



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: June 16, 2016
Jurisdiction: City of Newberg
Local file no.: DCA-16-001
DLCD file no.: 004-16

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 06/10/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 42 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 004-16 {24312}

Received: 6/10/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Newberg

Local file no.: **DCA-16-001**

Date of adoption: 6/6/2016

Date sent: 6/10/2016

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 3/3/2016

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Removed recreational marijuana wholesalers as a permitted use in residential districts, and added a 1000 foot separation requirement between recreational marijuana retail establishments and recreational marijuana retail establishments and medical marijuana dispensaries.

Local contact (name and title): Doug Rux, Community Development Director

Phone: 503.537.1212

E-mail: doug.rux@newbergoregon.gov

Street address: PO Box 970

City: Newberg

Zip: 97132

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

Newberg Development Code 15.050.030 Definitions, 15.305.020 Zoning Use Table - Use Districts, 15.305.030 Zoning Use Table -Use Subdistricts, 15.342.110 Stream Corridor Overlay Subdistrict, 15.350.030 Civic Corridor Overlay Subdistrict,, 15.356.050 Bypass Interchange Overlay, 15.358.030 Interim Industrial Overlay and 15.358.050 Interim Industrial Overlay.

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: Oregon Liquor Control Commission, Oregon Health Authority, Newberg School District, Chehalem Park and Recreation District, Yamhill County.

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Copy of Ordinance No. 2016-2801 with Exhibit A Attachment 1 and Exhibit A Attachment 2 Development Code changes and Exhibit B Findings.



ORDINANCE No. 2016-2801

**AN ORDINANCE AMENDING THE NEWBERG DEVELOPMENT CODE
REGARDING RECREATIONAL MARIJUANA WHOLESALERS,
LABORATORIES. RESEARCH CERTIFICATES PRODUCERS AND
RETAILERS; AND DECLARING AN EMERGENCY**

RECITALS:

1. Measure 91 was approved by Oregon voters in November 2014 and House Bill 3400 was enacted by the Oregon Legislature in 2015 related to recreational marijuana.
2. The Oregon Liquor Control Commission adopted temporary Oregon Administrative Rules (OAR's) on October 22, 2015 that were subsequently modified on November 20, 2015 for recreational marijuana under Chapter 845, Division 25.
3. The Newberg City Council established the Marijuana Subcommittee on September 8, 2015 to review and provide recommendations on local place, time and manner regulations for recreational marijuana.
4. The Newberg City Council initiated a potential amendment to Newberg's Development Code regarding recreational marijuana wholesalers, laboratories, research certificates and retailers on February 1, 2016, under City Council Resolution 2015-3253.
5. The Marijuana Subcommittee met on February 4, 2016 and developed recommendations to the Planning Commission on recreational marijuana wholesalers, laboratories, research certificates and retailers.
6. After proper notice, the Newberg Planning Commission held a hearing on April 14, 2016 to consider the amendment for recreational marijuana wholesalers, laboratories, research certificates and retailers. The Commission considered testimony, deliberated, and found that adding regulations for recreational marijuana wholesalers, laboratories, research certificates and retailers would be in the best interests of the city. The Planning Commission approved Resolution 2016-314, which recommends that the City Council adopt the proposed amendments to the Newberg Development Code.
7. After proper notice, the Newberg City Council held a hearing on May 16, 2016 to consider the proposed amendment. The Council considered testimony and deliberated.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The Council finds that adding regulations for recreational marijuana wholesalers, laboratories,

research certificates and retailers would be in the best interests of the city. The Council adopts the amendments to the Newberg Development Code as shown in Exhibit "A". Exhibit "A" is hereby adopted and by this reference incorporated.

2. The findings shown in Exhibit "B" are hereby adopted. Exhibit "B" is by this reference incorporated.
3. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect immediately upon passage by the council and signature of the mayor.

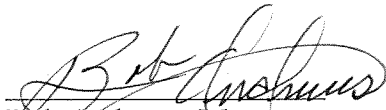
➤ **EFFECTIVE DATE** of this ordinance is of this ordinance is June 7, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 6th day of June, 2016, by the following votes: **AYE: 6 NAY: 0 ABSENT: 1 ABSTAIN: 0**



Sue Ryan, City Recorder

ATTEST by the Mayor this 8th day of June, 2016.



