



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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

Date: December 29, 2015

Jurisdiction: City of Jefferson

Local file no.: Ord 691

DLCD file no.: 003-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 12/23/2015. 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 39 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
003-15 {24102}
File No.:
Received: 12/23/2015

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 Jefferson

Local file no.: **Ord 691**

Date of adoption: 12/17/15

Date sent: 12/23/15

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): 10/30/15

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:

Please see attached explanation.

Local contact (name and title): Sarah Cook, City Recorder

Phone: 541-327-2768

E-mail: jeffersonrecorder@peak.org

Street address: P.O. Box 83

City: Jefferson

Zip: 97352-

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:

Jefferson Development Code Sections: 12.04.080 (Definitions), 12.12.040 (Permitted Uses), 12.30.050 (Prohibited Uses), 12.84.040 (Criteria) AND 12.84.070 (Criteria and Conditions Specific to Marijuana Facilities)

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: None.

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.

ORDINANCE #691

AN ORDINANCE AMENDING SECTIONS 12.04.080, 12.12.040, 12.30.050, 12.84.040 AND 12.84.070 OF THE CITY OF JEFFERSON DEVELOPMENT CODE TO ESTABLISH LAND USE REGULATIONS FOR RECREATIONAL AND MEDICAL MARIJUANA FACILITIES IN THE CITY OF JEFFERSON

WHEREAS, at the November 2014 General Election, the voters of the State of Oregon approved Ballot Measure 91, which legalized the use and sale of recreational marijuana in Oregon; and

WHEREAS, the Oregon Legislature adopted Chapter 614, Oregon Laws 2015 (HB 3400, 2015) to define and clarify the provisions and requirements of Measure 91; and

WHEREAS, marijuana is classified as a Schedule I Controlled Substance under the Federal Controlled Substances Act, the use, possession, and sale of which is currently illegal under Federal law; and

WHEREAS, pursuant to Article IX, Section 2 of the Oregon Constitution and the Jefferson Charter, the City of Jefferson is a home rule municipality with all the powers that the constitutions, statutes, and common law of the United States and the State of Oregon expressly or impliedly grant or allow the City; and

WHEREAS, Sections 33 and 89, chapter 614, Oregon Laws 2015, explicitly allow cities to adopt reasonable regulations applicable to recreational marijuana facilities and medical marijuana processing sites, including but not limited to: reasonable limitations on where recreational marijuana facilities and medical marijuana processing sites may be located; reasonable limitations on the hours of operation of recreational marijuana facilities and medical marijuana processing sites; and reasonable requirements related to the public's access to the premises of recreational marijuana facilities and medical marijuana processing sites; and

WHEREAS, the Council has adopted the reasonable regulations contained in this ordinance in order to do the following: 1) protect the general health, welfare, safety, and property of the citizens of Jefferson; 2) balance the rights of individuals to access and possess marijuana under state law with the goal of minimizing adverse impacts on nearby residents, property owners, businesses and land uses that may result from the production, storage, processing, distribution, sale and/or use of marijuana; 3) prevent or reduce criminal activity that may result in harm to persons or property; 4) limit the exposure of minors to commercial marijuana; 5) prevent or reduce access to marijuana by minors; and 6) minimize impacts on public safety services; and

WHEREAS, in the interest of the health, safety, and well-being of the citizens of Jefferson, the City Council has determined that recreational marijuana facilities and medical marijuana processing sites should be allowed only within certain zones and

those uses should be subject to reasonable regulations; and

WHEREAS, on October 30, 2015, the City of Jefferson notified the Department of Land Conservation and Development of the proposed amendments to the City of Jefferson Development Code; and

WHEREAS, on November 16, 2015, notice of a public hearing before the Planning Commission was mailed to all affected property owners in compliance with ORS 227.186; and

WHEREAS, notice of a public hearing before the Planning Commission was published in the Albany Democrat-Herald on November 16, 2015, as required by Section 12.72.055.B of the City of Jefferson Development Code; and

WHEREAS, the Planning Commission held a public hearing on the proposed amendments to the City of Jefferson Development Code on December 7, 2015, adopted recommended findings of fact, and recommended to the City Council that the City of Jefferson Development Code be amended as presented in this ordinance; and

WHEREAS, notice of a public hearing before the City Council was published in the Albany Democrat-Herald on November 27, 2015, as required by Section 12.72.055.B of the City of Jefferson Development Code; and

WHEREAS, the Jefferson City Council held a public hearing on the proposed amendments to the City of Jefferson Development Code on December 17, 2015; and

WHEREAS, the Council has considered materials relevant to the proposed amendments, including staff reports, the findings made by the Planning Commission, and testimony and comments submitted at both public hearings, both orally and writing;

NOW, THEREFORE, the City of Jefferson ordains as follows:

Section I. The City Council hereby adopts the Findings of Fact attached to this Ordinance as Exhibit A.

