

**MISSION STATEMENT: TO PROVIDE A SAFE, HEALTHFUL AND SOUND ECONOMIC ENVIRONMENT,
PROGRESSIVELY ENHANCING OUR QUALITY OF LIFE**



**COUNCIL MEETING AGENDA
CITY COUNCIL – CITY OF ONTARIO OREGON
TUESDAY, OCTOBER 23, 2018, 7:00 PM, MT**

Pursuant to the Public Meetings Laws and Rules within the Oregon Revised Statutes, the City Council has the authority, ability, and standing to take action on any items on the Agenda, or add items to the Agenda, during the Study Session or Regular Meeting, as long as all public meeting notice requirements have been met.

1) CALL TO ORDER

Roll Call: Betty Carter _____ Marty Jutus _____ Ramon Palomo _____ Dan Capron _____
Thomas Jost _____ Norm Crume _____ Mayor Ron Verini _____

2) PLEDGE OF ALLEGIANCE

This Agenda was posted on October 19, 2018. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website at www.ontariooregon.org.

3) MOTION TO ADOPT THE AGENDA

4) PUBLIC COMMENTS Citizens may address the Council; however, Council may not be able to provide an immediate answer or response. Our of respect to the Council and others in attendance, please limit your comment to three (3) minutes. Please state your name and city of residence for the record.

5) CONSENT AGENDA

6) SPECIAL ACTION

7) PRESENTATIONS

8) NEW BUSINESS

- A) Land Use Action #2018-08-15ZCA, Amending Title 10A ("the Zoning Title") of the Ontario City Code to Allow Certain Marijuana Related Operations and Activities in Certain Zones under a Conditional Use Permit and to Prohibit Them in all Other Zones not Specifically Noted as Being Allowed as a Conditional Use; Adoption of Ordinance #2748-2018 on Second and Final Reading by Title Only
- B) ORDINANCE 2744-2018 AN ORDINANCE AMENDING SECTION 10B-02-55 OF THE PLANNING AND ZONING DEVELOPMENT CODE TO AUTHORIZE CHANGES IN PLANNING AND ZONING FEES BY COUNCIL RESOLUTION

9) OLD BUSINESS

10) PUBLIC HEARING

11) HAND-OUTS/DISCUSSION ITEMS

12) CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS

13) ADJOURN



**AGENDA REPORT
NEW BUSINESS
October 23, 2018**

To: Mayor and City Council

FROM: Dan Cummings, Community Development Director

THROUGH: Adam J. Brown, City Manager

SUBJECT: **LAND USE ACTION #2018-08-15ZCA, AMENDING TITLE 10A ("THE ZONING TITLE") OF THE ONTARIO CITY CODE TO ALLOW CERTAIN MARIJUANA RELATED OPERATIONS AND ACTIVITIES IN CERTAIN ZONES UNDER A CONDITIONAL USE PERMIT AND TO PROHIBIT THEM IN ALL OTHER ZONES NOT SPECIFICALLY NOTED AS BEING ALLOWED AS A CONDITIONAL USE; ADOPTION OF ORDINANCE #2748-2018 ON SECOND AND FINAL READING BY TITLE ONLY**

DATE: October 15, 2018

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE ORDINANCE 2748-2048, AN ORDINANCE AMENDING TITLE 10A ("THE ZONING TITLE") OF THE ONTARIO CITY CODE TO ALLOW CERTAIN MARIJUANA RELATED OPERATIONS AND ACTIVITIES IN CERTAIN ZONES UNDER A CONDITIONAL USE PERMIT AND TO PROHIBIT THEM IN ALL OTHER ZONES NOT SPECIFICALLY NOTED AS BEING ALLOWED AS A CONDITIONAL USE, ON SECOND AND FINAL READING BY TITLE ONLY.

SUMMARY:

The State of Oregon by legislative enactment has established a process for the licensing and registration of certain marijuana facilities and dispensaries. Currently, the city zoning regulations do not address or allow these uses. An Initiative has been put on the November 6, 2018, ballot in an effort to remove the current marijuana ban within Ontario the city limits. The City Council has directed the drafting of appropriate regulations and standards governing the time, manner, and place where marijuana facilities and dispensaries may be allowed within the Ontario city limits should the ban be overturned by a vote of the people.

BACKGROUND:

On Monday April 13, 2015, the Planning Commission acted on planning action 2015-03-06 ZCA on the creation of Chapter 10A-58 entitled "Medical Marijuana Facilities".

In 2018, the Ontario City Council established a Marijuana Ad Hoc Committee to review the effects and impacts to the City of Ontario due to the legalization of marijuana in the State of Oregon. When a local initiative and referendum to remove the ban that the City of Ontario placed on the operations and activities of marijuana, the Council asked the committee for recommendations on regulations and standards governing the time, manner and place of marijuana operations and activities within the city limits. The Committee, comprised of five members who are pro-marijuana and two members who are anti-marijuana, met in several public meetings and formulated their recommendation, summarized in the attached Exhibit "B", and recommendations for buffer setbacks are shown in Blue in Exhibit "A". It is noted some of the recommendations are not addressed in these planning codes and will be addressed in the business licensing codes when and if the ban is lifted.