Bob Andrews, Mayor

**Exhibit “A” to Ordinance 2016-2801
Development Code Amendments –File DCA-16-001
Recreational Marijuana Wholesalers,
Laboratories, Research Certificates and
Retailers**

Section 1. The Newberg Development Code 15.05.030 shall be amended to read as follows:

**Note: Existing text is shown in regular font.
Added text is shown in double-underline
Deleted text is shown in ~~strikethrough~~.**

15.05.030 Definitions

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“Marijuana Laboratory” means a laboratory certified by the Oregon Health Authority under ORS 438.605 to 438.620 and authorized to test marijuana items for purposes specified in these rules.

“Marijuana Retailer” means a marijuana retailer licensed by the Oregon Liquor Control Commission.

“Marijuana Wholesaler” means a marijuana wholesaler licensed by the Oregon Liquor Control Commission.

Section 2. Newberg Development Code, Zoning Use Table, Section 15.305.020 shall be amended to read as follows:

See Exhibit A, Attachment 1

Section 3. Newberg Development Code, Zoning Use Table, Section 15.305.030 shall be amended to read as follows:

See Exhibit A, Attachment 2

Section 4. Newberg Development Code, Stream Corridor Overlay Subdistrict, Section 15.342.110 is amended to read as follows:

15.342.110 Prohibited uses and activities.

The following activities or uses are prohibited within this subdistrict:

A. Except as provided in NMC 15.342.040(R), the planting or propagation of any plant identified as a nuisance plant as determined by a qualified botanist or indicated as a nuisance plant on the Newberg plant list.

B. The removal of native trees that are greater than six inches in diameter at breast height, except as is otherwise permitted within this chapter.

C. Any use dealing with hazardous substances or materials, including but not limited to gas service stations.

D. Public pathways, except those in conjunction with public lands, public parks or public easements that have been acquired by other than eminent domain. [Ord. 2451, 12-2-96. Code 2001 § 151.475.]

E. Recreational Marijuana Producer and Recreational Marijuana Processor.

F. Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers.

Section 5. Newberg Development Code, Civic Corridor Overlay Subdistrict, Section 15.350.030 is amended to read as follows:

15.350.030 Permitted buildings and uses.

All **uses** permitted in the underlying primary district are permitted within the CC subdistrict except as follows:

A. In addition to the **buildings** and **uses** permitted conditionally in NMC 15.305.020, the **planning commission** may grant a **conditional use permit** for any of the following **buildings** and **uses** in accordance with a Type III procedure:

1. Facilities which exist for the purpose of providing for the temporary care and/or lodging of adult indigent **persons**.

2. **Hospitals**.

B. The following **uses** are prohibited within the CC subdistrict:

1. **Automobile sales**, new and used.

2. Car washes, coin-operated or mechanical.

3. Garages, repair.

4. Service stations. [Amended during 11/13 supplement; Ord. 2561, 4-1-02. Code 2001 § 151.526.3.]

5. Recreational Marijuana Producer and Recreational Marijuana Processor.

6. Recreational Marijuana Wholesalers and Retailers.

Section 6. Newberg Development Code, Bypass Interchange Overlay, Section 15.356.050 is amended to read as follows:

15.356.050 Prohibited uses.

A. Several commercial types of **uses** are permitted outright or with conditional **use** approval in Newberg's industrial districts (M-1, M-2, and M-3). The area within the Newberg UGB near the Oregon 219 Interchange is generally planned for industrial **use**. To protect the interchange area from commercial development, the following **uses** are prohibited within the M-1, M-2, and M-3 districts within the boundaries of the bypass interchange overlay:

1. **Automobile sales**, new and used.
2. Billboards.
3. Car washes.
4. Convenience grocery stores.
5. **Restaurants** larger than 2,000 square feet or with drive-up service windows.
6. Service stations.
7. Drive-in theaters.
8. Auction sales.
9. Bakeries, retail.
10. **Building** material sales.
11. Driving ranges.
12. Feed and seed stores.
13. Miniature **golf courses**.
14. Skating rinks.
15. Recreational Marijuana Producer and Recreational Marijuana Processor.
16. Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers.

