



City of Prineville
DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT
STAFF REPORT

Prineville City Council Staff Report

Date: May 20, 2015
File No.: AM-2015-101
Applicant/Owner: City of Prineville
Notice to DLCD: 4/15/2015
Newspaper Notice: Planning Commission Notice – 5/12/15.
City Council Notice – 5/15/15 and 5/29/15
Public Hearing: Planning Commission - 5/19/15
City Council – 5/26/15, 6/9/15 and 6/23/15
Staff: Phil Stenbeck, Planning Director

Proposal: The City of Prineville proposes to add language to the City's Comprehensive Plan which is consistent with the recently approved Oregon Measure 91.

Comprehensive Plan findings and other information which support adding the language are attached. The bolded and underlined are additions, with the strike outs showing deletions. The changes are proposed to the City of Prineville Comprehensive Plan in the Commercial Zone Values and Policies, the Industrial Zone Values and Policies, and the Growth Management Community Values and Policies sections.

City of Prineville Comprehensive Plan - Commercial Zone Values and Policies

Introduction: Voters in the State of Oregon passed Measure 91 aka Recreational Marijuana. The City of Prineville finds that:

Finding 1: The City of Prineville finds that the vote of the people in the State of Oregon has passed Measure 91 which provides opportunities for Recreational Marijuana use in the State of Oregon for persons 21 years of age and older;

Finding 2: The City of Prineville also finds that Measure 91 provides an opportunity for Recreational Marijuana use which:

- does not expose minors to Recreational Marijuana use;
- and is not allowed in a public place as defined in Measure 91.

Finding 3: The City of Prineville finds that changes to the Comprehensive Plan are intended to make only those changes to be consistent with Measure 91, and are not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes.

Finding 5: Due to the infrastructure needs and hazards associated with the growing, processing and selling of Marijuana, including the fire hazard potential associated with using large amounts of electricity and the explosion hazard associated with deriving oils and other products from Marijuana; the City of Prineville finds that in the interest of the public's health, safety and welfare that the suitable zoning for Marijuana Grow Sites and Facilities is in the City's Industrial or Commercial zones. Selection of a location shall require compliance with Measure 91 and Chapter 153B of the City of Prineville Land Use Code and be consistent with the Values and Policies found in the Prineville Comprehensive Plan.

Finding 6: The City of Prineville finds that it is appropriate to have all Marijuana Grow Site, Processing and/or Sales land use approvals also be licensed by the State of Oregon.

Finding 7: The City of Prineville finds that the map identifying the Marijuana Overlay found in the Prineville Land Use Code Chapter 153B, is an appropriate area for growing, manufacturing and selling Marijuana. Marijuana Grow Sites, Processing or Selling in the Marijuana Overlay shall be a Type 1 Conditional Use Permit in accordance with the City of Prineville Land Use Code Chapter 153B.

Respectfully submitted,



Phil Stenbeck, CFM
Planning Director

Exhibit A – Proposed Comprehensive Plan changes

Chapter 2 Urban Land Uses and Zoning Designations

Purpose and Intent

The Prineville urban area contains land use descriptions and zoning for residential, commercial, and industrial areas. This chapter examines the different zone and land use designations and implementation strategies. The primary designations implement the strategies that regulate the use of land and its ability to support the community's long-term development objectives. The goals, policies and programs contained in this chapter will help the City manage its land uses to meet the growth needs of the Prineville community. It should be noted that the existing Comprehensive Plan Map, also known as the "Prineville Area Physical Development Plan", will need to be updated and various changes made given the age and poor drafting quality. Commensurate with revisions and improvements to the Comprehensive Plan Map, various errors were discovered on the 2006 Zoning Map. These errors and other needed revisions will be needed to improve consistency and compatibility with the revised Comprehensive Map.

Issues, Goals, Policies, and Programs

The anticipated growth of the community will create a variety of pressures upon local citizens, the environment, and infrastructure of Prineville. A variety of land uses and commensurate development regulations will help keep community values intact.

The intent of this chapter focuses on specific land use practices that provide the guidance necessary for accommodating growth while continuing to preserve, maintain, and enhance Prineville's community values.

Definitions

Marijuana Grow Site (MG) - means a location that grows and/or processes marijuana that exceeds the amounts allowed by State law for an individual or household.

Marijuana Facility (MF) - means a location where Marijuana is grown, processed, sold or dispensed or any combination these activities which is registered by the State of Oregon.

Goal # 1: Create land use zones and land use regulations that enhance Prineville without sacrificing community values

Commercial Zone Values and Policies

- Commercial zones shall be places that provide a wide range of services and goods to citizens in a convenient manner and without creating unnecessary subsidies.

- Commercial areas, nodes, and zones should be located throughout the community to provide convenient shopping, employment, and services to citizens in an efficient manner.
- Commercial zones must include outright permitted and conditional uses adequate to fully support the needs of the Prineville community.
- Commercial zone regulations should be flexible and include incentives to attract businesses to create a self-supporting community and competitive business environment.
- Commercial zones should provide adequate opportunities to locate and operate businesses so Prineville can be as self-sufficient as possible without requiring citizens to make excessive vehicle trips to other communities.
- Commercial zones should receive high priority for improved infrastructure and other government capital improvement programs.
- The downtown business commercial core area is a key feature of Prineville and should be enhanced to provide a draw for all citizens and visitors alike. Convenient and plentiful transportation and parking opportunities are necessary for the success of the downtown area.
- Commercial areas should provide not only service and shopping opportunities but adequate supplies of employment opportunities.
- Commercial projects that contain quality architecture, reflective of the locale and environment, mixed-uses, open spaces, pedestrian amenities, and adequate parking areas shall be required and promoted throughout the community as the city grows.
- Commercial projects that are aesthetically designed to blend in with the environment and are compatible with mixed-uses and residential areas will be encouraged over commercial developments that require large acreages and private parking fields.
- Commercial projects that maximize land spaces and are multi-storied with opportunities for upper-floor and/or offices and housing should be encouraged as a way to utilize valuable lands efficiently.
- Existing strip commercial areas can be unsightly, unsafe, and create excessive vehicle trips. Successful development strategies should include methods for redeveloping and improving the curbside appearance and function of existing strip areas.
- New extensions of commercial strip areas shall be developed only when it can be proven that needed services could not be provided to the community without developing lands at the ends of the exiting strips. Such new extensions shall be designed as centers with shopping streets or lanes instead of direct highway access. Building setbacks in commercial strip areas shall be such as to minimize distances onto sidewalks and streets, thus encouraging safe and easy pedestrian and bicycle access.

