

Agenda

Shady Cove Regular City Council Meeting

Shady Cove City Council Chamber
22451 Highway 62, Shady Cove, Oregon
Thursday, July 21, 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 July 28 at 6:30 p.m. in the Council Chamber.
- 3. The next regular meeting of the City Council will be August 4 at 6:00 p.m. in the Council Chamber.

II. Public Hearing

None

III. Public Comment

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

IV. Presentation

None

V. Consent Calendar

- A. Regular Meeting Minutes of July 7, 2016 (pg. 3-5)

VI. Written Communications

None

VII. Staff Reports

- A. Bills Paid Report, July 15, 2016 – July 15, 2016, \$2,111.92 (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 – Ordinance to Address Indoor and Outdoor Growing of Marijuana for Personal Use (pg. 7-12)
- B. First Reading – Ordinance to Amend City of Shady Cove Ordinance 270, Section 116.08 Hours and Rules of Operation (pg. 13)

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 on Non-Agenda Items

XII. Adjournment

City of Shady Cove
City Council Regular Meeting Minutes
Thursday, July 7, 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 June 16, 2016

Motion to Approve the Consent Calendar

Motion: Councilor Ulrich Second: Councilor Burgess

All ayes. Motion carried 5-0

WRITTEN COMMUNICATIONS

The City Administrator read three letters opposing outdoor growing of marijuana in the City of Shady Cove in the date order the letters were received.

STAFF REPORTS

The City Administrator advised the candidacy filing for Mayor and Councilor positions are currently open. The forms for the candidacy need to be returned to the City Administrator by August 24th, 2016.

The City Administrator gave a brief explanation of the bills paid report.

Jackson County Sheriff – Deputy McGrath advised there has been an increase in service calls; he advised this is not unusual for this time of the year.

NEW BUSINESS

A. Resolution 16-21 – Dedicating Funds for Sewer Capital Improvements

The City Administrator read the resolution in its entirety.

Motion to Approve Resolution 16-21 – Dedicating Funds to Wastewater Capital Improvements

Motion: Councilor Burgess Second: Councilor Ulrich

All ayes. Motion carried 5-0

B. Resolution 16-22 – Approving a Law Enforcement Services Contract with Jackson County Sheriff’s Office

The City Administrator read the resolution in its entirety.

Motion to Approve Resolution 16-22 – Entering into an Intergovernmental Agreement with Jackson County to Provide Law Enforcement Services

Motion: Councilor Ulrich Second: Councilor Mitchell

All ayes. Motion carried 5-0

C. Discussion – Marijuana Dispensary Permitted Hours of Operation

The Council discussed removing the limits on the marijuana dispensary hours. The staff was directed to draft an amendment to the ordinance.

D. Discussion – Indoor/Outdoor Growing of Marijuana

The citizens of Shady Cove expressed both their support and opposition to outdoor grows of marijuana within the city limits.

The City Council directed staff to draft an ordinance regarding personal outdoor grows of marijuana.

E. Appoint Tom Sanderson to Chair the City Council Meeting on 7/21/16.

Motion to Appoint Tom Sanderson to Chair the City Council Meeting on 7/21/16

Motion: Councilor Mitchell Second: Councilor Ulrich

All ayes. Motion carried 5-0

PUBLIC COMMENTS

No Comment.

COUNCIL COMMENTS

Mayor Anderson noted the city will set up a town hall meeting advising the citizens of the Council’s reasoning for the possible implementation of a street fee to fund an additional public works employee.

Councilor Mitchell noted the FEMA meeting will be held 7/13/16 at 6:00 pm at the Upper Rogue Community Center.

ADJOURNMENT

There being no further business before the council, the Mayor adjourned the regular meeting at 8:18 p.m.

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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
07/15/2016	42627	Anderson, Tom	Mileage Reimbursement	368.20
07/15/2016	42628	DMV	DMV - Record Request	2.00
07/15/2016	42629	Hornecker Cowling, LLP	General	425.00
07/15/2016	42630	Jackson County Development Services	Mailing	238.58
07/15/2016	42631	Mary Gunderlock	Website - Monthly Update	270.00
07/15/2016	42632	Mitchell L. Reagles	Parks	116.14
07/15/2016	42633	Oregon Association of Municipal Recorder	Dues	62.00
07/15/2016	42634	Perfection Cleaning	Cleaning Services	280.00
07/15/2016	42635	Richard Joseph Nelson	Promotion & Tourism	350.00
Grand Totals:				<u>2,111.92</u>

City of Shady Cove

Ordinance

AN ORDINANCE OF THE CITY OF SHADY COVE, OREGON, LIMITING THE NUMBER OF RECREATIONAL AND MEDICAL MARIJUANA PLANTS GROWN OUTDOORS

