



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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

Date: February 16, 2016

Jurisdiction: City of Toledo

Local file no.: ZOA-1-15

DLCD file no.: 001-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 02/10/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 49 days prior to the first evidentiary hearing.

Appeal Procedures

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

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

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

DLCD Contact

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



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

FOR DLCD USE
File No.: 001-15 {24150}
Received: 2/10/2016

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

Jurisdiction: City of Toledo

Local file no.: **ZOA-1-15**

Date of adoption: 2/3/16

Date sent: 2/10/2016

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

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 11/25/15

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No
If yes, describe how the adoption differs from the proposal:

Definitions for various terms added. Marijuana laboratory added to list of conditional uses. Marijuana retailer added as an accessory use to a medical marijuana dispensary. Various conditional uses standards for marijuana uses were added.

Local contact (name and title): Michael Adams, City Attorney/City Planner

Phone: 541-336-2247 x 2080

E-mail: attorney@cityoftoledo.org

Street address: 206 N Main Street (PO Box 220)

City: Toledo

Zip: 97391-

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 Toledo Municipal Code Sections 17.04.020 (Definitions), Section 17.16.030(L)(M) (Commercial Zone-Conditional Uses Permitted), Section 17.20.030(M)(N) (Light Industrial Zone-Conditional Uses Permitted), Section 17.24.030(G)(H) (Industrial Zone-Conditional Uses Permitted), Section 17.46.080(E) (Home Occupation Permits-Prohibited Home Occupation Uses), Section 17.64.050(B)(C)(D) (Conditional Use Permit-Standards Governing Conditional Uses).

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: City of Toledo

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.

Attached are Ordinance 1360, City Council Staff Report, and Planning Commission Recommendation

CITY OF TOLEDO

ORDINANCE NO. 1360

AN ORDINANCE AMENDING SECTIONS 17.04.020, 17.16.030, 17.20.030, 17.24.030 17.46.080, 17.64.050, AND REPEALING SUBSECTIONS OF 17.64.050, OF THE TOLEDO MUNICIPAL CODE, RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA; AND, DECLARING AN EMERGENCY.

WHEREAS, in compliance with the Oregon Revised Statutes Chapter 197, the City of Toledo adopted Ordinance 1285, the Toledo Comprehensive Land Use Plan, on April 4, 2001, acknowledged by the State of Oregon Department of Land Conservation and Development on June 19, 2002.

WHEREAS, the City of Toledo adopted Ordinance 1286, the Toledo Zoning Ordinance codified as Title 17 of the Toledo Municipal Code, on April 4, 2001.

WHEREAS, the City of Toledo adopted Ordinance 1287, the Toledo Land Use Procedures Ordinance codified as Title 19 of the Toledo Municipal Code, on April 4, 2001.

WHEREAS, pursuant to Article XI, Section 2, of the Oregon Constitution, which was added in 1906 by the people's initiative, the City has home rule authority to adopt regulations that are not unconstitutional or preempted by federal or state law.

WHEREAS, Toledo Municipal Code Chapter 1.01, the City Council, may from time to time make revisions to its municipal code which shall become part of the overall documentation and citation.

WHEREAS, Oregon voters approved Ballot Measure 67, the Oregon Medical Marijuana Act, in November 1998. The Oregon legislature has amended the Oregon Medical Marijuana Act and the Act authorizes local government to adopt reasonable regulations related to the hours of operation, location and manner in which medical marijuana dispensaries are regulated. Cities have home rule authority to adopt regulations that are not unconstitutional or preempted by federal or state law.

WHEREAS, Oregon voters approved Ballot Measure 91 in November 2014, legalizing the personal use and possession of adult recreational marijuana on July 1, 2015, with certain limitations, including restrictions on use in public, no growing in public view, a restriction on minors attempting to buy or entering licensed premises, prohibiting the sale or use by persons under 21, and imposing licensing and other requirements on marijuana cultivation, processing and dispensing facilities. The measure, as amended by the Oregon State Legislature in 2015 (House Bill 3400 A, Section 33), authorizes reasonable conditions on the manner in which licensed retailers, processors, producers, wholesalers, and laboratories, may sell marijuana; reasonable limitations on the hours during which a licensed marijuana facility may sell marijuana items; reasonable requirements related to a public's access to a licensed premises; reasonable distance between facilities (1000 feet); and reasonable limitations on where a licensed premises may be located. Such regulations must be consistent with the City's comprehensive plan, development code and public health and safety laws.

WHEREAS Senate Bill 460 (2015) allows medical marijuana dispensary facilities to sell limited amounts of adult recreational marijuana beginning October 1, 2015. This provision sunsets on December 31, 2016.

WHEREAS, the City of Toledo sent this Zoning Ordinance amendment to the State of Oregon Department of Land Conservation and Development on November 25, 2015.

