



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

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www.oregon.gov/LCD



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

Date: November 04, 2015

Jurisdiction: Washington County

Local file no.: Ord 804

DLCD file no.: 011-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 11/04/2015. 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 36 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.: 011-15 {23911}
Received: 11/4/2015

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: Washington County

Local file no.: **A-Engrossed Ordinance No. 804**

Date of adoption: 10/27/2015 Date sent: 11/4/2015

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): 7/14/2015
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): Stephen Shane, Senior Planner

Phone: 503-846-3717

E-mail: stephen_shane@co.washington.or.us

Street address: 155 N. First Avenue, Suite 350

City: Hillsboro, OR

Zip: 97124

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:

Amends Community Development Code in response to changes in state law regarding legalization of recreational marijuana. Applies existing CDC regulations for medical marijuana dispensaries to retail recreational marijuana facilities; applies buffers around retail recreational marijuana facilities.

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): Countywide

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:

A-Engrossed Ordinance No. 804 affects the following Community Development Code sections:

- Section 313: Community Business District (CBD)
- Section 314: General Commercial District (GC)
- Section 320: Industrial District (IND)
- Section 340: Exclusive Farm Use District (EFU)
- Section 344: Agriculture and Forest District (AF-20)
- Section 352: Rural Commercial District (R-COM)
- Section 375: Transit Oriented Districts
- Section 390: North Bethany Subarea Overlay District
- Section 430: Special Use Standards

For a change to a zoning map:

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

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

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

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

List affected state or federal agencies, local governments and special districts: Oregon Health Authority, Oregon Liquor Control Commission, Tualatin Hills Park and Recreation District, all cities in Washington County

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

See enclosed CPO and Interested Parties notice for further details.

NOTICE OF ADOPTED CHANGE – SUBMITTAL INSTRUCTIONS

1. A Notice of Adopted Change must be received by DLCD no later than 20 days after the ordinance(s) implementing the change has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) as provided in [ORS 197.615](#) and [OAR 660-018-0040](#).

2. A Notice of Adopted Change must be submitted by a local government (city, county, or metropolitan service district). DLCD will not accept a Notice of Adopted Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of Adopted Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 2 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

Attention: Plan Amendment Specialist
Dept. of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

This form is available here:

<http://www.oregon.gov/LCD/forms.shtml>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to plan.amendments@state.or.us with the subject line “Notice of Adopted Amendment.”

Submittals may also be uploaded to DLCD’s FTP site at http://www.oregon.gov/LCD/Pages/papa_submittal.aspx.

E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 2 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of Adopted Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or .xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0017 or plan.amendments@state.or.us.

6. **Content:** An administrative rule lists required content of a submittal of an adopted change ([OAR 660-018-0040\(3\)](#)). By completing this form and including the materials listed in the checklist below, the notice will include the required contents.

Where the amendments or new land use regulations, including supplementary materials, exceed 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

7. Remember to notify persons who participated in the local proceedings and requested notice of the final decision. ([ORS 197.615](#))

If you have any questions or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0017 or e-mail plan.amendments@state.or.us.

Notice checklist. Include all that apply:

- Completed Form 2
- A copy of the final decision (including the signed ordinance(s)). This must include city *and* county decisions for UGB and urban reserve adoptions
- The findings and the text of the change to the comprehensive plan or land use regulation
- If a comprehensive plan map or zoning map is created or altered by the proposed change:
 - A map showing the area changed and applicable designations, and
 - Electronic files containing geospatial data showing the area changed, as specified in [OAR 660-018-0040\(5\)](#), if applicable
- Any supplemental information that may be useful to inform DLCD or members of the public of the effect of the actual change



September 25, 2015

To: Citizen Participation Organizations and Interested Parties

From: Andy Back, Manager *Andy Back*
Planning and Development Services

Subject: **PROPOSED A-ENGROSSED ORDINANCE NO. 804**

On July 14, 2015, you were notified about initial public hearings for proposed Land Use Ordinance No. 804 before the Planning Commission on August 19, 2015, and the Board of Commissioners (Board) on September 15, 2015. The Board ordered substantive amendments to this ordinance on September 15, 2015. These changes have been incorporated into proposed **A-Engrossed Ordinance No. 804** and are summarized below.

Ordinance Purpose and Summary

Ordinance No. 804 proposes to amend the Community Development Code (CDC) in response to changes in state law specific to the legalization of marijuana for recreational purposes. The ordinance proposes to apply existing CDC regulations for medical marijuana dispensaries to retail recreational marijuana facilities and to apply distance requirements around retail recreational marijuana facilities, as noted below.

Who is Affected

Owners of retail recreational marijuana facilities and medical marijuana dispensaries as well as owners of property in the Exclusive Farm Use District (EFU) and Agriculture and Forest District (AF-20).

