

1 legislature has not been willing to extend the moratorium authorization beyond that date.
2 Based on these circumstances, the Board finds that adoption of temporary regulations is
3 required prior to May 1, 2015 and an emergency is found to exist making it necessary to act
4 immediately ; and

5 WHEREAS while legal challenges to the state’s authority to preempt local regulation
6 of medical marijuana facilities are slowly wending their way through the Oregon appellate
7 courts, and the inherent powers of the County and other local governments pursuant to the
8 Oregon Constitution, Oregon Law (Chapter 2013 for general law counties), and under the
9 federal Controlled Substances Act, 21 USC 801, et.seq. arguably authorize other actions by
10 the County, it is the Board’s desire to put into place a coordinated system of local regulations
11 of medical and recreational marijuana facilities and uses consistent with the Oregon voters’
12 ultimate decisions to legalize medical and recreational marijuana. That being said, the
13 County reserves the right to continue to explore issues including but not limited to taxation
14 (both in the authority to tax the product and the impacts on other local tax systems including
15 property taxes), locational and operational restrictions, and further controls, as the regulatory
16 systems, both statewide and local unfold. In the meantime, and until the Oregon Legislature
17 and OLCC complete their work, and any changes to the medical marijuana regulatory system
18 are made in relation to that work, the County desires to lift its moratorium to allow medical
19 marijuana distribution facilities within the unincorporated areas of the County with
20 temporary restrictions and conditions consistent with what we have seen other local
21 jurisdictions enact (both within the County and in other areas of the state). These
22 regulations, again will be temporary in nature, subject to review and change as other laws
23 and rules are enacted by the state; and

24 WHEREAS the Board has recognized that there is a significant void in the medical
25 marijuana production system that includes no regulation of marijuana grow sites beyond
26 simple registering of the sites. This oversight is being considered in the recreational
27 marijuana arena, but needs to be addressed immediately to provide guidance to both the

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1 public and potential medical marijuana growers. Temporary grow site regulations, therefore,
2 are also adopted; and

3 WHEREAS the Board also adopts the Supplemental Findings and Conclusions
4 recommended by the Planning Commission, which are attached as Exhibit "A" hereto and
5 incorporated herein, as further support of this Ordinance;

6

7 The Lincoln County Board of Commissioners ordains as follows:

8

9 SECTION 1.

10 These temporary regulations supplement Lincoln County Code Chapter 1 and do not
11 nullify or modify the obligation to meet all requirements of that Chapter and any other
12 applicable state and local laws, including but not limited to land use and medical marijuana
13 laws and rules. These regulations apply only to the unincorporated areas of Lincoln County.

14

15 SECTION 2.

16 The following definitions apply to this Ordinance:

17 (1) Medical Marijuana Dispensary Facility (MMDF) -- is a facility, registered by
18 the Oregon Health Authority, that is allowed to receive marijuana or immature marijuana
19 plants and transfer that marijuana to a patient or a patient's caregiver if the patient or
20 caregiver has an Oregon Medical Marijuana Program card.

21 (2) Medical Marijuana Grow Site and Production of Marijuana (MMGS) - -
22 means a location registered under ORS 475.304 and OAR Chapter 333 where marijuana is
23 produced for use by a registry identification cardholder. Production of marijuana means the
24 manufacture, planting, cultivation, growing, harvesting of marijuana or conversion of
25 marijuana to edibles, oils or other forms for ingestion or medical use.

26

27 SECTION 3.

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1 Notwithstanding any other provision of this Ordinance, and if in compliance with
2 state law requirements for medical marijuana, a medical marijuana patient may grow
3 marijuana for his or her own personal use, in amounts authorized under law for that person
4 only, in any zone. No more than one personal grow per property is allowed under this
5 Section.

6

7 SECTION 4.

8 MMDFs are authorized in the following zones under the conditions and standards set
9 forth. Other standards and conditions applicable under Chapter 1 of the Lincoln County
10 Code, or otherwise under state or local laws or rules, including but not limited to setbacks,
11 lot coverage, parking, special standards and signage apply to these uses in the same manner
12 as any other use in the underlying zone.

13 (1) General Commercial (C-2) and Retail Commercial (C-1) Zones as outright
14 use subject to special standards. Before use is established, must apply to County and comply
15 with the special standards.

