



Oregon

John A. Kitzhaber, M.D., 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 22, 2015
Jurisdiction: City of St. Helens
Local file no.: ZA.1.15
DLCD file no.: 001-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 06/19/2015. 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 35 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.: 001-15 {23672}
Received: 6/19/2015

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 St. Helens

Local file no.: **ZA.1.15**

Date of adoption: June 17, 2015

Date sent: June 18, 2015

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): March 10, 2015

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:

Yes. Marijuana related law changed as a result of the public hearing process. Different zone applicability and altered time, place, manner regulations from original proposal.

Local contact (name and title): Jacob Graichen, City Planner

Phone: (503) 366-8204

E-mail: jacobg@ci.st-helens.or.us

Street address: 265 Strand Street

City: St. Helens

Zip: 97051-

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:

Chapter 17.16 General Land Use Definitions; Chapter 17.24 Procedures for Decision Making--Quasi-Judicial; Chapter 17.32 Zones and Uses; Chapter 17.84 Access, Egress, and Circulation; Chapter 17.100 Conditional Use; Chapter 17.108 Variances.

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:
---------------------------	--------------	----------------

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

List affected state or federal agencies, local governments and special districts:

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.

This approval was broken into two Ordinances and Findings and Conclusions documents. See St. Helens Ordinances 3189 and 3190.

City of St. Helens
ORDINANCE NO. 3189

AN ORDINANCE AMENDING THE ST. HELENS MUNICIPAL CODE CHAPTERS
17.24, 17.84, AND 17.108

WHEREAS, pursuant to St. Helens Municipal Code 17.20.020(1)(c) the Planning Director initiated a legislative change to adopt text amendments to the Community Development Code (St. Helens Municipal Code Title 17); and

WHEREAS, pursuant to the St. Helens Municipal Code and Oregon Revised Statutes, the City has provided notice to: the Oregon Department of Land Conservation and Development on March 10, 2015, and the local newspaper of record on March 25, 2015; and

WHEREAS, the St. Helens Planning Commission did hold a duly noticed public hearing on April 14, 2015 (continued to May 12, 2015) and, following deliberation, made a recommendation of approval to the City Council; and

WHEREAS, the St. Helens City Council conducted a public hearing on May 20, 2015 and having the responsibility to approve, approve with modifications, or deny an application for a legislative change, has deliberated and found that based on the information in the record and the applicable criteria in the SHMC that the proposed addendum and related amendments be approved.

NOW, THEREFORE, THE CITY OF ST. HELENS DOES ORDAIN AS FOLLOWS:

Section 1. The above recitations are true and correct and are incorporated herein by reference.

Section 2. The City of St. Helens Municipal Code (Development Code) is hereby amended, attached hereto as **Attachment "A"** and made part of this reference.

Section 3. In support of the plan addendum described herein, the Council hereby adopts the Findings of Fact and Conclusions of Law, attached hereto as **Attachment "B"** and made part of this reference.

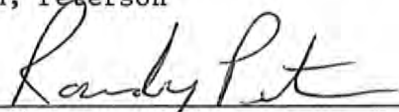
Section 4. The effective date of this Ordinance shall be 30 days after approval, in accordance with the City Charter and other applicable laws.

Read the first time: June 3, 2015
Read the second time: June 17, 2015

APPROVED AND ADOPTED by the City Council this 17th day of June, 2015 by the following vote:

Ayes: Locke, Carlson, Morten, Conn, Peterson

Nays: None



Randy Peterson, Mayor

ATTEST:



Kathy Payne, City Recorder

underline words are added
~~words stricken~~ are deleted

**CHAPTER 17.24
 PROCEDURES FOR DECISION-MAKING – QUASI-JUDICIAL**

[...]

17.24.120 Notice of decision by the director.

(1) Notice of the director’s decision on an application pursuant to SHMC 17.24.090 shall be given by the director in the following manner:

(a) Within 10 working days of signing the proposed decision, notice shall be sent by mail to:

[...]

(ii) All surrounding property owners of record of property within the applicable notice area of the property for the following types of director decisions:

(A) Lot line adjustments, home occupations – Type I, unlisted uses: abutting properties;

(B) Major site design reviews, home occupations – Type II, sensitive lands, temporary uses, accessory structures, ~~variances~~: 100 feet;

(C) Land partitions: 200 feet;

(D) Expedited land divisions: 300 feet

[...]