What Land is Affected

Tax lots within the Community Business District, General Commercial District, Industrial District, Exclusive Farm Use District, Agriculture and Forest District (AF-20), Rural Commercial District, Transit-Oriented (TO) Retail Commercial District, TO Employment District, TO Business District, and the Neighborhood Commercial Mixed-Use District – North Bethany.

Original Ordinance No. 804 Provisions

As originally filed, Ordinance No. 804 proposed to:

- Amend applicable sections of the CDC to develop identical regulations for recreational marijuana facilities as currently exist for medical marijuana dispensaries; and
- Provide a definition for recreational marijuana facility.

Proposed A-Engrossed Ordinance No. 804 Provisions

Proposed **A-Engrossed Ordinance No. 804** incorporates all of the above-described amendments plus the following proposed amendments:

- Clarify the term "Marijuana Facility" to specify "Retail Marijuana Facility";
- Reduce the buffer distance between retail marijuana facilities from 2000 feet to 1000 feet;
- Establish a buffer of at least 1000 feet between youth-oriented recreational facilities owned and operated by Tualatin Hills Park & Recreation District and retail marijuana facilities; and
- Change the use standards of the EFU and AF-20 Districts to reflect state law farm zone prohibitions for dwellings, commercial activities, and farm stands when in conjunction with a marijuana crop.

Public Hearings - Time and Place	
Board of Commissioners	
October 6, 2015	October 27, 2015
10:00 am	6:30 pm

Hearings will be held in the auditorium of the Charles D. Cameron Public Services Building, 155 N First Avenue, Hillsboro, Oregon.

On October 27, 2015, the Board may choose to adopt the ordinance, make additional changes to it, continue the hearing to a future date, or reject the ordinance. If it is adopted on October 27, the ordinance would become effective on November 27, 2015.

**Community
Development Code
Standards Amended**

- Section 313 – Community Business District (CBD)
- Section 314 – General Commercial District (GC)
- Section 320 – Industrial District (IND)
- Section 340 – Exclusive Farm Use District (EFU)
- Section 344 – Agriculture and Forest District (AF-20)
- Section 352 – Rural Commercial District (R-COM)
- Section 375 – Transit-Oriented Districts
- Section 390 – North Bethany Subarea Overlay District
- Section 430 – Special Use Standards

**How to Submit
Comments**

- Submit oral or written testimony to the Board at one of the public hearings.
- Written testimony may be sent to the Board in advance of the public hearings in care of Long Range Planning.
- Include the author’s name and address with any public testimony.

Washington County, Department of Land Use & Transportation
 Planning and Development Services, Long Range Planning
 155 N First Avenue, Suite 350, MS 14, Hillsboro, OR 97124-3072
 Fax: 503-846-4412

Staff Contact

Stephen Shane, Senior Planner
 Telephone: 503-846-3717 Fax: 503-846-4412
 email: stephen_shane@co.washington.or.us

**Proposed A-Engrossed
Ordinance No. 804 is
available at the
following locations:**

- Washington County, Department of Land Use & Transportation
 Planning and Development Services, Long Range Planning
 155 N First Avenue, Suite 350, Hillsboro, OR 97124-3072
 Telephone: 503-846-3519
- www.co.washington.or.us/landuseordinances
- Cedar Mill Community Library and Tigard Public Library
- Citizen Participation Organizations (CPOs); Call 503-821-1128 for a directory of CPOs.

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing -- Third Reading and Third Public Hearing
Land Use & Transportation; County Counsel (All CPOs)

Agenda Title: **CONSIDER PROPOSED A-ENGROSSED ORDINANCE NO. 804 –
AN ORDINANCE AMENDING THE COMMUNITY
DEVELOPMENT CODE RELATING TO STANDARDS FOR
MARIJUANA FACILITIES**

Presented by: Andrew Singelakis, Director of Land Use & Transportation
Alan Rappleyea, County Counsel

SUMMARY:

A-Engrossed Ordinance No. 804 proposes to amend the Community Development Code by applying existing county regulations for medical marijuana dispensaries to recreational marijuana retail facilities. Proposed amendments address where retail recreational marijuana facilities can be located, applicable development standards related to these facilities, and buffer requirements. The proposed ordinance is posted on the county's land use ordinance web page at the following link:

<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2015-land-use-ordinances.cfm>

After the Board's initial public hearing for Ordinance No. 804 on September 15, 2015 the Board directed engrossment of the ordinance to make a number of changes. A description of those changes was included in the staff report for the October 6, 2015 hearing. The Board held its first hearing for A-Engrossed Ordinance No. 804 on October 6, 2015 and continued the hearing to October 27, 2015.

The staff report for the October 27, 2015 hearing will be provided to the Board prior to the hearing and posted on the above land use ordinance web page. Copies of the report will also be available electronically and at the Clerk's desk prior to the hearing.