B. The industrial commercial subdistrict of the M-4 district shall not be applied within the boundaries of the BI overlay. [Ord. 2734 § 1 (Exh. B), 3-7-11; Ord. 2708 § 2, 12-1-08; Ord. 2602, 9-20-04. Code 2001 § 151.531.4.]

Section 7. Newberg Development Code, Interim Industrial Overlay, Section 15.358.030 is amended to read as follows:

15.358.030 Permitted uses.

All **uses** of land and water that are permitted in the underlying zoning district(s) are also permitted in the interim industrial overlay, with the exception of those **uses** listed in NMC 15.358.050. In addition, the following are permitted:

- A. Contractor's equipment or storage.
- B. Construction material storage. [Ord. 2720 § 1(5), 11-2-09. Code 2001 § 151.532.2.]
- C. Recreational Marijuana Producer (indoor).
- D. Recreational Marijuana Wholesalers, Laboratories, Research Certificates.

Section 8. Newberg Development Code, Interim Industrial Overlay, Section 15.358.050 is amended to read as follows:

15.358.050 Prohibited uses.

The following **uses** are prohibited in the interim industrial overlay:

- A. **Cemeteries.**
- B. Garbage dumps, sanitary landfills.
- C. **Parks.**
- D. Permanent **buildings.**
- E. **Wrecking yards** for motor vehicles, **building** materials, and other similar items.
[Ord. 2720 § 1(5), 11-2-09. Code 2001 § 151.532.4.]
- F. Recreational Marijuana Processor.
- G. Recreational Marijuana Retailers.

**Exhibit “B” to Ordinance 2016-2801
Findings –File DCA-16-001
Recreational Marijuana Wholesalers,
Laboratories, Research Certificates and Retailers**

I. Statewide Planning Goals - relevant goals

Goal 1, Citizen Involvement, requires the provision of opportunities for citizens to be involved in all phases of the planning process.

Finding: The City Council initiated the potential development code amendment at a public meeting on February 1, 2016. The Marijuana Subcommittee meet on February 4, 2016 at a public meeting to review potential place, time and manner regulations for Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers. The Planning Commission, after proper notice, held a public hearing on April 14, 2016. The City Council considered the recommendation of the Planning Commission at a public hearing on May 16, 2016 and decided whether or not to adopt the development code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

Goal 2, Land Use Planning, requires the development of a process and policy framework that acts as a basis for all land use decisions.

Finding: The Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers proposal is supportive of this goal because it was developed following city procedures for legislative action.

II. Newberg Comprehensive Plan - relevant policies

A. CITIZEN INVOLVEMENT GOAL: To maintain a Citizen Involvement Program that offers citizens the opportunity for involvement in all phases of the planning process.

Finding: The City Council initiated the potential development code amendment at a public meeting on February 1, 2016. The Marijuana Subcommittee meet on February 4, 2016 at a public meeting to review potential place, time and manner regulations for Recreational Wholesalers, Laboratories, Research Certificates and Retailers. The Planning Commission, after proper notice, held a public hearing on April 14, 2016. The City Council considered the recommendation of the Planning Commission at a public hearing on May 16, 2016 and decided whether or not to adopt the development code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

B. LAND USE PLANNING GOAL: To maintain an on-going land use planning program to implement statewide and local goals. The program shall be consistent with natural and cultural resources and needs.

Finding: The Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers proposal is supportive of this goal because it was developed following city procedures for legislative action.

H. THE ECONOMY GOAL: To develop a diverse and stable economic base.

1. General Policies

c. The City will encourage the creation of a diversified employment base, the strengthening of trade centers and the attraction of both capital and labor intensive enterprises.

g. The City shall encourage business and industry to locate within the Newberg City limits.

Finding: The city encourages new businesses to develop within the city. A Recreational Marijuana Wholesale, Laboratory, Research Certificate and Retail operations are a legal operation under State law. Allowing Recreational Marijuana Wholesale, Laboratory, Research Certificate and Retail operations as a permitted or conditional use as represented in Exhibit A, Attachments 1 and 2 is consistent with this Comprehensive Plan goal.

III. **Conclusion:** The proposed development code amendments meet the applicable requirements of the Statewide Planning Goals, and the Newberg Comprehensive Plan, and should be approved.