WHEREAS, in November 1998, Oregon voters approved the Oregon Medical Marijuana Act (OMMA) which allowed medical use and possession of marijuana, and in 2013 the Oregon legislature approved House Bill 3460 amending the OMMA to allow medical marijuana dispensaries (collectively "OMMA"); and

WHEREAS, in November 2014, Oregon voters approved Measure 91, legalizing personal possession, growth, processing, delivery, and sale of non-medical marijuana; and

WHEREAS, OMMA, Measure 91 and subsequent legislation fail to address local regulation and impact of the growing of medical and recreational marijuana in City limits, which the City Council has found to be a substantial and important issue implicating health, welfare and safety concerns within the City of Shady Cove; and

WHEREAS, marijuana plants, whether grown indoors or outdoors, especially as they mature prior to harvest, may produce a distinctive odor that may be detectable far beyond property boundaries; and

WHEREAS, the strong smell of marijuana may create an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery and armed robbery; and

WHEREAS, the City of Shady Cove is a home-rule Municipal corporation.

NOW, THEREFORE, the council of the City of Shady Cove ordains as follows:

The City of Shady Cove hereby limits recreational and medical marijuana grows in City limits, as follows:

SECTIONS

- Section 1. Intent and Purpose
- Section 2. Definitions
- Section 3. Recreational and Medical Marijuana Subject to Regulation
- Section 4. Public Nuisance Remedy
- Section 5. Violation
- Section 6. Conflict of Laws
- Section 7. Severability

Section 1. Intent and Purpose

The City Council of the City of Shady Cove recognizes that citizens of the State of Oregon may engage in both recreational and medicinal use of marijuana in accordance with State law. However, the City Council also recognizes that cultivating, drying, producing, processing, keeping, or storage of marijuana, without appropriate safeguards in place, can have a detrimental effect upon public safety and neighboring citizens. The City Council finds and declares that the health, safety, and welfare of its citizens are promoted by requiring marijuana cultivators engaged in recreational or medicinal cultivation, drying, producing, processing, keeping, or storage of marijuana to ensure that said marijuana is not accessible, visible, or odorous to other persons or property, or otherwise illegal under Oregon state law.

Section 2. Definitions

"Household" means a housing unit, and includes any indoor structure or accessory dwelling unit in or around the housing unit at which the occupants of the housing unit are cultivating, drying, producing, processing, keeping, or storing recreational marijuana.

"Housing unit" means a house; a mobile home; a manufactured home; and/or a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall including an individual residential unit in an apartment, duplex, townhome, condominium, or senior living facility.

"Indoors/Indoor Structure" means within a fully enclosed and secure structure that complies with the Oregon Residential Specialty Code (ORSC) or Oregon Structural Specialty Code (OSSC), as adopted by the City of Shady Cove, which has a complete roof enclosure supported by connecting walls extending from the foundation/slab to the roof. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" x 4" or larger wood studs covered with 3/8" or thicker weather-resistant siding or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

"Marijuana" means all parts of the plant Cannabis family Moraceae, including, but not limited to, its dried leaves and flowers, any marijuana products derived therefrom. The term includes any and all recreational marijuana, medical marijuana, non-medical marijuana, and marijuana products as defined in this section.

"Marijuana cultivator" means a medical marijuana grower, recreational marijuana grower, patient, and any landlord or property owner allowing marijuana to be cultivated, dried, produced, processed, kept or stored at a premises.

"Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption.

"Medical Marijuana" means the marijuana cultivated, dried, produced, processed, kept or stored for medicinal use in accordance with the OMMA.

"Medical Marijuana Grower" means any person engaged in the cultivation, drying, production, processing, keeping or storage of medical marijuana in accordance with state law, and includes, but is not limited to the meaning set out at OAR 333-008-0010.

"Medical Marijuana Grow Site" means a location registered pursuant to ORS 475.304 where medical marijuana is produced for use by a patient.

"Patient" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.

"Premises" means a household, medical marijuana grow site, recreational marijuana grow site, and/or primary residence of a patient.

"Property" means any home, business or public right-of-way.

"Recreational Marijuana" means any marijuana cultivated, dried, produced, processed, kept or stored for personal recreational use by a person 21 years of age or older in accordance with State law.

"Recreational Marijuana Grower" means a person 21 years of age and older engaged in the cultivation, drying, production, processing, keeping, or storage of recreational marijuana in accordance with State law.

"Recreational Marijuana Grow Site" means a location in which a person 21 years of age and older cultivates, dries, produces, processes, keeps or stores recreational marijuana in accordance with State law.

Section 3. Recreational and Medical Marijuana Subject to Regulation

A. Marijuana Cultivators shall be allowed to cultivate, produce, and/or process recreational marijuana and medical marijuana subject to the following conditions:

1. Cultivation, production, possession, and processing of marijuana must be in full compliance with all applicable provisions of OMMA, OLCC and all current state legislation, Oregon administrative rules and Oregon revised statutes.
2. Cultivation, drying, curing, storage, production, or processing, of recreational

marijuana shall be conducted indoors.

