

Agenda

Shady Cove Regular City Council Meeting

Shady Cove City Council Chamber
22451 Highway 62, Shady Cove, Oregon
Thursday, June 2, 2016
6:00 p.m.

I. Call to Order

- A. Roll call
- B. Pledge of Allegiance
- C. Announcements by Presiding Officer

- 1. This meeting is being digitally recorded.
- 2. The next meeting of the Planning Commission will be June 9 at 6:30 p.m. in the Council Chamber.
- 3. The next regular meeting of the City Council will be June 16 at 6:00 p.m. in the Council Chamber.

II. Public Hearing

- A. Supplemental Budget – Fiscal Year 2015-2016
- B. Annual Budget – Fiscal Year 2016-2017

III. Public Comment

The public may comment on agenda items as they come up for discussion, but before deliberation by the Council.

IV. Presentation

Medford Area Drug Gang Enforcement (MADGE)
Jackson County Sheriff – Deputy Campbell

V. Consent Calendar

- A. Regular Meeting Minutes of May 5, 2016 (pg. 3-5)

VI. Written Communications

None

VII. Staff Reports

- A. Bills Paid Report, May 6, 2016 – May 24, 2016, \$42,952.06 (pg. 6)

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Department at (541) 878-2225. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title II).

VIII. Unfinished Business

None

IX. New Business

- A. First Reading – Riparian Ordinance (pg. 7-22)
- B. Second Reading – Ordinance Declaring a Ban on Certain Types of Marijuana Activities and Referring to Electors in November (pg. 23-25)
- C. Second Reading – Ordinance Imposing a Three Percent Tax on the Sale of Marijuana and Referring to Electors in November (pg. 26-28)
- D. Discussion – Marijuana Grows Within City Limits (pg. 29)

X. Public Comment on Non-Agenda Items

Public must state name and address and standing to discuss issue. Issues must have city-wide impact and not be personal issues.

XI. Council Comments

XII. Adjournment

City of Shady Cove
City Council Regular Meeting Minutes
Thursday, May 05, 2016

CALL TO ORDER

Mayor Anderson called the Regular City Council Meeting to order at 6:00 p.m. in the City Council Chamber.

Council Present: Mayor Anderson, Councilor Ulrich, Councilor Sanderson, Councilor Burgess, and Councilor Mitchell

Staff Present: Aaron Prunty, City Administrator; Bonnie Pickett, Administrative Assistant

ANNOUNCEMENTS

The Mayor led the audience in the Pledge of Allegiance and made the announcements on the agenda.

CONSENT CALENDAR

Regular Meeting Minutes of April 21, 2016

Motion to Approve the Consent Calendar

Motion: Councilor Burgess Second: Councilor Mitchell

All ayes. Motion carried 5-0

STAFF REPORTS

Deputy McGrath gave a brief overview of police activity in Shady Cove.

The City Administrator answered various questions from the bills paid report.

UNFINISHED BUSINESS

A. Discussion – Riparian Ordinance Language

The Council discussed the current changes to the riparian ordinance and decided to forgo a lawn/grass provision for the undeveloped properties in Shady Cove. The Council agreed to leave the cantilevered additions for existing structures in the ordinance.

The Council directed staff to remove the previously proposed grass/lawn language from the ordinance and leave the cantilevered language in the final copy of the ordinance to be presented at the next council meeting.

NEW BUSINESS

A. Resolution 16-13 – Council Directives for Fiscal Year 2016/2017 Budget

The City Administrator read the resolution in its entirety.

Motion to Approve Resolution 16-13 Approving Council Directives for Budget Preparation for Fiscal Year 2016-2017

Motion: Councilor Burgess Second: Councilor Sanderson
All ayes. Motion carried 5-0

B. Discussion – Marijuana Grows Within City Limits

The Council requested more information from staff on growing limitations or restrictions that can legally be imposed on marijuana grows in Shady Cove.

C. First Reading – Ordinance Declaring a Ban on Certain Types of Marijuana Activities and Referring to Electors in November

The City Administrator read the ordinance in its entirety.

D. First Reading - Ordinance Imposing a Three Percent Tax on the Sale of Marijuana and Referring to Electors in November

The City Administrator read the ordinance in its entirety.

E. Cancel 05/19/2016 Council Meeting

Motion to Approve Cancel 05/19/2016 Council Meeting

Motion: Councilor Sanderson Second: Councilor Mitchell
All ayes. Motion carried 5-0

PUBLIC COMMENTS

Mary Stirling advised URCC will be having a fund raising spaghetti feed on May 14th at 6:00 p.m.

COUNCIL COMMENTS

Councilor Mitchell commented on the report received from Civil West regarding the Shady Cove treatment plant.

Councilor Sanderson thanked Jackson County Commissioner Colleen Roberts for being present at the City Council meeting. He also thanked all the volunteers that helped out during the Earth Day clean-up at City Hall.

Councilor Ulrich advised he is still in need of an alternate representative for the RVACT (Rogue Valley Area Commission on Transportation) committee.

Councilor Burgess advised the Salmon Fever Festival will be happening on May 21 & 22 in Shady Cove.

Mayor Anderson advised that we owe Oregon Department of Transportation a balance of \$60,000 for our portion of the ODOT project. The Mayor went over the schedule for the upcoming Council meetings in June.

ADJOURNMENT

There being no further business before the council, the Mayor adjourned the regular meeting at 7:51 p.m.

