

The LINKING LETTER

by Anne Scheck

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Preface: Proposed regulations for marijuana businesses in Independence were unveiled by the city staff at the last City Council meeting, which was held just after the Thanksgiving holiday. The next City Council meeting is **this Tuesday, at 7:30 pm.**

Question: *What possible restrictions were presented and how do they compare with other cities that have marijuana ordinances?*

The proposed land-use rules for marijuana businesses and cannabis industry presented to the Independence City Council appear to be substantially less restrictive than those enacted by two Oregon cities considered at the forefront of urban planning.

Tualatin and Beaverton -- communities with planning characteristics that landed them on national "livability" lists this year -- seem to have passed much stiffer regulations. Independence is taking a different approach.

At the Independence City Council meeting, the city's consulting attorney and city manager advised against local rules that would impose buffers of 250 or 400 feet around certain non-dispensing marijuana facilities. A third proposal that didn't include such measures but took into account residential properties along Stryker Road also received no support.

Citing litigation concerns, both City Manager David Clyne and attorney Lauren Sommers instead recommended "map two," which appears to be the least limiting of the other diagrammatic plans presented by city staff. (*see link to the draft city council minutes at bottom of this Linking Letter*)

In a lengthy opinion published this past spring, the League of Oregon Cities (LOC) informed cities that they have the authority to pass new marijuana laws as long as they don't directly contradict existing ones by the state. For example, state law already sets some distance requirements, such as establishing a marijuana-free radius around schools. Asked after the meeting to explain the reason for the legal risk -- in light of the LOC document -- Ms. Sommers declined (*see link to LOC on marijuana & "home rule" at bottom*).

Mayor John McArdle also voiced support for "map two" after Councilors Marilyn Morton and Forrest Peck indicated they were "leaning toward" the alternative known as "map three" -- an intermediary between diagrams "map two" and "map four," which includes the 250-foot buffers.

When the mayor was told after the meeting that his position seems likely to be seen by some affected residents as quashing their efforts for adequate control, he said he rejected that view. The city's actions have to be legally defensible because that can impact its insurance coverage, he said.

However, some cities, including Beaverton and Tualatin, have adopted more stringent regulations -- apparently without incurring this perceived risk. Beaverton, for instance, doesn't allow growing or production operations; Nor can cannabis processing within Beaverton city limits involve any "highly combustible, explosive or hazardous materials or waste." Beaverton also mandates that odors are detectable only in the "confines of the building or structure." (<http://beavertonoregon.gov/DocumentCenter/View/10549>)

Tualatin takes a different tack, creating relatively large distance buffers to help mute noise and odor. For example, a marijuana facility cannot be located within 3,000 feet from any residential use -- or closer than 2,000 feet to the nearest marijuana facility -- as measured from the property lines (*see* https://www.tualatinoregon.gov/sites/default/files/fileattachments/ordinance/3879/ord._1379-15.pdf)

This year, Beaverton was named one of Money Magazine's 10 best small cities nationwide (<http://time.com/money/collection/best-places-to-live/>). Tualatin is a finalist in "America's Best Communities," a competition by Frontier Communications that awards the winner \$3 million (<https://www.tualatinoregon.gov/citycouncil/tualatin-finalist>).

THE INDEPENDENT WILL COVER THIS TOPIC IN MORE DEPTH in the JANUARY ISSUE. The 4-page newspaper will be available on the first of the year at **The Golden Horse, The Ovenbird Bakery & Elite Cleaners**, all in the city's downtown. Also available at **The Starduster** restaurant.

Disclosure: I live on Stryker Road -- Anne Scheck

--1) Draft minutes from the last City Council meeting can be found at: <https://ciindependenceor.civicweb.net/document/4104/Minutes.CC.11-29-16.DRAFT.docx?handle=C5954141F27B4DD483742B87BE9CA7C1>

-- 2) League of Oregon Cities document on marijuana and home rule authority:

<http://www.orcities.org/Portals/17/A-Z/A%20to%20Z%20Documents/2016LocalRegulationofMarijuanaInOregon05-24-16.pdf>

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