Consistent with Board policy, testimony about the ordinance is limited to two minutes for individuals and five minutes for a representative of a group.

Clerk's Desk Item: Staff Report *(click to access electronic copy)*

DEPARTMENT'S REQUESTED ACTION:

Read A-Engrossed Ordinance No. 804 by title only and conduct the second public hearing for the engrossed ordinance. At the conclusion of the hearing, adopt A-Engrossed Ordinance No. 804.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

ADOPTED

Agenda Item No.	4.b.
Date:	10/27/15

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

A-ENGROSSED ORDINANCE 804

An Ordinance Amending the Community
Development Code Relating to Standards for
Marijuana Facilities

The Board of County Commissioners of Washington County, Oregon (“Board”) ordains as follows:

SECTION 1

A. The Board recognizes that the Community Development Code Element of the Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986, by way of Ordinance No. 308, and subsequently amended by Ordinance Nos. 321, 326, 336-341, 356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417, 421-423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471, 478-481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-561, 573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623, 624, 628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 659-662, 667, 669, 670, 674, 676, 677, 682-686, 692, 694-698, 703, 704, 708, 709, 711, 712, 718-720, 722, 725, 730, 732, 735, 739, 742-745, 754-758, 760, 762, 763, 765, 766, 769-776, 782-788, 791-792, and 797.

B. In the November 2014 General Election, Oregon voters passed Measure 91, which allowed for the lawful use of marijuana for recreational purposes beginning July 1, 2015 for adults 21 and older, and for the lawful sale, production, processing and wholesaling

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1 of marijuana for recreational purposes after January 1, 2016. The legislature enacted laws to
2 implement Measure 91, and subsequent state agency rulemaking governing the control,
3 taxation, and regulation of the production, processing, wholesale, and retail sales of
4 marijuana for recreational purposes will inform final state regulations prior to the legalization
5 date for these activities.

6 C. As part of its ongoing planning efforts, Washington County staff has
7 identified amendments to the Code to set forth standards for marijuana facilities. The Board
8 recognizes that such changes are necessary from time to time for the benefit and welfare of
9 the residents of Washington County, Oregon.

10 D. Under the provisions of Washington County Charter Chapter X, the
11 Department of Land Use and Transportation has carried out its responsibilities, including
12 preparation of notices, and the County Planning Commission has conducted one or more
13 public hearings on the proposed amendments and has submitted its recommendations to the
14 Board. The Board finds that this Ordinance is based on those recommendations and any
15 modifications made by the Board are a result of the public hearings process.

16 E. The Board finds and takes public notice that it is in receipt of all matters and
17 information necessary to consider this Ordinance in an adequate manner, and finds that this
18 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan
19 adoption as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington
20 County Charter, the Washington County Community Development Code, and the Washington
21 County Comprehensive Plan.

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1 SECTION 2

2 The following exhibit, attached hereto and incorporated herein by reference, is adopted
3 as amendments to the Community Development Code as follows:

- 4 1. Exhibit 1 (9 Pages) - amends the following Sections:
- 5 a. Section 313 - Community Business District (CBD);
 - 6 b. Section 314 - General Commercial District (GC);
 - 7 c. Section 320 - Industrial District (IND);
 - 8 d. Section 340 - Exclusive Farm Use (EFU);
 - 9 e. Section 344 - Agriculture and Forest District (AF-20);
 - 10 f. Section 352 - Rural Commercial District (R-COM);
 - 11 g. Section 375 - Transit Oriented Districts;
 - 12 h. Section 390 - North Bethany Subarea Overlay District; and
 - 13 i. Section 430 - Special Use Standards.

14 SECTION 3

15 All other Comprehensive Plan provisions that have been adopted by prior ordinance,
16 which are not expressly amended or repealed herein, shall remain in full force and effect.

17 SECTION 4

18 All applications received prior to the effective date shall be processed in accordance
19 with ORS 215.427.

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1 SECTION 5

2 If any portion of this Ordinance, including the exhibit, shall for any reason be held
3 invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be
4 affected thereby and shall remain in full force and effect.

5 SECTION 6

6 The Office of County Counsel and Department of Land Use and Transportation are
7 authorized to prepare planning documents to reflect the changes adopted under Section 2 of
8 this Ordinance, including deleting and adding textual material and maps, renumbering pages
9 or sections, and making any technical changes not affecting the substance of these
10 amendments as necessary to conform to the Washington County Comprehensive Plan format.

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1 SECTION 7

2 This Ordinance shall take effect on November 27, 2015.

3 ENACTED this 27 day of October, 2015, being the 3rd reading
4 and 3rd public hearing before the Board of County Commissioners of Washington
5 County, Oregon.