Section II. Section 12.04.080 of the City of Jefferson Development Code is hereby amended to add the following definitions in appropriate alphabetical order:

“Marijuana facility” means a marijuana processor, marijuana producer, marijuana retailer, marijuana wholesaler, medical marijuana facility or medical marijuana processing site.

“Marijuana processing facility” means a marijuana processor or a medical marijuana processing site.

“Marijuana processor” means an individual or entity licensed by the Oregon Liquor Control Commission pursuant to Section 14, chapter 614, Oregon Laws 2015, to process, compound, or convert marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts as defined in Section 1, chapter 614, Oregon Laws, 2015. A marijuana processor is not a home occupation.

“Marijuana producer” means an individual or entity licensed by the Oregon Liquor Control Commission pursuant to Section 12, chapter 614, Oregon Laws, 2015, to manufacture, plant, cultivate, grow, or harvest marijuana. For purposes of this code, marijuana production is not an agricultural use. A marijuana producer is not a home occupation.

“Marijuana retail facility” means a marijuana retailer or a medical marijuana facility.

“Marijuana retailer” means an individual or entity licensed by the Oregon Liquor Control Commission Section 16, chapter 614, Oregon Laws 2015, to sell marijuana items to consumers. A marijuana retailer is not a home occupation.

“Marijuana wholesaler” means an individual or entity licensed by the Oregon Liquor Control Commission Section 15, chapter 614, Oregon Laws 2015, to purchase marijuana items for resale to someone other than a consumer. A marijuana wholesaler is not a home occupation.

“Medical marijuana processing site” means a marijuana processing site registered under Section 85 of chapter 614, Oregon Laws, 2015. A medical marijuana processing site is not a home occupation.

Section III. The Schedule of Permitted Uses in Section 12.12.040 of the City of Jefferson Development Code is hereby amended to add the following use categories in appropriate alphabetical order:

Use	R-1	R-2	R-3	C	I	F
Marijuana producer	*	*	*	*	C	*
Marijuana processing facilities	*	*	*	C	C	*
Marijuana retail facilities	*	*	*	C	C	*
Marijuana wholesaler	*	*	*	C	C	*

Section IV. Section 12.30.050 of the City of Jefferson Development Code is hereby amended to read as follows:

12.030.050 Prohibited uses.

The following uses are prohibited:

- A. Uses listed as prohibited in Section 12.030.044 or 12.30.048.

- B. Telecommunications towers, utility substations, and similar facilities.
- C. Marijuana producers, marijuana processing facilities, marijuana retail facilities, and marijuana wholesalers.
- D. Other uses not expressly allowed under Sections 12.30.030, 12.30.040, 12.30.044 and 12.30.048.

Section V. Section 12.84.040 of the City of Jefferson Development Code is hereby amended to read as follows:

12.84.040 Criteria.

- A. A conditional use permit shall be granted if the Planning Commission finds that the proposal conforms with the following general criteria:
 - 1. The proposal is in conformance with the Comprehensive Plan;
 - 2. The location, size, design and operating characteristics of the proposed development area are such that the development will be reasonably compatible with and have minimal impact on the livability and appropriate development of abutting properties and the surrounding neighborhood;
 - 3. In determining the above, consideration shall be given to the following:
 - a. Harmony in scale, bulk, coverage and density;
 - b. The availability and capacity of public facilities and utilities;
 - c. The generation of traffic and the capacity of surrounding streets;
 - d. Public safety and protection;
 - e. Architectural and aesthetic compatibility with the surrounding area.
 - 4. A proposal for a residential care facility shall comply with the additional criteria listed in subsection B of this Section 12.84.040.
 - 5. A proposal for a wireless communication facility shall comply with the additional criteria and conditions listed in Section 12.84.060.
 - 6. A proposal for a marijuana facility shall comply with the additional criteria and conditions listed in Section 12.84.070.
- B. Additional criteria that are required if the permit is for a residential care facility:

1. The residential care facility must retain a residential architectural style.
2. The minimum lot size for such a residential care facility is ten thousand (10,000) square feet.
3. A minimum of two parking spaces, plus one additional space for each four persons for which care is to be given, shall be provided. Such parking shall not be allowed within the required setback area except in the instance of an existing driveway. In such case not more than two of the required spaces may be provided within such driveway.
4. A fenced outdoor area of a minimum of one thousand (1,000) square feet shall be provided.
5. Sidewalks along the frontage of the subject property shall be provided to City standards.
6. Exterior signage shall be permitted as per Section 12.68.030.