TABLE A
 LAND USE DECISION PROCESS

(Note: for all land use decisions there can only be one approval authority and one appeal authority in the city)

DIRECTOR Decision without hearing	PLANNING COMMISSION Public hearing	CITY COUNCIL Public hearing
ACCESSORY STRUCTURES pursuant to Chapter 17.124 SHMC	Appeal or referral*	
LOT LINE ADJUSTMENTS pursuant to Chapter 17.140 SHMC	Appeal or referral*	
PARTITIONS pursuant to Chapter 17.140 SHMC	Appeal or referral*	

	SUBDIVISIONS pursuant to Chapter 17.136 SHMC when not part of a planned development	Appeal or referral
	Recommendation on SUBDIVISIONS pursuant to Chapter 17.148 SHMC when requested as part of PLANNED DEVELOPMENT and/or in conjunction with a VARIANCE to the subdivisions standard	SUBDIVISIONS pursuant to Chapter 17.148 SHMC when requested as part of PLANNED DEVELOPMENT and/or in conjunction with a VARIANCE to the subdivisions standard
REVIEW OF USES in Willamette Greenway zone	Appeal or referral*	Ordinance required
EXPEDITED LAND DIVISION (partition, subdivision, or PUD meeting definition and requirements of ORS 197.360)	Appointed referee	Oregon Court of Appeals
SITE DEVELOPMENT pursuant to Chapter 17.96 SHMC	Referral	Appeal
VARIANCE pursuant to Chapter 17.108 SHMC	Appeal or referral* <u>VARIANCE pursuant to Chapter 17.108 SHMC</u>	<u>Appeal or referral</u>
HOME OCCUPATION pursuant to Chapter 17.120 SHMC	Appeal or referral*	
SOLAR ACCESS for new construction on lots not covered by SHMC 17.24.090(3)(a) pursuant to Chapter 17.48 SHMC	Appeal or referral*	
	SOLAR ACCESS requirements for new subdivisions pursuant to Chapter 17.48 SHMC	Appeal or referral
SIGN PERMITS	Appeal or referral*	
	SIGN CODE EXCEPTIONS and SIGN CODE ADJUSTMENTS/VARIANCES	Appeal or referral

	pursuant to Chapter 17.88 SHMC	
TEMPORARY USE pursuant to Chapter 17.116 SHMC	Appeal or referral*	
UNLISTED USES	Appeal or referral*	
SENSITIVE LAND PERMIT (By Director)	Appeal or referral*	
	SENSITIVE LAND PERMIT within the floodplain pursuant to Chapter 17.44 SHMC (By Commission)	Appeal or referral
	CONDITIONAL USE pursuant to Chapter 17.100 SHMC	Appeal or referral
	Appeal of revocation of director decision	Appeal of revocation of planning commission or historic sites and overlay district committee decisions
	Recommendation on a preliminary PLANNED DEVELOPMENT ZONE CHANGE proposal under Chapter 17.148 SHMC	A preliminary PLANNED DEVELOPMENT ZONE CHANGE proposal under Chapter 17.148 SHMC; ordinance required
	Preliminary plan/plat for PLANNED DEVELOPMENT proposal under Chapter 17.148 SHMC	Appeal or referral
Final land division plan/plat	Appeal	
	Recommendation on quasi-judicial ZONING MAP AMENDMENT without comprehensive plan change pursuant to SHMC 17.08.030	Quasi-judicial ZONING MAP AMENDMENT without comprehensive plan change pursuant to SHMC 17.08.030; ordinance required
	Recommendation on quasi-judicial REZONING concurrent with a quasi-judicial comprehensive plan amendment	Quasi-judicial REZONING concurrent with quasi-judicial comprehensive plan amendment; ordinance required
	Recommendation on quasi-judicial	Quasi-judicial

