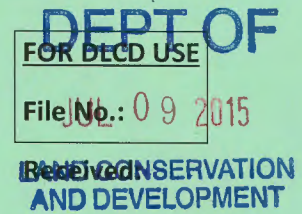


DLCD FORM 2



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



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 Vale

Local file no.: **15.03**

Date of adoption: June 9, 2015

Date sent: 7/6/2015

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 6, 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:

No

Local contact (name and title): Lynn Findley City Manager

Phone: 541-473-3133

E-mail: valecitymanager@fmtc.com

Street address: 252 B Street West

City: Vale

Zip: 97918-

### 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:

Amend Sections 8.4.4 (General Commercial) and 8.15C.4 (Urban Growth Area Commercial) of the Zoning Title to make medical marijuana dispensaries conditional uses in commercial zones and to establish standards in order to regulate the dispensaries.

**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):

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

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.

- City of Vale Ordinance 872
- City of Vale Dispensary Exclusion Zone Map
- Public Notice of Proposed Land Use Amendment
- Cetrification of Publication of Proposed Land Use Amendment
- City of Vale Planning Commission Public Hearing Transcript
- City of Vale Vale Planning Commission Staff Report
- City of Vale Planning Commission Public Hearing Attendance

ORDINANCE 872

AN ORDINANCE ADDING CHAPTER 18  
AND SECTIONS 8.4.1A AND 8.15C.2A TO  
TITLE VIII OF THE VALE CITY CODE TO  
ALLOW MEDICAL MARIJUANA  
DISPENSARIES AS CONDITIONAL USES IN  
COMMERCIAL ZONES

WHEREAS, enrolled Oregon Senate Bill 1531 (2013) authorizes Oregon cities to impose reasonable restrictions on the operation and location of medical marijuana dispensaries; and

WHEREAS, in Ordinance 868, effective on May 1, 2015, the Vale City Council indefinitely extended the ban on medical marijuana dispensaries that was imposed by City Code Section 5.16.1; and

WHEREAS, the Vale City Council believes that it is in the public interest to impose reasonable zoning regulations on medical marijuana dispensaries if the ban on medical marijuana dispensaries is terminated for any reason; and

WHEREAS, on April 13, 2015, following a public hearing, the Vale Planning Commission made findings of fact and conclusions of law and recommended that a new Chapter 18 be added to Title VIII (Zoning) of the Vale City Code to allow medical marijuana dispensaries in the City's Commercial zones, subject to the existing ban on such dispensaries; and

WHEREAS, on May 26, 2015, a public hearing was held before the Vale City Council to determine whether to act on the Planning Commission's recommendation; and

WHEREAS, The Vale City Council, having adopted the findings of fact and conclusions of law set forth in the staff report from the City attorney, further finds that if the City's moratorium on medical marijuana dispensaries is terminated for any reason, it is in the best interest of the City to adopt reasonable restrictions on the time, place and manner of operation of medical marijuana dispensaries.

THE CITY OF VALE ORDAINS AS FOLLOWS:

SECTION 1. The following Chapter 18 is added to Title VIII of the Vale City Code and is entitled "Medical Marijuana Dispensaries":

**CHAPTER 18**  
**MEDICAL MARIJUANA DISPENSARIES**

**8.18.1 DEFINITION OF MEDICAL MARIJUANA DISPENSARY**

For the purpose of this Chapter, a medical marijuana dispensary is defined as “a facility designed, intended or used for purposes of delivering, dispensing, or transferring marijuana to Oregon medical marijuana registry identification card holders pursuant to ORS 475.300-475.346. The facility includes all premises, buildings, curtilage or other structures used to accomplish the storage, distribution and dissemination of marijuana.”

**8.18.2 MEDICAL MARIJUANA DISPENSARY AS CONDITIONAL USE**

Unless prohibited by Section 5.16.1 imposing a moratorium on medical marijuana facilities, a medical marijuana dispensary is a conditional use in a General Commercial (C) zone and in an Urban Growth Area Commercial (C) zone subject to the general conditions set forth in Section 8.18.3. Except as conditionally permitted in those zones, medical marijuana dispensaries are prohibited in all other zones within the urban growth area and within the city limits of the City of Vale.