6 BOARD OF COUNTY COMMISSIONERS
7 FOR WASHINGTON COUNTY, OREGON

8 **ADOPTED**

Andy Oak

9 CHAIRMAN

A. D. Noyola

10 RECORDING SECRETARY

11 READING

12 First 9-15-15
13 Second 10-6-15
14 Third 10-27-15
15 Fourth _____
16 Fifth _____
17 Sixth _____

PUBLIC HEARING

12 First 9-15-15
13 Second 10-6-15
14 Third 10-27-15
15 Fourth _____
16 Fifth _____
17 Sixth _____

18 VOTE: Aye: Malinowski, Terry,
Rogers

Abstained from voting: Duyck
~~Nay:~~ _____

19 Recording Secretary: Ana D. Noyola

20 Date: 10-27-15

Sections of the COMMUNITY DEVELOPMENT CODE are amended to reflect the following:

313 COMMUNITY BUSINESS DISTRICT (CBD)

313-3 Uses Permitted Through a Type II Procedure

The following uses are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5.

313-3.401 ~~Medical~~Retail Marijuana Facility~~Dispensary~~- Section 430-80.

314 GENERAL COMMERCIAL DISTRICT (GC)

314-3 Uses Permitted Through a Type II Procedure

The following uses are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5.

314-3.45 ~~Medical~~Retail Marijuana Facility~~Dispensary~~ - Section 430-80.

320 INDUSTRIAL DISTRICT (IND)

320-3 Uses Permitted Through a Type II Procedure

The following uses are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5.

320-3.20 ~~Medical~~Retail Marijuana Facility~~Dispensary~~- Section 430-80.

abcdef Proposed additions

~~abcdef~~ Proposed deletions

340 EXCLUSIVE FARM USE (EFU)

340-4 Uses Permitted Through a Type II Procedure

The uses listed in Sections 340-4.1 and 340-4.2 are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5. Unless the use is specifically exempted, the Review Authority shall make specific findings with respect to the standards in Section 340-4.3.

340-4.1 Permitted Uses which are exempt from Section 340-4.3:

A. Accessory dwellings customarily provided in conjunction with farm use – Section 430-37.2 D. Such accessory dwellings are not allowed in conjunction with a marijuana crop. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use.

C. Dwelling Unit(s) occupied by a relative of the farm operator or farm operator's spouse who assists or will assist with the management of the farming, except that such dwelling units are not allowed in conjunction with a marijuana crop. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use. For required standards see Section 430-37.2 C.

M. A replacement dwelling to be used in conjunction with farm use if the existing dwelling is listed on the National Register of Historic Places. For the purpose of this Section, replacement means to provide one additional dwelling. Such replacement dwellings are not allowed in conjunction with a marijuana crop. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use.

X. Farm stand as provided in OAR 660, Division 33. The sale of marijuana and marijuana-derived products is not allowed at farm stands.

340-4.2 Permitted Uses which are subject to Section 340-4.3:

A. Commercial Activities in Conjunction with Farm Use, including the processing of farm crops into biofuel not permitted under ORS 215.203(2)(b)(L) or as described in Section 340-4.1 D. - Section 430-33. Commercial activities in conjunction with farm use are not allowed in conjunction with a marijuana crop.

B. Primary Dwelling Unit in conjunction with farm use - Section 430-37.2 A. A waiver of the right to remonstrate against commonly accepted farm or forest

practices shall be recorded for this use. A primary dwelling unit in conjunction with farm use is not allowed in conjunction with a marijuana crop.

340-5 Uses Which May be Permitted Through a Type III Procedure

D. Nonfarm Detached Dwelling Unit. For required standards see Section 430-85. A nonfarm detached dwelling unit is not allowed in conjunction with a marijuana crop.

344 AGRICULTURE AND FOREST DISTRICT (AF-20)

The uses listed in Section 344-4.1 and 344-4.2 are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5. Unless the use is specifically exempted, the Review Authority shall make specific findings with respect to the standards in Section 344-4.3.

344-4.1 Permitted Uses which are exempt from Section 344-4.3:

A. Accessory dwellings customarily provided in conjunction with farm use – Section 430-37.2 D. Such accessory dwellings are not allowed in conjunction with a marijuana crop. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use.

C. Dwelling Unit(s) occupied by a relative of the farm operator or farm operator's spouse who assists or will assist with the management of the farming, except that such dwelling units are not allowed in conjunction with a marijuana crop. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use. For required standards see Section 430-37.2 C.

M. A replacement dwelling to be used in conjunction with farm use if the existing dwelling is listed on the National Register of Historic Places. For the purpose of this section, replacement means to provide one additional dwelling. Such replacement dwellings are not allowed in conjunction with a marijuana crop. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use.

X. Farm stand as provided in OAR 660, Division 33. The sale of marijuana and marijuana-derived products is not allowed at farm stands.