Staff created documents for presentation to the Ontario Planning Commission, including the document labeled Exhibit "A" which included the Ad Hoc Committee recommendations noted in Blue, along with existing buffer setbacks established under Title 10A-58 shown in Purple. Staff recommended buffer setbacks are shown in Red. All other buffers shown in Black are being recommended by both the Ad Hoc Committee and city staff and previously established under Chapter 10A-58.

The Planning Commission meet in a Public Hearing on October 8, 2018 and sent the following recommendations to the Ontario City Council for approval:

1. Amendment actions are first referred to the Ontario Planning Commission for a Public Hearing and recommendation to the City Council; those recommendations were made in the following motions by the Planning Commission:
 1. I move that the Planning Commission recommend under Section 9, 10A-59-15 (A) (5) {in the C-1, C-2 & C-3 zones} a **350** foot buffer from another marijuana recreational facility. (0') (350') (1000')
 2. I move that the Planning Commission recommend under Section 9, 10A-59-15 (A) (6) {in the C-1, C-2 & C-3 zones} a **500** foot buffer from all residential zones as noted in the text of Exhibit "A". (200') (350') (500')
 3. I move the Planning Commission recommend under Section 9, 10A-59-15(B)(3) and 10A-59-25(B)(3) {ALL ZONES} the parking requirement of Option A.
 1. 10A-57-75 (4) one space for each employee and one for each 300 square feet as per text in Exhibit "A".
 2. 10-57-75(6) one space for every 300 square feet of gross space.
 3. Other (state):
 4. I move that the Planning Commission recommend under Section 9, 10A-59-25 (A) (5) {in the C-2H, E-2, I-1 & I-2 zones} a **0** foot buffer from another marijuana recreational facility. (0') (350') (1000')
 5. I move that the Planning Commission recommend under Section 9, 10A-59-25 (A) (6){in the C-2H, E-2, I-1 & I-2 zones} a **500** foot buffer from all residential

zones as noted in the Text of Exhibit "A". (200') (200') (500')

6. State any other motions: **I move we recommend to the City Council to include the city leased parks designated as Moore Park and Depot Park in the 1000 foot buffer requirement.**
7. I move that the Planning Commission accept the above Findings of Fact, the above motions, and the amended Exhibit "A", and recommend to the City Council the approval and adoption of the proposed amendments to the Ontario Zoning Ordinance establishing the location and standards for the establishment of marijuana operations and facilities within the City of Ontario.

The Ontario City Council meet and conducted a Public hearing on an ordinance amending title 10a ("the zoning title") of the Ontario city code to allow certain marijuana related operations and activities in certain zones under a conditional use permit and to prohibit them in all other zones not specifically noted as being allowed as a conditional use after hearing staff report and the recommendation from the planning commission the Council open up the hearing for Public Comment.

The Council closed the meeting for Public Comment and discussed the issue and the made the following motions:

1. I move that the City Council approve under Section 9, 10A-59-15
(A) (5) {in the C-1, C-2 & C-3 zones} a **350** foot buffer from another marijuana recreational facility.
2. I move that the City Council approve under Section 9, 10A-59-15
(A) (6) {in the C-1, C-2 & C-3 zones} a **200** foot buffer from all residential zones as noted in the text of Exhibit "A".
3. I move the the City Council approve under Section 9, 10A-59-15(B)(3) and 10A-59-25(B)(3) {ALL ZONES} the parking requirement of Option A.
A. 10A-57-75 (4) one space for each employee and one for each 300 square feet as per text in Exhibit "A".
B. 10-57-75(6) one space for every 300 square feet of gross space.
C. Other (state):
4. I move that the City Council approve under Section 9, 10A- 59-25 (A) (5) {in the C-2H, E-2, I-1 & I-2 zones} a **350** foot buffer from another marijuana recreational facility.
5. I move that the City Council approve under Section 9, 10A-59-25(A)
(6){in the C-2H, E-2, I-1 & I-2 zones} a **200** foot buffer from all residential zones as noted in the Text of Exhibit "A".
6. State any other motions: I move City Council approve **No**, buffer on the Lease Parks designated as Moore Park and Depot Park. (I move we recommend to the City Council to include the city leased parks designated as Moore Park and Depot Park in the 1000 foot buffer requirement.)

The Council then moved to approve the findings of facts and moved to approve the amended Ordinance 2748-2018 on First Reading by Title only.

RECOMMENDATION:

Staff recommends the City Council approve Ordinance #2748-2018 on Second and Final Reading by Title only.