- Industrial areas that provide a wide choice of parcel sizes including workforce housing options and are highly desirable.
- Large industrial lots of more than 20 acres in size should be reserved as an enticement for attracting new industry.
- Small service, repair, and manufacturing industries should be encouraged to locate in commercial areas, if appropriate, as a way to retain large industrial acreages. Special incentives may be needed to offset the difference in land costs.
- Industrial areas that provide mixed-use opportunities and service uses for employees can reduce excess vehicle trips and community subsidy. They should be encouraged in industrial zones subject to proper siting and regulations that limit standard or non-workforce housing.
- Larger width streets are appropriate in industrial areas as are employee amenities including public, parks, day care, respite areas, trail connections, and other outdoor recreation opportunities.
- Incentives that retain and attract industries to Prineville will benefit the community as a whole by improving the employment and population balance and promote overall economic growth.
- Industrial areas near local airports can enhance commerce and attract compatible aviation activities and industries.
- Industrial areas near the City Railroad facilities can enhance commerce and attract supportive activities and industries. Industrial uses should be encouraged to use railroad facilities for transportation of heavy freight, thus reducing vehicular traffic on roadways.
- There are several older industrial zone designations within Prineville that are no longer appropriate due to: abutting development patterns; redevelopment and site changes that have occurred as a result of a declining timber industry; specific locational characteristics that are better suited to mixed-use urban development patterns; and, brownfield redevelopment opportunities. These unique areas should be converted to other uses subject to proper analysis, zone changes, and plan amendments as needed.
- Conversions of industrial lands to other uses shall only be allowed for development of mixed-use projects. These conversions will only be allowed when the zone change and plan amendment process includes studies, as appropriate, showing that the conversion does not negatively affect the 20 year supply of industrial lands.
- Marijuana Facilities (MF) may be allowed in Industrial Zones through the application of the Marijuana Overlay and permit process found in the City of Prineville Land Use Code Chapters 153, 153A and 153B.
- Marijuana Grow Sites (MG) may be allowed in Industrial Zones through the application of the Marijuana Overlay and permit process found in the City of Prineville Land Use Code Chapters 153, 153A and 153B.

Goal # 5: Establish growth management tools and other strategies to pace land development with the ability to provide the required services within the community

Growth Management Community Values and Policies

- Prineville will need to utilize various planning strategies to accommodate growth and have a higher success rate for developing as intended and with minimum conflict.
- Properly accommodating future growth assures the community that new development and redevelopment are supported by adequate infrastructure.
- Infrastructure expansions and improvements at the core of the community tend to regulate growth at a pace that the community can accept without reducing service levels for existing residents.
- Capital Improvement Plans that support existing industry, commerce and residential areas before serving new urban lands typically utilize limited public funds in an efficient and practical manner without subsidizing growth.
- Growth models can help predict the intended pattern of growth and provide realistic development guidelines for developers.
- Development must “pay its own way” to reduce community subsidy and minimize the negative effects of growth.
- Limitations on development outside of the City limits will reduce unnecessary “leap frog development” and unanticipated City subsidy.
- Developers must be required to analyze the full impact of proposed development upon infrastructure, schools, parks, natural resources, cultural resources and emergency services before development.
- Marijuana Facilities (MF) and Marijuana Grow Sites (MG) may be allowed in Industrial or Commercial Zones through the application of the Marijuana Overlays and permit process found in the City of Prineville Land Use Code Chapter 153, 153A and 153B. Approval of the Marijuana Overlays found in the City of Prineville Land Use Code shall be required to:
 - be consistent with the Comprehensive Plan;
 - be suitable for the MF and MG in accordance with the Prineville Land Use Code;
 - be considerate of the public health, safety, and welfare;
 - be licensed by the State of Oregon.
- This policy establishes guidance for the siting of Measure 91 (aka Recreational Marijuana) marijuana grow sites and facilities in the City of Prineville as authorized by State Law and Federal Law. The City of Prineville has developed Comprehensive Plan Policies and Land Use Codes which establish how Oregon’s Measure 91 is addressed by the City of Prineville. The City



City of Prineville
DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT
CITY COUNCIL STAFF REPORT

File No.:	AM-2015-101
Applicant:	City of Prineville
Notice to DLCD:	04/14/15
Mailed notice:	04/27/15
PC Workshops:	05/05/15
Newspaper Notice:	Planning Commission Notice – 5/08/15 City Council Notice – 5/15/15 and 5/29/15
PC Public Hearing:	05/19/15
City Council Hearing:	05/26/15
Staff:	Joshua Smith Senior Planner

Proposal: Proposal: The City of Prineville is proposing to amend its Land Use Code Title XV, General Regulation Code Title IX and its Comprehensive Plan. The purpose of the proposed amendments is to create rules and regulations for managing Marijuana Activities as allowed by State law, due to the voter passed initiative "Measure 91". These proposals will add language to the City's Comprehensive Plan and create new Chapters within their perspective Titles. Chapter "153B" for land use and Chapter "97" for General Regulations.

Planning Commission Hearing Summary:

Staff – There were 5 recommendations to be voted on at this hearing, an amendment to the Comprehensive Plan, an amendment to the Land Use Code creating Chapter 153B an amendment to the City's General Regulations creating Chapter 97 and a recommendation about creating a license and tying approval to Federal law. The Commissions primary discussion points are summarized below.

The Planning Director began with a presentation of the changes proposed for the City's Comprehensive Plan. The Director explained that the definitions recently added for regulating medical marijuana don't work with recreational marijuana rules and are proposed to be changed with this amendment regulations. The Director then stated that he added references to the proposed land use zoning Chapter 153B and included a statement that would not allow the City to approve recreational marijuana activities until the Federal law allows it. The Director also stated that the Federal Law issue needs to be voted on separately as it is a separate issue from the other amendments.

