



**CITY OF JACKSONVILLE
CITY COUNCIL AGENDA
OLD CITY HALL, 205 W Main St**

STUDY SESSION

**November 16, 2015
6:00 pm**

- 1) CALL TO ORDER
- 2) DISCUSSION FOR MARIJUANA ORDINANCE – SYDNEE DREYER, CITY ATTORNEY
- 3) PUBLIC COMMENT (limited to 2 minutes per speaker.)
- 4) ADJOURN

Please let the City offices know if you will need any special accommodations to attend or participate in the meeting by calling (541) 899-1231. Informational documents for items on this agenda are available for review on the City website www.jacksonvilleor.us. A recording of the meeting will be available on the website within one week of the meeting.

**City of Jacksonville
Marijuana – Types of Use / City Ban**

Type	Description of	Ban
Medical Marijuana Dispensaries	<ul style="list-style-type: none"> • Authorized to sell medical marijuana to patients and caregivers who present a current and valid Oregon medical marijuana card and photo identification • Dispensaries may be located in areas zoned commercial, industrial, mixed use, agricultural. Cannot be located within 1,000 feet of school or another registered dispensary or at an address registered with the OMMP as a grow site 	<ul style="list-style-type: none"> • Banned within city prior to HB 3400. OHA will not recognize ban. • Under House Bill 3400 City can ban use by adopting ordinance referring question to voters whether to prohibit such use at the next statewide election in November 2016 • Upon adoption of ordinance serves as temporary moratorium until general election • Notice provided to OHA to prohibit issuance of licenses for such use
Medical Marijuana Processing Sites	<ul style="list-style-type: none"> • Location for compounding or converting marijuana into medical products, concentrates or extracts • Processors that make marijuana extracts may not be located in areas zoned for residential use 	<ul style="list-style-type: none"> • Currently no ban in the city • Process to Ban: Same as above

Recreational Marijuana Production	<ul style="list-style-type: none"> • Manufacture or planting, cultivating, growing and harvesting of recreational marijuana • No restriction on where recreational marijuana producers can locate 	<ul style="list-style-type: none"> • Currently no ban in the city • Process to Ban: Same as above but notice of adoption goes to OLCC
Recreational Marijuana Processing	<ul style="list-style-type: none"> • Processing, compounding or converting marijuana into products, concentrates or extracts that does not include packaging or labeling • Processors that make marijuana extracts may not be located in areas zoned for residential use 	<ul style="list-style-type: none"> • Currently no ban in the city • Process to Ban: Same as above but notice of adoption goes to OLCC
Recreational Marijuana Wholesale	<ul style="list-style-type: none"> • Purchasing marijuana items for resale to a person other than a consumer • Wholesale licensees may not locate in an area that is zoned exclusively for residential use 	<ul style="list-style-type: none"> • Currently no ban in the city • Process to Ban: Same as above but notice of adoption goes to OLCC
Recreational Marijuana Retailers	<ul style="list-style-type: none"> • Authorized to sell marijuana and marijuana products to consumers • Retail licensees may not locate in an area that is zoned exclusively for residential use • Retail licensees may not locate within 1,000 feet of most public and private elementary, middle and high schools 	<ul style="list-style-type: none"> • Currently no ban in the city • Process to Ban: Same as above but notice of adoption goes to OLCC
Personal Homegrow Site	<ul style="list-style-type: none"> • Allows limited personal growing, processing and storing of marijuana and marijuana products for recreational purposes; not for resale to a consumer • Limits amount per household at any one time as follows: 4 mature plants; 8 oz. of usable marijuana; 16 oz. of solid marijuana products; and 72 oz. of liquid marijuana products 	<ul style="list-style-type: none"> • Currently no restrictions in the city • City does not have the authority to ban the use under House Bill 3400 • City can adopt reasonable time, place and manner restrictions

Medical Marijuana Grow Site	<ul style="list-style-type: none">• Location for planting, cultivating, growing, trimming or harvesting marijuana or drying marijuana leaves or flowers	<ul style="list-style-type: none">• Not currently banned in the city• House Bill 3400 is silent on whether city can ban medical marijuana growers from operating in the city. Any argument to ban must be based on home rule, federal pre-emption or legal theory• More stringent limitations on number of plants that a medical marijuana grower can grow in residential zones have been adopted

From: Sydnee Dreyer [mailto:sbd@medfordlaw.net]
Sent: Tuesday, October 13, 2015 9:28 AM
To: Jeff Alvis
Cc: Kimberlyn Kerneen
Subject: RE: Marijuana Dispensary opt-out

Jeff,

This was the concern I mentioned in my earlier comments. Your dispensary ban was adopted prior to HB 3400. One could argue that since it precedes that bill, it should be grandfathered in, but it was not clear prior to HB 3400 that cities could ban dispensaries. In fact the only express authority granted by the legislature prior to HB 3400 was for a temporary 1-year moratorium. It appears that OHA's position is that to be honored by OHA, the ordinance must be readopted under the provisions of HB 3400 which provide that for cities located in a county in which fewer than 55% of the voters opposed M. 91, a city may only prohibit dispensaries, medical marijuana processing sites, and licensed retail uses upon adoption of an ordinance referred to the voters to prohibit such use.

What this means to the City, based on the OHA's position is that it essentially has 3 options: 1) permit the dispensaries within the City; 2) adopt a new ordinance banning such use and refer it to the voters at the next general election (my understanding is that adoption of such an ordinance would act as a temporary moratorium prohibiting the use until the election results are available; or 3) maintain what you have and refuse to issue any licenses or permits for such a use within the City. In the case of the latter the City runs the risk that the OHA will approve such a use and an applicant will challenge the City in court over whether the City must issue such a license or permit.

Perhaps we can discuss this further at our meeting in the next week or two that you were going to schedule with another council member or two.

Sydnee