ATTACHMENTS:

1. ORDINANCE 2747-2018_CC SECOND READING

ORDINANCE NO. 2748-2018

**AN ORDINANCE AMENDING TITLE 10A ("THE ZONING TITLE") OF
THE ONTARIO CITY CODE TO ALLOW CERTAIN MARIJUANA RELATED OPERATIONS AND ACTIVITIES IN
CERTAIN ZONES UNDER A CONDITIONAL USE PERMIT
AND TO PROHIBIT THEM IN ALL OTHER ZONES NOT SPECIFICALLY NOTED AS BEING ALLOWED AS A
CONDITIONAL USE.**

- WHEREAS,** State law authorizes the operation of medical and recreational marijuana businesses and provides those businesses with immunity from state criminal prosecution; and
- WHEREAS,** Although the State of Oregon has passed legislation authorizing marijuana businesses and providing criminal immunity under state law, the operation of those businesses remains illegal under federal law; and
- WHEREAS,** Under Oregon law, local governments may regulate the operation and location of certain types of businesses within their jurisdiction except when such action is specifically preempted by state law; and
- WHEREAS,** The City Council has home rule authority to decide whether, and under what conditions, certain commercial conduct should be regulated within the city and subject to the general and police powers of the city, except when local action has been clearly and unambiguously preempted by state statute; and
- WHEREAS,** Whether a certain business should operate within a local jurisdiction is a local government decision, and local governments may enforce that decision through the general and police powers of that jurisdiction; and
- WHEREAS,** The city's licensing and regulatory system should not be construed to constitute an authorization to engage in any activity prohibited by law nor a waiver of any other license or regulatory requirement imposed by any other provisions of city ordinance or local, regional, state or federal law; and
- WHEREAS,** The city council wants to regulate the operation of marijuana businesses in the city in ways that protect and benefit the public health, safety and welfare of existing and future residents and businesses in the city; and
- WHEREAS,** The ordinance is intended to impose restrictions, not provide authorizations; and
- WHEREAS,** Upon approval of city voters, the city shall impose a local sales tax of 3 % on the sales of recreational marijuana by marijuana retailers in order to recover its costs incurred in connection with the city's recreational marijuana licensing program; and
- WHEREAS,** The operation of a marijuana business without proper authority from either the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC) is prohibited within the city; and
- WHEREAS,** The City's zoning regulatory system should not be construed to constitute an authorization to engage in any activity prohibited by law nor a waiver of any other license or regulatory requirement imposed by any other provisions of City ordinance or local, regional, state or federal law; and
- WHEREAS,** The City of Ontario substantive zoning regulations and administrative requirements are contained in Titles 10A and 10B of the Ontario City Code; and

- WHEREAS,** Amendments to Title 10A have been initiated by the City Council in accord with Section 10B-15, Ontario City Code; and
- WHEREAS,** Amendment actions are first referred to the Ontario Planning Commission for a public hearing and recommendation to the City Council; and
- WHEREAS,** A public hearing was held before the Planning Commission on Planning Action 2018-08-15ZCA on October 8, 2018, and before the City Council on October 16, 2018; and
- WHEREAS,** The appropriate legal notices were provided to the Oregon Department of Land Conservation and Development and to the public in accordance with Oregon law and the Ontario City Code prior to the public hearings; and
- WHEREAS,** Having duly considered the information provided at the public hearings and the recommendations of the Planning Commission, the City Council finds that it is in the public interest to enact reasonable restrictions on the time, place and manner of operation of medical marijuana facilities through amendments and additions to Title 10A (“the Zoning Title”) of the Ontario City Code; and
- WHEREAS,** Notwithstanding the passage of this ordinance with an effective date 30 days after passage, the City Council intends that Ordinance 2704-2015, which became effective on August 30, 2015, effectively prohibits marijuana operations and activities from commencing business operations until the ban is lifted by the City Council or by a vote of the Citizens of Ontario; and
- WHEREAS,** An Initiative is on the ballot for the November 6, 2018, general election in which the voters shall approve or disapprove a proposed Ontario City Code amendment overturning the ban imposed by Ordinance 2704-2015 and imposing a 3% tax on retail marijuana sales; and
- WHEREAS,** If a majority of Ontario voters in the November 6, 2018, election disapprove the initiative, the ban imposed by Ordinance 2704-2015 shall remain in effect and this Ordinance 2748-2018 shall not authorize any activities that are subject to the ban; and
- WHEREAS,** If a majority of Ontario voters in the November 6, 2018, election approve the initiative, it shall become effective 30 days after the passage or upon the repealing effective date of any ballot measure or ordinance that has the effect of repealing City Code Section 3-23-1 whichever occurs later; and
- WHEREAS,** It is the intention of the Ontario City Council that if the Initiative is approved by the voters, and if any of the provisions of this Ordinance 2748-2018 conflict with the provisions of the Initiative, Ordinance 2748-2018 shall become effective immediately after the Initiative goes into effect, and Ordinance 2748-2018 shall replace and supersede any provisions of the Initiative in which there is a conflict.