Approved:

Attest:

Tom Anderson
Mayor

Aaron Prunty
City Administrator

Council Vote:

Mayor Anderson _____
Councilor Ulrich _____
Councilor Sanderson _____
Councilor Burgess _____
Councilor Mitchell _____

Date	Check	Payee	Description	Amount
05/24/2016	42539	Banner Bank	Training	758.84
05/24/2016	42540	Canon Financial Services, Inc.	Copier Lease & Copies 612930	345.29
05/24/2016	42541	Celtic Circle	Shop Rental	700.00
05/24/2016	42542	CIS Trust	Life Insurance	55.63
05/24/2016	42543	Crystal Fresh	Bottled Water	26.00
05/24/2016	42544	Danny Byrd	3/4" Minus	400.62
05/24/2016	42545	David Christian	Radio Programming, 6 hrs.	90.00
05/24/2016	42546	Dean Sather	Utility Billing Refund	67.10
05/24/2016	42547	DG Retail, LLC	Utility Billing Refund	186.96
05/24/2016	42548	IPMA - International Public HR Assoc.	Dues	109.00
05/24/2016	42549	Jackson County Health & Human Services	Dead Animal Pick Up	56.28
05/24/2016	42550	Jackson County Sheriff	Law Enforcement Services- Monthly	35,569.66
05/24/2016	42551	Mary Gunderlock	Website - Monthly Update	240.00
05/24/2016	42552	Medford Fuel	Public works gasoline/diesel	70.81
05/24/2016	42553	OGFOA	Dues	210.00
05/24/2016	42554	Pitney Bowes Purchase Power	Postage Refill	402.50
05/24/2016	42555	Postmaster	Sewer Billing	305.64
05/24/2016	42556	Prunty, Aaron	Expense Reimbursement	49.97
05/24/2016	42557	Realty Service Team	Utility Billing Refund	12.20
05/24/2016	42558	RVCOG	Planning	3,165.56
05/24/2016	42559	USACE	Water Storage	62.90
05/24/2016	42560	William & Christina Leffler	Utility Billing Refund	67.10
Grand Totals:				42,952.06



**City Council Agenda Item Summary
City of Shady Cove, Oregon**

Meeting Date: June 2, 2016
Prepared By: Bonnie Pickett, Administrative Assistant
Issue/Agenda Title: First Reading – Riparian Ordinance
Attachments: City of Shady Cove Riparian Ordinance

Issue Before the Council: This is the first reading of the Riparian Ordinance.

Staff Recommendation: Staff recommends the Council accept the revised language in the ordinance and move forward with the first reading of the Riparian Ordinance.

Proposed Motion: **None**

City of Shady Cove

Ordinance No.

AN ORDINANCE OF THE CITY OF SHADY COVE, OREGON, AMENDING THE COMPREHENSIVE PLAN AND THE SHADY COVE CODE OF ORDINANCES TO ADOPT A RIPARIAN PROTECTION ORDINANCE

Whereas, Chapter 154, of the Shady Cove Code of Ordinances governs Type IV Legislative Procedures within the corporate limits of the City and requires, if approval is recommended by the Planning Commission, that the City Council of the city of Shady Cove make the final decision regarding the application; and,

Whereas, the Shady Cove Planning Commission, after providing proper public notice, met in Public Hearing on December 10, 2015 and January 14, 2016, to consider amendments to the Shady Cove Comprehensive Plan and Shady Cove Code of Ordinances to add riparian area protection standards; and,

Whereas, on January 14, 2016, following the close of the public hearing, the Planning Commission deliberated on the record of the proceedings, after which a motion was made and duly seconded, to recommend that the City Council approve Planning File No. CPA 15-01 to establish a Riparian Ordinance; and,

Whereas, on February 4, 2016, and February 18, 2016, the City Council conducted properly noticed public hearings to consider the Planning Commission recommendation, and on April 7, 2016, and May 5, 2016, deliberated in public sessions.

THE COUNCIL OF THE CITY OF SHADY COVE ORDAINS AS FOLLOWS:

The Shady Cove Comprehensive Plan Natural Hazards is amended to include additional information about riparian corridor protection, attached as Exhibit A.

The Shady Cove Code of Ordinances is amended as follows:

- Section 1: Title: This Ordinance shall be known as the Riparian Ordinance of the City of Shady Cove, Oregon.
- Section 2: Description: Riparian Protection regulations, attached as Exhibit B, approved by the City Council
- Section 3: Amendment: The Shady Cove Code of Ordinances is amended to add Riparian Protection regulations.
- Section 4: The City Council adopts as its own, and adopts by reference, the Planning Commission recommendation attached as Exhibit C, to the extent that it is consistent with the City Council decision

PASSED AND APPROVED by the City Council of the City of Shady Cove this ____ day of _____, 2016.

Approved:

Attest:

Tom Anderson
Mayor

Aaron Prunty
City Administrator

Council Vote:

Mayor Anderson _____
Councilor Ulrich _____
Councilor Sanderson _____
Councilor Burgess _____
Councilor Mitchell _____

FISH AND WILDLIFE HABITAT

The main stem of the Rogue River is important to the maintenance of anadromous fish (steelhead, Chinook salmon, Coho salmon, and sea-run cutthroat trout) in the Rogue River Basin. Indian Creek and Long Branch Creek are important tributaries of the Rogue River for their influence on downstream fish habitat.

Healthy fish habitat includes clean, cold and flowing water. And temperature is one of the most important environmental influences on salmon and steelhead. Stream temperature controls the metabolism of the fish and influences the abundance or lack of food for the fish.