	COMPREHENSIVE PLAN MAP OR TEXT AMENDMENT	COMPREHENSIVE PLAN MAP OR TEXT AMENDMENTS; ordinance required
	Recommendation on ANNEXATION request	ANNEXATIONS as referred by the planning commission; ordinance required
	Recommendation on COMPREHENSIVE PLAN AND ZONING DESIGNATIONS made to lands ANNEXED to the city	The formal imposition of COMPREHENSIVE PLAN MAP AND ZONING DESIGNATIONS made to lands ANNEXED to the city
	Recommendation on DEVELOPMENT AGREEMENT	DEVELOPMENT AGREEMENT; ordinance required
	ANY OTHER LAND USE MATTER not specifically assigned to the director or the city council under this code	Appeal or referral
MINOR MODIFICATIONS TO CONDITIONAL USE PERMIT	Appeal or referral*	
ACCESS VARIANCE	Appeal or referral* <u>ACCESS VARIANCE</u>	<u>Appeal or referral</u>
NONCONFORMING STATUS	Appeal or referral*	
		Supplemental application per ORS 227.184
	HISTORIC LANDMARK COMMISSION Public hearing	CITY COUNCIL Public hearing
	Recommendation on historic sites pursuant to Chapter 17.36 SHMC	Final decisions
	Approval for alterations and demolitions to historic sites pursuant to Chapter 17.36 SHMC	Appeals only

* Referrals can be appealed to the city council.

[...]

**CHAPTER 17.84
ACCESS, EGRESS, AND CIRCULATION**

[...]

17.84.120 Variances to access standards.

In all zoning districts where access and egress drives cannot be readily designed to conform to code standards within a particular parcel, access with an adjoining property shall be considered. If access in conjunction with another parcel cannot reasonably be achieved, the ~~director~~ commission may grant a variance to the access requirements of this chapter based on the standards set forth in SHMC 17.84.150. This does not apply to highway access.

17.84.130 Administration and approval process.

[...]

(4) The ~~director~~ commission shall approve, approve with conditions, or deny any application for an access variance. The ~~director~~ commission shall apply the standards set forth in SHMC 17.84.150 when reviewing an application for an access variance.

(5) The decision of the ~~director~~ commission may be appealed in accordance with SHMC 17.24.310(1).

[...]

17.84.140 Expiration of approval – Standards for extension of time.

(1) An access variance approval by the ~~director~~ commission shall lapse if:

[...]

17.84.150 Approval Standards

The ~~director~~ commission may approve, approve with conditions, or deny a request for an access variance based on findings that:

[...]

**CHAPTER 17.108
VARIANCES**

[...]

17.108.010 Purpose.

The purpose of this chapter is to provide the following:

(1) Standards for the granting of variances from the applicable zoning requirements of this code where it can be shown that, owing to special and unusual circumstances related to a specific piece of the land, the literal interpretation of the provisions of the applicable zone would cause an undue or unnecessary hardship, except that no use variances shall be granted; and

(2) For the reduction of the yard setback areas where a reduction is necessary to enlarge an existing structure or for the increase in lot coverage where an increase is for these reasons or new accessory structures.

[...]

17.108.030 Administration and approval process.

[...]

(4) The ~~director~~ commission shall approve, approve with conditions, or deny any application for a variance. The ~~director~~ commission shall apply the standards set forth in SHMC 17.108.050 when reviewing an application for a variance.

(5) The decision of the ~~director~~ commission may be appealed in accordance with SHMC 17.24.310(1).

[...]

17.108.050 Criteria for granting a variance.

(1) The ~~director~~ commission shall approve, approve with conditions, or deny an application for a variance based on finding that the following criteria are satisfied:

[...]

(2) The ~~director~~ commission shall approve, approve with modifications, or deny an application for an access variance in accordance with the criteria set forth in SHMC 17.84.150.

(3) The planning commission shall approve, approve with modifications, or deny an application for a subdivision variance subject to the criteria set forth in SHMC 17.136.120.