The Senior Planner then presented the proposed changes to the City's General Regulations that would create Chapter 97. The Senior Planner explained that this Chapter was created due to guidance from City Council to look at how the City could regulate personal use of marijuana. The Senior Planner then presented the proposed changes to the City's Land Use Code that would create Chapter 153B. It was explained that this code is a slightly edited version of the medical marijuana code that would maintain the same overlay zone. Through this presentation several questions were asked by the Commission about wording and content.

Public Testimony – Only one citizen provided general comments on the proposed code changes. The citizen felt that a license would benefit the City and asked the Commission and staff for their opinion. The general response was that it would. The Citizen then expressed concern that the penalties in the Chapter 97 code were too low. Staff explained that the penalty section was pasted form the City's nuisance code and would need to be adjusted for this type of use.

Planning Commission - Throughout the course of the hearing and during Commission deliberations the Commission debated many aspects of the proposed code amendments. The following is a summary of the primary discussion points.

The Comprehensive Plan was discussed with only one comment about adding the word "dispensed" in addition to the word "sold" to the Marijuana Facility definition. Staff agreed that adding the word would broaden the definition to better define a facility for both medical and recreational marijuana.

With Chapter 97 the discussion primarily concerned the penalties section. As stated during public testimony, the penalty section was pasted form the City's nuisance code and would need to be adjusted for this type of use. The Commission was in agreement that the fines need to increase and suggested that they be similar to OLCC fines for liquor.

With Chapter 153B the Commission discussed three minor changes. First was adding a reference to the Comprehensive Plan under "General Provisions". Second was removing the word "individual" from the grow site definition, as Measure 91 only refers to the number of plants that a household can grow. Finally a change was made to clarify the public park exception to the 1000 ft. buffer. In Section 153B.004(B)(5)(a)(5) the words "industrially zone properties" was replaced with "public parks located".

The Commission then discussed the issue of waiting on the Federal Government to legalize marijuana before implementing the land use code. Staff had presented them with a clause that could be placed in the Comprehensive Plan that would accomplish this. The Commission was split on this recommendation. Some of the reasons to exclude the provision were that it was that it was passed by the voters, it would allow the City to receive taxing and possibly licensing revenue and it would be consistent with how medical marijuana was approved. The clause will remain as part of the proposed Comprehensive Plan Amendment when presented to City Council.

Finally the Commission discussed the issue of creating a City license. The Commission was also not unanimous on this issue. The argument against a license was that the State will require at least one if not multiple licenses making a City license redundant. The argument for a license was additional local control, revenue and it would be consistent with the City's liquor license.

Motion - Five motions for recommendations were made as follows:

Chapter 97: Deb Harper made a motion to recommend the land use code amendment with changes as discussed. Bob Spaulding seconded the motion and the motioned passed with a 5 to 0 vote.

Chapter 153B: Bob Spaulding made a motion to recommend the land use code amendment with changes as discussed. Deb Harper seconded the motion and the motioned passed with a 5 to 0 vote.

Comprehensive Plan (without federal language): Deb Harper made a motion to recommend the Comprehensive Plan Amendment with changes as discussed. Bob Orlando seconded the motion and the motion passed with a 5 to 0 vote.

Federal law Comprehensive Plan language: Ron Cholin made a motion to recommend excluding policy from the Comprehensive Plan. Bob Spaulding seconded the motion and the motion ended in a tie with 2 in favor, 2 against and 1 abstention.

City License: Bob Spaulding made a motion to recommend the creation of a City license for marijuana. Bob Orlando seconded the motion and the motion passed 4 to 1 in favor.

Staff/Commission Findings: The Commission discussed this amendment in a workshop on 05/05/2015 and a public hearing on 5/19/2015 where the Commission voted on recommendations to City Council.

The following is the recommended language and findings for the proposed amendment to the City's land use code, creating Chapter 153B to regulate recreational marijuana, followed by language and Findings for the proposed Chapter 97 to provide general regulations within the City code.

153B.001 - PURPOSE

This Chapter establishes regulations for growing, processing and selling of marijuana, here after referred to as "marijuana". State Law has authorized the City of Prineville to allow Marijuana activities, through the voter passed initiative, Measure 91. The purpose of this Chapter is to minimize adverse impacts on the community including but not limited to impacts on traffic, adjacent properties, schools, parks and other places where minors congregate, and other land uses potentially incompatible with such facilities.

FINDING 1: The purpose statement is written to provide a broad context to the intent of the proposed amendment. If a situation arises that the code does not address or addresses inadequately, the purpose statement is used as a final measure in making a decision.

153B.002 – GENERAL PROVISIONS

All marijuana activities shall comply with the City's Comprehensive Plan, provisions of this chapter and Oregon State Law as may be amended from time to time.

Marijuana activities may be allowed, subject to the Marijuana Overlay zone adopted as part of this Chapter and the underlying zone criteria in Chapter 153 of the Code of Prineville. No growing, processing or dispensing of marijuana shall be located within the City unless the reviewing authority finds that it satisfies all the requirements of this Chapter and State law.

FINDING 2: General Provisions are provisions that apply to all uses this amendment is intended to allow. The first paragraph requires compliance with State law, the Comprehensive Plan, Chapter 153B and any amendments made to those laws as they pertain to marijuana. The second paragraph restricts marijuana activities to an overlay zone and requires the reviewing authority (*which is both the City and OLCC*) to ensure that all requirements of this Chapter (153B), the underlying zone and State law are met. The overlay is discussed further in Finding 7.

153B.003 – DEFINITIONS

For the purposes of this Chapter, the following definitions shall be used as well as those listed in State law pertaining to Marijuana and those contained in Chapter 153 of the Code of Prineville.

MARIJUANA DISPENSARY (MD) – means a location where marijuana is sold to a customer.

MARIJUANA GROW SITE (MG) - means a location that grows and/or processes marijuana that exceeds the amounts allowed by State law for a household.

MARIJUANA FACILITY (MF) - means a location that is a combination of a MG and a MD.

MARIJUANA ACTIVITY (MA) – means any use of a location for a MG, MD or MF.

MARIJUANA OVERLAY – means designated areas of the City where MFs, MGs and MDs are allowed.

MINOR – means an individual under the age of 21.

PUBLIC PARK – For the purposes of this Chapter a public park is defined as a public area managed for recreation and attended primarily by minors but excluding bike and pedestrian paths or trail systems and staging areas.