WHEREAS, after a properly noticed public hearing held on January 13, 2016, the City of Toledo's Planning Commission recommended approval of a code amendment to the Toledo Municipal Code Chapters 17.04, 17.16, 17.20, 17.24, 17.46, 17.64, and repealing subsections in Code Chapter 17.64, allowing marijuana producers, marijuana processors, marijuana wholesalers, and marijuana laboratories as a conditional use in the Industrial and Light Industrial Zones; prohibiting marijuana producers, marijuana processors, marijuana wholesalers, and marijuana laboratories as a home occupation; and allowing marijuana retailers as a conditional use in the Commercial Zone.

WHEREAS, after a properly noticed public hearing held on February 3, 2016, the City of Toledo, acting by and through its City Council, reviewed the Staff Report and findings, heard testimony and comments, and deliberated on approval of this Municipal Code Amendment.

WHEREAS, the City Council, in adopting this ordinance, is concerned with fairness, neighborhood compatibility, respecting the will of the voters, protecting youth and minors, crime and nuisance issues, a non-reactive balanced approach, allowing new businesses to emerge and grow, and learning from the experience of other communities.

WHEREAS, the adverse effects of recreational marijuana facilities to the community, addressed through reasonable time, place and manner restrictions, such as the ones adopted by this ordinance, include: 1) Exposure of minors to the use and commercial aspects of marijuana; 2) Offensive odors from marijuana cultivation, production and storage; and 3) Incompatible development in residential areas.

WHEREAS, these regulations are also adopted in furtherance and protection of the health, safety and welfare of the citizens of Toledo, including under the broad home rule authority of the City of Toledo in Chapter II, Section 5, of its municipal charter: "the Charter shall be liberally construed, so that, within the limits imposed by the charter or the constitution or the laws of the United States or the State of Oregon, the City has all powers necessary or convenient for conducting its affairs, including all powers that the City may now or hereafter assume under the home rule provisions of the constitution and the laws of the State of Oregon. The powers are continuing powers."

WHEREAS, this ordinance does not, and cannot, provide immunity from possible federal prosecution.

WHEREAS, this ordinance does not regulate the private growing or cultivating of marijuana for non-commercial personal use, as defined by state law; and

WHEREAS, the implementation of the ordinance as soon as possible is in the public interest and necessary for the peace, health, convenience, and safety of the inhabitants of the City of

Toledo.

NOW THEREFORE, THE CITY OF TOLEDO ORDAINS AS FOLLOWS:

SECTION 1.

The following definition is added to §17.04.020 of the Toledo Municipal Code to read as follows and shall be placed in alphabetical order with the existing definitions and terms:

17.04.020 Definitions

“Cannabinoid concentrate” means a substance obtained by separating cannabinoids from marijuana by:

- (a) A mechanical extraction process: or
- (b) A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol.

“Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.

“Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by:

- (a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane:
- (b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide if the process uses heat or pressure: or
- (c) Any other process identified by the Oregon Liquor Control Commission, in consultation with the authority by rule.

“Cannabinoid product” means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair that contains cannabinoids or dried marijuana leaves or flowers.

“Cultivation” or “cultivate” means: (i) all phases of growth of marijuana from seed to harvest: or (ii) preparing, packaging, or repackaging, labeling, or relabeling of marijuana prior to consumption, or incorporation into a marijuana-infused product.

“Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. “Marijuana” does not include industrial hemp, as defined in ORS 571.300.

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

“Medical marijuana grow site” means a specific location registered by the Oregon Health Authority and used by a grower to produce marijuana for medical use by a specific

patient.

“Marijuana laboratory” means a laboratory that performs testing, research or development of recreational marijuana or marijuana items for producer, processor, wholesaler, or retail licensees.

“Marijuana processor” means a recreational marijuana processor who holds a processor license issued by the Oregon Liquor Control Commission, to process, compound or convert marijuana into products, concentrates or extracts, but does not include packaging or labeling, for the premises at which marijuana items are processed.

“Marijuana producer” means a recreational marijuana producer who holds a production license issued by the Oregon Liquor Control Commission, to manufacture, plant, cultivate, grow or harvest of marijuana, for the premises at which the marijuana is produced.

“Marijuana retailer” means a recreational marijuana retailer who holds a retail license issued by the Oregon Liquor Control Commission, for retail sale of marijuana or marijuana items, for the premises at which marijuana items are sold.

“Marijuana wholesaler” means a recreational marijuana wholesaler who holds a wholesale license issued by the Oregon Liquor Control Commission, for purchase of marijuana items for resale to a person other than a consumer, for the premises at which marijuana items are received, kept, stored or delivered.

“Recreational marijuana” means any marijuana intended for recreational use which meets all requirements for recreational marijuana contained in this chapter, Oregon state law, and any other applicable law.

“Recreational marijuana facility” means any recreational marijuana related facility, including marijuana producer, marijuana processor, marijuana wholesaler, marijuana retailer, and marijuana laboratory.

SECTION 2.

Subsection (L) of Section §17.16.030 of the Toledo Municipal Code is amended to read as follows:

17.16.030 Conditional uses permitted

(L) Marijuana retailer.