(4) The setback requirements in the applicable zone may be reduced up to 20 percent (a reduction of 20% of the required setback) and/or the lot coverage standards increased up to 5 percent (maximum specified lot coverage plus 5%) without a variance, provided the following standards are satisfied:

(a) The reduction of the setback area or increase in lot coverage established by the applicable zoning district shall be necessary to allow for the enlargement or remodeling of an existing building or accessory structure;

(b) The increase in lot coverage established by the applicable zoning district may also

allow for new accessory structures;

~~(b)~~ (c) The garage setback to the front property line satisfies the requirements of the applicable zoning district;

~~(e)~~ (d) The standards of Chapter 17.76 SHMC, Visual Clearance Areas, shall be satisfied;

~~(d)~~ The resulting lot coverage shall not exceed the maximum lot coverage of the base zone;

(e) The proposed building, accessory structure, or addition shall not encroach upon any existing easements;

(f) When the proposed building or addition is within the rear yard, the setback adjacent to the rear property line shall be landscaped with sight-obscuring plantings in accordance with the standards set forth in SHMC 17.72.080, Buffering and screening requirements; and

(g) Setback, buffering and screening requirements that apply when commercial and industrial zones abut a residential zone shall be satisfied.

**CITY OF ST. HELENS PLANNING DEPARTMENT
FINDINGS OF FACT AND CONCLUSIONS OF LAW
Development Code Amendments ZA.1.15 (part 1)**

APPLICANT: City of St. Helens

PROPOSAL: Amendments to the Development Code to address changes to lot coverage standards and to establish the Planning Commission as the approval authority for all variance applications, generally.

The 120-day rule (ORS 227.178) for final action for this land use decision is not applicable.

PUBLIC HEARING & NOTICE

Hearing dates are as follows: April 14, 2015 (continued to May 12, 2015) before the Planning Commission and May 20, 2015 before the City Council.

Notice was sent to agencies by mail or e-mail on the same date. Notice was published in the The Chronicle on March 25, 2015. Notice was sent to the Oregon Department of Land Conservation and Development on March 10, 2015. Notice as required by ORS 227.186 was sent to property owners on March 17, 2015.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

SHMC 17.20.120(1) – Standards for Legislative Decision

The recommendation by the commission and the decision by the council shall be based on consideration of the following factors:

- (a) The statewide planning goals and guidelines adopted under ORS Chapter 197;
- (b) Any federal or state statutes or guidelines found applicable;
- (c) The applicable comprehensive plan policies, procedures, appendices and maps; and
- (d) The applicable provisions of the implementing ordinances.

(a) Discussion: This criterion requires analysis of the applicable statewide planning goals. The applicable goal in this case is Goal 1.

Finding: *Statewide Planning Goal 1: Citizen Involvement.*

Goal 1 requires the development of a citizen involvement program that is widespread, allows two-way communication, provides for citizen involvement through all planning phases, and is understandable, responsive, and funded.

Generally, Goal 1 is satisfied when a local government follows the public involvement procedures set out in the statutes and in its acknowledged comprehensive plan and land use regulations.

The City's Development Code is consistent with State law with regards to notification requirements. Pursuant to SHMC 17.20.080 at least one public hearing before the Planning Commission and City Council is required. Legal notice in a newspaper of general circulation is required too. The City has met these requirements and notified DLCD of the proposal. In addition, the City has sent notice to property owners potentially impacted by the proposed changes in land uses allowed on property as required by ORS 227.186. Information was also included on the city's website.

Given the public vetting for the plan, scheduled public hearings, and notice provided, Goal 1 is satisfied.

(b) Discussion: This criterion requires analysis of any applicable federal or state statutes or guidelines.

Finding: There no known federal or state statutes that apply to the proposed amendments.

(c) Discussion: This criterion requires analysis of applicable comprehensive plan policies, procedures, appendices and maps.

Finding: Generally, the proposed code amendments are minor as far as the comprehensive plan is considered and further analysis is not warranted.

(d) Discussion: This criterion requires analysis of the applicable provisions of the implementing ordinances.

Finding: The proposal modifies the Development Code but findings as to other applicable implementing ordinances are not necessary.

CONCLUSION & DECISION

Based upon the facts and findings herein, the City Council approves the text amendments to the St. Helens Municipal Code (Development Code).