**8.18.3 CONDITIONAL USE RESTRICTIONS**

A medical marijuana dispensary shall be subject to the conditional use standards and procedures set forth in Chapter 9 of this Title. A medical marijuana dispensary shall be subject to the following additional standards and conditions:

- (A) Location Restrictions. A medical marijuana dispensary is prohibited from the following locations, with distances measured from the closest points of the respective lot lines:
- (1) Within 1,000 feet of any public or private elementary or secondary school, a career school used primarily by minors, or a Head Start school.
  - (2) Within 500 feet of the school bus stop at the Vale Kiosk Park.
  - (3) Within 1,000 feet of another medical marijuana dispensary.
  - (4) Within 500 feet of a Residential zone.
  - (5) On the same tax lot as a smoking club or marijuana grow site.
  - (6) Within 200 feet of any residence within the Residential Protection Overlay of an Industrial zone.

- (7) Any combination of the above.
- (B) Operational Restrictions. A medical marijuana dispensary is subject to the following operational restrictions on the premises:
- (1) Sales must be conducted only inside the dispensary building and with individuals with valid Oregon registry identification cards.
  - (2) Manufacturing or production of any extracts, oils, resins or similar derivatives of marijuana is prohibited at a dispensary. Use of open flames or gases in the preparation of any products is prohibited at a dispensary.
  - (3) Marijuana and tobacco products must not be smoked, ingested, consumed or otherwise used on the premises of a medical marijuana dispensary.
  - (4) No dispensary shall have operating hours earlier than 10 a.m. or later than 7 p.m. of the same day.
  - (5) Outdoor storage of merchandise, raw materials or other material associated with the dispensary is prohibited.
  - (6) The dispensary must provide for secure disposal of marijuana remnants or byproducts; marijuana remnants or by-products shall not be placed within the dispensary's exterior refuse containers.
  - (7) The dispensary must use an air filtration and ventilation system which, to the greatest extent feasible, confines all objectionable odors associated with the dispensary to the premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
  - (8) A dispensary must not be operated as a home occupation.
  - (9) The dispensary's registration as a medical marijuana facility under ORS 475.314 must be in good standing with the Oregon Health Authority, and the dispensary must comply with all applicable laws and regulations administered by the Oregon Health Authority for facilities.
- (C) Structural and Design Restrictions. A medical marijuana dispensary is subject to the following structural and design restrictions:

- (1) The dispensary shall be designed without walk-through or drive-through windows, such that all transactions shall occur within the interior of the principal building on the property out of the view of the public. All doorways, windows and other openings shall be located, covered or screened in such a manner to prevent a view into the interior from any exterior public or semipublic area.
- (2) The dispensary shall be located in a permanent building and shall not locate in a trailer, cargo container or motor vehicle.
- (3) The exterior of all buildings used for the dispensing of marijuana shall have an exterior consistent with other buildings on abutting lots in the neighborhood so as not to cause blight.
- (4) The dispensary must maintain adequate outdoor lighting over each exterior exit.

#### **8.18.4 ENFORCEMENT**

- (A) In case a building or other structure is, or is proposed to become, located, constructed, maintained, repaired, altered, or used, or land is or proposed to be, used in violation of this Title, the building or land thus in violation shall constitute a nuisance, and the City may, as an alternative to other remedies that are legally available for enforcing the City Code, institute an injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use.
- (B) In the event the City establishes a violation of this Chapter in such action, the City shall be entitled to recover its attorney fees and other expenses incurred in addition to costs and disbursements allowed by statute both at trial and appeal.
- (C) Any persons or entities failing to comply with any provision of this Chapter shall be subject to the penalties imposed in Section 4.5.28 for public nuisances.
- (D) The remedies provided in this section are not exclusive and shall not prevent the City from exercising any other remedy available under the law, nor shall the provisions of this Chapter prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under City ordinance or state law.

SECTION 2. Section 8.4.1A is hereby added to Chapter 4 of Title VIII of the Vale City Code:

#### 8.4.1A CONDITIONAL USES

Unless prohibited by City Code Section 5.16.1 imposing a moratorium on medical marijuana facilities, a medical marijuana dispensary is a conditional use in a Commercial (C) zone in accordance with the standards, conditions and restrictions of Chapter 18 of Title VIII of the Vale City Code.

SECTION 3. Section 8.15C.2A is hereby added to Chapter 15C of Title VIII of the Vale City Code:

#### 8.15C.2A CONDITIONAL USES

Unless prohibited by City Code Section 5.16.1 imposing a moratorium on medical marijuana facilities, a medical marijuana dispensary is a conditional use in an Urban Growth Area Commercial (C) zone in accordance with the standards, conditions and restrictions of Chapter 18 of Title VIII of the Vale City Code.