NOW THEREFORE, The Common Council For The City Of Ontario Ordains As Follows:

Section 1. Ontario City Code Sections 10A-03-134.1 through 10A-03-134.11 are hereby added to Chapter 10A-03 (“Definitions”) of Title 10A of the Ontario City Code:

10A-03-134.1 MARIJUANA

Marijuana means all parts of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of

germination. “Marijuana” does not include industrial hemp, as defined in ORS 571.300.

10A-03-134.1.1 MARIJUANA BUSINESS

Marijuana Business means an establishment operated by any person or entity who is or will be appropriately licensed by the Oregon Health Authority or the Oregon Liquor Control Commission which sells, produces, cultivates, grows, wholesales, processes, researches, develops or tests medical marijuana or recreational adult use marijuana within the City of Ontario.

10A-03-134.1.2 MARIJUANA GROW SITES MEDICAL

Marijuana Grow Sites means a specific location registered by the Oregon Health Authority (OHA) or other Oregon regulatory agency and used by the grower to produce marijuana for medical use by a specific patient. Medical grow sites are currently regulated by State law as follows: 12 mature plants are allowed per grow site in residential zones; 48 mature plants per grow site in all other zones. If all grows at the site had registered with the State of Oregon by January 2, 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. Owners or possessors of real property used for Marijuana Grow Sites shall not allow said Sites to exceed the maximum number of plants authorized under State law.

10A-03-134.1.3 MARIJUANA ITEMS

Marijuana items means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

10A-03-134.1.4 MARIJUANA PROCESSING SITE

Marijuana processing site means a property/site registered with the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC) to process marijuana for the preparing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates, and cannabinoid extracts for medical or recreational purposes.

10A-03-134.1.5 MARIJUANA PROCESSOR FLAMMABLE

Marijuana processor means an entity licensed by the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC) to process marijuana using a process that uses a flammable gas or substance.

10A-03-134.1.6 MARIJUANA PROCESSOR NON-FLAMMABLE

Marijuana processor means an entity licensed by the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC) to process marijuana using a process that uses a non-flammable substance, such as but not limited to CO2.

10A-03-134.1.7 MARIJUANA PRODUCER RECREATIONAL

Marijuana producer means an entity licensed by the Oregon Liquor Commission to manufacture, plant, cultivate, grow or harvest marijuana for recreational purposes.

10A-03-134.1.8 MARIJUANA RECREATIONAL FACILITY

A facility designed, intended, or used for purposes of production, processing, testing, wholesaling, or retailing of marijuana, in any form, to any other OLCC licensee or consumer in this state.

10A-03-134.1.9 MARIJUANA RETAILER

Marijuana retailer means an entity licensed by the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC) to sell marijuana items to a legal consumer in this State.

10A-03-134.1.10 MARIJUANA TESTING LABORATORY

Marijuana testing laboratory means a laboratory licensed by the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC) that tests marijuana items for producer, processor, wholesaler or retail licensees.

10A-03-134.1.11 MARIJUANA WHOLESALER

Marijuana wholesaler means an entity licensed by the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC) to purchase marijuana items in this state for resale to a person other than a consumer.

Section 2. Section 10A-27-10 is hereby amended by adding that portion that is underlined:

10A-27-10 - CONDITIONAL USES.

The following uses are permitted conditionally in the C-1 Zone:

1. Dry-cleaning and laundry establishments which do not exceed 2,000 square feet in floor area and have no more than two delivery vehicles operating from the location
2. Any permitted or permissible non-residential use that operates later than 11:00 p.m. or earlier than 7:00 a.m.;
3. Mortuaries or funeral homes;
4. Nursing home;
5. Residential care facility housing more than eight clients;
6. Utility facilities, other than distribution lines, at specific location necessary for the functioning of that utility;
7. Marijuana Retailer as provided in Chapter 10A-59;
8. Marijuana Laboratory as provided in Chapter 10A-59;
9. Marijuana Wholesaler as provided in Chapter 10A-59;
10. Marijuana Processor Non-Flammable as provided in Chapter 10A-59; and
11. Marijuana Grow Site Medical as provided by State regulations and as provided in Chapter 10A-59.

Section 3. Section 10A-29-10 is hereby amended by adding that portion that is underlined:

10A-29-10 - CONDITIONAL USES.

The following uses are permitted conditionally in the C-2 Zone:

1. Utility facilities, other than distribution lines, at a specific location necessary for the functioning of that utility;
2. Fair, rodeo, stadium, race track or similar facility on site of more than three acres;
3. Mini-warehouses or storage buildings;
4. Congregate housing facility;
5. Marijuana Retailer as provided in Chapter 10A-59;
6. Marijuana Laboratory as provided in Chapter 10A-59;
7. Marijuana Wholesaler as provided in Chapter 10A-59;
8. Marijuana Processor Non-Flammable as provided in Chapter 10A-59; and
9. Marijuana Grow Site Medical as provided by State regulations and as provided in Chapter 10A-59.

