To: Bryant Haley, OLCC Rules Coordinator
   9079 SE McLoughlin Blvd.
   Portland, Oregon 97222

From: City of Huntington, Oregon
      PO Box 369
      Huntington, Oregon 97907

Subject: Petition Packet, re: OAR 845-025-2040, Canopy Expansion Petition and Resolution

Date: January 5, 2017

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PETITION TO AMEND RULE
Oregon Liquor Control Commission
of the State of Oregon

In the matter of OAR 845-025-2040

PETITION TO AMEND RULES
Recreational Marijuana
Production Size Limitations

1.) Petitioner: City of Huntington, Oregon

2.) Production Size Limitations (OAR 845-025-2040) currently create a maximum canopy of 40,000 square feet (Tier II). Petition is to allow the City of Huntington to enforce its ordinance allowed under OAR 845-025-2040 to permit recreational producer canopy in its jurisdiction to exceed the 40,000 square foot canopy limitation.

3.) Proposed to amend:

845-025-2040

Production Size Limitations
(1) Maximum Canopy Size Limits.
(a) Indoor Production.
(A) Micro tier I: Up to 625 square feet
(B) Micro tier II: 626 to 1250 square feet.
(C) Tier I: 1251 to 5000 square feet.
(D) Tier II: 5,001 to 10,000 square feet.
(b) Outdoor production.
(A) Micro tier I: Up to 2,500 square feet.
(B) Micro tier II: 2501 to 5000 square feet.
(C) Tier I: 5001 to 20,000 square feet.
(D) Tier II: 20,001 to 40,000 square feet.
(c) Mixed production. If a producer intends to have a mixture of indoor and outdoor production the Commission will determine the producer’s tiers and canopy sizes by applying the ratio in section (4) of this rule.
(d) For purposes of this section, square footage of canopy space is measured horizontally starting from the outermost point of the furthest mature flowering plant in a designated growing space and continuing around the outside of all mature flowering plants located within the designated growing space.

(e) A producer may designate multiple grow canopy areas at a licensed premises but those spaces must be separated by a physical boundary such as an interior wall or by at least 10 feet of open space.

(f) If a local government adopts an ordinance that would permit a producer to have a higher canopy size limit than is permitted under this rule, the local government may petition the Commission for an increase in canopy size limits for that jurisdiction. If the Commission grants such a petition, the Commission may amend this rule in addition to considering changes to the license fee schedule.

*Producers in the City of Huntington shall be allowed a canopy up to 80,000 square feet.*

(g) On an annual basis, the Commission will evaluate market demand for marijuana items, the number of person applying for producer licenses or licensed as producers and whether the availability of marijuana items in this state is commensurate with the market demand. Following this evaluation the Commission may amend this rule as needed.

(2) Canopy Size Limit – Designation and Increases.

(a) A producer must clearly identify designated canopy areas and proposed canopy size in the initial license application. A producer may change a designated canopy area within a production type at any time with prior written approval from the Commission, but a producer may only change canopy tiers at the time of renewal in accordance with section (2)(b) or section (3)(a) of this rule.

(b) A producer may submit a request to change canopy tiers at the time the producer submits an application for renewal of the license. The Commission will grant approval of the request to increase the canopy tier for the producer’s next licensure term if:

(A) The producer’s renewal application is otherwise complete;

(B) There are no bases to deny or reject the producer’s renewal application;

(C) The producer has not already reached the applicable maximum canopy size set forth in section (2) of this rule; and

(D) During the preceding year of licensure, the producer has not been found to be in violation, and does not have any pending allegations of violations of ORS 475B or these rules.

(c) The Commission shall give a producer an opportunity to be heard if a request is rejected under this section.

(3) Mixed cultivation methods.
(a) A producer may produce marijuana indoors and outdoors at the same time on the same licensed premises. The Commission must be notified of a producer’s plan to engage in the indoor and outdoor production of marijuana at the time of initial licensure or at renewal, and not at any other time. A producer who utilizes mixed production may only change designated canopy areas from one production type to another at the time the producer submits a renewal application.

(b) The Commission must approve the canopy size applicable to each method.

(c) The Commission will use a 4:1 ratio, for outdoor and indoor respectively, to allocate canopy size limits under this section, not to exceed the sum canopy size limits set forth in section (1) of this rule. For example, if a Tier II producer in the first year of licensure has 5,000 square feet of indoor canopy space, then the producer may have up to 20,000 square feet of outdoor canopy space at the same time.

(4) Violations. An intentional violation of this rule is a Category I violation and may result in license revocation. All other violations are Category III violations.
4.) Reason to amend rule:
   a. Of the 178 OLCC licensed producers, only three are located east of the Cascades. Huntington alone provides product for at least eight counties with a total population of 180,000. Opt-outs across eastern Oregon have limited production capacity and access to recreational marijuana.
   b. The City of Huntington has permitted the marijuana industry and their licensed producer has capacity for at least a 100% expansion.
   c. Public Safety is increased by permitting an expansion at a single producer, compared to having additional production facilities opened in the City.
   d. Economically, the expansion will mean Burnt River Farms will increase its FTE staff from 6 to 10 persons and increase its seasonal workforce from 20-30 to 40-60.
   e. Expanding the canopy enables more production using outdoor, sun grown methods, which are more environmentally friendly than energy-intensive indoor production.