SECTION 4. Severability. The sections, subsections, paragraphs, and clauses of this Ordinance are severable. The invalidity of one section, subsection, paragraph, or clause does not affect the validity of the remaining sections, subsections, paragraphs, and clauses.

SECTION 5. Effective Date. This ordinance shall be effective thirty days after passage.

#### FIRST READING:

This ordinance was presented to the City Council at its regular meeting on the 26 day of May, 2015, was read first in full, and then by title only, and a motion was made by Council member Williams and seconded by Council member Zanotelli for passage of said ordinance, and the following vote having been taken:

Voting for the Ordinance:

Council Members: Williams, Zanotelli, Bixby

Voting against the Ordinance:

Council Members: None

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

This ordinance was presented to the City Council at its regular meeting on the 9 day of June, 2015, for its second reading, was read by title only, and a motion was made by Council member Williams and seconded by Council member Bixby for passage of said ordinance, and the following vote having been taken:

Voting for the Ordinance:

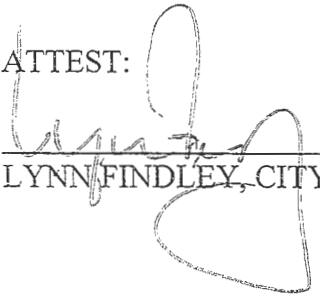
Council Members: Cm Bixby, Williams, Frawell;

Voting against the Ordinance:

