendment restricting their use and/or location. Staff recommends that this moratorium be for a period of 6 months. Further time may be needed depending upon the public response to the topic.

The Council will need to hold a public hearing to take public input on the attached proposed ordinance amending the City's current Business License ordinance. Staff is recommending that the ordinance be deemed an emergency ordinance so that the modification can be acted upon by staff starting on December 8th, 30-days after the election took place.

City of Coos Bay

Resolution 16 – 25

A RESOLUTION OF THE CITY OF COOS BAY, COOS COUNTY, OREGON, PLACING A MORATORIUM ON THE PROCESSING OF MARIJUANA RELATED PRODUCTS WITHIN THE CITY LIMITS

WHEREAS, in November 1998 Oregon voters approved Ballot Measure 67, the Oregon Medical Marijuana Act legalizing the growing, distribution, possession, and use of marijuana in certain amounts for medical personal use.

WHEREAS, in November 2014 Oregon voters approved Ballot Measure 91, the Control and regulation of Marijuana Act, legalizing the growing, distribution, possession, and use of marijuana in certain amounts for non-medical personal use.

WHEREAS, in November 2016 Coos Bay voters approved Ballot Measure 6-157 to amend the City's business license ordinance to allow state registered and licensed marijuana businesses to operate within the city limits.

WHEREAS, processing (the ability to process, compound, or convert marijuana into cannabinoid products, concentrates and/or extracts) is one of the regulated and licensed marijuana businesses by the state.

WHEREAS, processing under state regulation can occur in any land use zone, other than zone exclusively for residential use.

WHEREAS, there are increased life and safety dangers associated with some marijuana processing methods.

WHEREAS, the Coos Bay City Council determines that it is necessary to enact a moratorium on the siting of licensed marijuana processing businesses.

NOW, THEREFORE, BE IT RESOLVED as follows by the Coos Bay City Council:

1. The moratorium on the processing of marijuana related products within the Coos Bay city limits shall be for an initial period of six (6) months unless extended for good cause by resolution at a date.
2. A land use text amendment shall be submitted by City staff for public input, a Planning Commission recommendation and Council consideration.
3. The proposed amendment shall be submitted to the Department of Land Conservation and Development (DLCD) meeting the State required noticing requirements.
4. City of Coos Bay land use public noticing requirements shall be met.
5. During the moratorium period, the City Council and Planning Commission shall hold public hearings to gather input on the proposal for time, manner and place restrictions for the use.

The foregoing resolution was duly adopted by the City Council of the City of Coos Bay, Coos County, Oregon this 6th day of December 2016.

Joe Benetti, Mayor

ATTEST:

Susanne Baker, Recorder

ORDINANCE NO. ***

AN ORDINANCE AMENDING ORDINANCE NO. 103, THE CITY'S BUSINESS LICENSE ORDINANCE, ENACTED July 13, 1987, AS AMENDED BY ORDINANCES NO. 197, 214 AND 461 TO MAKE CHANGES IN THE APPLICATION PROCEDURES

The City of Coos Bay ordains as follows:

Section 8: (1) All business licenses required under this chapter or any other ordinance shall be issued by the recorder. The application for any license shall contain the following information:

- (a) The description of the business carried on within the city.
- (b) The name of the applicant with a statement of all persons having an interest in the business either as proprietors or owners of the business.
- (c) The location in which the business is conducted.
- (d) Upon request of the city recorder, any applicant shall provide proof of possession of any licenses, certificates, or registrations that are required by state or federal laws to conduct the type of business listed on the application. Failure to provide such proof shall be cause of denial or revocation of the license.
- (e) The date of application.
- (f) The average number of persons regularly employed by the business at the time the application for license is made. When practicable, this average shall be computed by adding all regular employees listed on the business's Social Security reports during the year and dividing this total by the number of reports.
- (g) The amount of money tendered with the application.
- (h) Any other information necessary to enable the city to review the application under subsection (2) of this section and to determine the appropriate fee as established by resolution of the council.

(2) The recorder shall refer each application to the appropriate departments of the city for review. Approval or denial of the application shall be based on consideration of all available evidence as to whether the proposed business will meet the requirements of the City Charter and ordinances. The license shall not be granted if:

- (a) The activity or device to be licensed would not comply with city ordinances or state or federal laws **(unless the business is a state registered and/or licensed medical or recreational business that is in compliance with local land use ordinances, despite federal law prohibiting the use and sale of marijuana).**
- (b) The licensed activity or device would endanger property or the public's health or safety.
- (c) The applicant's violation of law or ordinance represents a reasonable doubt about the applicant's ability to perform the licensed activity without endangering property or the public's health or safety.
- (d) The applicant fails to supply the information required, or submits misleading or false information, or submitted misleading or false information on a previous application.

(e) The premises to be used by the business do not fully comply with all city ordinances and requirements.

(3) In the event of the transfer of any business, the license shall be transferred using a form provided by the recorder, signed by the person making the transfer, and accompanied by a transfer fee established by resolution of the council.

(4) Upon a favorable recommendation from each department, the recorder shall issue the license. If any department determines that the application should be denied, the recorder shall notify the applicant of the denial and the reasons for the denial. [Ord. 461 § 1, 2014; Ord. 214, 1995; Ord. 103 § 8, 1987].

As the enactment of this Ordinance is deemed necessary for the peace, health and safety of the people of the City of Coos Bay and in keeping with the results from recent general election, an emergency is declared to exist, and this ordinance shall be effective as of December 9, 2016.

The foregoing ordinance was enacted by the City Council of the City of Coos Bay this _____ day of December 2016.

Yes:

No:

Absent:

Joe Benetti
Mayor of the City of Coos Bay
Coos County, Oregon

ATTEST:

Susanne Baker
City Recorder of the City of Coos Bay
Coos County, Oregon