16 (2) Planned Industrial (I-P) Zone (Conditional Use).

17 **Special Standards for MMDF in all zones**

18 (1) All state requirements met and maintained, including licensing and state
19 locational requirements.

20 (2) All applicable building and fire codes are met and maintained. In C-1 and C-
21 2 Zones the MMDF must meet all setback, dimensional and other standards applicable to
22 other uses in the C-1 and C-2 Zone.

23 (3) No manufacture or production of any extracts, oils, resins or similar
24 derivatives of marijuana on the premises of the MMDF and no open flames shall be allowed
25 in the preparation of any product. This prohibition shall not apply in an I-P zone.

26 (4) The MMDF may not be co-located within the same building or on the same
27 property with any marijuana social club or smoking club or a MMGS.

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1 (5) The MMDF must utilize an air filtration and ventilation system that, to the
2 greatest extent feasible, shall confine all objectionable odors associated with the facility to
3 the premises. For the purposes of this provision, the standard for judging “objectionable
4 odors” shall be that of an average, reasonable person with ordinary sensibilities after taking
5 into consideration the character of the neighborhood in which the odor is made and the odor
6 is detected.

7 (6) Hours of operation are limited to 10:00 am to 7:00 pm.

8 (7) Entrances and off- street parking areas to MMDF shall be well lit and not
9 visually obscured from public view / right of way.

10 (8) A MMDF must be located at least:

11 a. 1,000 feet away from any other registered MMDF;

12 b. 1,000 feet away from the boundary of any property containing a pre-
13 school or pre-kindergarten, head start program, community learning center, or
14 certified child care facility regulated under ORS Chapters 329, 329A and 657, and
15 any public park (state, city or county);

16 c. All distances are as measured from property boundary to property
17 boundary.

18 (9) All employees and volunteers of the MMDF must submit to a criminal
19 background check by Lincoln County or its designees pursuant to ORS 181.533 and OAR
20 257-010-0025(1)(a). It shall be a violation of these standards to employ or allow a volunteer
21 in the MMDF operation if the employee or volunteer has been convicted of the manufacture
22 or delivery of a controlled substance in Schedule I or Schedule II within five years of the
23 date of the background check, or if the employee or volunteer has been convicted more than
24 once at any time, or if the employee or volunteer has been convicted of any felony involving
25 children or crime prohibited within 1000 feet of a school.

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1 (10) A change in use (including rezoning) of a neighboring property to a use
2 identified in this Section after the MMDF has been established shall not result in the MMDF
3 being in violation of this Section.

4
5 SECTION 5.

6 MMGSs are authorized in the following zones under the conditions and standards set
7 forth. Other standards and conditions applicable under Chapter 1 of the Lincoln County
8 Code, or otherwise under state or local laws or rules, including but not limited to setbacks,
9 lot coverage, parking, special standards and signage apply to these uses in the same manner
10 as any other use in the underlying zone.

11 (1) Rural Residential Zone RR-5 and RR-10 as a conditional use;

12 (2) Planned Industrial Zone I-P as a conditional use;

13 (3) Agricultural Conservation Zone A-C as outright use subject to special
14 standards. Before use is established, must apply to County and comply with the
15 special standards.

16 (4) Timber Conservation Zone T-C as outright use subject to special standards.
17 Before use is established, must apply to County and comply with the special
18 standards.

19 **Special Standards in All Zones**

20 (1) All state requirements met and maintained, including but not limited to
21 licensing and state locational requirements.

22 (2) All applicable building and fire codes are met and maintained for any
23 structures used for growing or production of marijuana.

24 (3) Except in an I-P Zone, manufacture or production of any extracts, oils, resins
25 or similar derivatives of marijuana on the premises of the MMGS is limited to
26 marijuana grown on the premises

1 (4) The MMGS may not be co-located within the same building or on the same
2 property with an MMDF or any marijuana social club or smoking club.