Section 4. Section 10A-31-10 is hereby amended by adding that portion that is underlined and deleting the portion lined out:

10A-31-10 - CONDITIONAL USES.

The following uses and structures common to all zones as listed in Chapter 10A-53 are allowed are permitted conditionally in the C-2-H Zone:

1. Utility facilities, other than distribution lines, necessary for the functioning of that utility;
- ~~2. Medical marijuana facility as provided in Chapter 10A-59;~~
2. Accessory uses and structures common to all zones as listed in Chapter 10A-53;
3. Marijuana Retailer as provided in Chapter 10A-59;
4. Marijuana Laboratory as provided in Chapter 10A-59;
5. Marijuana Wholesaler as provided in Chapter 10A-59; and
6. Marijuana Processor Non-Flammable as provided in Chapter 10A-59; and
7. Marijuana Grow Site Medical as provided by State regulations and as provided in Chapter 10A-59.

Section 5. Section 10A-33-10 is hereby amended by adding those portions that are underlined and deleting those portions that are lined out:

10A-33-10 - CONDITIONAL USES.

The following uses are permitted conditionally in the C-3 Zone:

1. Light manufacturing involving noiseless and award fabrication and minimal truck traffic;
2. Utility facilities, other than distribution lines, necessary for the functioning of a utility; and
3. Congregate housing facility-;
4. Marijuana Retailer as provided in Chapter 10A-59;
5. Marijuana Laboratory as provided in Chapter 10A-59;
6. Marijuana Wholesaler as provided in Chapter 10A-59; and
7. Marijuana Processor Non-Flammable as provided in Chapter 10A-59; and
8. Marijuana Grow Site Medical as provided by State regulations and as provided in Chapter 10A-59.

Section 6. Section 10A-52-205 is hereby amended by adding that portion that is underlined:

10A-52-205 - CONDITIONAL USES.

The following uses are permitted conditionally in the UGA E-2 Zone:

1. Commercial recreation facilities or RV Park;
2. Schools and college;
3. Churches;
4. Bars, taverns, cocktail lounges;
5. Dry cleaning, laundry;
6. Bed and breakfast;
7. Dwelling, multi-family mixed use [when accessory to a commercial development];
8. Public buildings, facilities and services;
9. Distribution centers;
10. Amusement center;
11. Utility facility necessary for the function of the utility in the area;
12. Any use which is demonstrated to be of similar character and impact to that of the listed principal commercial uses or principal light industrial uses;
13. Marijuana Retailer as provided in Chapter 10A-59;
14. Marijuana Laboratory as provided in Chapter 10A-59;
15. Marijuana Wholesaler as provided in Chapter 10A-59;
16. Marijuana Processor Non-Flammable as provided in Chapter 10A-59; and

17. Marijuana Grow Site Medical as provided by State regulations and as provided in Chapter 10A-59.

Section 7. Section 10A-39-10 is hereby amended by adding that portion that is underlined:

10A-39-10 - CONDITIONAL USES, COMMERCIAL.

The conditional commercial uses listed below may be permitted in the I-1 Zone upon application of the standards for all conditional uses and the following additional ~~standards:~~ standard: the proposed location and size of the proposed commercial use will not substantially interfere with the development of the industrial zones for industrial uses.

~~The proposed use will primarily serve those who work or do business with industries in the industrial zones; and there is a need for such use to provide service or goods to those who work in or do business with industries in the industrial zones; and the proposed location and size of the proposed commercial use will not substantially interfere with the development of the industrial zones for industrial uses.~~

1. Automatic or self service care or truck washes.
2. Gasoline service stations.
3. Retail food stores not to exceed 2,000 square feet of gross floor area;
4. Bars, taverns, cocktail lounges, restaurants or combinations thereof not to exceed 3,000 square feet gross floor area.
5. Job printing and duplication.
6. Motel catering to general travelers when located on a developed truck stop;
7. Radio or television towers and related facilities, subject to a structure height variance approval.
8. Outdoor advertising signs providing such sign is compatible with surrounding existing or planned land uses. Such a sign may not be compatible with an industrial park.
9. Marijuana Retailer as provided in Chapter 10A-59;
10. Marijuana Laboratory as provided in Chapter 10A-59;
11. Marijuana Wholesaler as provided in Chapter 10A-59;
12. Marijuana Producer as provided in Chapter 10A-59;
13. Marijuana Processor Non-Flammable as provided in Chapter 10A-59;
14. Marijuana Processor Flammable as provided in Chapter 10A-59; and
15. Marijuana Grow Site Medical as provided by State regulations and as provided in Chapter 10A-59.