Randy Peterson, Mayor

6-17-15

Date

City of St. Helens
ORDINANCE NO. 3190

AN ORDINANCE AMENDING THE ST. HELENS MUNICIPAL CODE CHAPTERS
17.16, 17.32, AND 17.100 AND DECLARING AN EMERGENCY

WHEREAS, pursuant to St. Helens Municipal Code 17.20.020(1)(c) the Planning Director initiated a legislative change to adopt text amendments to the Community Development Code (St. Helens Municipal Code Title 17); and

WHEREAS, pursuant to the St. Helens Municipal Code and Oregon Revised Statutes, the City has provided notice to: the Oregon Department of Land Conservation and Development on March 10, 2015, and the local newspaper of record on March 25, 2015; and

WHEREAS, the St. Helens Planning Commission did hold a duly noticed public hearing on April 14, 2015 (continued to May 12, 2015) and, following deliberation, made a recommendation of approval to the City Council; and

WHEREAS, the St. Helens City Council conducted a public hearing on May 20, 2015 and having the responsibility to approve, approve with modifications, or deny an application for a legislative change, has deliberated (on May 20, 2015 and June 3, 2015) and found that based on the information in the record and the applicable criteria in the SHMC that the proposed addendum and related amendments be approved.

NOW, THEREFORE, THE CITY OF ST. HELENS DOES ORDAIN AS FOLLOWS:

Section 1. The above recitations are true and correct and are incorporated herein by reference.

Section 2. The City of St. Helens Municipal Code (Development Code) is hereby amended, attached hereto as **Attachment "A"** and made part of this reference.

Section 3. In support of the plan addendum described herein, the Council hereby adopts the Findings of Fact and Conclusions of Law, attached hereto as **Attachment "B"** and made part of this reference.

Section 4. Severability. If any section, provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other sections, provisions, clauses or paragraphs of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be servable.

Section 5. Provisions of this Ordinance shall be incorporated in the St. Helens Municipal Code and the word "ordinance" may be changed to "code," "article," "section," or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that Whereas clauses and boilerplate provisions need not be codified.

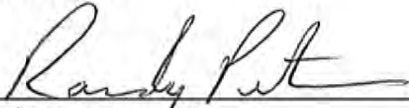
Section 6. Emergency. Conditions in the City of St. Helens are such that this Ordinance is necessary for the immediate preservation of the public health, peace, and safety. An emergency is hereby declared to exist by unanimous vote of the Council, and this Ordinance shall be in full force and effect after its passage and approval by the Mayor.

Read the first time: June 17, 2015
Read the second time: June 17, 2015

APPROVED AND ADOPTED by the City Council this 17th day of June, 2015 by the following vote:

Ayes: Locke, Carlson, Conn, Morten, Peterson

Nays: None



Randy Peterson, Mayor

ATTEST:



Kathy Payne, City Recorder

underline words are added
~~words stricken~~ are deleted

CHAPTER 17.16 GENERAL LAND USE DEFINITIONS

17.16.010 General and land use definitions.

Words used in this Development Code have their normal dictionary meaning unless they are listed below. Words listed below have the specific meaning stated, unless the context clearly indicates another meaning.

The definition of words with specific meaning in the Development Code are as follows:

“Abandonment” means the relinquishment of property, or a cessation of the use of property, by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.

[...]

“Manufacturing” means an establishment engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors. The term “manufacturing” covers all mechanical or chemical transformations, whether the new product is finished or semifinished as raw material in some other process. Manufacturing production usually is carried on for the wholesale market rather than for direct sales. (Processing on farms is not classified as manufacturing if the raw material is grown on the farm. The manufacturing is accessory to the major use of farming.)

“Marijuana” means all parts of a plant species of the genus Cannabis, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin. It does not include: the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake; or the sterilized seed of the plant which is incapable of germination.

“Marijuana extract” means a product obtained by separating resins from marijuana.

“Marijuana items” means marijuana, marijuana products, and marijuana extracts.

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

“Marijuana retailer” means a facility that sells marijuana items to a consumer in this state as licensed by the Oregon Liquor Control Commission.

“Marina” means a facility providing moorage for boats and related repair and supply services.

“Medical marijuana dispensary” means a facility that is registered with the Oregon Health Authority and that sells, distributes, transmits, gives, dispenses or otherwise provides marijuana items to a person with a registry identification card.

“Mini Mall.” See “shopping center” and “shopping plaza.”

[...]

CHAPTER 17.32 ZONES AND USES

[...]

17.32.095 Mixed Use – MU.

[...]