REVIEWING AUTHORITY – means the City of Prineville and/or applicable State agency.

SCHOOL - CAREER SCHOOL – means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training or preparing persons for any profession at a physical location attended primarily by minors.

PRE-SCHOOL – means a school of instruction attended primarily by pre-kindergarten or age level equivalent (ages 2-5).

PRIMARY SCHOOL – (aka elementary school) means a learning institution containing one or any combination of grades kindergarten through 8th grade or age level equivalent.

SECONDARY SCHOOL – means a learning institution containing one or any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.

FINDING 3: These definitions were created for the purpose of writing this code. These definitions are meant to work in conjunction with definitions in State law and other municipal laws.

153B.004 – STANDARDS FOR MARIJUANA ACTIVITIES

The following standards are in addition to laws and regulations set forth by the State of Oregon.

A. License/Registration.

1. An applicant shall provide proof of being registered and/or licensed with the State.

2. An applicant shall obtain a license from the City of Prineville as applicable.

FINDING 4: Requiring proof of a state license as part of the approval process ensures that an applicant is following the state regulations. A city license may be required separately if such a license is created or a business license in general is created.

B. Location.

1. A MA shall be located within the approved overlay zone.

2. A MA shall not be mobile.

3. A MD shall not be located within 1000ft. of another MD.

4. A MA may be co-located with a medical marijuana activity so long as the location is in the appropriate overlay zone and meets State Law.

5. A MA shall not be located:

a. Within 1,000 feet of the real property comprising a:

1. Public or private preschool, elementary, secondary or career school attended primarily by minors; or,
2. Licensed daycare center; or
3. County Court House or City Hall; or,
4. Public library; or,
5. Public park; except public parks located above the rimrock

FINDING 5: It is the intent of this code to regulate recreational marijuana activities similarly to medical marijuana with regard to location. Measure 91 does not have buffer requirements from specific types of uses other than deliveries within a 1000 feet of schools.

To meet the purpose of limiting the exposure of this industry to minors, the City has included the same buffer requirements as the recently passed Medical Marijuana code Chapter 153A.

The City is further restricting the location of marijuana activities to an overlay zone proposed in the south western most portion of the City, commonly referred to as "the hill" or "the grade" (see overlay map). This Overlay map is identical to the Medical Marijuana Overlay in Chapter 153A. The location of the overlay zone serves multiple purposes. First, this location seeks to balance the impact of this new industry by placing it only on currently industrially zoned property that is physically separated from the core of the City. This separation provides a natural buffer from minors and residential property and some surety to an applicant that no schools, parks or daycares will be within 1000 ft. of their business. Second, this location has adequate infrastructure with regard to power, water and sewer to sustain what could be large grow operations. Finally concentrating the activities to one area reduces staff time when determining a legal location and enforcing regulations at the City and State level.

C. Operation.

- 1. Marijuana plants and products shall not be visible to the public other than within the facility itself.***
- 2. Marijuana products shall not be sold through a drive through window.***
- 3. There shall be no burning of plant waste. Plant waste may be composted or disposed of at the County landfill with the County's approval.***

FINDING 6: Keeping marijuana plants and products from public view is consistent with Measure 91 and helps to minimizing the impacts to the community and minors. It also aids in the security of the business by not advertising the amount of product available. Selling marijuana products through a drive through window would bring a more visible aspect to the business and therefore to minors. It may also promote illegal activity that is difficult to enforce. Finally, the City is already having issues with air quality and does not need to add to the problem by allowing this industry to burn its plant waste. Composting is an option and the County landfill may be an option.

D. Overlay Zone.

- 1. The adoption of this Chapter includes adoption of the Marijuana Overlay zone map attached to this code.***
- 2. The Marijuana Overlay zone is in addition to any requirements of the underlying city zone and shall not be interpreted to supersede any city code or ordinance.***
- 3. Annexation of property within the Urban Growth Boundary (UGB) does not automatically include the property within the Overlay. As part of the annexation process the City Council with a recommendation from the Planning Commission shall make the determination on whether to include the property in the Marijuana Overlay using the same criteria listed in 153B.004 (B) and (D)(4).***

4. Approval of additional area or areas within the Marijuana Overlay other than through an annexation process requires a zone change which places the overlay upon a property. The Zone Change process shall be in accordance with this Chapter and requirements found in Chapter 153 of the Code of Prineville. Requests for additional areas within the Marijuana Overlay is at the discretion of the City Council, based on the criteria above in section (B) and the following:

a. Shall ensure the health, safety and welfare of minors. The intent is to minimize the exposure of marijuana to minors.

b. Shall only be located within commercial or industrial zones.

c. Shall not be located within the C1 downtown commercial zone.

d. Shall not be located on a commercially or industrially zoned property whose property line is 100ft. from a residential zone or property line of a residential use.

e. Access to the property shall not be primarily through a residential neighborhood except for arterial or major collector streets.

f. Overlay areas may be restricted to a specific type of marijuana activity.

FINDING 7: The process for expanding the overlay zone is identical to the recently passed Medical Marijuana Overlay Zone. The only change is that recreational marijuana will not be allowed within the C1 downtown zone.

With the complexity of locating marijuana activities on the valley floor due to potential incompatible uses such as residences and desired buffers from other types of uses. The City has created an overlay zone with the potential to expand if a property can be shown to meet certain criteria. Through the annexation process the City Council may include a property within the overlay without a zone change process; however, the property shall meet the criteria of this chapter. The purpose of this is primarily for properties on the grade that are currently within the UGB but not in City limits and therefore cannot be included in the overlay at this time.

To include a property, an applicant must first demonstrate how the location will ensure the health, safety and welfare of minors. This statement is intended to be broad in order to include other activities not included in the buffer areas; that Council may determine to be just as important to buffer. Second the property shall only be in a commercial or industrial zoned property. Third, is the complete exclusion of the C1 downtown zone. This was a request from the Council workshop to protect the character of the community. Fourth, within industrial and commercial zones a buffer of 100ft. is required from a residential zone or property line of a residential use. The purpose of the buffer is to further isolate these uses within the commercial and industrial zones and away from minors. A 100ft. buffer was chosen because it is also the standard notice requirement for any commercial use. Logically, if over 100 ft. is adequate not to receive a notice for any use, then it should create a reasonable buffer. The fifth criteria is again looking out for residential areas by ensuring that the primary access to a commercial or industrial property is not through a residential neighborhood. This type of criteria is not unique to this type of use and is found in other parts of the City's zoning code; such as RV parks and multifamily dwelling complexes. Finally, the City may decide that only a specific type of activity is appropriate at a location and limit the inclusion into the overlay to that activity. The purpose of this is to not exclude a proposal for activities an applicant does not intend to pursue.