5.) Continued need for the existing rule:
   a. The rule serves an importance purpose on the crowded West Side where 175 marijuana farms are spread across fourteen counties. Huntington is in the unique position of serving 900% more people than the West Side producers (1:20,000 vs. 1:181,000).

6.) The extent to which the rule overlaps, duplicates, or conflicts with state or federal rules and with local government regulations:
   a. The existing rule has no overlaps, duplicates, or conflicts to the knowledge of the Petitioner.

7.) The degree to which technology, economic conditions, or other factors have changed in the subject area affected by the existing rule, since the agency adopted the rule:
   a. From the Cascades and west, there is 1 producer for every 20,300 people. The producer in Huntington serves roughly 181,000 people across eight counties.

In close, we believe that this amendment to the present rule will greatly benefit the restaurant/retailer community, community safety as a whole, and governmental agencies that work with Licensees.

ATTEST:

Chuck Guerri- Mayor

Tracy McCue- City Recorder
ORDINANCE NO. 2016-09
AN ORDINANCE OF THE CITY OF HUNTINGTON AUTHORIZING AN EXCEPTION TO CANOPY LIMITATIONS FOR RECREATIONAL MARIJUANA PRODUCER BURNT RIVER FARMS, LLC

WHEREAS, the people of Oregon voted in 2014 for Amendment 91, legalizing the production, sale, and processing of recreational marijuana;

WHEREAS, the Legislature and OLCC created, and continue to improve, a robust regulatory system to mitigate the risks and maximize the benefits of the marijuana industry, but most of the counties and cities east of the Cascades banned the industry in their jurisdictions;

WHEREAS, the City of Huntington directly benefits from the economic activity of the marijuana industry in Huntington, including increased property values, property demand, increased employment of residents of Huntington and Baker County, an expanding multi-million dollar agricultural industry, and the spillover effect of attracting peripheral businesses;

WHEREAS, the weather conditions in Huntington allow for an extended, outdoor growing season that maximizes production using the most environmentally friendly methods – the sun;

WHEREAS, through OAR 845-025-2040 the City is empowered to pass an ordinance and petition the Oregon Liquor Control Commission to permit an expansion of the canopy size allowed within our jurisdiction and Huntington’s industry is supplying the needs of at least eight eastern Oregon counties of 181,000 people, compared to 1 producer for every 20,000 people on the Westside;

WHEREAS, the City Council finds it is in the best interests of the health, safety and welfare of the citizens of Huntington to enact such an exception to the canopy limitations for the Burnt River Farms, LLC Recreational Marijuana Producer within the jurisdictional boundaries of the City of Huntington.

NOW THEREFORE, THE CITY OF HUNTINGTON ORDAINS AS FOLLOWS:

AUTHORIZATION. The City of Huntington authorizes BURNT RIVER FARMS, LLC, to have a higher canopy size limit than is permitted under OAR 845-025-2040 1(f), upon condition that the Oregon Liquor Control Commission (OLCC) approve through its rule-making process the City’s petition for an exception to OAR 845-025-2040. If so authorized by said rule-making process, the new limitation shall be a maximum of 80,000 square feet, which is a 100% increase from the current 40,000 square foot limit.

CAVEAT. As stated above, the canopy extension authorized herein is subject to OLCC regulations.
PETITION AUTHORIZED. The City Council directs and authorizes the Mayor to sign a petition to OLCC to amend OAR 845-025-2040 to allow an extension of the canopy limits in the City of Huntington’s jurisdiction.

DURATION OF AUTHORIZATION. The authorization for a canopy extension under this ordinance shall be effective until January 1, 2022, unless rescinded sooner.

SEVERABILITY. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

FIRST READING:

This ordinance was presented to the City Council at its regular meeting on the 15th day of November, 2016, was read first in full, and then by title only, and a motion was made by Council member Driver and seconded by Council member Deck for passage of said ordinance, and the following vote having been taken:

Voting for the Ordinance:

Council Members: Driver, Allender, Deck, and Gerould

Voting against the Ordinance:

Council Members: Bronson and Cummings

SECOND READING (if first reading did not result in unanimous vote):

This ordinance was presented to the City Council at its regular meeting on the 20th day of December, 2016, for its second reading, was read by title only, and a motion was made by Council member Deck and seconded by Council member Driver for passage of said ordinance, and the following vote having been taken:
Voting for the Ordinance:
   Council Members: Driver, Allender, Deck, and Gerould

Voting against the Ordinance:
   Council Members: Bronson and Cummings

The Mayor having declared that the measure having received a 4:2 vote for passage was adopted and will become effective in thirty days.

[Signature]
MAYOR

ATTEST:

[Signature]
CITY RECORDER