Riparian protection along all waterways was begun in earnest in 1994 throughout Oregon. Over the past 20 years riparian protection has been voluntary on private lands with varying degrees of success. With increased development in the Shady Cove area the native trees and shrubs that had helped shade the pools where fish rested disappeared. Without the shade along the stream banks stream temperatures can rise to impede fish migration and can rise to lethal levels. What seems cold to us as we wade in the Rogue River can be just marginal, or not even adequate, for the fish and their aquatic food supplies.

The State of Oregon (ODEQ) is responsible for creating direction and guidelines to help all areas of Oregon to meet the 1972 Federal Clean Water Act. All cities, Shady Cove included, must meet TMDL (Total Maximum Daily Load) standards for maintaining Oregon water quality. A TMDL is the calculated pollutant (heat, or temperature) amount that a waterbody can receive and still meet Oregon water quality standards. Riparian protection is one of the most effective ways to comply with the standards.

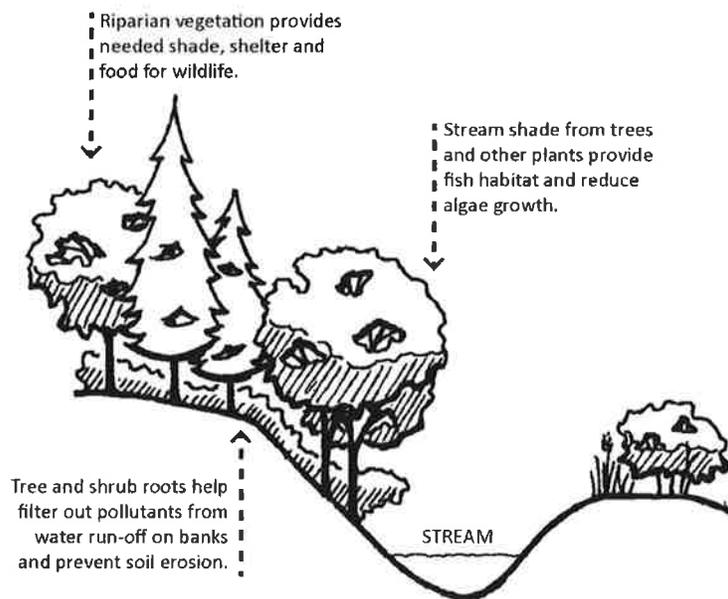
Wherever possible, stands of native vegetation should be maintained for wildlife habitat. In 1987 there were 142 species of native wildflowers inventoried in the Shady Cove area. An annual Wildflower Show is held in Shady Cove displaying these native plants in bloom.

The area outside the Shady Cove UGB is designated in the Jackson County Comprehensive Plan by Oregon Department of Fish and Wildlife as "especially sensitive" deer and elk habitat. This designation establishes a minimum parcel size to be 160 acres.

**City of Shady Cove
Riparian Ordinance
Ordinance XXX**

Field Code Changed

[These regulations will be located in Chapter 155 of the Shady Cove Code of Ordinances. This will affect property inside city limits, along the Rogue River and its tributaries, including Red Lick and Indian Creeks.]



Section I. Riparian Conservation Corridor

(A) Purpose:

- 1) To implement the goals and policies of the Natural Resources Element of the Comprehensive Plan.
- 2) To protect and restore the City of Shady Cove water bodies and associated riparian areas.
- 3) To protect and restore the water quality through control of erosion and sedimentation, through flood management and thermal regulation (shading).

- 4) To protect and restore the natural aesthetic qualities of the resource recognizing these areas as community assets.
- 5) To protect and restore fish and wildlife habitat in and around the waterways and water bodies of the City.
- 6) To meet State requirements for Safe Harbor [OAR 660-023-0090] in lieu of the standard inventory ESEE process [OAR 660-023-0040 & 0050]
- 7) To comply with the requirements of the Endangered Species Act, the Clean Water Act, the Federal Emergency Management Agency's National Flood Insurance Program, Oregon Statewide Planning Goals 5, 6 and 7, and to comply with the Rogue Basin Total Maximum Daily Load (TMDL) implementation for Shady Cove.
- 8) To work in conjunction with the Flood Damage Prevention Ordinance; where the Riparian Ordinance and the Flood Damage Prevention Ordinance conflict, the most restrictive shall prevail.

(B) Where these Regulations Apply

These regulations apply to all areas within the city of Shady Cove located along the Rogue River and its tributaries, including Red Lick and Indian Creeks.

(C) When these Regulations Apply

- 1) Residential and Commercial site development
- 2) All Land Divisions
- 3) Removing, cutting, mowing, clearing, burning, or poisoning native vegetation. Non-native vegetation is exempt from the regulations, except that if it is removed, it must be replaced with native vegetation [refer to Attachment A]. Removal of other vegetation is prohibited, but limited management of that vegetation may be approved.
- 4) Changing topography or grading, in the corridor area.
- 5) Resource Enhancement projects
- 6) Dedications and Expansion of Right of Ways
- 7) All filling, grading, and excavating within the riparian corridor

Section II. Definitions & Riparian Corridors

(A) Definitions: The following definitions shall apply to Chapter 155 of the Shady Cove Code of Ordinances:

- 1) "Dangerous tree" means a dead, diseased, or other tree that poses an obvious health, safety, or welfare threat to persons or property.
- 2) "Development" is any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving excavation and drilling operations. Development does not include signs, markers, direction aids, etc. placed by a public agency to serve the public.