344-4.2 Permitted Uses which are subject to Section 344-4.3:

- A. Commercial Activities in Conjunction with Farm Use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or as described in Section 344-4.1 D. - Section 430-33. Commercial activities in conjunction with farm use are not allowed in conjunction with a marijuana crop.
- B. Primary Dwelling Unit in conjunction with farm use - Section 430-37.2 A. A primary dwelling unit in conjunction with farm use is not allowed in conjunction with a marijuana crop. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use.

344-5 Uses Which May be Permitted Through a Type III Procedure

- D. Nonfarm Detached Dwelling Unit. For required standards see Section 430-85. A nonfarm detached dwelling unit is not allowed in conjunction with a marijuana crop.

352 RURAL COMMERCIAL DISTRICT (R-COM)

352-3 Uses Which May Be Permitted Through a Type II Procedure

The uses listed in Section 352-3.1 are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5. Unless the use is specifically exempted, the Review Authority shall make specific findings with respect to the standards in Section 352-3.2. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for each permitted use.

DD. ~~Medical-Retail~~ Marijuana ~~Facility~~Dispensary - Section 430-80.

375 TRANSIT ORIENTED DISTRICTS

375-7 Development Limitations for Permitted Uses in Transit Oriented Districts

33. ~~Medical-Retail~~ Marijuana ~~Facilities~~dispensaries shall be subject to the standards of Section 430-80.

Table A. Permitted and Prohibited Uses in Transit Oriented Districts

DISTRICT									
USE	TO: RC	TO: BUS	TO: EMP	TO: R9-12	TO: R12-18	TO: R18-24	TO: R24-40	TO: R40-80	TO: R80-120
Commercial Uses:		(1)	(2)				(3)	(3)	(3)
Retail Business ≤ 5,000 sq. ft. floor area (23.b.)	II	II	II	N	N	N	III	III	III
Retail Business > 5,000 sq. ft. floor area	II	II	III (4)	N	N	N	N	N	N
Food Market (5)	II or III	II	N	N	N	N	N	N	N
Bulk Product Sales	N	N	N	N	N	N	N	N	N
Hotels	II (6)	II	II	N	N	N	N	N	N
Retail Medical-Marijuana Facility(33)	II	II	II	N	N	N	N	N	N
Motels	N	N	N	N	N	N	N	N	N

- I = Permitted through a Type I process. If a use does not follow the minimum design standards in Section 431, the use shall be reviewed as a Type III use pursuant to Section 375-4.1.
- II = Permitted through a Type II process. If a use does not follow the minimum design standards in Section 431, the use shall be reviewed as a Type III use pursuant to Section 375-4.2.
- III = Permitted through a Type III process.
- () = Use or design limitation(s) specified in Section 375-7.
- N = Prohibited

~~abc~~def Proposed additions
~~abc~~ Proposed deletions

390 NORTH BETHANY SUBAREA OVERLAY DISTRICT

390-14 Neighborhood Commercial Mixed Use District (NCMU NB)

390-14.3 Uses Permitted Through a Type II Procedure

The following uses are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 390 and Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5.

U. ~~Medical-Retail Marijuana Facility Dispensary~~– Section 390-16.15.

390-16.15 ~~Medical Retail Marijuana Facility Dispensary~~

Retail Marijuana Facilities are limited to Medical Marijuana Dispensaries and Retail Recreational Marijuana Facilities.

A Medical Marijuana Dispensary is a facility, registered by the Oregon Health Authority, that is allowed to receive marijuana or immature marijuana plants and transfer that marijuana to a patient or a patient's caregiver if the patient or caregiver has an Oregon Medical Marijuana card.

A Retail Recreational Marijuana Facility is a facility, registered and licensed by the Oregon Liquor Control Commission, that engages in retail sales of marijuana and marijuana-derived products to persons 21 years of age or older.

~~Medical-Retail Marijuana Facilities~~Dispensaries are permitted subject to the following:

- A. All state requirements must be met;
- B. Hours of operation shall be limited to between 8:00 a.m. and 10:00 p.m.;
- C. Entrances and off-street parking areas for ~~the a Medical-Retail Marijuana Dispensary~~Facility shall be well lit and not visually obscured from public view/right of way; and,
- D. In addition to state requirements for location, a Retail Medical-Marijuana Dispensaries-Facility must be located:

- (1) At least ~~2000~~one thousand (1000) feet away from any other ~~registered Medical-Retail Marijuana Dispensary~~Facility;
- (2) At least one thousand (1000) feet from a youth-oriented recreational facility owned and operated by Tualatin Hills Park & Recreation District (THPRD).

Distances are measured by a straight line between any point on the boundary line of the real property containing a ~~Medical-Retail Marijuana Dispensary~~Facility to any point on the boundary line of the real property containing another ~~Medical-Retail Marijuana Dispensary~~Facility ~~Dispensary~~or THPRD youth-oriented recreational facility.