(3) Conditional Uses. In the MU zone, the following conditional uses may be permitted upon application, subject to provision of Chapter 17.100 SHMC and other relevant sections of this code:

[...]

- (p) Lodging facilities or rooming house.
- (q) Marijuana retailer and/or medical marijuana dispensary.
- ~~(q)~~ (r) Multidwelling units.
- ~~(r)~~ (s) Nurseries and greenhouses.
- ~~(s)~~ (t) Parking lots.
- ~~(t)~~ (u) Parks, public and private.
- ~~(u)~~ (v) Pawn shops.
- ~~(v)~~ (w) Public and private schools.
- ~~(w)~~ (x) Public facilities, major.
- ~~(x)~~ (y) Public safety facilities.
- ~~(y)~~ (z) Recreation facilities (public or private).
- ~~(z)~~ (aa) Religious assembly, including cemeteries.
- ~~(aa)~~ (bb) Shopping centers.
- ~~(bb)~~ (cc) Travel trailer parks.
- ~~(cc)~~ (dd) Vehicle repair, service, and sales.

[...]

17.32.100 Highway Commercial – HC.

[...]

(3) Conditional Uses. In the HC zone, the following conditional uses may be permitted upon application, subject to provision of Chapter 17.100 SHMC and other relevant sections of this code:

[...]

- (g) Hospitals.
- (h) Marijuana retailer and/or medical marijuana dispensary.
- ~~(h)~~ (i) Parks.
- ~~(i)~~ (j) Public facilities, major.
- ~~(j)~~ (k) Recreation facilities.
- ~~(k)~~ (l) Religious assembly.
- ~~(l)~~ (m) Retail establishments not directly catering to motorists.
- ~~(m)~~ (n) Schools.
- ~~(n)~~ (o) Shopping centers (can include all retail, personal services, professional services, medical, and dental offices).
- ~~(o)~~ (p) Travel trailer parks.

[...]

17.32.110 General Commercial – GC.

[...]

(3) Conditional Uses. In the GC zone, the following conditional uses may be permitted upon application, subject to provision of Chapter 17.100 SHMC and other relevant sections of this code:

[...]

- (o) Lodging facilities or rooming house.
- (p) Marijuana retailer and/or medical marijuana dispensary.
- ~~(p)~~ (q) Multidwelling units.
- ~~(q)~~ (r) Nurseries and greenhouses.
- ~~(r)~~ (s) Parking lots.
- ~~(s)~~ (t) Parks, public and private.
- ~~(t)~~ (u) Pawn shops.
- ~~(u)~~ (v) Public and private schools.
- ~~(v)~~ (w) Public facilities, major.
- ~~(w)~~ (x) Recreation facilities.
- ~~(x)~~ (y) Religious assembly, including cemeteries.
- ~~(y)~~ (z) Residential facility.
- ~~(z)~~ (aa) Shopping centers and plazas.
- ~~(aa)~~ (bb) Travel trailer parks.

~~(bb)~~ (cc) Vehicle repair, service, and sales.

[...]

17.32.170 Riverfront District – RD.

[...]

(3) Conditional Uses. In the RD zone, the following conditional uses may be permitted upon application, subject to provision of Chapter 17.100 SHMC and other relevant sections of this code:

[...]

- (i) Laundromats and dry cleaners.
- (j) Marijuana retailer and/or medical marijuana dispensary.
- ~~(j)~~ (k) Religious assembly excluding cemeteries.
- ~~(k)~~ (l) Parking lots/facilities, private.

[...]

17.32.175 Houlton Business District – HBD.

[...]

(3) Conditional Uses. In the HBD zone, the following conditional uses may be permitted upon application, subject to provisions of Chapter 17.100 SHMC and other relevant sections of this code.

[...]

- (i) Laundromats and dry cleaners.
- (j) Marijuana retailer and/or medical marijuana dispensary
- ~~(j)~~ (k) Religious assembly, excluding cemeteries.
- ~~(k)~~ (l) Parking lots/facilities, private.
- ~~(l)~~ (m) Nurseries and greenhouses.
- ~~(m)~~ (n) Vehicle repair, service, and sales.

[...]

**CHAPTER 17.100
CONDITIONAL USE**

Sections:

[...]