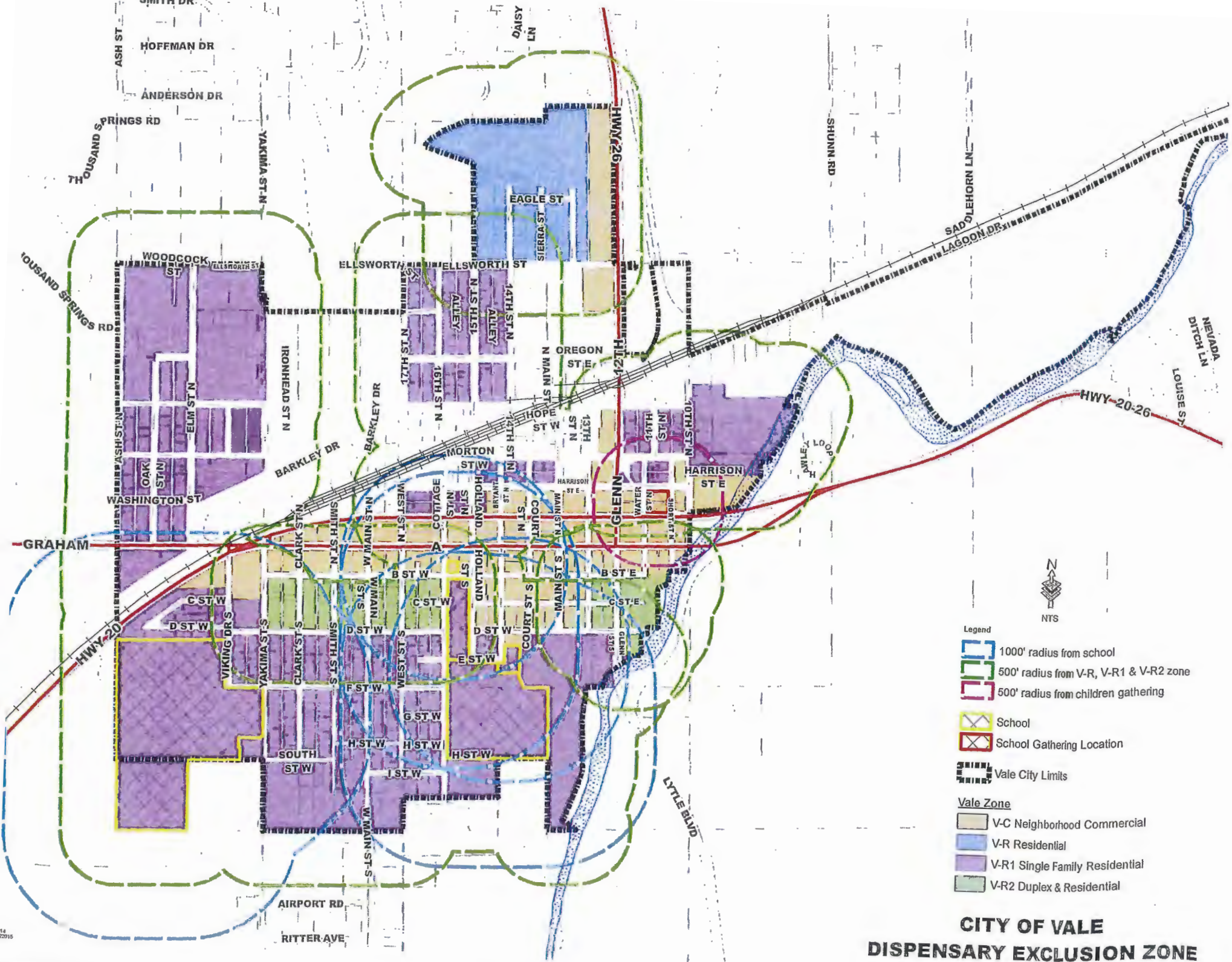
Council Members: \_\_\_\_\_











The Mayor having declared that the measure having received a unanimous vote for passage, was adopted and became effective immediately upon passage.

  
\_\_\_\_\_  
MIKE MCLAUGHLIN, MAYOR

ATTEST:  
  
\_\_\_\_\_  
LYNN FINDLEY, CITY MANAGER





- Legend**
-  1000' radius from school
  -  500' radius from V-R, V-R1 & V-R2 zone
  -  500' radius from children gathering
  -  School
  -  School Gathering Location
  -  Vale City Limits
- Vale Zone**
-  V-C Neighborhood Commercial
  -  V-R Residential
  -  V-R1 Single Family Residential
  -  V-R2 Duplex & Residential

**CITY OF VALE  
DISPENSARY EXCLUSION ZONE**

## Public Notice of Proposed Land Use Amendment

On April 13, 2015 at 7:00 P.M. the City of Vale Planning Commission will conduct a public hearing to consider Potential Zoning Amendment recommendations of the Vale City Code for the Vale City Council.

The City of Vale intends to consider amendments to Title VIII (Zoning) that could potentially permit medical marijuana dispensaries in the City's Commercial zones and to prohibit that use in other Residential (R-1) and (R-2) and Industrial (I) zones.

If special accommodations for the physically challenged are required at the hearing please contact the City of Vale at (541) 473-3133. If you have questions regarding this notice, please contact Lynn Findley, Vale City Manager, at Vale City Hall at the noted address or phone number.

Vale City Hall

252 B Street West

Vale, Oregon 97918

541-473-3133

May 13, 2015

To MALHEUR ENTERPRISE, 289 A Street West, Vale, OR 97918

To publish attached Legal Notice in 1 issue \$53.44

STATE OF OREGON )  
County of Malheur ) ss.

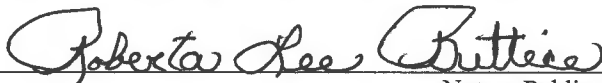
I, Kelsey Haueter, being first duly sworn, depose and say that I am the Account Manager of the *Malheur Enterprise*, which is a weekly newspaper of general circulation, published in Vale in said county and state, that such newspaper is made up of at least four pages of six columns each and at least 21 inches in depth of matter, that such newspaper was regularly and uninterruptedly published each week of the last 12 consecutive months preceding the first publication of the attached legal notice and has more than 200 bona fied subscribers within said county; that the legal notice of which the one hereto attached is a true and correct copy as printed, was published in the regular and entire issue of said newspaper and not in any supplement thereof, once each week for 1 successive and consecutive week, being published 1 time commencing with the issue dated the **13th day of May, 2015** and ending with the issue dated the **13th day of May, 2015**.

The amount of charge actually made and to be collected for such publication is \$53.44.

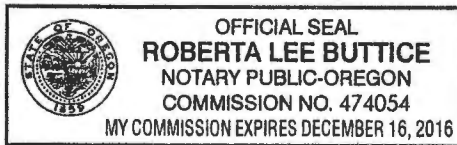


Kelsey Haueter  
Account Manager

Subscribed and sworn to me the 14<sup>th</sup> day of May, 2015.