430 SPECIAL USE STANDARDS

In addition to the requirements of Sections 400 through 425, the following special use standards are provided for specific uses. Additional or amended special use standards that are applicable in the North Bethany Subarea of the Bethany Community Plan are located in Section 390, North Bethany Subarea Overlay District.

430-80 Retail Medical-Marijuana DispensaryFacility

Retail Marijuana Facilities are limited to Medical Marijuana Dispensaries and Retail Recreational Marijuana Facilities.

A Medical Marijuana Dispensary is a facility, registered by the Oregon Health Authority, that is allowed to receive marijuana or immature marijuana plants and transfer that marijuana to a patient or a patient's caregiver if the patient or caregiver has an Oregon Medical Marijuana Program card.

A Retail Recreational Marijuana Facility is a facility, registered and licensed by the Oregon Liquor Control Commission, that engages in retail sales of marijuana and marijuana-derived products to persons 21 years of age or older.

~~Medical-Retail Marijuana Dispensaries-Facilities~~ are permitted subject to the following:

- 430-80.1 All state requirements must be met;
- 430-80.2 Hours of operation shall be limited to between 8:00 a.m. and 10:00 p.m.;
- 430-80.3 Entrances and off-street parking areas for a the Retail Medical-Marijuana Dispensary Facility shall be well lit and not visually obscured from public view/right of way;

430-80.4 In the Industrial (IND), General Commercial (GC), and Rural Commercial (R-COM) Land Use Districts, the maximum allowed gross floor area for a ~~Retail Medical Marijuana Dispensary Facility~~ is three thousand (3000) square feet; and

430-80.5 In addition to State requirements for location, ~~a Retail Medical Marijuana Dispensaries Marijuana~~ Facility must be located:

A. At least ~~2000 two~~ one thousand (1000) feet away from any other registered ~~Medical Retail Marijuana Dispensary Facility~~;

B. At least one thousand (1000) feet from a youth-oriented recreational facility owned and operated by Tualatin Hills Parks & Recreation District.

Distances are measured by a straight line between any point on the boundary line of the real property containing a ~~Medical Retail Marijuana Dispensary Facility~~ to any point on the boundary line of the real property containing another ~~Medical Retail Marijuana Dispensary Facility~~ or THPRD youth-oriented recreational facility.

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Action – Land Use & Transportation (All CPOs)

Agenda Title: ADOPT FINDINGS FOR A-ENGROSSED ORDINANCE NO. 804

Presented by: Andrew Singelakis, Director of Land Use & Transportation

SUMMARY:

A-Engrossed Ordinance No. 804 amends the Community Development Code through the development of new regulations applicable to medical marijuana dispensaries and retail recreational marijuana facilities. A-Engrossed Ordinance No. 804 is posted on the county's land use ordinance web page at the following link:

<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2015-land-use-ordinances.cfm>

Post acknowledgment comprehensive plan amendments are amendments made to the county's Comprehensive Plan after it was acknowledged by the State Department of Land Conservation and Development as complying with the Statewide Planning Goals. ORS 197.615 requires that such amendments be accompanied by findings setting forth the facts and analysis showing that the amendments are consistent with the applicable Statewide Planning Goals, Oregon Revised Statutes, State Administrative Rules and the applicable provisions of Washington County's Comprehensive Plan.

Additionally, as required by Title 8 of Metro's Urban Growth Management Functional Plan (UGMFP), any amendment to a comprehensive plan or implementing ordinance shall be consistent with the requirements of the UGMFP.

Attached is the Resolution and Order to adopt the findings for A-Engrossed Ordinance No. 804. Prior to the October 27, 2015 meeting, the proposed findings will be provided to the Board, posted on the above land use ordinance web page, and available at the Clerk's desk.

Attachment: Resolution and Order

Clerk's Desk Item: Ordinance Findings *(click to access electronic copy)*

DEPARTMENT'S REQUESTED ACTION:

Adopt the findings for A-Engrossed Ordinance No. 804 and authorize the Chair to sign the Resolution and Order memorializing the action.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

R015-119

Agenda Item No.	<u>5.b.</u>
Date:	<u>10/27/15</u>

IN THE BOARD OF COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

In the Matter of Adopting Legislative Findings in Support of A-Engrossed Ordinance No. 804)))	RESOLUTION AND ORDER No. 15-119
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This matter having come before the Washington County Board of Commissioners (Board) at its meeting of October 27, 2015; and

It appearing to the Board that the findings contained in "Exhibit A" summarize relevant facts and rationales with regard to compliance with the Statewide Planning Goals, Oregon Revised Statutes and Administrative Rules, Washington County's Comprehensive Plan, and titles of Metro's Urban Growth Management Functional Plan relating to A-Engrossed Ordinance No. 804; and