Section 8. Section 10A-41-10 is hereby amended by adding that portion that is underlined:

10A-41-10 - CONDITIONAL USES, COMMERCIAL.

The conditional commercial uses listed below may be permitted in the I-2 Zone upon application of the standards for all conditional uses and the following additional ~~standards:~~ standard: the proposed location and size of the proposed commercial use will not substantially interfere with the development of the industrial zones for industrial uses.

~~The proposed use will primarily serve those who work or do business with industries in the industrial zones; and there is a need for such use to provide service or goods to those who work in or do business with industries in the industrial zones; and the proposed location and size of the proposed commercial use will not substantially interfere with the development of the industrial zones for industrial uses.~~

1. Automatic or self service care or truck washes.
2. Gasoline service stations.
3. Retail food stores not to exceed 2,000 square feet of gross floor area.
4. Bars, taverns, cocktail lounges, restaurants or combinations thereof not to exceed 3,000 square feet gross floor area.
5. Job printing and duplication.
6. Radio or television towers and related facilities, subject to a structure height

- limitation in the AH, Airport Hazard Overlay Zone.
- 7. Automobile service establishments as defined herein.
- 8. Marijuana Retailer as provided in Chapter 10A-59;
- 9. Marijuana Laboratory as provided in Chapter 10A-59;
- 10. Marijuana Wholesaler as provided in Chapter 10A-59;
- 11. Marijuana Producer as provided in Chapter 10A-59;
- 12. Marijuana Processor Non-Flammable as provided in Chapter 10A-59;
- 13. Marijuana Processor Flammable as provided in Chapter 10A-59; and
- 14. Marijuana Grow Site Medical as provided by State regulations and as provided in Chapter 10A-59.

Section 9. Section 10A-57-137 is hereby amended by deleting the portion lined out:

10A-57-137 Advertises activities that are illegal under any State or Federal law applicable at the location of the sign or of the activities.

Section 10. The Chapter 10A-58 of Title 10 entitled “Medical Marijuana Facilities” is hereby repealed in its entirety and replaced with the following Chapter 10A-59 of Title 10A of the Ontario City Code and is entitled “Marijuana Related Operations and Activities”:

CHAPTER 10A-59 MARIJUANA RELATED OPERATIONS AND ACTIVITIES

10A-59-05 MARIJUANA GROW SITE MEDICAL, MARIJUANA PROCESSING SITES, MARIJUANA PROCESSOR FLAMMABLE, MARIJUANA PROCESSOR NON-FLAMMABLE, MARIJUANA PRODUCER RECREATIONAL, MARIJUANA RECREATIONAL FACILITY, MARIJUANA RETAILER, MARIJUANA LABORATORY AND WHOLESALER AS PROHIBITED USE IN CERTAIN ZONES.

The following uses are prohibited in all zones other than those zones in which they are specifically designated as conditional uses: Marijuana Grow Site Medical defined in Section 10A-03-134.1.2, a Marijuana Processing Site defined in Section 10A-03-134.1.4, a Marijuana Processor Flammable defined in Section 10A-03-134.1.5, a Marijuana Processor Non-Flammable defined in Section 10A-03-134.1.6, a Marijuana Producer Recreational defined in Section 10A-03-134.1.7, a Marijuana Recreational Facility defined in Section 10A-03-134.1.8, a Marijuana Retailer defined in Section 10A-03-134.1.9, a Marijuana Testing Laboratory defined in Section 10A-03-134.1.10 a Marijuana Wholesaler defined in Section 10A-03-134.1.11, and a Medical Marijuana Facility defined in Section 10A-03-134.5. The zones in which those uses are prohibited include but not limited to the following zones in Title 10A, but not including TRO zones in Chapter 23 that are located in C-2-H zones:

- Chapter 11 (RS-50);
- Chapter 13 (RD-40);
- Chapter 17 (RM-10);
- Chapter 19 (R-MH);
- Chapter 37 (IBP);
- Chapter 45 (AD);
- Chapter 49 (PD);
- Chapter 51 (PF); and
- All urban growth area zones, including the following zones in Chapter 52: UGA I-1, UGA I-2, UGA E-2, UGA E-5, UGA-C and UGA-R.