3 (5) The MMGS must utilize an air filtration and ventilation system that confines
4 all odors associated with the MMGS to the premises as defined herein. The air
5 filtration and ventilation system, to the greatest extent feasible, shall confine all
6 objectionable odors associated with the facility to the premises. For the purposes of
7 this provision, the standard for judging “objectionable odors” shall be that of an
8 average, reasonable person with ordinary sensibilities after taking into consideration
9 the character of the neighborhood in which the odor is made and the odor is detected.

10 (6) A MMGS must be located at least

11 a. 1,000 feet away from any other registered MMGS;

12 b. 250 feet away from any residential dwelling on an
13 adjacent property in the RR-5 and RR-10 zones, and 500 feet away
14 from any residential dwelling on an adjacent property in the A-C and
15 T-C zones;

16 c. 1,000 feet away from the boundary of any property
17 containing a pre-school or pre-kindergarten, head start program,
18 community learning center, or certified child care facility regulated
19 under ORS Chapters 329, 329A and 657, and any public park (state,
20 city or county);

21 d. The distance measurement for subsection b. above
22 shall be made from the nearest corner of the accessory structure to
23 the closest portion of any adjacent residence. Otherwise all distances
24 are as measured from property boundary to property boundary.

25 (7) All production of marijuana must take place indoors in a detached accessory
26 building. In the Timber Conservation Zone T-C the indoor grow building is required

1 to meet fire safety standards applicable to non-forest dwellings constructed in that
2 zone per LCC 1.1375(7).

3 (8) All employees and volunteers of the MMGS must submit to a criminal
4 background check by Lincoln County or its designees pursuant to ORS 181.533 and
5 OAR 257-010-0025(1)(a). It shall be a violation of these standards to employ or
6 allow a volunteer in the MMGS operation if the employee or volunteer has been
7 convicted of the manufacture or delivery of a controlled substance in Schedule I or
8 Schedule II within five years of the date of the background check, or if the employee
9 or volunteer has been convicted more than once at any time, or if the employee or
10 volunteer has been convicted of any felony involving children or crime prohibited
11 within 1,000 feet of a school.

12 (9) An indoor MMGS shall not exceed 300 square feet or the allowable square
13 footage of an accessory use within the zone, whichever is smaller, in an RR-5 and
14 RR-10 zone.

15 (10) An indoor MMGS shall not exceed 1,500 square feet or the allowable square
16 footage of an accessory use within the zone, whichever is the smaller, in an A-C, T-C
17 or I-P zone.

18 (11) In addition to the size limits noted above, a MMGS in an RR-5 and RR-10
19 zone is limited to production of marijuana of no more than 24 plants. In A-C, T-C
20 and I-P zones production is limited to 120 plants.

21 (12) A change in use (including rezoning) of a neighboring property to a use
22 identified in this Section after the MMGS has been established shall not result in the
23 MMGS being in violation of this Section.

24
25 SECTION 6.

26 Severability.

1 (13) The sections, subsections, paragraphs and clauses of this Ordinance are
2 severable. The invalidity of one section, subsection, paragraph, or clause shall not
3 affect the validity of the remaining sections, subsections, paragraphs and clauses.
4

5 (14) If any section or all of this Ordinance is invalidated, County reserves the
6 right to continue its interpretation of existing County Code provisions as applied to
7 medical marijuana uses including MMDFs and MMGS.
8

9 SECTION 7.

10 Rescission; Codification; Emergency

11 (1) Ordinance # 475 is rescinded.

12 (2) This Ordinance is temporary. County Counsel will not codify this Ordinance
13 into the Lincoln County Code.

14 (2) In accordance with the legislative findings supporting this Ordinance, and this
15 Ordinance being necessary for the immediate preservation of the public peace, health and
16 safety, an emergency is declared to exist and this Ordinance shall take effect upon its
17 passage.

DATED this 29th day of April, 2015.

LINCOLN COUNTY BOARD OF COMMISSIONERS



DOUG HUNT, Chair



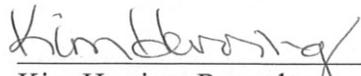
TERRY N. THOMPSON, Commissioner



BILL HALL, Commissioner

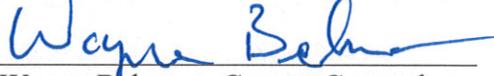
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ATTESTED TO:



Kim Herring, Recorder

APPROVED AS TO FORM:



Wayne Belmont, County Counsel

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