Notary Public of Oregon



**Public Notice of Propo**  
On May 26, 2015 at 7:00 P.M. the City of Vale  
sider Potential Zoning Amendment recommendatio  
The City of Vale intends to consider amendmen  
mit medical marijuana dispensaries in the City's C  
Residential (R-1) and (R-2) and Industrial (I) zone  
If special accommodations for the physically ch  
the City of Vale at (541) 473-3133. If you have qu  
Findley, Vale City Manager, at Vale City Hall at th  
Vale City Hall  
252 B Street West  
Vale, Oregon 97918  
541-473-3133  
Publish date: May 13, 2015

## City of Vale Planning Commission

Monday, April 13, 2015  
Vale City Hall, Vale, Oregon

The April 13, 2015 meeting of the City of Vale Planning Commission was called to order by Chairman Scott Kelso at 7:00 PM. Present: Lynn Findley, City Manager, Planning Commission members Scott Kelso, Colleen Hartley, Jon Dentinger, Gary Page and Quinn Mulvaney.

**DISCLAIMER STATEMENT:** *Failure of an issue to be raised in the hearing in person or by letter with sufficient specificity to afford the decision-maker an opportunity to respond to the issue may preclude appeal to the County Court or the Oregon State Land Use Board of Appeals.*

**APPLICANT:** City of Vale  
252 B St. West  
Vale, OR 97918

**REQUESTED ACTION:** Amendments to Title VIII of the Vale City Code to create appropriate standards and locations for the establishment of medical marijuana dispensaries.

*There was no ex parte contact to report by Commission members. There were no abstentions from the Commission. There were no objections to the jurisdiction of anyone on the Commission.*

**PRELIMINARY STAFF REPORT:** Lynn Findley read the preliminary staff report for City of Vale File #15.03, reciting the summary and background to this action, as follows: The State of Oregon by legislative enactment has established a process for the licensing and registration of medical marijuana facilities and dispensaries. Currently, the city zoning regulations do not address or allow these uses, although the City Council has imposed an indefinite moratorium on such dispensaries. In the event that the City's moratorium is terminated or determined to be unenforceable for any reason, the City Council has directed the drafting of appropriate regulations and standards governing the time, manner and place where medical marijuana dispensaries may be allowed within the jurisdictional limits of the City. As proposed, the amendments would:

- Amend Title VIII by adding a new chapter 18 entitled "Medical Marijuana Dispensaries" and providing general and specific conditions for the establishment of these uses.
- Amend Chapters 4 and 15C of Title VIII to designate medical marijuana dispensaries as a conditional use in the Commercial (C) zone and Urban Growth Area Commercial zone only. (Refer to Exhibit A, the draft ordinance for the text of the specific amendments.)

**PREVIOUS PLANNING COMMISSION ACTION:** None.

**FINDINGS OF FACT:**

1. The Oregon Legislature enacted House Bill 3460 in 2013 (ORS 475.314) which requires the Oregon Health Authority to develop and implement a process to register medical marijuana facilities.
2. Under Oregon law, local governments may regulate the operation and location of certain types of businesses within their jurisdiction except when such action is specifically preempted by state law.
3. The City of Vale substantive zoning regulations and administrative requirements are contained in Title VIII of the Vale City Code.
4. Amendment actions are first referred to the Vale Planning Commission for a public hearing and recommendation to the City Council.
5. The appropriate legal notice has been provided for this hearing.

**Conclusion:** The City, from time to time, may amend its zoning regulations in response to changing conditions and changes in State law. The proposed amendments to Title VIII of the City Code are in response to changes in State law and are intended to provide reasonable regulations for the operation of medical marijuana dispensaries.

**TESTIMONY:**

Witness:                    Alvin Scott  
                                  1802 3rd Ave West  
                                  Vale, OR 97918

Alvin Scott -- My name is Alvin Scott. I am not a resident of the City, but I am a property owner and I would like to officially go on record as supporting the measure that is before the Commission tonight. If you have any questions directed to me, I would be more than happy to answer them.

Gary Page -- I have a question. I was wondering, Alvin, could you say how different these restrictions are compared to, like if you wanted to site a liquor store in Vale. How different is this compared to those requirements?

Alvin Scott -- I will have to qualify that by stating that my wife is the agent for the liquor store in Vale. We have had discussions with the district manager in reference to deciding on any type of facility that would dispense marijuana. It would be under the jurisdiction of OLCC; however, it will be a separate department from what my wife works under. She will sell liquor and that's it. If there is a marijuana dispensary approved in Vale, it would be totally separate from the liquor portion. The understanding I have from the district manager, because we questioned him heartily, because my wife got continual questions like how soon are you going to start selling marijuana. Well, she is not. But, if there would be a dispensary, it's a four part thing for applications and licensing, and I can probably only tell you what three of them are. We were trying to decide what the fourth one was today, and we couldn't remember. You will have to have a license for dispensary, you will have to have a license to process recreational marijuana, and you will have to have a license to sell, and I'm not sure what the last one was. But, this is not going to be cheap. You won't be able to show up to the State and say "here's my application." It's probably going to be \$5,000 for each application, and that will be an annual fee, as I understand it from the . . .