153B.006 – APPLICATION PROCESS

- A. Applications shall only be processed for properties within the City approved overlay zone.*
- B. Application shall be processed by the City's Planning Department.*
- C. Applications for marijuana activities within the overlay zone shall be processed as a Type 1 conditional use as defined in Chapter 153. Application fees shall be consistent with the City's fee schedule for the type of application; such as a change of use or new construction.*
- D. Notice shall be given to owners of record of property within 200 feet of property that is subject of the notice as shown on the most recent property tax assessment rolls.*
- E. The underlying zone criteria shall govern the construction of any new structures within the overlay zone, however the use of that structure as an MA shall also meet the criteria of this chapter. Applications for new construction and use may be combined into one application with the fee being the greater of the two.*

153B.007 – ENFORCEMENT

The City's Planning Director and Chief of Police are charged with enforcement of the provisions of this Chapter.

153B.008 – PENALTY

Any person or persons who are convicted of violating any provisions of this Chapter shall be fined not more than \$500 for each offense. Each day's violation of this Chapter constitutes a separate offense.

FINDING 8: The application process will function the same as any other application in the City. Applications will be processed as a Type 1 conditional use. This allows an administrative review with the opportunity for a hearing if one or more objections are received. It also allows the conditional use criteria to be utilized by staff to mitigate objections without a hearings process.

The 100ft. buffer described in Finding 7 essentially expands the influence of a residential zone or use. Therefore the notice distance has been increased to 200ft. in order to capture the properties beyond the 100ft. buffer from a residential zone or use.

The underlying zone will still govern all new construction within the overlay. If the intent is to use the structure for a marijuana activity the City should be notified at the time of construction. In that way the City can approve both the structure and the use at the same time. This would ensure that the location meets the requirements of this chapter prior to construction and secure the location as a marijuana activity in the event someone else is approved for a use that may prevent the activity.

97.01 TITLE

This chapter shall be referred to and cited as the "Personal Marijuana Ordinance" of the City.

97.02 DEFINITIONS

For the purposes of this chapter, the following definitions shall be used as well as those listed in State law pertaining to marijuana.

MARIJUANA – means all parts of the plant *Cannabis* family *Moraceae*, whether growing or not, other than marijuana extracts.

Recreational Marijuana

MARIJUANA EXTRACT – means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than vegetable glycerin, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

MARIJUANA PRODUCTS – means products that contain marijuana or marijuana extracts and are intended for human consumption.

MATURE MARIJUANA PLANT – means any marijuana plant that is not an immature marijuana plant.

IMMATURE MARIJUANA PLANT – means a marijuana plant with no observable flowers or buds.

PERSON IN CHARGE OF PROPERTY - An agent, occupant, lessee, contract purchaser or other person having possession or control of property or the supervision of any construction project.

PERSON RESPONSIBLE - The person responsible for abating a nuisance shall include the following.

- (1) The owner.
- (2) The person in charge of property, as defined in this section.
- (3) The person who caused to come into or continue in existence a nuisance as defined in this chapter or another ordinance of this city.

97.03 GROWING

(A) The number of marijuana plants shall not exceed the limits mandated by the State of Oregon.

(B) All marijuana plants shall be grown in a structure that can and shall be secured by a lock, such as a home or other structure such as a greenhouse.

(C) All lighting shall be shielded and directed away from neighboring properties or rights-of-way.

97.04 PROCESSING

(A) No person shall produce marijuana extract within or adjacent to real property of a residential use.

97.05 POSSESSION

(A) The possession of marijuana shall not exceed the limits mandated by the State of Oregon.

97.06 PENALTY

(A) Any person or persons who shall be convicted or otherwise guilty of a violation of any of the provisions of this chapter, shall be fined not less than \$10, nor more than \$50 for the first offense, and for the second and all subsequent offenses, not less than \$25, nor more than \$500.

(1) All persons responsible shall be liable for any injuries resulting from a violation of any of provisions of this chapter.

(B) Each day's violation of a provision of this chapter constitutes a separate offense.

(1) The abatement of the violation is not a penalty for violating this chapter, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the violation; however, abatement of a violation within ten days of the date of notice to abate, or if a written protest has been filed, then abatement within ten days of Council determination that a violation exists, will relieve the person responsible from the imposition of any fine or imprisonment under division (A) of this section.

FINDING 9: The purpose of the proposed Chapter 97 is to regulate marijuana at an individual level outside of the land use process, similar to nuisance ordinances found in Chapter 93. This Chapter was created due to guidance from the City Council workshop, to look at how the City could regulate personal use of marijuana.

Conclusions

City planning staff believes the forgoing codes are a balanced and reasonable approach to initially allow this new industry to operate within the City without detrimental impact to the community. Staff respectfully requests the Planning Commission make a formal recommendation to the City Council on the following items:

- Chapter 153B as written or with amendments.
- Chapter 97 as written or with amendments.
- Whether to prohibit marijuana use until the federal law changes other than Medical Marijuana by means of one or all of the following:
 - City License
 - Comprehensive Plan language
 - Land Use Code language

EXHIBITS

Marijuana Overlay Map

PLEASE NOTE: IT IS VERY IMPORTANT THAT THE WORDING OF A MOTION FOR DECIDING ON A LAND USE APPLICATION BE STATED AS PROVIDED BELOW, PRIMARILY TO ENSURE THAT THE STAFF REPORT AND PUBLIC RECORD ARE INCORPORATED INTO THE DECISION AS PART OF THE FINDINGS OF FACT.