Section VI. Chapter 12.84 of the City of Jefferson Development Code is hereby amended to add the following language as a new Section 12.84.070:

12.84.070 Criteria and conditions specific to marijuana facilities.

- A. Marijuana processing facilities, marijuana wholesalers, and marijuana retail facilities may be permitted as a conditional use in the C and I districts, subject to the provisions of Sections 12.84.010 through 12.84.050 and the criteria and conditions listed in paragraphs C-L of this section.
- B. Marijuana producers may be permitted as a conditional use in the I district, subject to the provisions of Sections 12.84.010 through 12.84.050 and the criteria and conditions listed in paragraphs C-L of this section.
- C. At the time a conditional use application for a marijuana facility is filed, the marijuana facility may not be located:
 1. Within 1000 feet of a public elementary or secondary school for which attendance is compulsory under ORS 339.020;
 2. Within 1000 feet of a private or parochial elementary or secondary school teaching children as described in ORS 339.030(1)(a);
 3. Within 500 feet of a childcare facility;
 4. Within 1000 feet of another marijuana facility;

5. Within 500 feet of a public park, playground, recreational facility, or athletic field; or
 6. Within 500 feet of a public library.
- D. Marijuana facilities may not include drive-through facilities.
- E. Marijuana facilities may not operate as a “home occupation” as defined in Section 12.04.080.
- F. Marijuana facilities may not operate as a “temporary use” as defined in Section 12.04.080.
- G. Marijuana processors, marijuana retailers, marijuana wholesalers, medical marijuana facilities and medical marijuana processing sites shall not open to the public before 8:00 a.m. and shall close not later than 8:00 p.m.
- H. Marijuana producers may only manufacture, plant, cultivate, grow, or harvest marijuana within a structure and out of public view.
- I. The Planning Commission may place additional conditions on marijuana facilities, including but not limited to conditions related to safety features such as exterior security lighting.
- J. For purposes of this Section the following definitions apply:
1. “Child Care Facility” means a child care facility certified by the Oregon Department of Education.
 2. “Elementary School” means a learning institution containing any combination of grades Kindergarten through 8 or age level equivalent.
 3. “Public Park, Playground, Recreational Facility or Athletic Field” means a park, playground, recreational facility, or athletic field that is owned or operated by a government entity or nonprofit organization and that is open to the general public.
 4. “Public Library” means a library owned or operated by a government entity or nonprofit organization that is open to the general public.
 5. “Secondary School” means a learning institution containing any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.
 6. “Within 500 feet” means a straight line measurement in a radius extending for 500 feet or less in every direction between any point on

the boundary line of the real property on which a marijuana facility is located and the real property on which a childcare facility, public park, playground, recreational facility, athletic field, or public library is located.

7. "Within 1000 feet" means a straight line measurement in a radius extending for 1000 feet or less in every direction between:
- i. Any point on the boundary line of the real property on which a marijuana facility is located and the real property on which 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) is located; or
 - ii. Any point on the boundary line of the real property on which a marijuana facility is located and the real property on which another marijuana facility is located.

L. Any lot, dwelling, building, structure or place of any kind where marijuana is grown, sold, manufactured, processed, stored, bartered, or distributed in violation of state law, the Jefferson Municipal Code, or a land use approval is a nuisance. The City may take action to abate the nuisance in accordance with Chapter 5.04 of the Jefferson Municipal Code. This remedy is in addition to, and not in lieu of, any other civil, criminal, or administrative remedies available to the City.

Section VI. This ordinance will take effect on the thirtieth day after its enactment.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this 17th day of December ____, 2015.



Ben Pickett, Mayor

ATTEST:



Sarah Cook, City Recorder

**JEFFERSON CITY COUNCIL FINDINGS REGARDING ORDINANCE NO. 691,
AMENDING THE CITY OF JEFFERSON DEVELOPMENT CODE TO REGULATE
MARIJUANA FACILITIES**

FINDINGS

The Jefferson City Council finds the following:

1. The proposed amendments to Sections 12.04.080, 12.12.040, 12.30.050, 12.84.040 and 12.84.070 of the City of Jefferson Development Code constitute reasonable regulation of medical and recreational marijuana facilities which will protect and promote the public health, safety and welfare by requiring marijuana facilities to locate a reasonable distance from places where minors tend to congregate (i.e. schools, parks and libraries).
2. The proposed amendments to Sections 12.04.080, 12.12.040, 12.30.050, 12.84.040 and 12.84.070 of the City of Jefferson Development Code also constitute reasonable regulations which assist in carrying out the City of Jefferson Comprehensive Plan and the Statewide Land Use Planning Goals as applied to the City of Jefferson through the Jefferson Comprehensive Plan. The proposed amendments will assist in carrying out the City of Jefferson Comprehensive Plan by ensuring that marijuana facilities locate in zoning districts appropriate to the particular use (i.e. recreational retail marijuana facilities are a retail-type use appropriate for the Commercial Zone).