SECTION 3.

Subsection (M) is added to Section §17.16.030 of the Toledo Municipal Code, to read as follows:

17.16.030 Conditional uses permitted

(M) Uses which are similar to those permitted outright or conditionally in the C zone and

which conform to the purpose of the zone.

SECTION 4.

Subsection (M) of Section §17.20.030 of the Toledo Municipal Code is amended to read as follows:

17.20.030 Conditional uses permitted

- (M) Marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory. Marijuana retailer may be approved when medical marijuana dispensary facility is an approved use at the same site.

SECTION 5.

Subsection (N) is added to Section §17.20.030 of the Toledo Municipal Code, to read as follows:

17.20.030 Conditional uses permitted

- (N) Uses which are similar in character, scale and performance to those permitted outright or conditionally in the L-I zone and which conform with the purpose of the zone.

SECTION 6.

Subsection (G) of Section §17.24.030 of the Toledo Municipal Code is amended to read as follows:

17.24.030 Conditional uses permitted

- (G) Marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory.

SECTION 7.

Subsection (H) is added to Section §17.24.030 of the Toledo Municipal Code, to read as follows:

17.24.030 Conditional uses permitted

- (H) Uses which are similar in character, scale and performance to those permitted outright or conditionally in the I zone and which conform with the purpose of the zone.

SECTION 8.

Subsection (E) is added to Section §17.46.080 of the Toledo Municipal Code, to read as

follows:

17.46.080 Prohibited home occupation uses.

- (E) Marijuana producer, marijuana processor, marijuana retailer, marijuana wholesaler, and marijuana laboratory.

SECTION 9.

Subsection (C) and (D) of Section §17.64.050 of the Toledo Municipal Code are repealed; and Subsection (B) of Section §17.64.050 is amended, to read as follows:

17.64.050 Standards governing conditional uses

(B) In addition to other standards of the zone in which the conditional use is located, certain uses shall comply with the following additional standards:

1. Utility Substation or Pumping Station. The minimum lot size in the applicable zone may be waived only on finding that the waiver will not result in noise or other detrimental effect on adjacent property. No equipment storage shall be permitted on the site. Such development shall be fenced and landscaped as required by the planning commission.

2. Processing and manufacturing operations.

a. The facility shall not abut a property zoned general residential or single-family residential.

b. The processor shall operate in a wholly enclosed building, except for incidental storage.

c. A processing facility shall be no larger than forty thousand (40,000) square feet.

d. The processing facility may not shred, compact, or bale ferrous metals other than food and beverage containers.

3. Waste transfer, recycling facility, or scrap metal facility.

a. Facilities must be fenced and shall be secured from unauthorized entry and the removal of materials when attendants are not present.

b. Facilities and storage shall be located no closer than thirty (30) feet from any property line.

c. Hours of operation shall be established, and the facility shall be clearly marked with the name and telephone number of the facility operator and the hours of operation.

d. The site shall be maintained free of litter, odors, pests, and any other undesirable material, and shall be cleaned of loose debris on a daily basis.

e. Space shall be provided on the site for the anticipated peak load of customers to circulate, park, and deposit recyclable materials.

f. Containers provided for after-hours donations of recyclable materials shall be at least fifty (50) feet from any property zoned general residential or single-family residential, shall be of sturdy, rustproof construction, shall have sufficient capacity to accommodate the materials collected, and shall be secure from unauthorized entry or the removal of materials.

g. Donation areas shall be kept free of litter, odors, pests, and any other undesirable material. The containers shall be clearly marked to identify the type of material, which may be deposited. The facility shall display a notice stating that no material shall be left outside the recycling containers.

4. Marijuana producer, marijuana processor, marijuana retailer, marijuana wholesaler, and marijuana laboratory.

a. The use shall not abut a property in the General Residential (R-G) or Single-Family Residential (R-G) zones or Lincoln County residential land use zones.

b. The use may be co-located with a medical marijuana grow site or medical marijuana dispensary facility, if allowed by state law and regulation, provided such use is properly licensed.

c. The use shall not be located within 1,000 feet of a private or parochial elementary or secondary school, teaching children as defined in ORS 339.030(1)(a).

d. The use shall not be located within 1,000 feet of a public elementary or secondary school whose attendance is compulsory under ORS 339.020.

e. The facility where the use takes place shall be no larger than forty thousand (40,000) square feet.

f. The use shall not be located within 1,000 feet of another medical or recreational marijuana facility, including a marijuana producer, marijuana processor, marijuana retailer, marijuana wholesaler, marijuana laboratory, medical marijuana dispensary facility, or medical marijuana grow site. This 1,000 feet requirement from property line to property line in a straight line measurement is not meant to prohibit more than one of the uses described in this subsection 4.f. from being co-located. More than one of the uses in this subsection 4.f. may be co-located, but only for the period of time, and as allowed, by state law and regulation.

g. Drive-through recreational marijuana facilities in any zone are prohibited.

h. The proposed use must be located inside a permanent building. Outdoor storage of any merchandise or plants is not allowed.

i. The proposed use requires continued compliance with all state, city, and federal law, excluding marijuana's classification as a controlled substance under the federal Controlled Substances Act.