330	School, primary or secondary	P	P	P		P										C			
331	College	P	P	P		P	P	P	P(15)							C	P		
332	Commercial educational services	C	C	C		C	P	P	P							C			
340	PARKS AND OPEN SPACES																		
341	Open space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
342	Park	P	P	P	P	P	P	P	P	P			P(16)		P(17)	P			
Def.	Golf course	P	P	P											P(17)				
350	PUBLIC SERVICES																		
351	Community services	C	C	C	C	P		P	P	P					C	P			
352	Emergency services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Def.	Pound, dog or cat							C	C		C	P	P	C	C				
Def.	Cemetery	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
360	TRANSPORTATION																		
Def.	Transportation facilities and improvements	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Def.	Transit center							P	P	P	P	P	P						
Def.	Parking facility			P		C	C	P	P(18)	C	P	P	P		P		P		
Def.	Airport, landing field											C	C						P
Def.	Heliport, helipad	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P
Def.	Marina									C									
	Pilings, piers, docks, and similar in-water structures									C									
370	UTILITIES																		
Def.	Basic utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Def.	Utility distribution plant or yard											P	P	P					
Def.	Wastewater treatment plant											C	P	C					
Def.	Telecommunication facility incorporated into existing structure/utility pole and no taller than 18 feet above existing structure/utility pole	C	C	C	C	C	S	S	S	S	S	S	S	S	S		S		Chapter 15.445 NMC, Article IV
Def.	Telecommunication facility, including radio towers and transmitters, which are 100 feet or less in height, except those incorporated into an existing structure no taller than 18 feet above that structure.						C	C	C		C	S(19)	S(19)	P	C		C		Chapter 15.445 NMC, Article IV
Def.	Telecommunication facility, including radio towers and transmitters, which are over 100 feet						C	C	C		C	C	C	C	C		C		Chapter 15.445 NMC, Article IV
400	COMMERCIAL USES																		
410	COMMERCIAL OFFICES																		
411	Medical office			C		P	P(20)	P	P(21)							P			
412	Local business office					P(22)	P(20)	P	P(21)										
420	COMMERCIAL SALES AND RENTALS																		
421	Retail sales – General						P(20)	P	P(15)(21)	P		P(23)							
422	Retail sales – Bulk outdoor							P	C			P							
423	Retail sales – Convenience						P(20)	P	P(21)	P		P(24)			P(25)				
Def.	Temporary merchant							S	S(21)										NMC 5.15.050 et seq.
	Medical marijuana dispensary							P(35)	P(35)										
425	Retail food and beverage production							S	S										Chapter 15.445 NMC, Article VIII
430	EATING AND DRINKING ESTABLISHMENTS																		
430	Eating and drinking – Alcohol-related							P	P(21)	P									Requires liquor license
430	Eating and drinking – Non-alcohol-related						P(20)	P	P(21)	P	P	P						C(26)	
440	COMMERCIAL SERVICES																		
441	Personal services					P	P(20)	P	P(21)	P									
442	Commercial services						P(20)	P	P(21)										
443	Commercial vehicle service							P	C		P(27)	P			P(28)				
Def.	Kennel, commercial							C	C		C	P	P	C	C				
450	COMMERCIAL RECREATION																		