10A-59-10 MARIJUANA RELATED OPERATIONS AND ACTIVITIES AS CONDITIONAL USE IN C-1, C-2 AND C-3, C-2H, E-2, I-1, and I-2 ZONES

Unless lawfully prohibited by Section 3-23-1 and any amendments thereto imposing a ban on marijuana within the jurisdiction of the City of Ontario, the following uses if listed under being allowed by a conditional use, are conditional uses in the C-1, C-2, C-3, C-2H, E-2, I-1 and I-2 zones, as provided in Chapters 27, 29 and 33 of Title 10A: Marijuana Businesses defined in Section 10A-03-134.1.1; Marijuana Grow Sites Medical defined in Section 10A-03-

134.1.2; Marijuana processing sites defined in Section 10A-03-134.1.4; Marijuana Processor Flammable defined in Section 10A-03-134.1.5; Marijuana Processors Non-Flammable defined in Section 10A-03-134.1.6; a Marijuana Producer Recreational defined in Section 10A-03-134.1.7; Marijuana Recreational Facility defined in Section 10A-03-134.1.8; Marijuana Retailers defined in Section 10A-03-134.1.9; Marijuana Testing Laboratory defined in Section 10A-03-134.1.10; Marijuana Wholesalers defined in Section 10A-03-134.1.11; and Medical Marijuana Facilities defined in Section 10A-03-134.5.

10A-59-15 MARIJUANA RELATED OPERATIONS AND ACTIVITIES GENERAL AND SPECIAL CONDITIONS IN THE C-1, C-2, C-3, C-2H, E-2, I-1 AND I-2 ZONES.

All marijuana operations and activities located in the C-1, C-2, C-3, C-2H, E-2, I-1 and I-2 zones are subject to Chapter 10B-25 ("Conditional Use Permits") of Title 10B, and to the conditions generally imposed upon conditional uses in these zones and to the application fee set by most recent fee resolution. The following special conditions shall also apply to all marijuana operations and activities:

(A) Location Restrictions. Marijuana operations and activities are prohibited in the following locations, with distances measured from the closest points of the respective lot lines:

1. within 1,000 feet of a public or private elementary or secondary school, or a career school attended primarily by minors, including but not limited to:
 - a) All Ontario 8C Schools
 - b) St. Peter Catholic School
 - c) Treasure Valley Christian School
 - d) Four River Community School;
2. within 1,000 feet of a non-commercial facility used primarily for the care, education or recreation of minors existing at the time of this ordinance which are:
 - a) Ontario Head Start Center
 - b) Oregon Child Development Coalition (OCDC)
 - c) Malheur County Child Development Center
 - d) Treasure Valley Relief Nursery
 - e) Ontario Boys and Girls Club;
3. within 1,000 feet of a property zoned as PF Public Facility or UGA-PF Public Facility UGA, excepting therefrom the Oregon Department of Transportation lands adjacent to East Idaho Avenue and the City of Ontario Water Treatment Plant lands East of East Lane and the Ontario Public Works Department lands located at 1551 NW 9th Street;
4. within 1,000 feet of another Medical Marijuana Retail Facility;
5. within 350 feet of another Marijuana Recreational Retail Facility;
6. within 200 feet of residential zones, including those designated in Chapter 11 (RS-50), Chapter 13 (RD-40), Chapter 17 (RM-10), Chapter 19 (R-MH), and Chapter 52 (UGA-R) of Title 10A;
7. on the same tax lot as a smoking club; or
8. any combination of the above.

(B) Other Restrictions. Marijuana operations and activities are subject to the following

additional restrictions:

1. A facility shall be designed so that all transactions occur within the interior of the facility, out of the view of the public. All doorways, windows and other openings shall be located, covered or screened in such a manner to prevent a view into the interior from any exterior public or semipublic area. Walk-through windows, drive-through windows or other outside delivery systems are prohibited.
2. Any and All marijuana operations and activities are considered a change of use and any existing and new structures used for such operations shall be brought up to and or constructed to current building codes and standards, including but not limited to the American Disability Act (ADA), parking standards and providing for public bathrooms for the business customer use including persons waiting to be serviced.
3. All Medical and Recreational Marijuana Retail Facilities shall be required to provide parking as per 10A-57-75(4) as follows: One space for each employee, full or part time on the largest shift, plus one space for each 300 square feet of gross floor area. Parking for all marijuana operations and activities shall comply with Off-Street Parking and Loading requirements 10A-57-60 through 10A-57-100.
4. The facility must use an air filtration and ventilation system which, to the greatest extent feasible, confines all objectionable odors associated with the facility to the premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
5. The facility shall be located in a permanent building, not in a trailer, cargo container or motor vehicle. Any manufactured building shall be a commercial grade design and construction certified by the State of Oregon.
6. The exterior of the facility shall have an exterior consistent with other buildings on abutting lots in the neighborhood so as not to cause blight.
7. All marijuana operations, activities and or facilities must install and maintain all security devices required by the licensing body either the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC).
8. All Medical and Recreational Marijuana Retail Facilities within the C-3 zone shall have a large enough indoor waiting area as to not allow large customer lines outdoors along the public sidewalks and rights of ways or blocking any entrances to other adjacent businesses.
9. Prior to commencing business operations, a facility must have a current business license issued by the City of Ontario under Chapter 22 of Title 3 of the Ontario City Code and the licensed by the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC) for the type of operation allowed.
10. All Marijuana operations and activities shall be on a Conditional Use application prescribed by the Ontario Planning Director and shall include all the items and attachments noted and required in the application along with all fees required by code and current resolution. The application will be date and time stamped as received by the Planning Department only, to set the order of review. The application will be reviewed by the Planning Director for completeness and compliance to established buffers before it is accepted for

Comment [LAS1]:

consideration. Any incomplete application or one not meeting the established buffers shall be returned to the applicant for corrections and/or additional required information and once returned will be time stamped and dated again. Once the application is accepted as complete by the Planning Director the date accepted as complete shall be the priority dated for establishing the buffer between marijuana retailers if the application is approved and all licensing and development requirements are met.