It appearing to the Board that the findings attached and herein incorporated as "Exhibit A" constitute appropriate legislative findings with respect to the adopted ordinance; and

It appearing to the Board that the Planning Commission, at the conclusion of its public hearing on August 19, 2015, made a recommendation to the Board, which is in the record and has been reviewed by the Board; and


It appearing to the Board that, in the course of its deliberations, the Board has considered the record which consists of all notices, testimony, staff reports, and correspondence from interested parties, together with a record of the Planning Commission's proceedings, and other items submitted to the Planning Commission and Board regarding this ordinance; it is therefore,

RESOLVED AND ORDERED that the attached findings in "Exhibit A" in support of A-Engrossed Ordinance No. 804 are hereby adopted.

DATED this 27th day of October, 2015.

	AYE	NAY	ABSENT
DUYCK	✓	—	—
SCHOUTEN	—	—	✓
MALINOWSKI	✓	—	—
ROGERS	✓	—	—
TERRY	✓	—	—

APPROVED AS TO FORM:



 County Counsel
 For Washington County, Oregon

BOARD OF COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON



 Chairman



 Recording Secretary

EXHIBIT A

FINDINGS FOR A-ENGROSSED ORDINANCE NO. 804

AN ORDINANCE AMENDING THE COMMUNITY DEVELOPMENT CODE RELATING TO STANDARDS FOR MARIJUANA FACILITIES

OCTOBER 27, 2015

Part 1 – General Findings

Part 2 – Statewide Planning Goal Findings

Part 3 – Metro Urban Growth Management Functional Plan Findings

Part 1:

GENERAL FINDINGS

A-Engrossed Ordinance No. 804 amends the Community Development Code (CDC) to include regulations for retail recreational marijuana facilities. These amendments are in response to state voter approval of Ballot Measure 91 and pending state regulations, which when drafted will allow for the legal production and processing of marijuana for commercial purposes as well as wholesale and retail sales of marijuana as of January 1, 2016.

Key Ordinance Provisions

- To add a new definition for Retail Recreational Marijuana Facility to CDC Section 390-16.15 and CDC Section 430-80.
- To include Medical Marijuana Dispensaries and Retail Recreational Marijuana Facilities under the term “Retail Marijuana Facilities”.
- To apply existing Medical Marijuana Dispensary regulations to Retail Marijuana Facilities.
- To allow Retail Marijuana Facilities to locate in the following land use districts:
 - Community Business District;
 - General Commercial District;
 - Industrial District;
 - Rural Commercial District;
 - Transit Oriented Districts; and
 - North Bethany Neighborhood Commercial Mixed Use District.
- To require a buffer of 1000 feet between Retail Marijuana Facilities.

- To require a buffer of 1000 feet between Retail Marijuana Facilities and youth-oriented recreational facilities owned and operated by Tualatin Hills Park & Recreation District (THPRD).

Because the ordinance would make changes that do not affect compliance with Oregon's Statewide Planning Goals (Goals), it is not necessary for these findings to address the Goals with respect to each amendment. The county Board of Commissioners (Board) finds that the Goals apply to amendments covered by these findings only to the extent noted in specific responses to individual applicable Goals, and that each amendment complies with the Goals. Goals 15 (Willamette River Greenway), 16 (Estuarine Resources), 17 (Coastal Shorelands), 18 (Beaches and Dunes), and 19 (Ocean Resources) and related Oregon Administrative Rules (OAR) are not addressed because these resources are not located within Washington County.

The county is also required to make findings that the amendments are consistent with the requirements of Metro's Urban Growth Management Functional Plan (UGMFP). These findings are addressed in this document.

Part 2: STATEWIDE PLANNING GOAL FINDINGS

The purpose of the findings in this document is to demonstrate that A-Engrossed Ordinance No. 804 is consistent with Statewide Planning Goals (Goals), Oregon Revised Statutes (ORS), Oregon Administrative Rule (OAR) requirements, Metro's Urban Growth Management Functional Plan (UGMFP), and Washington County's Comprehensive Plan (Plan). The county's Plan was adopted to implement the aforementioned planning documents and was acknowledged by the State of Oregon. The county follows the post-acknowledgement plan amendment (PAPA) process to update the Plan with new state and regional regulations as necessary and relies in part upon these prior state review processes to demonstrate compliance with all necessary requirements. No goal compliance issues were raised in the hearing proceedings described below. In addition, none of the proposed changes to the map and text of the Plan implicate a goal compliance issue. The following precautionary findings are provided to demonstrate ongoing compliance.