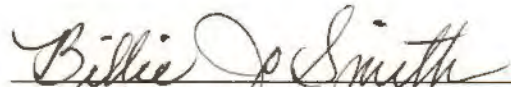
SECTION 10.

This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its passage.

APPROVED AND ADOPTED by the City Council of the City of Toledo, Oregon on this 3rd day of February, 2016.

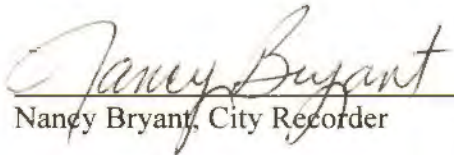
APPROVED by the Mayor of the City of Toledo, Oregon, on this 3rd day of February, 2016.

APPROVED:



Billie Jo Smith, Mayor

ATTEST:



Nancy Bryant, City Recorder

**TOLEDO CITY COUNCIL
STAFF REPORT**

FILE #: ZOA-1-15

APPLICANT: City of Toledo

APPLICATION DATE: November 18, 2015

HEARING DATE: January 13, 2016 (PC) and February 3, 2016 (CC)

REQUEST: To amend Toledo Municipal Code (TMC) Sections 17.04.020, 17.16.030, 17.20.030, 17.24.030, 17.46.080, 17.64.050, and repeal Subsections (C) and (D), and create Subsection (B), of 17.64.050, as follows: Section 17.04.020 is amended to add definitions for “Cannabinoid concentrate,” “Cannabinoid edible,” “Cannabinoid extract,” “Cannabinoid product,” “Cultivation” or “cultivate,” “Marijuana,” “Marijuana items,” “Medical marijuana grow site,” “Marijuana laboratory,” “Marijuana processor,” “Marijuana producer,” “Marijuana retailer,” “Marijuana wholesaler,” “Recreational marijuana facility,” and “Recreational marijuana business”; Section 17.16.030 is amended to add marijuana retailer as a conditional use in the Commercial (C) Zone; Section 17.20.030 is amended to add marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory as a conditional use in the Light Industrial (LI) zone; Section 17.24.030 is amended to add marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory as a conditional use in the Industrial (I) zone; Section 17.46.080 is amended to prohibit marijuana producer, marijuana processor, marijuana retailer, marijuana wholesaler, and marijuana laboratory as home occupation uses in the residential zones; Subsections (C) and (D) of 17.64.050 are repealed, and Subsection (B) is amended, to create additional standards for marijuana producer, marijuana processor, marijuana retailer, marijuana wholesaler, and marijuana laboratory when allowed in an applicable zone.

I. REPORT OF FACTS:

Notice of Public Hearing: Notices mailed on December 23, 2015, to 19 public/service agencies. Notice sent to DLCD on November 25, 2015. Notice of the proposed ordinance posted at City Hall, Toledo Library, and Toledo Police Department on January 25, 2016.

Notice Published in Newspaper: PC Hearing: December 30, 2015, January 6, and January 13, 2016
CC Hearing: January 27 and February 3, 2016

Comments Received: Public Works Director, Fire Chief, and Police Chief all reviewed and approved the application. The Fire Chief added that a new use would require a fire inspection. No written comments were received by planning staff at the time of this writing.

Attachments to Staff Report: A. Planning Commission Public Hearing Recommendation
B. Proposed Ordinance 1360

II. BACKGROUND

The City Council will be considering the evidence in this report, including the proposed Ordinance attached to this staff report, public testimony, and the recommendation of the Planning Commission, as it reviews a proposal to amend the Toledo Municipal Code to allow marijuana retailer as a conditional use in the Commercial Zone; to allow marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory as a conditional use in the Light Industrial (LI) and Industrial (I) zoning districts; to prohibit marijuana producer, marijuana processor, marijuana retailer, marijuana wholesaler, and marijuana laboratory as home occupation uses in the residential zones; and to create additional standards when a conditional use is approved in a zone.

The proposal includes the following definitions to be included in TMC 17.04.020:

“Cannabinoid concentrate” means a substance obtained by separating cannabinoids from marijuana by:

- (a) A mechanical extraction process: or
- (b) A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol.

“Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.

“Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by:

- (a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane:
- (b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide if the process uses heat or pressure: or
- (c) Any other process identified by the Oregon Liquor Control Commission, in consultation with the authority by rule.

“Cannabinoid product” means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair that contains cannabinoids or dried marijuana leaves or flowers.

“Cultivation” or **“cultivate”** means: (i) all phases of growth of marijuana from seed to harvest: or (ii) preparing, packaging, or repackaging, labeling, or relabeling of marijuana prior to consumption, or incorporation into a marijuana-infused product.

“Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

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

“Medical marijuana grow site” means a specific location registered by the Oregon Health Authority and used by a grower to produce marijuana for medical use by a specific patient.

“Marijuana laboratory” means a laboratory that performs testing, research or development of recreational marijuana or marijuana items for producer, processor, wholesaler, or retail licensees.

“Marijuana processor” means a recreational marijuana processor who holds a processor license issued by the Oregon Liquor Control Commission, to process, compound or convert marijuana into products, concentrates or extracts, but does not include packaging or labeling, for the premises at which marijuana items are processed.

“Marijuana producer” means a recreational marijuana producer who holds a production license issued by the Oregon Liquor Control Commission, to manufacture, plant, cultivate, grow or harvest of marijuana, for the premises at which the marijuana is produced.

“Marijuana retailer” means a recreational marijuana retailer who holds a retail license issued by the Oregon Liquor Control Commission, for retail sale of marijuana or marijuana items, for the premises at which marijuana items are sold.

“Marijuana wholesaler” means a recreational marijuana wholesaler who holds a wholesale license issued by the Oregon Liquor Control Commission, for purchase of marijuana items for resale to a person other than a consumer, for the premises at which marijuana items are received, kept, stored or delivered.

“Recreational marijuana” means any marijuana intended for recreational use which meets all requirements for recreational marijuana contained in this chapter, Oregon state law, and any other applicable law.

“Recreational marijuana facility” means any recreational marijuana related facility, including marijuana producer, marijuana processor, marijuana wholesaler, marijuana retailer, and marijuana laboratory.

The following is a list of the ‘conditional uses’ currently permitted in the **Commercial Zone**:

17.16.030 Conditional uses permitted.

- A. Animal hospitals or kennels.
- B. Drive-in use for uses which are permitted outright or as conditional uses in the C zone.
- C. Restaurants (take-out or drive-in).
- D. Machine shops.
- E. Mini-storage.
- F. Multi-family dwelling units.
- G. Overnight trailer park or recreational vehicle parks.
- H. Pumping station or utility substations.
- I. Truck and car repair and service - major.
- J. Food production and/or beverage production, where the majority of the floor space will be devoted to providing personal services or goods to the public.
- K. Medical marijuana dispensary facility.
- L. Uses which are similar to those permitted outright or conditionally in the C zone and

which conform to the purpose of the zone.

The following is a list of the ‘conditional uses’ currently permitted in the **Light-Industrial** Zone:

17.20.030 Conditional uses permitted.

- A. A use permitted outright in the L-I zone, in which the building or buildings provided for the use exceed 40,000 square feet of floor area.
- B. Bulk storage of flammable liquids and gases.
- C. Eating or drinking establishments, including take-out or drive-in services.
- D. Industrial museum.
- E. Processing and manufacturing operations, excluding the following:
 - 1. Asphalt mixing and batching.
 - 2. Explosives manufacturing.
 - 3. Petroleum or petroleum products refining.
 - 4. Fertilizer manufacture.
 - 5. Gas manufacture.
 - 6. Slaughterhouse or rendering facility.
- F. Shipping facilities.
- G. Shoreline stabilization as defined in the Lincoln County Estuary Management Plan.
- H. Truck and car repair and service - major.
- I. Waste transfer, recycling facility, or scrap metal facility.
- J. Drive-in use for uses which are permitted outright or as conditional uses in the L-I zone
- K. Concrete mixing and batching, but excluding asphalt mixing and batching.
- L. Medical marijuana dispensary facility.
- M. Uses which are similar in character, scale and performance to those permitted outright or conditionally in the L-I zone and which conform with the purpose of the zone.

The following is a list of the ‘conditional uses’ currently permitted in the **Industrial** Zone:

17.24.030 Conditional uses permitted.

- A. Mineral resource mining, recovery, stockpiling and processing.
- B. Concrete mixing and batching, but excluding asphalt mixing and batching.
- C. Shoreline stabilization as defined in the Lincoln County Estuary Management Plan.
- D. Eating or drinking establishments, including take-out or drive-in services.
- E. Industrial museum.
- F. Drive-in use for uses which are permitted outright or as conditional uses in the I zone.
- G. Uses which are similar in character, scale and performance to those permitted outright or conditionally in the I zone and which conform with the purpose of the zone.

The proposed ordinance also lists marijuana producer, marijuana processor, marijuana retailer, marijuana wholesaler, and marijuana laboratory as a prohibited **home occupation** use in the residential R-G and R-S zones. The following is a list of ‘prohibited home occupation uses’ in the residential zones:

17.46.080 Prohibited Home Occupation Uses.

- A. Any activity that produces radio or TV interference, noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state, or federal standards, or that can be detected beyond the property line is prohibited.
- B. Any activity involving on-site retail sales is prohibited, except that the sale of items that

are incidental to a permitted home occupation is allowable. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or craft instructors, computer software from computer consultants, and similar incidental items for sale by home businesses are allowed.