- 3) "Fish-Bearing Stream" is a stream inhabited at any time of the year by anadromous or game fish species, or fish that are listed as threatened or endangered species under the federal or state Endangered Species Act.
- 4) "Fish habitat" means those areas upon which fish depend in order to meet their requirements for spawning, rearing, food supply, and migration.
- 5) "Grading" is any stripping, cutting, filling, or stockpiling of earth or land, including the land in its cut or filled condition, to create new grades
- 6) "Impervious Surface" is any material which reduces and prevents absorption of storm water into previously undeveloped land.
- 7) "Lawns" consist of grass or similar materials maintained as a ground cover of less than 6 inches in height, and generally managed to restrict the growth of shrubs and trees that inhibit the growth of grasses and forbs (vegetation other than grasses). For purposes of this ordinance, lawn is not considered native vegetation regardless of the species used.
- 8) "Low Impact Development" involves minimizing or eliminating pollutants in storm water through natural processes and maintaining pre-development hydrologic characteristics, such as flow patterns, surface retention, and recharge rates.
- 9) "Mitigation" is a means of compensating for impacts to a riparian corridor including: restoration, creation, or enhancement. Some examples of riparian impact mitigation actions are replanting trees, removal of nuisance plants, and restoring streamside vegetation where it is disturbed or where it has been degraded due to past practices.
- 10) "Natural Vegetation Line" is the point at which native vegetation grows on the river.
- 11) "Restoration of Riparian Areas" is to limit development, re-establish native vegetation and ensure the limitation of negative impacts to fish and wildlife and their habitat in and around waterways and water bodies within the city limits of Shady Cove.
- 12) "Riparian area" is the area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.
- 13) "Riparian corridor" is a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary.
- 14) "Riparian corridor boundary" is an imaginary line that is a certain distance upland from the natural vegetation line. If no natural vegetation line exists below the top of bank, then the boundary shall be measured upland from the top of each bank.
- 15) "Stream" is a channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.
- 16) "Structure" is a building or other major improvement that is built, constructed, or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components, that are not customarily regulated through zoning ordinances.
- 17) "Top of bank" shall mean the stage or elevation at which water overflows the natural banks of streams or other waters of the state and begins to inundate the upland. Where this cannot be determined, "top of bank" shall have the same meaning as "bankfull stage" defined in OAR 141-085-0510(5), which is the two-year recurrence interval flood elevation.

- 18) Water area" is the area between the banks of a lake, pond, river, perennial or fish-bearing intermittent stream, excluding man-made farm ponds.
- 19) Water-dependent use" means a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water.
- 20) "Water-related" means uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to water location needs.

(B) Riparian Corridors

The following riparian corridors are established:

- 1) Because the Rogue River has an average annual stream flow greater than 1,000 cubic feet per second (cfs) the riparian corridor boundary shall be 75 feet upland from the natural vegetation line. If no natural vegetation line exists below the top of bank, then the boundary will be 75 feet upland from the top of each bank.
- 2) Where the riparian corridor includes all or portions of a significant wetland as identified in the Comprehensive Plan, the standard distance to the riparian corridor boundary shall be measured from, and include, the upland edge of the wetland. Shady Cove does not have a local wetlands inventory, but relies on the National Wetlands Inventory.
- 3) Along all fish-bearing streams, including Red Lick and Indian Creeks, with an average annual stream flow less than 1,000 cfs, the riparian corridor boundary shall be 50 feet upland from natural vegetation line. If no natural vegetation line exists below the top of bank, then the boundary will be 50 feet upland from the top of each bank.

Section III. Activities Within the Riparian Area

This section of the ordinance attempts to meet the riparian corridor goals by excluding new structures from the riparian buffer areas around fish-bearing streams and associated wetlands. Protection of the resource is also achieved by prohibiting vegetation removal or physical alteration except through enhancement of the buffer area. For cases of hardship, this section provides a procedure to reduce the riparian buffer. Alteration of the riparian area in such cases is offset by appropriate restoration or mitigation, as described in this section.

(A) Preexisting Activities in the Riparian Corridor

1. Any use, sign, or structure, and the maintenance thereof, lawfully existing on the date of adoption of the provisions herein, is permitted within a riparian corridor. Such use, sign, or structure may continue at a similar level and manner as existed on the date of adoption of the provisions herein. **Preexisting uses existing fully**

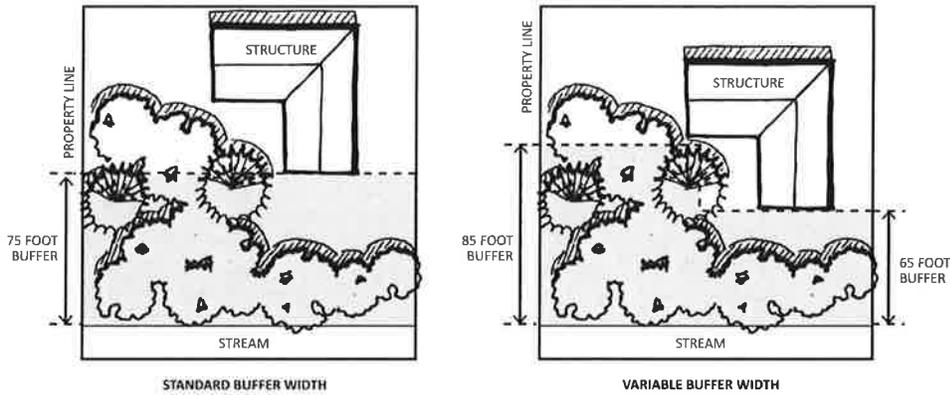
or partially within the riparian corridor may be expanded, provided the expansion does not occur within the riparian corridor.