MOTION IN FAVOR

*The Staff Report and record of tonight's proceedings are hereby incorporated as Findings of Fact in Favor of this Amendment. I Move that the application be **Recommended** to City Council for approval.*

MOTION IN OPPOSITION

*The Staff Report and record of tonight's proceedings are hereby incorporated as Findings of Fact in Opposition to this Amendment I Move that the request be **DENIED** based upon Findings of Fact in opposition to the application.*

Date this 21st day of May 2015



Joshua Smith,
Senior Planner

Chapter 2 Urban Land Uses and Zoning Designations

Purpose and Intent

The Prineville urban area contains land use descriptions and zoning for residential, commercial, and industrial areas. This chapter examines the different zone and land use designations and implementation strategies. The primary designations implement the strategies that regulate the use of land and its ability to support the community's long-term development objectives. The goals, policies and programs contained in this chapter will help the City manage its land uses to meet the growth needs of the Prineville community. It should be noted that the existing Comprehensive Plan Map, also known as the "Prineville Area Physical Development Plan", will need to be updated and various changes made given the age and poor drafting quality. Commensurate with revisions and improvements to the Comprehensive Plan Map, various errors were discovered on the 2006 Zoning Map. These errors and other needed revisions will be needed to improve consistency and compatibility with the revised Comprehensive Map.

Issues, Goals, Policies, and Programs

The anticipated growth of the community will create a variety of pressures upon local citizens, the environment, and infrastructure of Prineville. A variety of land uses and commensurate development regulations will help keep community values intact.

The intent of this chapter focuses on specific land use practices that provide the guidance necessary for accommodating growth while continuing to preserve, maintain, and enhance Prineville's community values.

Definitions

Marijuana Grow Site (MG) - means a location that grows and/or processes marijuana that exceeds the amounts allowed by State law for an individual or household.

Marijuana Facility (MF) - means a location where Marijuana is grown, processed, sold or dispensed or any combination these activities which is registered by the State of Oregon.

Goal # 1: Create land use zones and land use regulations that enhance Prineville without sacrificing community values

Commercial Zone Values and Policies

- Commercial zones shall be places that provide a wide range of services and goods to citizens in a convenient manner and without creating unnecessary subsidies.
- Commercial areas, nodes, and zones should be located throughout the community to provide convenient shopping, employment, and services to citizens in an efficient manner.

- Commercial zones must include outright permitted and conditional uses adequate to fully support the needs of the Prineville community.
- Commercial zone regulations should be flexible and include incentives to attract businesses to create a self-supporting community and competitive business environment.
- Commercial zones should provide adequate opportunities to locate and operate businesses so Prineville can be as self-sufficient as possible without requiring citizens to make excessive vehicle trips to other communities.
- Commercial zones should receive high priority for improved infrastructure and other government capital improvement programs.
- The downtown business commercial core area is a key feature of Prineville and should be enhanced to provide a draw for all citizens and visitors alike. Convenient and plentiful transportation and parking opportunities are necessary for the success of the downtown area.
- Commercial areas should provide not only service and shopping opportunities but adequate supplies of employment opportunities.
- Commercial projects that contain quality architecture, reflective of the locale and environment, mixed-uses, open spaces, pedestrian amenities, and adequate parking areas shall be required and promoted throughout the community as the city grows.
- Commercial projects that are aesthetically designed to blend in with the environment and are compatible with mixed-uses and residential areas will be encouraged over commercial developments that require large acreages and private parking fields.
- Commercial projects that maximize land spaces and are multi-storied with opportunities for upper-floor and/or offices and housing should be encouraged as a way to utilize valuable lands efficiently.
- Existing strip commercial areas can be unsightly, unsafe, and create excessive vehicle trips. Successful development strategies should include methods for redeveloping and improving the curbside appearance and function of existing strip areas.
- New extensions of commercial strip areas shall be developed only when it can be proven that needed services could not be provided to the community without developing lands at the ends of the exiting strips. Such new extensions shall be designed as centers with shopping streets or lanes instead of direct highway access. Building setbacks in commercial strip areas shall be such as to minimize distances onto sidewalks and streets, thus encouraging safe and easy pedestrian and bicycle access.
- New commercial areas, not at the ends of existing strips shall be designed as commercial nodes or centers to avoid creating new strip areas.

- Commercial areas should allow for service, repair and small manufacturing as a way to preserve industrial parcels in large acreages. Special incentives may be needed to control land prices for these uses.
- New commercial zones should be in areas where commercial and support services are needed and will thrive.
- Marijuana Facilities (MF) may be allowed in Commercial Zones through the application of Marijuana Overlay and process found in the City of Prineville Land Use Code Chapters 153, 153A and 153B.
- Marijuana Grow Sites (MG) may be allowed in Commercial Zones through the application of the Marijuana Overlay and permit process found in the City of Prineville Land Use Code Chapters 153, 153A and 153B.

Industrial Zone Values and Policies

- Industrial areas that are served by adequate community transportation, convenient connections to highway access, workforce housing, water, and sewer, communication, power and gas systems will have a competitive advantage in the Central Oregon Region.
- Industrial zones should provide the greatest density of manufacturing jobs per acre, exclusive of workforce housing, and be located in places that do not disrupt the function of other land uses.
- Industrial zones should provide places for manufacturing, repair, with potential for high concentrations of jobs, products, and services in areas that can be conveniently served by transportation and easily accessed by high numbers of employees.
- Industrial activities should include buffers to protect any nearby neighborhoods and/or workforce housing from the negative effects of industrial activities. Heavy industrial uses should be located away from residential neighborhoods.
- New Industrial zones should be located close to other industrial zones as a way to maximize available infrastructure.
- It is necessary to prioritize capital improvements in industrial areas to attract and retain industrial and manufacturing uses.
- Clean industries are preferred. Industries that produce excessive noxious airborne particulates and non-disposable hazardous waste may not be allowed.
- Industrial zones shall have vegetative buffers to reduce the negative impacts of large, plain buildings, outdoor storage, mechanical equipment, and large parking areas on adjacent less intensive zones or uses.
- Industrial areas that provide a wide choice of parcel sizes including workforce housing options and are highly desirable.