C. Any uses described in this section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke, or vibration, such as, but not limited to:

1. Ambulance service;
2. Animal hospital, on-site veterinary services, kennels, or animal boarding;
3. Auto or other vehicle repair, including auto painting;
4. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes, or large equipment on-site.

D. Medical marijuana dispensary facility, whether operating illegally without a business license of registered pursuant to ORS 475.314.

Conditional Use Standards

A use is designated as a 'conditional use' within a given zone when it is judged to be generally in line with the purpose of the zone but which could, if not reviewed, have a negative impact on other properties or uses within the zone. The purpose of such a review is to assure adequate site design and compatibility with surrounding uses and property. A review of a conditional use is a Type III review.

The standards governing conditional uses are contained in TMC 17.64.050 and listed below:

17.64.050 Standards governing conditional uses.

In addition to the standards of the zone in which the conditional use is located and the other standards of this chapter, conditional uses shall meet the following standards:

- A. In addition to other applicable standards of this section, all conditional uses shall comply with the following requirements:
1. The site under consideration is suitable for the proposed use considering:
 - a. The size, design and operating characteristics of the use.
 - b. The adequacy of transportation access to the site.
 - c. The natural and physical features of the site such as general topography, natural hazards, natural resource values, and other features.
 2. The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in paragraph (1) of this subsection.

...

III. AUTHORITY: The following ordinance standards related to the approval process and authority apply to this request.

17.80.030 Legislative amendments.

Legislative amendments are policy decisions such as the amendment to a comprehensive land use map or the municipal code made by the city council. They are reviewed using the Type IV land use procedure as set forth by ordinance.

19.20.070 Decision-making considerations.

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

- A. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes

Chapter 197 (for comprehensive plan amendments only);

B. Comments from any applicable federal or state agencies regarding applicable statutes or regulations;

C. Any applicable intergovernmental agreements; and

D. Any applicable comprehensive plan policies and provisions of the municipal code that implement the comprehensive plan. Compliance with Toledo Municipal Code 17.80 shall be required for legislative amendments such as Comprehensive Plan Amendments and for quasijudicial amendments.

19.20.080 Approval process and authority.

A. The planning commission shall:

1. After notice and a public hearing, vote on and prepare a recommendation to the city council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
2. Within ten (10) business days of determining a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the city manager.

B. Any member of the planning commission who votes in opposition to the planning commission's majority recommendation may file a written statement of opposition with the city manager before the council public hearing on the proposal. The city manager shall send a copy to each council member and place a copy in the record;

C. If the planning commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal, within ten (10) days of its first public hearing on the proposed change, the city manager shall:

1. Report the failure together with the proposed change to the city council; and
2. Provide notice and put the matter on the city council's agenda, a public hearing to be held, and a decision to be made by the council. No further action shall be taken by the commission.

D. The city council shall:

1. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the planning commission for rehearing and reconsideration on all or part of the application;
2. Consider the recommendation of the planning commission; however, it is not bound by the commission's recommendation; and
3. Act by ordinance, which shall be signed by the mayor after the council's adoption of the ordinance.

19.20.090 Vote required for a legislative change.

A. A vote by a majority of the qualified voting members of the planning commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.

B. A vote by a majority of the qualified members of the city council present is required to decide any motion made on the proposal.

19.20.100 Notice of decision.

Notice of a Type IV decision shall be mailed to the applicant, any participants of record, and the Department of Land Conservation and Development, within five business days after the

city council decision is filed with the city manager. The city shall also provide notice to all persons as required by other applicable laws.

19.20.110 Final decision and effective date.

A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance or as specified in the city charter, or if not approved, upon mailing of the notice of decision to the applicant.

IV. RELEVANT CRITERIA AND STAFF FINDINGS:

TMC 19.20.070(A)-(D) contain the decision-making standards that are relevant to legislative amendments. The recommendation by the Planning Commission and the decision by the City Council shall be based upon the following criteria:

Criterion 1. Consideration of the Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for comprehensive plan amendments only);

Finding 1

Criterion #1 is not applicable to this proposal because this application does not require an amendment to the comprehensive plan.

Criterion 2. Consideration of comments from any applicable federal or state agencies regarding applicable statutes or regulations.

Finding 2

At the time of this writing (December 28, 2015), no comments have been received from any federal or state agencies concerning the proposed ordinance amendment.

Criterion 3. Consideration of any applicable intergovernmental agreements.

Finding 3

As required by Section 4(B) of the Urban Growth Management Agreement between the City of Toledo and Lincoln County, executed on June 6, 2001, the City notified Lincoln County in writing of this proposal.

Criterion 4. Any applicable comprehensive plan policies and provisions of the municipal code that implement the comprehensive plan. Compliance with Toledo Municipal Code 17.80 shall be required for legislative amendments such as Comprehensive Plan Amendments and for quasi-judicial amendments.