2. The maintenance, alteration, and replacement of pre-existing landscaping is permitted within a riparian corridor as long as no additional riparian vegetation is disturbed. Any herbicide, pesticide, or fertilizer applications must strictly comply with the manufacturer's label and avoid saturation, drift, or runoff to water bodies. Maintenance trimming of existing trees is permitted, but under no circumstances can the trimming maintenance be so severe as to compromise the tree's health, longevity, and resource functions.
3. The provisions of this section shall not be affected by any change in ownership of properties containing a riparian corridor.

(B) Allowed Activities in the Riparian Corridor:

The City may approve the following activities, and maintenance thereof, within a riparian corridor, subject to obtaining applicable permits, if any, from the Oregon Department of State Lands and the U.S. Army Corps of Engineers. All plans for development and/or improvements within a riparian corridor shall be submitted to the Oregon Department of Fish and Wildlife for a habitat mitigation recommendation pursuant to O.A.R. 635-415 "Fish and Wildlife Habitat Mitigation Policy."

- 1) Streets, roads, and private paths.
- 2) Drainage facilities, utilities, and irrigation pumps.
- 3) Water-related and water-dependent uses.
- 4) Replacement of existing structures with structures in the same location.
- 5) Expansion of existing structures in the riparian corridor that do not disturb additional riparian surface areas, including second story additions, cantilevered additions supported from the existing structure, and basement additions (subject to compliance with Chapter 151 – Floods).
- 6) Removal of non-native vegetation and replacement with native plant species **[refer to Attachment A for a list of non-invasive plants native to Oregon]**.
- 7) Removal of vegetation necessary for the development of water-related or water-dependent uses.
- 8) Permanent alteration of the riparian area by placement of structures or impervious surfaces within the riparian corridor boundary established under subsection (II)(B) upon a demonstration that equal or better protection for identified resources will be ensured through restoration of riparian areas, enhanced buffer treatment, or similar measures including, stormwater controls that infiltrate stormwater and are characteristic of Low Impact Development or green infrastructure such as bioswales, rain gardens, and vegetated filter strips [refer to Attachment B]. In no case shall alterations occupy more than 50 percent of the width of the riparian area measured from the upland edge of the corridor. This adjustment affects only the Rogue River riparian area; it is not permitted along tributaries.



- 9) Perimeter mowing and other cutting necessary for fire hazard prevention.
- 10) Except in emergency circumstances, the City shall review requests for removal of dangerous trees. All trees removed are required to be replaced (one for one) by like native species or alternate approved native species [refer to Attachment A for a list of non-invasive species native to Oregon]. The City shall conduct inspections or use other means to verify the trees are surviving. Those that do not survive must be replaced.
- 11) Stream bank stabilization and flood control structures that legally existed on the effective date of this ordinance may be maintained. Any expansion of existing structures or development of new structures shall be evaluated by the City Administrator and appropriate state and federal natural resource agency staff. Such alteration of the riparian corridor shall be approved only if less-invasive or non-structural methods will not adequately meet the stabilization or flood control needs.
- 12) Stream restoration and enhancement activities that are approved by the Oregon Department of State Lands.
- 13) Maintenance and protection of the function of City utilities and transportation facilities located within riparian corridors.

(C) Prohibited Activities in the Riparian Corridor:

The following practices are prohibited within stream setback area, unless otherwise approved by the City and all applicable state and federal regulatory agencies:

- 1) Expansion of pre-existing non-native landscaping such as lawns;
- 2) Permanent alteration by placement of structures or impervious surfaces, except as allowed in Section (B);
- 3) Storage or dumping of herbicides, pesticides, fertilizers, solvents, fuels, or other hazardous or toxic materials or wastes;
- 4) Dumping, piling, or disposal of refuse (trash or garbage);
- 5) Channelizing, culverting, straightening, or otherwise modifying natural

- drainageways;
- 6) Dumping, piling, disposing, or composting of yard debris, fill, or other potentially harmful material, except for single-family residential composting which must be kept a minimum of ten feet from the top of bank;
 - 7) All filling, grading, or excavating;
 - 8) Application of herbicides, pesticides, or fertilizers, except as permitted under Section III (A), or as otherwise approved by the city and all applicable state and federal agencies for the protection of public safety and the enhancement or maintenance of the stormwater conveyance or flood control capacity;
 - 9) Removing vegetation for the creation of fuelbreaks;
 - 10) Dumping or disposal of yard debris, refuse or chemicals in the rivers or streams or in storm drains.

Section IV. Development Review Procedures

Application Requirements -

A Riparian Development Permit shall be obtained prior to initiating development activities in any areas designated as a riparian area. An application for a Riparian Development Permit along with the required fee (as set by resolution) shall be submitted to the City Administrator on forms furnished by the City. If structures (including hardscape) are involved, items A & B below are required prior to starting any development activity. Item C is required within 90 days of structure completion. If no structures are involved, then items A, B & C are required before starting any development activity.