3. Cultivation, production, processing, or storage of marijuana shall not be perceptible from the exterior of the household, housing unit, and/or indoor structure including but not limited to:
 - a. Common visual observation, which would prohibit any form of signage;
 - b. Odors, smells, fragrances, or other olfactory stimulus;
 - c. Light pollution, glare, or brightness that disturbs the repose of another;
 - d. Undue vehicular or foot traffic, including excess parking within a residential zone; and
 - e. Excessive noise in violation of Shady Cove Code of Ordinances, Section 90.
4. Cultivation, production, or processing of marijuana plants shall be within a secure, defined area.
5. Cultivation, production, or processing of marijuana shall meet the requirements of all adopted City building and life/safety codes.
6. Cultivation, production, or processing of marijuana shall meet the requirements of all adopted water and sewer regulations promulgated by the City or State, or any special district having jurisdiction.
7. Disposal of any excess or unused marijuana, marijuana products, or other byproducts thereof, shall meet any and all local and state requirements for disposal, and shall be disposed of in a secure fashion so as to avoid access by children, visitors, casual passersby, vandals or anyone not licensed or authorized to possess medical or recreational marijuana.
8. Cultivation, production, or processing of marijuana in residential zones or in a housing unit shall meet the following requirements:
 - a. Cultivation, production, or processing of marijuana shall only be conducted within the primary residence of the marijuana cultivator;
 - b. Marijuana plants shall not be cultivated, processed, or produced in the common areas of a multi-family or attached residential development such as townhomes and condominiums; and
 - c. For purposes of this ordinance, "primary residence" means the place that a person, by custom and practice, makes his or her principal domicile

and address and to which the person intends to return, following any temporary absence, such as vacation. Residence is evidenced by actual daily physical presence, use, and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking of meals, regular mail delivery, vehicle and voter registration, or credit, water, and utility billing. A person shall have only one primary residence, which may include an indoor structure or accessory dwelling unit, provided that the indoor structure or accessory dwelling unit is located on the same tax lot as the primary residence.

9. For purposes of this ordinance, "a secure" area means an area within the primary residence or indoor structure accessible only to the patient or primary caregiver, or marijuana cultivator. Secure premises shall be locked or partitioned off to prevent access by minors, visitors, casual passersby, vandals, or anyone not licensed and authorized to possess medical or recreational marijuana.

B. Medical marijuana growers and medical marijuana grow sites may grow up to six marijuana plants outdoors.

C. Licensed commercial grows, as defined in Measure 91 or subsequent legislation, rules or statutes, are prohibited in all residential zones.

Section 4. Public Nuisance Remedy

A. Any household, housing unit, premises, property, building, structure or place of any kind where medical or recreational marijuana is grown, processed, manufactured, bartered, distributed or given away in violation of state law or this chapter, or any place where medical or recreational marijuana is kept or possessed for sale, barter, distribution or gift in violation of state law or this chapter, is a public nuisance and may be abated as provided in Shady Cove Ordinance 274, or Shady Cove Code of Ordinances, Section 90.

B. In addition to the foregoing, three or more violations in a 30-day period shall constitute a chronic nuisance subject to the provisions of Shady Cove Ordinance 274.

C. In addition to any remedies provided in Shady Cove Ordinance 274, or Shady Cove Code of Ordinances, the City may institute an action in municipal or circuit court in the name of the City to abate, and to temporarily and permanently enjoin, such nuisance. The court has the right to make temporary and final orders as in other injunction proceedings. The City shall not be required to give bond in such an action.

Section 5. Violation

In addition to treatment as a nuisance, all violations of this title are subject to punishment under the general penalty provisions in Shady Cove Ordinance 274, or Shady Cove Code of Ordinances, Section 90. Each day in which a violation continues shall constitute a separate violation.

Section 6. Conflict of Laws

In the event of any conflict between the provisions of this Ordinance and the provisions of any other applicable state or local law, the more restrictive provision shall control.

Section 7. Severability

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

Adopted by the City Council of the City of Shady Cove this _____ day of August 2016.

Approved:

Attest:

Tom Anderson
Mayor

Aaron Prunty
City Administrator

Council Vote:

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

City of Shady Cove

Ordinance

**AN ORDINANCE OF THE CITY OF SHADY COVE, OREGON, AMENDING
ORDINANCE 270, REPEALING CHAPTER 116.08 HOURS AND RULES OF
OPERATION**

WHEREAS, Ordinance No. 270, Chapter 116.08 established hours of operation for medical marijuana dispensaries, from 7:01 a.m. to 7:59 p.m.; and

WHEREAS, the City of Shady Cove does not set or limit the hours of other businesses within the city limits; and

WHEREAS, the City Council wishes to be consistent in business regulation and restrictions.

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

Shady Cove Ordinance 270 is amended, to repeal Chapter 116.08 in its entirety.

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 _____