Goal 1 - Citizen Involvement

Goal 1 addresses Citizen Involvement by requiring the implementation of a comprehensive program to stimulate citizen participation in the planning process. Washington County has an acknowledged citizen involvement program that provides a range of opportunities for citizens and other interested parties to participate in all phases of the planning process. In addition, Chapter X of the county's Charter sets forth specific requirements for citizen involvement during review and adoption of land use ordinances. Washington County has followed these requirements for the adoption of A-Engrossed Ordinance No. 804.

Goal 2 - Land Use Planning

Goal 2 addresses Land Use Planning by requiring an adequate factual base to support a decision as well as coordination with affected governmental entities. Washington County has an acknowledged land use planning process that provides for the review and update of the various elements of the Plan, which includes documents such as the Rural/Natural Resource Plan, Comprehensive Framework Plan for the Urban Area (CFP), Community Plans, Community Development Code (CDC), and Transportation System Plan (TSP). Washington County utilized this process to adopt A-Engrossed Ordinance No. 804.

Notice was coordinated with all affected governmental entities and comments received regarding A-Engrossed Ordinance No. 804 were addressed either as part of the proceedings or with subsequent staff coordination.

Goal 3 - Agricultural Lands

Goal 3 seeks to preserve and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products, forest and open space, and with the state's agricultural land use policies. Policy 15, Implementing Strategies (a) and (f), of the Rural/Natural Resource Plan include provisions for the preservation of agricultural lands.

In June 2015, the Oregon Legislature passed House Bill (HB) 3400A, which provides guidance for final state rulemaking that will serve to regulate the production, processing, wholesale and retail activity of medical and recreational marijuana-related commercial activities after January 1, 2016. The Bill recognized marijuana as a farm crop and allows for marijuana production on lands subject to Goal 3.

HB 3400A specifies three otherwise permissible farm zone uses that are not allowed when in conjunction with the growing or processing of marijuana as a farm crop. These three prohibitions are establishment of any type of farm dwelling, commercial activities in conjunction with a farm use pursuant to ORS 215.213(2)(c), and farm stand activity. A-Engrossed Ordinance No. 804 includes these state prohibitions as new amendments to the county's Exclusive Farm Use District and Agriculture/Forest – 20 Acre District standards.

Through the inclusion of the above prohibitions, compliance with Goal 3 is maintained for the preservation of agricultural lands by limiting the addition of residential dwellings in the rural area and by restricting the size of marijuana processing facilities that are allowed to occur in farm zones to less than 10,000 square feet.

Goal 9 – Economic Development

Goal 9 requires the provision of adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of citizens. Policy 20 of the CFP and Policies 15, 16, 20 and 21 of the Rural/Natural Resource Plan set out the county's policies to strengthen the local economy. The CDC contributes to a sound economy by providing standards that facilitate development in an orderly and efficient fashion.

A-Engrossed Ordinance No. 804 contributes to a healthy economy in Washington County by providing additional economic opportunity for business owners wishing to engage in commercial marijuana businesses activities. County retail marijuana facilities will be located outside of residential districts in areas along major road corridors where commercial business activity is most active. Retail marijuana facilities are also allowed outside the county Urban Growth Boundary in the Rural Commercial District. Commercial facilities in the rural area will provide economic opportunity to rural residents while limiting potential impacts on existing farm and forest uses through the requirement of being small in size, rural in character, and by not requiring urban services.

Plan compliance with Goal 9 is maintained with the amendments made by A-Engrossed Ordinance No. 804. The amendments are consistent with the county's acknowledged policies and strategies for strengthening the local economy as required by Goal 9.

Part 3:

URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN FINDINGS

Section 3.07.810 of Title 8 of Metro's Urban Growth Management Functional Plan (UGMFP) requires that county Comprehensive Plan changes be consistent with the UGMFP. The following A-Engrossed Ordinance No. 804 findings have been prepared to address Title 8 of the UGMFP.

Title 8 - Compliance Procedures

Title 8 sets forth Metro's procedures for determining compliance with the UGMFP. Included in this title are steps local jurisdictions must take to ensure that Metro has the opportunity to review amendments to comprehensive plans. Title 8 requires jurisdictions to submit notice to Metro at least 45 days prior to the first evidentiary hearing for a proposed amendment to a comprehensive plan.

Title 8 requires jurisdictions to submit notice to Metro at least 45 days prior to the first evidentiary hearing for a proposed amendment to a comprehensive plan. Prior to notice being mailed, however, Metro provided correspondence indicating its consent to receiving notice 35 days prior to the first evidentiary hearing, consistent with current DLCDC notice requirements. Staff delivered Metro a copy of proposed Ordinance No. 804 on July 14, 2015, 36 days prior to the first evidentiary hearing. A copy of A-Engrossed Ordinance No. 804 was mailed to Metro on September 25, 2015. Metro provided no comments on A-Engrossed Ordinance No. 804.