(A) Site Plan

- 1) Top of Bank and natural vegetation line
- 2) Boundaries of the Riparian Corridor in the site
- 3) Existing improvements such as structures, buildings, utility lines, fences, etc.
- 4) Areas where riparian area has been previously disturbed
- 5) Areas where new disturbance in the riparian area is proposed
- 6) Outline of trees, shrubs and ground covers

(B) Construction Management Plan

Identify measures that will be taken during construction or mitigation work to protect the remaining resources at and near the construction site and a description of how the undisturbed areas will be protected. For example, describe how trees will be protected, erosion controlled, stormwater managed, and construction equipment located and controlled and the timing of construction in relation to season.

(C) Landscape Plan

In addition to the construction management plan, a landscape plan will be required for newly disturbed areas in the riparian corridor prior to issuance of permits. The plan shall include the extent of vegetation removal proposed, characteristics of the existing vegetation (types, density), proposed riparian enhancement or restoration measures,

proposed alterations of topography or drainage patterns, and existing uses on the property. The plan will be referred to the Oregon Department of Fish and Wildlife for recommendation.

(D) **Completion**

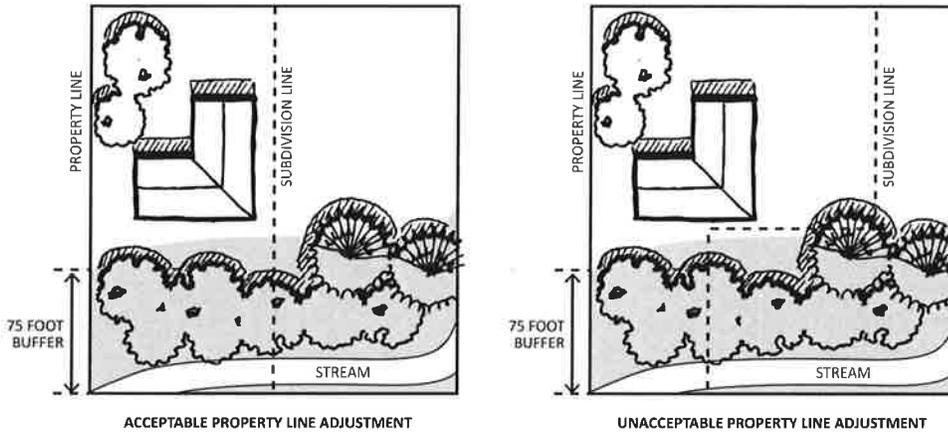
The property owner will advise the City administrator when the permitted work has been accomplished. The City Administrator and his/her designee will conduct a Type I review to determine if the work is consistent with the approved plans.

E) **Expiration of Riparian Permit**

A Riparian Permit shall become invalid unless the work authorized by the permit is commenced within 180 days after its issuance, or if the work is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing to the City Administrator or his/her designee and may be subject to review.

Section V. Property Line Adjustments and Subdivisions

Subdivisions, partitions, and property line adjustments must be designed so that the resulting lots or parcels can be developed in conformance with the provisions of this ordinance.



Section VI. Hardship Variances and Restoration Provisions

For any existing lot or parcel demonstrated to have been rendered not buildable by application of this ordinance, the property owner may apply for a Class C Variance (Section 154.419) under the following provisions:

Granting of a Variance requires findings that:

- A) The proposed development requires deviation from the riparian standards as set forth in this section; and
- B) Strict adherence to the riparian setback and other applicable standards would effectively preclude a use of the parcel that could be reasonably expected to occur in the zone, and that the property owner would be precluded a substantial property right enjoyed by the majority of landowners in the vicinity.

Section VII. Site Maintenance

The limitations imposed by this Section do not preclude the routine maintenance of structures and landscaped areas.

- 1) Maintenance and replacement of existing lawns, non-native riparian planted vegetation, or landscaping is allowed but shall not expand lawn areas or remove or damage any native nondangerous tree,
- 2) The application of herbicides or other pesticides, and the application of fertilizers are subject to applicable state and federal regulations; and developed properties shall be subject to the restrictions set forth in the Shady Cove Code of Ordinances.
- 3) Where replanting is done, vegetation shall be replanted with native species or approved alternatives, with the exception of continued Agricultural Uses.
- 4) Maintenance pruning of existing trees shall be kept to a minimum and shall be in accordance with the American National Standards Institute (ANSI) A300 standards for Tree Care Operations [**refer to Attachment C**]. Under no circumstances shall the maintenance pruning be so severe that it compromises the tree's health, longevity, and resource functions.
- 5) Vegetation within utility easements shall be kept in a natural state and replanted when necessary with native plant species [**refer to Attachment A**].
- 6) Disposal of yard waste or other organic materials, with the exception of downed trees, leaf litter from Riparian Vegetation, and mulch for allowed riparian plantings, is prohibited within riparian corridors.

Section VIII. Compliance With State And Federal Laws

Activities wholly or partially within the riparian corridor are subject to all applicable federal and state regulations. The following regulations commonly apply within the resource areas (Note: other regulations not listed may also apply; it is the property owner's responsibility to adhere to all applicable State and Federal regulations):

- 1) Oregon Department of State Lands permit requirements under the Removal- Fill Law.
- 2) U.S. Army Corps of Engineers permit for fill activities as required under Section 404 of the Clean Water Act.