The following Comprehensive goals and objectives are applicable to this proposal:

ARTICLE 2: LAND USE PLANNING

Goal 1. Implement locally desired land use policies and practices that do not conflict with the State of Oregon's land use planning program.

Finding 4

The proposal to add marijuana retailer as a conditional use in the Commercial Zone, and to add marijuana producer, marijuana processor, marijuana wholesaler, and

marijuana laboratory as a conditional use in the Light Industrial (LI) and Industrial (I) zoning districts, will not conflict with the State of Oregon's land use planning program and will implement a locally desired land use policy.

Goal 3. Assure an adequate factual basis for all decisions and actions related to the use of land as established and required by the State of Oregon's land use planning program.

Finding 5

The findings of fact included in this staff report outline the factual basis for action by the City to amend TMC 17.04.020, 17.16.030, 17.20.030, 17.24.030, 17.46.080, 17.64.050, and to repeal Subsections (C) and (D), and create Subsection (B), of 17.64.050.

Objectives:

Implementation of the Toledo Comprehensive Land Use Plan shall be through a) management implementation measures such as ordinances, regulations or project plans, and b) site or area specific implementation measures such as permits and grants for construction, construction of public facilities or provision of services related to the land use planning goals and objectives identified within the Toledo Comprehensive Land Use Plan.

Finding 6

The proposal to add marijuana retailer as a conditional use in the Commercial Zone, and to add marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory as a conditional use in the Light Industrial (LI) and Industrial (I) zoning districts, will ensure that impacted air, water and land resources by this use are protected or enhanced as needed through the conditional use permit review process.

2. The Toledo Comprehensive Land Use Plan Map and the Toledo Zoning Map shall provide for sufficient lands for a 20 year supply of land within the Urban Growth Boundary to meet the projected population growth of 5,550 by the year 2020 as projected in the Toledo Buildable Lands Inventory. The 20 year supply of land shall be a sufficient supply of land to implement the following land use zones:

...

Comprehensive Plan Map Designations:

Comprehensive Plan Map designations are intended to guide development by designating appropriate areas for each particular type of development use. Additional uses within each designation may be allowed as either uses permitted outright or as conditional uses when the City determines that such uses are either consistent with the general use or can be reviewed for compatibility through the conditional use process. The map designations and the uses allowed in the designations should reflect the applicable goals and objectives of the Toledo Comprehensive Land Use Plan.

...

Commercial – This designation provides for a wide range of commercial activities including retail and service uses as well as other compatible uses commonly associated with commercial areas including allowing residential uses. This designation shall be implemented by the zoning map designation of Commercial. A Main Street Overlay District shall be implemented to recognize the unique attributes and development pattern of the existing Main Street area.

...

Industrial – This designation provides a wide variety of industrial and light-industrial uses and recognizes that some water-dependent uses such as boat building and repair are appropriate industrial uses within the industrial designation. The intent is to encourage industrial growth and provide for industrial development at appropriate locations in order to increase the level of employment, enhance the tax base, decrease service costs, and achieve a healthy diverse, and stable local economy. The Industrial plan designation is implemented by the zoning map designations of Industrial, Light-Industrial, and/or Water-Dependent.

...

(B) Zoning Map Designations:

...

Commercial (C) – The purpose of the C zone is to provide for retail and service commercial uses. It is also intended that these uses will supply personal services or goods to the average person and that a majority of the floor space will be devoted to that purpose. Compatible uses including public, civic, and institutional uses will also be allowed. Residential use above the commercial main floor or located so as not to prevent the main commercial use shall be allowed and encouraged especially in the Main Street District Area.

...

Light Industrial (L-I) - The purpose of the Light Industrial zone is to implement the Toledo Comprehensive Land Use Plan by providing areas to serve a variety of manufacturing and other industrial activities with limited external impacts and to serve as a transition area between commercial, public and residential uses and heavier industrial uses. Uses permitted in the L-I zone are often involved in the secondary processing of materials into components, the assembly of components into finished products, transportation, communication and utilities, wholesaling and warehousing. The external impact from these uses is generally less than uses permitted in the Industrial zone, and transportation needs are often met by truck. Activities are generally located indoors, although there may be some outdoor storage, delivery, and loading. Offices and commercial uses are permitted on a limited basis, and only in conjunction with a permitted L-I use.

...

Industrial (I) – The purpose of the Industrial zone is to impliment the Toledo Comprehensive Land Use Plan by providing sufficient, desireable land in the city for the expansion of existing industrial sites and for the construction and development of new industry. The Industrial zone is intended to serve a range of manufacturing uses which may have significant external impacts. Uses permitted in the Industriaol zone often have transportation needs that include both rail and truck. Less intensive industrial uses that are permitted in the Light Industrial zone are also permitted.

Finding 7

The proposal to add marijuana retailer as a conditional use complies with the purpose of the commercial zone. The proposal to add marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory complies with the respective purposes of the Light Industrial (LI) and Industrial (I) zoning districts. The proposal provides an appropriate buffer for residential zones which are not compatible with the recreational marijuana use. Specifically, that any conditional use for a recreational marijuana facility shall not be allowed on property adjacent to residential zoned property.