451	Commercial recreation – Indoors							P	P(15)		P(29)	P(29)								
452	Commercial recreation – Outdoors							P				C								
453	Commercial recreation – Motor-vehicle-related											C							C(33)	
460	COMMERCIAL LODGING																			
Def.	Vacation rental home	C	C	S	S	S	S(13)	S(13)	S(13)	S(13)										Chapter 15.445 NMC, Article VII
Def.	Bed and breakfast (2 or fewer rooms)	C	S	S		S	S	S	S	S										NMC 15.445.010
Def.	Bed and breakfast (3 or more rooms)	C	C	C		C	C	S	S	S										NMC 15.445.010
Def.	Hotel or motel							P	P(15)	P										C(26)
Def.	Recreational vehicle park							C		C	C	C	C							NMC 15.445.170
500	INDUSTRIAL USES																			
501	Traded sector industry office					P(30)	P(30)	P	P		P	P		P						P(33)
502	Industrial services							C				P	P	P						P(33)
503	Wholesale and industry sales							C(31)			P(31)	P	P	P						P(33)
504	Warehouse, storage, and distribution										P(32)	P	P	P						P(33)
505	Self-service storage							P			P	P	P	P						
506	Light manufacturing										P	P	P	P						P(33)
507	Heavy manufacturing											P(34)	P	C						
508	Waste-related												C	C						
600	MISCELLANEOUS USES																			
Def.	Accessory building and use incidental to other permitted uses in the zone	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to permitted uses in the zone and not defined or categorized	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to conditional uses in the zone and not defined or categorized	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
	Medical Marijuana Processor										P	P	P	P						
	Medical Marijuana Grow Site	P(36)	P(36)	P(36)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
	Recreational Marijuana Processor	X	X	X	X	X	X	C(38)	X	X	P(37)	P(37)	P(37)	P(37)	X	X	X	X	X	
	Recreational Marijuana Producer (Indoor)	X	X	X	X	X	X	X	X	X	P	P	P	P	X	X	X	X	X	
	Recreational Marijuana Producer (Outdoor)	X	X	X	X	X	X	X	X	X	C	C	C	C	X	X	X	X	X	
	Recreational Marijuana Retailer	X	X	X	X	X	X	P(38)/(39)/(40)	P(38)/(39)/(40)	P(38)/(39)/(40)	P(38)/(39)/(40)	X	X	X	X	X	X	X	X	
	Recreational Marijuana Wholesaler	X	X	X	X	X	X	C(31)/(38)	X	X	P(38)	P(38)	P(38)	P(38)	X	X	X	X	X	
	Recreational Marijuana Laboratories	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	P	X	X	
	Recreational Marijuana Research Certificate	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	P	X	X	

Key:

P: Permitted use

S: Special use -- Use requires a special use permit

C: Conditional use -- Requires a conditional use permit

X: Prohibited use

(#): See notes for limitations

Notes.

(1) Limited to sites with preexisting agricultural uses, including at time of annexation.

(2) Limited to one per lot as a permitted use. More than one per lot allowed only through a conditional use permit or planned unit development, subject to density limits of NMC 15.405.010(B).

(3) Permitted on individual lots created prior to November 17, 1992. Homes on individual lots created on or after November 17, 1992, will only be permitted through the planned unit development process.

(4) The permitted density shall be stated on the conditional use permit.

(5) The dwelling units must front onto Hancock or Second Street. No more than 30 percent of a single street frontage of a block may be occupied by residential uses. Contiguous residential street frontage must be less than 60 lineal feet. Density and parking standards for allowable dwelling units must be met.

(6) One residence per lot with the addition of a tie-down or hangar for an airplane. At a minimum, a paved tie-down or hangar shall be provided on the property, or the property shall include permanent rights to a private hangar within the subdivision. See Chapter 15.336 NMC.

(7) The homes are not subject to the development standards set forth in NMC 15.445.050 through 15.445.070.

(8) The units must be located on the same lots as another use permitted or conditionally permitted in the C-3 zone and may not occupy the first floor storefront area (the portion of the building closest to the primary street). There shall be no density limitation. Private parking areas or garages are not required for dwelling units located within buildings in existence prior to and including June 30, 1999. Parking shall be provided for all new dwelling units within any building constructed after June 30, 1999, in private parking areas or garages on the basis of one parking space for each dwelling unit.