- Large industrial lots of more than 20 acres in size should be reserved as an enticement for attracting new industry.
- Small service, repair, and manufacturing industries should be encouraged to locate in commercial areas, if appropriate, as a way to retain large industrial acreages. Special incentives may be needed to offset the difference in land costs.
- Industrial areas that provide mixed-use opportunities and service uses for employees can reduce excess vehicle trips and community subsidy. They should be encouraged in industrial zones subject to proper siting and regulations that limit standard or non-workforce housing.
- Larger width streets are appropriate in industrial areas as are employee amenities including public, parks, day care, respite areas, trail connections, and other outdoor recreation opportunities.
- Incentives that retain and attract industries to Prineville will benefit the community as a whole by improving the employment and population balance and promote overall economic growth.
- Industrial areas near local airports can enhance commerce and attract compatible aviation activities and industries.
- Industrial areas near the City Railroad facilities can enhance commerce and attract supportive activities and industries. Industrial uses should be encouraged to use railroad facilities for transportation of heavy freight, thus reducing vehicular traffic on roadways.
- There are several older industrial zone designations within Prineville that are no longer appropriate due to: abutting development patterns; redevelopment and site changes that have occurred as a result of a declining timber industry; specific locational characteristics that are better suited to mixed-use urban development patterns; and, brownfield redevelopment opportunities. These unique areas should be converted to other uses subject to proper analysis, zone changes, and plan amendments as needed.
- Conversions of industrial lands to other uses shall only be allowed for development of mixed-use projects. These conversions will only be allowed when the zone change and plan amendment process includes studies, as appropriate, showing that the conversion does not negatively affect the 20 year supply of industrial lands.
- Marijuana Facilities (MF) may be allowed in Industrial Zones through the application of the Marijuana Overlay and permit process found in the City of Prineville Land Use Code Chapters 153, 153A and 153B.
- Marijuana Grow Sites (MG) may be allowed in Industrial Zones through the application of the Marijuana Overlay and permit process found in the City of Prineville Land Use Code Chapters 153, 153A and 153B.

Goal # 5: Establish growth management tools and other strategies to pace land development with the ability to provide the required services within the community

Growth Management Community Values and Policies

- Prineville will need to utilize various planning strategies to accommodate growth and have a higher success rate for developing as intended and with minimum conflict.
- Properly accommodating future growth assures the community that new development and redevelopment are supported by adequate infrastructure.
- Infrastructure expansions and improvements at the core of the community tend to regulate growth at a pace that the community can accept without reducing service levels for existing residents.
- Capital Improvement Plans that support existing industry, commerce and residential areas before serving new urban lands typically utilize limited public funds in an efficient and practical manner without subsidizing growth.
- Growth models can help predict the intended pattern of growth and provide realistic development guidelines for developers.
- Development must “pay its own way” to reduce community subsidy and minimize the negative effects of growth.
- Limitations on development outside of the City limits will reduce unnecessary “leap frog development” and unanticipated City subsidy.
- Developers must be required to analyze the full impact of proposed development upon infrastructure, schools, parks, natural resources, cultural resources and emergency services before development.
- Marijuana Facilities (MF) and Marijuana Grow Sites (MG) may be allowed in Industrial or Commercial Zones through the application of the Marijuana Overlays and permit process found in the City of Prineville Land Use Code Chapter 153, 153A and 153B. Approval of the Marijuana Overlays found in the City of Prineville Land Use Code shall be required to:
 - be consistent with the Comprehensive Plan;
 - be suitable for the MF and MG in accordance with the Prineville Land Use Code;
 - be considerate of the public health, safety, and welfare;
 - be licensed by the State of Oregon.
- This policy establishes guidance for the siting of Measure 91 (aka Recreational Marijuana) marijuana grow sites and facilities in the City of Prineville as authorized by State Law and Federal Law. The City of Prineville has developed Comprehensive Plan Policies and Land Use Codes which establish how Oregon’s Measure 91 is addressed by the City of Prineville. The City of Prineville is positioned to allow recreational marijuana grow sites, processing and facilities consistent with the Oregon Measure 91 in the event that circumstances change pertaining to Marijuana, including but not limited to changes of status at the Federal law level.

CITY of PRINEVILLE

**CHAPTER 153B
MARIJUANA & OVERLAY ZONE****153B.001 - PURPOSE**

This Chapter establishes regulations for growing, processing and selling of marijuana, here after referred to as "marijuana". State Law has authorized the City of Prineville to allow Marijuana activities, through the voter passed initiative, Measure 91. The purpose of this Chapter is to minimize adverse impacts on the community including but not limited to impacts on traffic, adjacent properties, schools, parks and other places where minors congregate, and other land uses potentially incompatible with such facilities.

153B.002 – GENERAL PROVISIONS

All marijuana activities shall comply with the City's Comprehensive Plan, provisions of this chapter and Oregon State Law as may be amended from time to time.

Marijuana activities may be allowed, subject to the Marijuana Overlay zone adopted as part of this Chapter and the underlying zone criteria in Chapter 153 of the Code of Prineville. No growing, processing or dispensing of marijuana shall be located within the City unless the reviewing authority finds that it satisfies all the requirements of this Chapter and State law.

153B.003 – DEFINITIONS

For the purposes of this Chapter, the following definitions shall be used as well as those listed in State law pertaining to Marijuana and those contained in Chapter 153 of the Code of Prineville.

MARIJUANA DISPENSARY (MD) – means a location where marijuana is sold to a customer.

MARIJUANA GROW SITE (MG) - means a location that grows and/or processes marijuana that exceeds the amounts allowed by State law for ~~an individual or~~ household.

MARIJUANA FACILITY (MF) - means a location that is a combination of a MG and a MD.

MARIJUANA ACTIVITY (MA) – means any use of a location for a MG, MD or MF.

MARIJUANA OVERLAY – means designated areas of the City where MFs, MGs and MDs are allowed.

MINOR – means an individual under the age of 21.

PUBLIC PARK – For the purposes of this Chapter a public park is defined as a public area managed for recreation and attended primarily by minors but excluding bike and pedestrian paths or trail systems and staging areas.

REVIEWING AUTHORITY – means the City of Prineville and/or applicable State agency.

SCHOOL - CAREER SCHOOL – means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training or preparing persons for any profession at a physical location attended primarily by minors.

PRE-SCHOOL – means a school of instruction attended primarily by pre-kindergarten or age level equivalent (ages 2-5).

PRIMARY SCHOOL – (aka elementary school) means a learning institution containing one or any combination of grades kindergarten through 8th grade or age level equivalent.