11. The conditional use permit is governed by 10B-25-40 and the Marijuana Conditional use permit shall have a time limit of 12 months and become void if conditions are not met, unless an extension is granted for good cause under 10B-25-40(3).

12. The Conditional Use Permit (CUP) must be approved by the Ontario Planning Department before any Land Use Compatibility Statement (LUCS) will be signed by the Ontario Planning Department for any of the Marijuana State Business License or Registration required by the State of Oregon and/or City of Ontario.

Section 11. Severability. The sections, subsections, paragraphs, and clauses of this Ordinance are severable. The invalidity of one section, subsection, paragraph, or clause does not affect the validity of the remaining sections, subsections, paragraphs, and clauses.

Section 12. This ordinance shall become effective 30 days after passage or upon the effective date of any ballot measure or ordinance that has the effect of repealing Section 3-23-1, whichever is later.

PASSED AND ADOPTED by the Common Council of the City of Ontario this ____ day of _____, 2018, by the following vote:

AYES:
NAYS:
ABSENT:

APPROVED by the Mayor this ____ day of _____, 2018.

ATTEST:

Ronald Verini, Mayor

Tori Barnett, MMC, City Recorder



**AGENDA REPORT
NEW BUSINESS
October 23, 2018**

To: Mayor and City Council

FROM: Dan Cummings, Community Development Director

THROUGH: Adam J. Brown, City Manager

SUBJECT: **ORDINANCE 2744-2018 AN ORDINANCE AMENDING SECTION 10B-02-55 OF THE PLANNING AND ZONING DEVELOPMENT CODE TO AUTHORIZE CHANGES IN PLANNING AND ZONING FEES BY COUNCIL RESOLUTION**

DATE: October 15, 2018

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE ORDINANCE 4744-2018 AN ORDINANCE AMENDING SECTION 10B-02-55 OF THE PLANNING AND ZONING DEVELOPMENT CODE TO AUTHORIZE CHANGES IN PLANNING AND ZONING FEES BY COUNCIL RESOLUTION ON SECOND AND FINAL READING BY TITLE ONLY

SUMMARY:

The City from time to time needs to update the fees to keep up with current financial obligations and increase in expenses. To do this it is a more streamline function when this is done by resolutions and not having to be changed by Ordinance. To keep all fees uniform by resolution this Ordinance will amend City Code 10B-02 to allow the fees to be updated by a resolution.

BACKGROUND:

After the recent updating of City fees by resolution #2018-124 it was discovered that the Planning and Land Use action application fees were still by Ordinance and not by Resolution.

RECOMMENDATION:

Staff recommends that the City Council Approve Ordinance 2744-2018 allowing the fees to be amended by resolution.

Due to the current situation that all fees having been updated by Resolution 2018-124 and this

action is needed to comply with the amended fees, staff recommends the Council consider calling for an emergency and approve Ordinance 2744-2018 on Second and Final reading at this time also.

ATTACHMENTS:

1. Ord 2744-2018 authorizing zoning fees by resolution

ORDINANCE NO. 2744-2018

AN ORDINANCE AMENDING SECTION 10B-02-55 OF THE PLANNING
AND ZONING DEVELOPMENT CODE TO AUTHORIZE
CHANGES IN PLANNING AND ZONING FEES BY COUNCIL RESOLUTION

WHEREAS, Chapter 10B-02 of the Municipal Planning and Zoning Code establishes the fees charged for various land use actions; and

WHEREAS, It is in the best interest of the residents of the City to allow those fees to be modified from time to time by Council resolution, to take into account changing circumstances.

NOW THEREFORE, The Common Council For The City Of Ontario Ordains As Follows:

Section 1. Section 10B-02-55 of the Planning and Zoning Development Code is hereby amended by adding the following portion that is underlined:

10B-02-55 - CHANGING FEES.

The Council may amend the fee schedule from time to time by resolution of the City Council as a non-land use legislative proceeding.

PASSED AND ADOPTED by the Common Council of the City of Ontario this ____ day of _____, 2018, by the following vote:

AYES:

NAYS:

ABSENT:

APPROVED by the Mayor this ____ day of _____, 2018.

ATTEST:

Ronald Verini, Mayor

Tori Barnett, MMC, City Recorder