Lynn Findley -- There is a tremendous amount of this that is conjecture.

Alvin Scott -- I am sure, but that appears to be the way the OLCC is going to set it up. I was invited to be on the rules advisory committee for the Governor for marijuana through OLCC, and I said, you know, I don't think so. And I have kind of waffled back and forth. There are times I wished I had said yes, and times I'm glad I said no. Basically, to answer your question, anything that is going to happen through the Liquor Commission will be separate from liquor, it would be like different departments. So, that's pretty much what's going to happen.

Gary Page -- What I am curious about, though, is, you know, we are likely going to get questions about this, and if we can say this is not a whole lot different than what you would have to do to get a liquor establishment sited. Is it similar?

Lynn Findley -- I think I can answer those questions in the exhibit, because we deal specifically with type, place and manner of these issues, those which are under City control and approve by the law. There is a lot of unknowns on the licensing side of it, but all we can deal with under City authority is time, place and manner, and they are pretty specific as we get into the exhibits.

Gary Page -- But are they a whole lot different?

Lynn Findley -- I think they are. The place is the big thing. As you look at the Exhibit 8.18.3, location restrictions, the operational restrictions, I think those are much more significant than a liquor establishment.

Alvin Scott -- Yes, they are.

Lynn Findley -- But, keep in mind that this is medical marijuana stuff which is done by the Oregon Health Authority. The Legislature has yet to enact and push out how they are going to deal with recreational, although there is some discussion about combining the two. This exhibit and this process deals specifically with medical marijuana dispensaries and the time, place and manner.

Alvin Scott -- And they would not be administered like, for instance, in the existing OLCC building we are in now.

**STAFF SUMMARY AND RECOMMENDATIONS:** Lynn Findley presented the Staff Summary and Recommendations, as follows: Staff (being City Manager and the City Attorney) recommends that the City of Vale Planning Commission recommend to the City Council, adoption of the proposed amendments attached as Exhibit A, which are listed on here as Ordinance 872, stamped "draft" and attached to this record, based on the Findings of Fact.

**No Further Public Testimony.**

**Close Public Hearing.**

Lynn Findley -- In concert with our witness's testimony, this is specifically medical marijuana dispensaries, as I wrote, time, place and manner. Location is a big issue with this. Current law, House Bill 3460, says that medical marijuana dispensaries can't be within 1,000 feet of a school, so the first thing we listed is 1,000 feet from any elementary, secondary, career school used primarily by minors, or a Head Start school. The second is the only thing not covered under State law and we added, Item #2, within 500 feet of the school bus stop at the Vale Kiosk Park, because that is a children's gathering point

for the Harper School District, and there are sometimes 30 or 40 kids there. Item 3 is within 1,000 feet of another medical marijuana dispensary, that is current State law, HB 3460. Within 500 feet of a Residential zone, on the same tax lot as a smoking club or a medical marijuana grow site, and within 200 feet of any residence within the Residential Protection Overlay of an Industrial zone. Those are all items that we took from State law.

Alvin Scott -- I realize you closed the testimony, but my question is, did you create a map to show where this would . . . My understanding is there is a pretty narrow area.

Lynn Findley -- Pretty small area. As we identified locations, in your handout there is a colored map. The purple areas, as you look on here, is Residential areas. The tan areas as listed on this map is Commercial property. What we are addressing is the time, place and manner, and the location is only Commercial property. It is not available in Residential, it is not available in Industrial zone. It is the commercial activity of buying and selling, vendors and people walking into a vendor's business, so it is a Commercial activity. The problem with that is that, and it is noted in statute, some small cities that have disbursed schools and residential zones, those areas of opportunity are pretty limited. And that is the case in Vale. As your map depicts, the blue dotted line is the 1,000 school buffer, the green dotted line is the 500 foot residential buffer. And it gets pretty darn busy between them, because of the high school, the alternative school, middle school, grade school, and then throw in the 500 foot buffer around Residential, the only spot that looks available to me on this map is right there, a little area north of the current Vale health clinic. Obviously it's not a viable location.

Alvin Scott -- So, it wouldn't be available further to the east?

Lynn Findley -- Further to the east, once you get out of City limits , as you look east, here is the kiosk park right there. So the red line is the 500 feet around that. This is all Residential property in behind Logan's Market, so there is the buffer around the Residential property. This is Industrial property, Industrial property, Industrial property, not zones appropriately for commercial retail activity.