The City Council also makes the following specific findings related to applicable criteria in state law, the Jefferson Comprehensive Plan and the City of Jefferson Development Code:

FINDING: The proposed amendments to the City of Jefferson Development Code are consistent with the purpose of the City of Jefferson Development Code and the Jefferson Comprehensive Plan. The intent of these amendments is to provide clarity and consistency regarding allowed land uses in the City and to more fully implement the goals and policies of the Jefferson Comprehensive Plan.

Section 12.104.020 of the City of Jefferson Development Code (effective 7/1/11 per Ordinance 672 passed 5/26/11) requires legislative changes to the Jefferson Comprehensive Plan and the City of Jefferson Development Code to be initiated by city staff, the planning commission or the city council.

FINDING: On October 8, 2015 the City Council initiated the proposed marijuana facilities code amendments by directing staff to prepare marijuana facilities regulations.

Section 12.104.050, A – G, of the City of Jefferson Development Code (effective 7/1/11 per Ordinance 672 passed 5/26/11) sets forth the criteria for a legislative, Type D, application. The application shall show conformance with each of the following criteria:

“A. The applicable Comprehensive Plan Policies and Objectives;”

FINDING: The objectives and policies of the Jefferson Comprehensive Plan were reviewed and carefully considered. Nothing in the record indicates that the proposed marijuana facilities regulations are inconsistent with the Jefferson Comprehensive Plan.

“B. The applicable Statewide Planning Goals; and”

FINDING: Goal 1, Citizen Involvement, Goal 2, Land Use Planning, and Goal 9, Economic Development are inapplicable because they are addressed through the City's compliance with the provisions of its Development Code and its acknowledged comprehensive plan. Goals 3, 4, 5, 6, 7, 8, 10, 11, 12, 13 and 14 are inapplicable to the proposed marijuana facilities regulations.

“C. The applicable Oregon Administrative Rules.”

FINDING: The proposed marijuana facilities regulations are consistent with Chapter 333, Division 8 of the Oregon Administrative Rules regarding regulation and registration of medical marijuana facilities as well as Chapter 845, Division 25 of the Oregon Administrative rules - the temporary rules adopted by the Oregon Liquor Control Commission regarding the regulation and licensing of recreational marijuana facilities.

“D. Short- and long-term impacts;”

FINDING: The proposed amendments would allow marijuana facilities subject to regulations. Due to the amendments, one or more marijuana facilities may locate in Jefferson. The marijuana facilities' activity, in terms of transportation, sewer, and water impacts, is not likely to exceed the capacity of the city's transportation, sewer, and water systems.

“E. Public benefit;”

FINDING: The public will benefit from the proposed amendments because the proposed amendments are intended to ensure that marijuana facilities are compatible with surrounding land uses. The proposed amendments will ensure compatibility with surrounding land uses by: establishing buffers around schools, parks, libraries, and child care centers; and restricting marijuana facilities to the zones most appropriate to that type of use (i.e. recreational retail marijuana facilities are a retail-type use appropriate for the Commercial Zone).

“F. Reasonable alternative proposals;”

FINDINGS: The proposed amendments are reasonable regulations for marijuana facilities, and the City has not been presented with any alternative land use proposals.

“G. Any other factors deemed relevant by Planning Commission or City Council.”

FINDINGS: The proposed amendments are consistent with Chapter 614, Oregon Laws 2015 because, among other things, they conditionally allow marijuana facilities in the Commercial and Industrial Districts.

The differences between the version of Ordinance 691 submitted to DLCDC and the version of the ordinance adopted by the Jefferson City Council are as follows:

1. Two recitals referencing Ballot Measure 91 were deleted and a recital outlining community impacts of the proposed marijuana regulations was added.
2. Definitions of the use categories “marijuana processing facility” and “marijuana retail facility” were added.
3. The requirement that a marijuana facility may not be located within 100 feet of real property zoned R1, R2 or R3 was deleted because staff was concerned that requirement would effectively bar most marijuana facilities from locating in Jefferson.
4. A statement that marijuana facilities are not “temporary uses” under the Development Code was added.
5. A statement was added that the growing, processing, selling, distribution or possession of marijuana in violation of state law, the Jefferson Municipal Code or land use approvals is a nuisance and the City may abate the nuisance in accordance with Chapter 5.04 of the Jefferson Municipal Code.