17.100.150 ~~Standard dimensional~~ Additional requirements for conditional use types.

[...]

17.100.150 ~~Standard dimensional~~ Additional requirements for conditional use types.

(1) A conditional use proposal shall comply with the standards of the zoning district in which it is located and the applicable provisions of this code, or as otherwise provided in standards that follow.

(2) A conditional use permit shall not grant variances to the regulations otherwise prescribed by this code. A variance application may be filed in conjunction with the conditional use application and both applications may be heard at the same hearing.

(3) The additional dimensional requirements and approval standards for conditional use are as follows:

[...]

(p) Marijuana retailer and/or medical marijuana dispensary.

(i) No marijuana retailer and/or medical marijuana dispensary shall be permitted to locate within 1,000 feet of any public or private: child care facility; preschool; elementary school; or junior, middle, or high school that lawfully exists at the time the Conditional Use Permit application is deemed complete.

(A) Distance shall be measured in a straight line, without regard to intervening structures, objects or roads, from the closest point of the structure or portion of structure containing the proposed marijuana retailer and/or medical marijuana dispensary, to the closest property line of the property upon which the other uses specified in subsection (3)(p)(i) of this section is listed.

(ii) No marijuana retailer and/or medical marijuana dispensary shall be permitted to locate within 2,000 feet of any other marijuana retailer and/or medical marijuana dispensary that lawfully exists at the time the Conditional Use Permit application is deemed complete.

(A) Distance shall be measured in a straight line, without regard to intervening structures, objects or roads, from the closest point of the structure or portion of structure containing the proposed marijuana retailer and/or medical marijuana dispensary, to the closest point of the structure or portion of structure containing the existing marijuana retailer and/or medical marijuana dispensary.

(B) If multiple Conditional Use Permit applications are submitted for locations within the distance specified in subsection (3)(p)(ii) of this section but are not yet legally established, the valid Conditional Use Permit submitted first shall take precedence for the purpose of this subsection.

(iii) No marijuana retailer and/or medical marijuana dispensary shall be allowed as a temporary use and shall be located in a permanent building.

(iv) Any marijuana retailer and/or medical marijuana dispensary shall have refuse containers or refuse collection areas that are secure from entry outside the facility.

(v) Any marijuana retailer and/or medical marijuana dispensary shall comply with all applicable state and local laws.

**CITY OF ST. HELENS PLANNING DEPARTMENT
FINDINGS OF FACT AND CONCLUSIONS OF LAW
Development Code Amendments ZA.1.15 (part 2)**

APPLICANT: City of St. Helens

PROPOSAL: Amendments to the development code to address certain marijuana related land uses.

The 120-day rule (ORS 227.178) for final action for this land use decision is not applicable.

PUBLIC HEARING & NOTICE

Hearing dates are as follows: April 14, 2015 (continued to May 12, 2015) before the Planning Commission and May 20, 2015 before the City Council (who continued deliberations to June 3, 2015).

Notice was sent to agencies by mail or e-mail on the same date. Notice was published in the The Chronicle on March 25, 2015. Notice was sent to the Oregon Department of Land Conservation and Development on March 10, 2015. Notice as required by ORS 227.186 was sent to property owners on March 17, 2015.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

SHMC 17.20.120(1) – Standards for Legislative Decision

The recommendation by the commission and the decision by the council shall be based on consideration of the following factors:

- (a) The statewide planning goals and guidelines adopted under ORS Chapter 197;
- (b) Any federal or state statutes or guidelines found applicable;
- (c) The applicable comprehensive plan policies, procedures, appendices and maps; and
- (d) The applicable provisions of the implementing ordinances.

(a) Discussion: This criterion requires analysis of the applicable statewide planning goals. The applicable goal in this case is Goal 1.

Finding: *Statewide Planning Goal 1: Citizen Involvement.*

Goal 1 requires the development of a citizen involvement program that is widespread, allows two-way communication, provides for citizen involvement through all planning phases, and is understandable, responsive, and funded.

Generally, Goal 1 is satisfied when a local government follows the public involvement procedures set out in the statutes and in its acknowledged comprehensive plan and land use regulations.