Alvin Scott -- So then west of the area where the kiosk park is?

Lynn Findley -- The kiosk park is here. This area comes over to here; however, because this is where Residential property begins, this is the bottom of the Residential property. So really, because of Residential property here north of the railroad tracks, we have little opportunity for commercial development. There is not a viable lot. The State recognized that, the League of Oregon Cities, in that handout that I gave you, recognized that in small cities such as ours, with diverse schools and parks. Some cities have taken these time, place and manner restrictions much more severely than we have, and included parks. We did not include parks, other than the kiosk park, because it is a children's gathering spot. But just because we are a small city, in order to comply with the State law, we really have no adequate ground.

Colleen Hawley -- Then the problem takes care of itself.

Lynn Findley -- It kinda does. Now, an issue is, as I read it, when House Bill 3460 was passed, they allowed the cities to implement a one year moratorium to study this action, and the City of Vale did that. That moratorium expires May 1<sup>st</sup> and the law allowed us to do that and it is clear. A lot of cities in Oregon did that. The City Council decided they liked the moratorium and they continued the moratorium indefinitely. Because of statutes of the Oregon Constitution, cities have that authority unless specifically prohibited, so the Council did that. At the same time, they directed and passed

Resolution 15.03 which is part of your package, which said we want to explore all options and make sure, if our moratorium is not defensible because of State law or changes, we want to amend our code, to deal with emerging situations of marijuana facilities, and that's why they have elected to establish time, place and manner. So, we are under moratorium, but it expires on May 1<sup>st</sup>. On May 2<sup>nd</sup> a new moratorium with an indefinite expiration kicks in. If that moratorium is challenged and it is indefensible, then our next course of action, if you so recommend to the Council, they will have time, place and manner restrictions so we can regulate it. It appears, through no specific effort on our part, when we develop exclusionary zones, there aren't a lot of available spaces.

Jon Dentinger -- Even in the Urban Growth area? The city limits and the Urban Growth area are two different areas, right?

Lynn Findley -- Urban Growth boundaries contain zero commercial property. The Urban Growth Boundary is Residential or Industrial. There is no commercial property in the Urban Growth Boundary. That's not to say that if someone petitions for rezoning, that would be back to this body for your review. But, at the present time, there is no commercial property within the Urban Growth Boundary. Any other questions or thoughts? There is an incredible amount of unknowns about this. I tried to give you a snapshot of the most recent printout from last Tuesday. On Thursday, I get the notice that the Legislature is considering combining the two. Who knows.

Gary Page -- Would you have to change anything if they do that with this ordinance?

Lynn Findley -- No, simply because the current law allows us to do this time, place and manner restriction. It is an appropriate action to take. Now, the City Council has dealt with a lot of marijuana issues. Before last fall's general election, should it become available, we passed an ordinance requiring taxation of retail product. Now, that is specifically prohibited in the current law, but there is a lot of talk that it may become available. There is no desire by the Council to provide this service.

Colleen Hawley -- Where is the Mushroom factory? Right on the edge of that green border?

Lynn Findley -- Industrial or Residential protection overlay, one of the two. If you look at this zoning map, here is the mushroom factory, right here.

Colleen Hawley -- That property can never be used for anything like that?

Lynn Findley -- No, not for retail dispensing purposes. That's not to say it couldn't grow at some point, but right now, not for retail purposes. So, those are the Location restrictions. The Operational restrictions are (1) no cultivation of marijuana, or manufacture of extracts, oils, resins or other derivatives of marijuana; (2) no smoking, consumption or ingestion of marijuana in any form; (3) marijuana remnants or by-products shall be securely disposed of and shall not be placed within exterior refuse containers on the premises. We tried to identify, as listed on here and in your exhibit, what would be reasonable manner of operations if one were to go in, to insure public safety and no unintended consequences. Then, the structural and design restrictions: can't operate out of the back of a Chevy bus. This covers the doorways, windows, and décor of the building. We talk about how we would enforce those. The City Council was very explicit. The City of Vale does not have a business license ordinance, and does not want one. We do not believe that there is a requirement or need to have one. We implement the time, place and manner, we have adequate safeguards and penalties in place to enforce it. I would address any questions you would have to this draft Ordinance 872. Any thoughts or anything I have left out? Is this a direction you like, don't like?



Scott Kelso -- Personally, I like the direction.