- (9) Permitted on the ground floor, one per lot in conjunction with any other use permitted or conditional use in the C-1 zone. On upper floors, dwelling units are unlimited and one parking space per dwelling unit is required.
- (10) Permitted above any permitted use in the C-2 zone. There shall be no density limitation. Parking shall be provided in private parking areas or garages on the basis of one parking space for each dwelling unit.
- (11) Must be located above ground floor commercial uses.
- (12) One residence of area not more than 40 percent of the area of the hangar floor, up to a maximum of 1,500 square feet, for an airport caretaker or security officer on each separate parcel.
- (13) Permitted in existing dwelling units only. New dwelling units may not be created for this use unless the dwelling unit would otherwise be allowed.
- (14) Allowed exclusively for employers or employees of businesses located within this district.
- (15) Facility over 40,000 square feet gross floor area requires a conditional use permit.
- (16) Allowed in areas designated in industrial area plans.
- (17) Limited to facilities owned or operated by a public agency.
- (18) Parking garages are a conditional use, and must have first floor street frontage of 40 feet or less for ingress or egress. First floor development must be commercial.
- (19) A conditional use permit is required if the facility is less than 2,000 feet from the nearest telecommunication facility.
- (20) Businesses in the C-1 zone that have hours of operation between 10:00 p.m. and 7:00 a.m. require a conditional use permit.
- (21) Drive-up service windows accessory to an existing business on the site with walk-in customer service, such as a drive-up bank window, are allowed only with a conditional use permit. Otherwise, drive-up service windows, except those in service on April 1, 2002, are prohibited. Changes in use will not be allowed.
- (22) Retail sales of goods on site not allowed.
- (23) Limited to secondhand stores.
- (24) Store size is limited to 2,000 square feet gross floor area.
- (25) Store size is limited to 5,000 square feet gross floor area.
- (26) Use must demonstrate that it is compatible with airport operations.
- (27) Limited to service stations.
- (28) Limited to card lock fueling only. Retail services are limited to self-vending services.
- (29) Permitted provided the structure is designed for easy conversion to industrial use, including not having fixed seating.
- (30) Limited to 10,000 square feet maximum floor area.
- (31) Allowed indoors only.
- (32) Allowed indoors only. Outdoor use requires a conditional use permit.
- (33) Must be aviation-related. See Chapter 15.332 NMC.
- (34) Limited to expansion or change of existing heavy manufacturing uses.
- (35) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a dispensary. The premises consist of the dispensary building, or the portion of the building used for a dispensary. Shall not be located within 1,000 feet of another medical marijuana dispensary. Operating hours are limited to the hours between 9:00 a.m. and 8:00 p.m.
- (36) Allows up to 12 mature plants; indoor operations only.
- (37) Indoor use only.
- (38) The use is not allowed within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a recreational processor, wholesaler or retailer.
- (39) 1,000 foot separation between retailer to retailer premises and 1,000 foot separation between retailer to dispensary premises.
- (40) Operating hours limited to the hours between 9:00 a.m. and 8:00 p.m.

1 Code reviser's note: Section 25 of Ordinance 2763 provides:

SECTION 25: Grace period for previously permitted or conditional uses. Where an applicant demonstrates that a particular use was a permitted or conditional use on a specific property immediately prior to adoption of this ordinance, but that the use is no longer either a permitted or conditional use on that property due to this ordinance, the applicant may establish the use as either a permitted or conditional use, as provided in the prior code, provided the use is legally commenced prior to January 1, 2018.

Exhibit A, Attachment 2

15.305.030 Zoning use table - Use Subdistricts.

600	MISCELLANEOUS USES	R-1/PD	R-1/O.1	R-1/O.4	R-1/6.6	R-1/SP	R-2/PD	R-2/SP	SD/LDR	SD/MMR	R-3/PD	RP/SP	RP/LU	AO	ARO	C-1/SP	C-2/LU	C-2/PD	C-2/SP	C-3/LU	SD/V	SD/NC	SD/H	CC	CF/RF	RF	IO	M-1/SP	SD/E	FHO	II	AIO	H	SC	BI	
	Medical Marijuana Processor																											P	P							
	Medical Marijuana Grow Site	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
	Recreational Marijuana Processor	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X
	Recreational Marijuana Producer (Indoor)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	X	P	X	X	X	X	
	Recreational Marijuana Producer (Outdoor)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	C	C	X	C	X	X	X	X	
	Recreational Marijuana Retailer	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	X	X	X	X	X	X	X	X	X	X	X	X	
	Recreational Marijuana Wholesaler	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P(1)	P(1)	X	P(1)	X	X	X	X	
	Recreational Marijuana Laboratories	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	P	X	X	X	P	P	X	P	P	X	X	
	Recreational Marijuana Research Certificate	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	X	P	P	P	X	P	P	X	X	X	

Key:

P: Permitted use

S: Special use -- Use requires a special use permit

C: Conditional use -- Requires a conditional use permit

X: Prohibited use

(#): See notes for limitations

(1) The use is not allowed within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school teaching children as described in ORS 339.030 (1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a recreational retailer or wholesaler.

(2) 1,000 foot separation between retailer to retailer premises and 1,000 foot separation between retailer to dispensary premises.

(3) Operating hours limited to the hours between 9:00 a.m. and 8:00 p.m.