- 3) Department of Environmental Quality permit requirements for stormwater under the Clean Water Act and state water quality regulations.
- 4) Oregon Department of Fish and Wildlife regulations may apply to development activities that could impact one of the sensitive, threatened, critical, or endangered species indigenous to the region.
- 5) Section 9 of the federal Endangered Species Act (ESA) prohibits any action that causes a “taking” of any species of endangered fish or wildlife listed as endangered without authorization from the listing agency.
- 6) National Flood Insurance Program regulations as they are enforced through the Flood Insurance Reform Act (FIRA). Refer to Chapter 151 of this Code for additional floodplain regulations.

Section IX. Enforcement

This chapter shall be enforced in accordance with Chapter V. Powers and Duties of Officers, Section 24. Municipal Court and Judge.

Section X. Appeals

The appeals process shall be the same as stated in Section 151.068 of the Shady Cove Code of Ordinances.

Section XI. Penalties

The penalties for violation of this chapter shall be the same as stated in Section 151.999 of the Shady Cove Code of Ordinances.

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF SHADY COVE
COUNTY OF JACKSON, STATE OF OREGON**

IN THE MATTER OF CONSIDERATION OF A)
COMPREHENSIVE PLAN AMENDMENT AND LAND) RECOMMENDATION
USE REGULATION AMENDMENT TO ADOPT A) TO CITY COUNCIL
RIPARIAN ORDINANCE)

APPLICANT: City of Shady Cove Planning File No. CPA 15-01

RECITALS:

- 1) Chapter 154, of the Shady Cove Code of Ordinances governs Type IV Legislative Procedures within the corporate limits of the City and requires, if approval is recommended by the Planning Commission, that the City Council of the City of Shady Cove make the final decision regarding the application; and,
- 2) The Shady Cove Planning Commission, after providing proper public notice, met in Public Hearing on December 10, 2015 and January 14, 2016, to consider amendments to the Shady Cove Comprehensive Plan and Shady Cove Code of Ordinances to add riparian area protection standards. The draft revision to the Comprehensive Plan Natural Resources and Hazards element is attached as Exhibit A; the draft addition to the Code of Ordinances is attached as Exhibit B. The Commission received testimony from interested parties and staff. The staff recommendations, as submitted to the Planning Commission, are contained in a staff memorandum that is part of the record; and,
- 3) On January 14, 2016, following the close of the public hearing, the Planning Commission deliberated on the record of the proceedings, after which a motion was made and duly seconded, to recommend that the City Council approve Planning File No. CPA 15-01 to establish a Riparian Ordinance.

NOW THEREFORE, the Planning Commission of the City of Shady Cove finds, concludes, and recommends as follows:

SECTION 1: FINDINGS

- 1) The Planning Commission hereby incorporates by reference all written and oral deliberations and findings of fact established in the record of the public hearing, and cites by reference: oral and written testimony of interested citizens and agencies favoring and opposing the amendments, and the City Planner's staff report which are a part of the record; and,
- 2) The Planning Commission hereby finds that it has received all information and evidence necessary to consider the above request; and,

- 3) The Planning Commission finds that the City provided public notice through the Upper Rogue Independent, and mailed notices to owners of all waterfront properties within the city limits via United States Postal Service.
- 4) The criteria used to evaluate the requested Riparian Ordinance are contained in Section 154.438. The Planning Commission finds that the request meets the criteria and is necessary to demonstrate compliance with the Oregon Department of Environmental Quality (DEQ) Total Maximum Daily Load (TMDL) program.

SECTION 2: CONCLUSION

The Planning Commission concludes that the proposed Riparian Ordinance complies with procedural requirements of the Shady Cove Code of Ordinances and appropriately implements DEQ's TMDL program.

SECTION 3: DECISION

Based on the record of the public hearing on this matter, the Planning Commission recommends approval of Planning File CPA 15-01 to amend the Comprehensive Plan and establish a Riparian Ordinance, subject to further evaluation of the mitigation process and further evaluation of property rights law.

This RECOMMENDATION for APPROVAL is given to the Shady Cove City Council this 28th day of January 2016, in Shady Cove, Oregon.



Paula Trudeau, Chair



City Council Agenda Item Summary City of Shady Cove, Oregon

Meeting Date: June 2, 2016

Prepared By: Bonnie Pickett, Administrative Assistant

Issue/Agenda Title: Second Reading – Ordinance Declaring a Ban on Certain Types of Marijuana Activities and Referring to Electors in November

Attachments: Proposed Ordinance

Issue Before the Council: Whether to put to the electors/voters of the City of Shady Cove the issue of banning certain marijuana related activities.

Key Facts and Information: The State of Oregon gives the Council the option to ban and refer to the November ballot certain marijuana related activities, including: recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and recreational marijuana retailers.

The Council has expressed an interest in placing the issue(s) on the November ballot and the first step in the process is an ordinance.

Staff needs direction as to which activities, if any or all, should be included in the ordinance and referred to the electors/voters in the City of Shady Cove.

Fiscal Notes: If the measure referred to the voters prohibits recreational marijuana activities that City is not eligible to receive tax revenue collected on the retail sales.

Staff Recommendation: Staff recommends the Council proceed with the second reading of the ordinance to be referred to the electors of Shady Cove.

Proposed Motion:

“I MOVE TO ADOPT THE ORDINANCE DECLARING A BAN ON RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND RECREATIONAL MARIJUANA RETAILERS.”