The City's Development Code is consistent with State law with regards to notification requirements. Pursuant to SHMC 17.20.080 at least one public hearing before the Planning Commission and City Council is required. Legal notice in a newspaper of general circulation is required too. The City has met these requirements and notified DLCD of the proposal. In addition, the City has sent notice to property owners potentially impacted by the proposed changes in land uses allowed on property as required by ORS 227.186. Information was also included on the city's website.

Given the public vetting for the plan, scheduled public hearings, and notice provided, Goal 1 is satisfied.

(b) Discussion: This criterion requires analysis of any applicable federal or state statutes or guidelines. The findings below focus on the marijuana aspects of this proposal. This proposal looks at establishments that provide marijuana medically (dispensary) and that provide it to the general public (recreation/retail).

Findings: Medical Marijuana dispensaries are addressed in ORS 457. In 2014 the Legislature adopted SB 1531 which reaffirms a city's authority to adopt reasonable time, place and manner restrictions on medical marijuana activities. In addition, applying home rule principles, cities have the authority to regulate dispensaries through business licenses, zoning laws and development permits.

State law already includes some place, time and manner restrictions for medical marijuana dispensaries such as:

- Needs to be in a commercial, industrial or mixed use zone (or agricultural land) (and cannot have more than one establishment)
- Must not be located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors
- Must not be located within 1,000 feet of another medical marijuana facility

The City proposes to impose additional time, place and manner restrictions.

In November 2014, voters approved Measure 91 to allow recreation marijuana in the state. Establishments will be subject to OLCC licensing. In addition, the measure states that:

Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.

The City proposes to treat marijuana dispensaries and retail establishments the same in regards to time, place and manner regulations. State law currently looks at them differently and it is yet unknown whether or not the state will allow recreation and medical establishments to be located jointly. Such establishments would be subject to both local and state law, in any case.

The City's proposal is largely to help protect children. Accessibility is considered one of the key reasons children are exposed to marijuana and though land use law cannot address all circumstances impacting marijuana accessibility to children, it is one aspect. The city wants to allow something approved by the voters (e.g., Measure 91) via its Development Code, as long as it doesn't *facilitate* access to children. Things like separation from day care and schools, and a required distance between marijuana businesses helps minimize key geographic location of marijuana business that may act as a catalyst to children obtainment.

A key reason to help protect children is to help prevent children who turn into adults who are disadvantaged from their childhood use of marijuana. Marijuana use by teens has shown to have a negative effect on development.¹ The adolescent brain is especially susceptible to marijuana use. That means that when kids use, they have a greater chance of addiction since their brains are being primed. If marijuana is used regularly before age 18, research shows that IQ drops by 8 points at age 38, even when that person has stopped.²

This city also considered the distance between such establishments which will help prevent the density and clustering of marijuana business. This will help prevent excessive businesses, increasing the likelihood of success (and less temptation to conduct unethical practices to financially survive such as selling to minors) and potential blight from multiple business failure.

The intent of the time, place, and manner restrictions proposed for marijuana medical and retail establishments is to help prevent adverse effects to children, which as research notes, can be long lasting into adulthood. It is also intended for the general health, safety and welfare of the City.

¹-Volkow, H. Research Report. *Marijuana Abuse*. National Institute on Drug Abuse <http://www.drugabuse.gov/publications/research-reports/marijuana-abuse>

²-Meier et al. (2012). Persistent cannabis users show neuropsychological decline from childhood to midlife. *Proceedings of the National Academy of Sciences*. <http://www.pnas.org/content/early/2012/08/22/1206820109.abstract>

(c) Discussion: This criterion requires analysis of applicable comprehensive plan policies, procedures, appendices and maps.

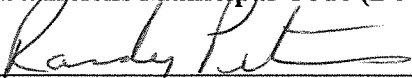
Finding: Generally, the proposed code amendments are minor as far as the comprehensive plan is considered and further analysis is not warranted.

(d) Discussion: This criterion requires analysis of the applicable provisions of the implementing ordinances.

Finding: The proposal modifies the Development Code but findings as to other applicable implementing ordinances are not necessary.

CONCLUSION & DECISION

Based upon the facts and findings herein, the City Council approves the text amendments to the St. Helens Municipal Code (Development Code).



Randy Peterson, Mayor

6-17-15

Date