SECONDARY SCHOOL – means a learning institution containing one or any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.

153B.004 – STANDARDS FOR MARIJUANA ACTIVITIES

The following standards are in addition to laws and regulations set forth by the State of Oregon.

A. License/Registration.

1. An applicant shall provide proof of being registered and/or licensed with the State.
2. An applicant shall obtain a license from the City of Prineville as applicable.

B. Location.

1. A MA shall be located within the approved overlay zone.
2. A MA shall not be mobile.
3. A MD shall not be located within 1000ft. of another MD.
4. A MA may be co-located with a medical marijuana activity so long as the location is in the appropriate overlay zone and meets State Law.
5. A MA shall not be located:
 - a. Within 1,000 feet of the real property comprising a:
 1. Public or private preschool, elementary, secondary or career school attended primarily by minors; or,
 2. Licensed daycare center; or
 3. County Court House or City Hall; or,
 4. Public library; or,
 5. Public park; except ~~industrially zoned properties~~ public parks located above the rimrock

C. Operation.

1. Marijuana plants and products shall not be visible to the public other than within the facility itself.
2. Marijuana products shall not be sold through a drive through window.
3. There shall be no burning of plant waste. Plant waste may be composted or disposed of at the County landfill with the County's approval.

D. Overlay Zone.

1. The adoption of this Chapter includes adoption of the Marijuana Overlay zone map attached to this code.
2. The Marijuana Overlay zone is in addition to any requirements of the underlying city zone and shall not be interpreted to supersede any city code or ordinance.
3. Annexation of property within the Urban Growth Boundary (UGB) does not automatically include the property within the Overlay. As part of the annexation process the City Council with a recommendation from the Planning Commission shall make the determination on whether to include the property in the Marijuana Overlay using the same criteria listed in 153B.004 (B) and (D)(4).
4. Approval of additional area or areas within the Marijuana Overlay other than through an annexation process requires a zone change which places the overlay upon a property. The Zone Change process shall be in accordance with this Chapter and requirements found in Chapter 153 of the Code of Prineville. Requests for additional areas within the Marijuana Overlay is at the discretion of the City Council, based on the criteria above in section (B) and the following:
 - a. Shall ensure the health, safety and welfare of minors. The intent is to minimize the exposure of marijuana to minors.
 - b. Shall only be located within commercial or industrial zones.
 - c. Shall not be located within the C1 downtown commercial zone.
 - d. Shall not be located on a commercially or industrially zoned property whose property line is 100ft. from a residential zone or property line of a residential use.
 - e. Access to the property shall not be primarily through a residential neighborhood except for arterial or major collector streets.
 - f. Overlay areas may be restricted to a specific type of marijuana activity.

153B.006 – APPLICATION PROCESS

- A. Applications shall only be processed for properties within the City approved overlay zone.
- B. Application shall be processed by the City's Planning Department.
- C. Applications for marijuana activities within the overlay zone shall be processed as a Type 1 conditional use as defined in Chapter 153. Application fees shall be consistent with the City's fee schedule for the type of application; such as a change of use or new construction.
- D. Notice shall be given to owners of record of property within 200 feet of property that is subject of the notice as shown on the most recent property tax assessment rolls.
- E. The underlying zone criteria shall govern the construction of any new structures within the overlay zone, however the use of that structure as an MA shall also meet the criteria of this chapter. Applications for new construction and use may be combined into one application with the fee being the greater of the two.

153A.007 – ENFORCEMENT

The City's Planning Director and Chief of Police are charged with enforcement of the provisions of this Chapter.

153A.008 – PENALTY

Any person or persons who are convicted of violating any provisions of this Chapter shall be fined not more than \$500 for each offense. Each day's violation of this Chapter constitutes a separate offense.

CITY of PRINEVILLE
CHAPTER 97: MARIJUANA

97.01 TITLE

This chapter shall be referred to and cited as the "Personal" Marijuana Ordinance" of the City.

97.02 DEFINITIONS

For the purposes of this chapter, the following definitions shall be used as well as those listed in State law pertaining to marijuana.

MARIJUANA – means all parts of the plant Cannabis family Moraceae, whether growing or not, other than marijuana extracts.

MARIJUANA EXTRACT – means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than vegetable glycerin, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

MARIJUANA PRODUCTS – means products that contain marijuana or marijuana extracts and are intended for human consumption.

MATURE MARIJUANA PLANT – means any marijuana plant that is not an immature marijuana plant.

IMMATURE MARIJUANA PLANT – means a marijuana plant with no observable flowers or buds.

PERSON IN CHARGE OF PROPERTY - An agent, occupant, lessee, contract purchaser or other person having possession or control of property or the supervision of any construction project.

PERSON RESPONSIBLE - The person responsible for abating a nuisance shall include the following.

- (1) The owner.
- (2) The person in charge of property, as defined in this section.
- (3) The person who caused to come into or continue in existence a nuisance as defined in this chapter or another ordinance of this city.

97.03 GROWING

(A) The number of marijuana plants shall not exceed the limits mandated by the State of Oregon.

(B) All marijuana plants shall be grown in a structure that can and shall be secured by a lock, such as a home or other structure such as a greenhouse.

(C) All lighting shall be shielded and directed away from neighboring properties or rights-of-way.

97.04 PROCESSING

(A) No person shall produce marijuana extract within or adjacent to real property of a residential use.

97.05 POSSESSION

(A) The possession of marijuana shall not exceed the limits mandated by the State of Oregon.

97.06 PENALTY (Planning Commission recommends fines be similar to violations of OLCC liquor regulations)

(A) Any person or persons who shall be convicted or otherwise guilty of a violation of any of the provisions of this chapter, shall be fined not less than \$10, nor more than \$50 for the first offense, and for the second and all subsequent offenses, not less than \$25, nor more than \$500.

(1) All persons responsible shall be liable for any injuries resulting from a violation of any of provisions of this chapter.

(B) Each day's violation of a provision of this chapter constitutes a separate offense.

(1) The abatement of the violation is not a penalty for violating this chapter, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the violation; however, abatement of a violation within ten days of the date of notice to abate, or if a written protest has been filed, then abatement within ten days of Council determination that a violation exists, will relieve the person responsible from the imposition of any fine or imprisonment under division (A) of this section.