Jon Dentinger -- It's comprehensive.

***Colleen Hawley made a motion that the Planning Commission accept the Findings of Fact and recommend to the City Council approval and adoption of the proposed amendments to Title VIII of the Vale City Code establishing the location and standards for the establishment of medical marijuana dispensaries in the City of Vale. The motion was seconded by Quinn Mulvaney and was unanimously approved by the Planning Commission.***

Lynn Findley -- Gary, did we answer all of your questions that you had earlier?

Jon Dentinger -- Almost everything that we did in this motion was already in law by the Oregon State Law, right?

Lynn Findley -- Yes. The only thing we adopted in our place restrictions was the 500 feet from the children gathering spot at the Vale Kiosk Park.

Jon Dentinger -- Which would have been covered anyway by the residential restriction.

Lynn Findley -- Yes. We felt it was pretty important. And that is only in place when there are actually children loading and unloading.

Jon Dentinger -- Kind of hard to have a building there with that restriction.

Colleen Hawley -- So, that property that Logan owned, where he knocked down the old gas station, that could be used? I mean, had you not established that?

Lynn Findley -- No, it would have been on the fringe areas.

There being no further business to come before the City of Vale Planning Commission, upon motion and unanimous vote of Commission members, the meeting was adjourned at 7:30 PM.

Respectfully submitted,

Nancy Blodgett

Minutes approved by:

Name:  Lynn Findley  Scott Kelso Date:  4/23/15

# PLANNING COMMISSION AGENDA REPORT

Monday, April 13, 2015

## I. GENERAL INFORMATION:

**TO:** Vale Planning Commission

**FROM:** Lynn Findley, City Manager  
Larry Sullivan, City Attorney

**SUBJECT:** Amendments to Title VIII of the Vale City Code to create appropriate standards and locations for the establishment of medical marijuana dispensaries.

**APPLICANT:** City of Vale

File

15.03

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## II. SUMMARY & BACKGROUND

The State of Oregon by legislative enactment has established a process for the licensing and registration of medical marijuana facilities and dispensaries. Currently, the city zoning regulations do not address or allow these uses, although the City Council has imposed an indefinite moratorium on such dispensaries. In the event that the City's moratorium is terminated or determined to be unenforceable for any reason, the City Council has directed the drafting of appropriate regulations and standards governing the time, manner and place where medical marijuana dispensaries may be allowed within the jurisdictional limits of the City.

As proposed, the amendments would:

- Amend Title VIII by adding a new chapter 18 entitled "Medical Marijuana Dispensaries" and providing general and specific conditions for the establishment of these uses.
- Amend Chapters 4 and 15C of Title VIII to designate medical marijuana dispensaries as a conditional use in the Commercial (C) zone and Urban Growth Area Commercial zone only; and

**Refer to Exhibit A. the draft ordinance for the text of the specific amendments.**

## III. PREVIOUS PLANNING COMMISSION ACTION

NONE

## IV. FINDINGS OF FACT

1. The Oregon Legislature enacted House Bill 3460 in 2013 (ORS 475.314) which requires the Oregon Health Authority to develop and implement a
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process to register medical marijuana facilities.

2. Under Oregon law, local governments may regulate the operation and location of certain types of businesses within their jurisdiction except when such action is specifically preempted by state law.
3. The City of Vale substantive zoning regulations and administrative requirements are contained Title VIII of the Vale City Code.
4. Amendment actions are first referred to the Vale Planning Commission for a public hearing and recommendation to the City Council.
5. The appropriate legal notice has been provided for this hearing.

**Conclusion:**

The City, from time to time, may amend its zoning regulations in response to changing conditions and changes in State law. The proposed amendments to Title VIII of the City Code are in response to changes in state law and are intended to provide reasonable regulations for the operation of medical marijuana dispensaries.

**V. RECOMMENDATION**

Staff recommends that the City of Vale Planning Commission recommend to the City Council, adoption of the proposed amendments attached as Exhibit A. based on the Findings of Fact.

**VI. SUGGESTED MOTIONS FOR APPROVAL**

A. Planning Commission Action:

- 1) I move that the Planning Commission accept the above Findings of Fact and recommend to the City Council, approval and adoption of the proposed amendments to Title VIII of the Vale City Code establishing the location and standards for the establishment of medical marijuana dispensaries in the City of Vale.

**VII. Exhibits**

Exhibit "A" Draft Zoning Amendments

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CITY OF VALE  
2 B STREET W  
VALE, OR 97918



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