City of Shady Cove

Ordinance _____

AN ORDINANCE OF THE CITY OF SHADY COVE DECLARING A BAN ON, RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND/OR RECREATIONAL MARIJUANA RETAILERS; REFERRING ORDINANCE

Whereas, the Oregon Medical Marijuana Act, as amended by House Bill 3400 (2015) provides that the Oregon Health Authority will register medical marijuana processing sites and medical marijuana dispensaries; and

Whereas, Measure 91, which the voters adopted in November 2014, directs the Oregon Liquor Control Commission to license the production, processing, wholesale, and retail sale of recreational marijuana; and

Whereas, section 134 of HB 3400 provides that a city council may adopt an ordinance to be referred to the electors of the city prohibiting the establishment of certain state-registered and state-licensed marijuana businesses in the area subject to the jurisdiction of the city; and

Whereas, the City Council wants to refer the question of whether to prohibit recreational marijuana producers, processors, wholesalers, and/or retailers to the voters of the City of Shady Cove;

THE COUNCIL OF THE CITY OF SHADY COVE ORDAINS AS FOLLOWS:

DEFINITIONS.

Marijuana means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

Marijuana processing site means an entity registered with the Oregon Health Authority to process marijuana.

Marijuana processor means an entity licensed by the Oregon Liquor Control Commission to process marijuana.

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

Marijuana retailer means an entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state.

Marijuana wholesaler means an entity licensed by the Oregon Liquor Control Commission to purchase items in this state for resale to a person other than a consumer.

Medical marijuana dispensary means an entity registered with the Oregon Health Authority to transfer marijuana.

BAN DECLARED. As described in section 134 of House Bill 3400 (2015), the City of Shady Cove hereby prohibits the establishment and operation of the following in the area subject to the jurisdiction of the city:

- (a) Marijuana producers;
- (b) Marijuana processors;
- (c) Marijuana wholesalers;
- (d) Marijuana retailers.

EXCEPTION. The prohibition set out in this ordinance does not apply to a marijuana processing site or medical marijuana dispensary that meets the conditions set out in subsections 6 or 7 of section 134, section 135, and section 136 of House Bill 3400 (2015).

REFERRAL. This ordinance shall be referred to the electors of the City of Shady Cove at the next statewide general election on November 8, 2016.

PASSED AND APPROVED by the City Council of the City of Shady Cove the 2nd day of June 2016.

Approved:

Attest:

 Tom Anderson
 Mayor

 Aaron Prunty
 City Administrator

Council Vote:

Mayor Anderson _____
 Councilor Ulrich _____
 Councilor Sanderson _____
 Councilor Burgess _____
 Councilor Mitchell _____



**City Council Agenda Item Summary
City of Shady Cove, Oregon**

Meeting Date: June 2, 2016

Prepared By: Bonnie Pickett, Administrative Assistant

Issue/Agenda Title: Second Reading – Ordinance Imposing a Three Percent Tax on the Sale of Marijuana and Referring to Electors in November

Attachments: Proposed Ordinance

Issue Before the Council: Whether to put to the electors/voters of the City of Shady Cove the issue of taxing retail marijuana sales.

Key Facts and Information: The State of Oregon gives the City of Shady Cove the option of taxing retail sales of marijuana, but it must be put to the voters on the November ballot.

The Council has expressed an interest in placing the issue(s) on the November ballot and the first step in the process is an ordinance. If the tax is approved, city staff will create the referring ordinance and ballot title.

Fiscal Notes: It is unknown the amount of revenue, but the state allows up to a maximum of three percent tax.

Staff Recommendation: Staff recommends the Council proceed with the second reading of the ordinance.

Proposed Motion:

"I MOVE TO ADOPT THE ORDINANCE IMPOSING A THREE PERCENT(3%) TAX ON THE SALE OF MARIJUANA."

City of Shady Cove

Ordinance _____

AN ORDINANCE OF THE CITY OF SHADY COVE IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER AND REFERRING ORDINANCE

Whereas, section 34a of House Bill 3400 (2015) provides that a City Council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city; and

Whereas, the City Council wants to impose a tax on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the City.

THE COUNCIL OF THE CITY OF SHADY COVE ORDAINS AS FOLLOWS:

DEFINITIONS.

Marijuana item has the meaning given that term in Oregon Laws 2015, chapter 614, section 1.

Marijuana retailer means a person who sells marijuana items to a consumer in this state.

Retail sale price means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

TAX IMPOSED. As described in section 34a of House Bill 3400 (2015), the City of Shady Cove hereby imposes a tax of three percent on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city.

COLLECTION. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

REFERRAL. This ordinance shall be referred to the electors of the City of Shady Cove at the next statewide general election on November 8, 2016.

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PASSED AND APPROVED by the City Council of the City of Shady Cove the 2nd day of June 2016.

Approved:

Attest:

Tom Anderson
Mayor

Aaron Prunty
City Administrator

Council Vote:

Mayor Anderson _____
Councilor Burgess _____
Councilor Mitchell _____
Councilor Sanderson _____
Councilor Ulrich _____



**City Council Agenda Item Summary
City of Shady Cove, Oregon**

Meeting Date: June 2, 2016

Prepared By: Bonnie Pickett, Administrative Assistant

Issue/Agenda Title: Discussion – Marijuana Grows Within City Limits

Attachments: None

Issue Before the Council: Whether to limit marijuana growing to indoors, greenhouses, or implement other measures that may impact odor.

Key Facts and Information: The City has received several complaints about the odor of marijuana.

Fiscal Notes: None.

Staff Recommendation: Staff recommends further discussion and direction, if the council wishes to implement any restrictions or prohibitions related to outdoor growing of marijuana, or implementing any other measures that may limit the odor of marijuana grows.

Proposed Motion: **None**