ARTICLE 5: OPEN SPACES, SCENIC & HISTORICAL AREAS, AND NATURAL RESOURCES

Goal 1. Ensure the provision of open space and the protection of scenic and natural resources as required by state and federal law.

Goal 2. Recognize Toledo's historic resources and utilize and enhance those resources for Toledo residents and visitors.

Goal 3. Protect natural resources such as wetlands and riparian habitat areas as required by state and federal law to ensure their continued contributions as natural areas, open space, wildlife and vegetative habitat, flood protection, and storm water retention and conveyance areas.

Finding 8

This proposal to add marijuana retailer as a conditional use in the Commercial zone, and to add marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory as a conditional use in the Light Industrial (LI) and Industrial (I) zoning district, will ensure that affected areas of natural, scenic and historical resources are protected as needed through the conditional use review process.

ARTICLE 6: AIR, WATER, AND LAND RESOURCES QUALITY

Goal 1. Ensure that existing and future land use activities meet or exceed federal, state, and local air quality standards.

Goal 2. Ensure that future land use activities enhance or, at minimum, maintain water quality.

Finding 9

This proposal to add marijuana retailer as a conditional use in the Commercial zone, and to add marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory as a conditional use in the Light Industrial (LI) and Industrial (I) zoning district, will ensure that impacts to air, water and land resources are mitigated, as needed, through the conditional use review process.

ARTICLE 7: NATURAL HAZARDS

Goal 1. Prevent loss of life and property damage by requiring appropriate safeguards for all development of properties within known natural hazard areas. Natural hazards include: floods, tsunamis, earthquakes, landslides and slope hazards, weak foundation soils, high groundwater, wind/windthrow/winter storms, and wildfires.

Finding 10

This proposal to add marijuana retailer as a conditional use in the Commercial zone, and to add marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory as a conditional use in the Light Industrial (LI) and Industrial (I) zoning district, will ensure that safeguards to prevent loss of life and property damage due to natural hazards are required through the conditional use permit process on a site by site basis.

ARTICLE 9: ECONOMIC DEVELOPMENT

Goal 1. Improve the economic position of all elements of Toledo's economic base by retaining and expanding the current businesses while recruiting new businesses into the

community.

Finding 11

This proposal to add marijuana retailer as a conditional use in the Commercial zone, and to add marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory as a conditional use in the Light Industrial (LI) and Industrial (I) zoning district, will allow for the possible expansion of existing uses and the establishment of new uses within the Commercial, Light-Industrial and Industrial Zones.

Goal 2. Ensure an adequate supply of appropriately zoned land to provide for the full range of economic development opportunities in Toledo including commercial, industrial, water dependent, office and institutional services development.

Goal 3. Diversify the economic base of the Toledo area and strengthen the role as the industrial center for Lincoln County.

...

Goal 5. Assure that regulatory requirements provide for high standards of public health, safety, environmental protection, and welfare but are structured to support economic development.

Goal 6. Provide opportunities to develop the full range of commercial, recreational, and professional services to meet the needs of Toledo's residents and others. Reduce the need for Toledo's residents to go to other communities for retail purchases and services.

Finding 12

This proposal to add marijuana retailer as a conditional use in the Commercial zone, and to add marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory as a conditional use in the Light Industrial (LI) and Industrial (I) zoning district, complies with Goal 2, 3, 5 and 6, including, without limitation, the prohibition of drive-through and other temporary facilities, in that it will expand the range of economic development opportunities that are possible while ensuring that standards for community livability and environmental health are retained.

ARTICLE 11: PUBLIC FACILITIES AND SERVICES

...

Goal 7. Meet Oregon and federal requirements for wastewater treatment and protection of the water quality of the Yaquina River and estuarine system.

Goal 8. Minimize the existing and future drainage problems within Toledo and the Urban Growth Boundary.

...

Goal 11. Ensure that all development can be provided with adequate police, fire, and EMS protection.

Finding 13

The proposal will implement Public Facilities and Services Goals 7, 8, and 11 by allowing site design plans for developments, of marijuana retailer as a conditional use in the Commercial zone, and of marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory as a conditional use in the Light Industrial (LI) and Industrial (I) zoning districts, to be reviewed and conditioned

under TMC 17.64.040, as needed, to ensure that service by police, fire and EMS is available, and that the proposed use will not negatively impact wastewater treatment, water quality, and site drainage.

ARTICLE 12: TRANSPORTATION

Objective 25. All development proposals, plan amendments, or zone changes will conform with the Toledo Transportation System Plan.

Finding 14

The proposal is consistent with the Transportation System Plan and each new recreational marijuana use will be reviewed through the conditional use permit process on a site by site basis.

Objective 26. Consider impacts on existing or planned transportation facilities in all land use decisions.

...

Objective 29. Land uses authorized under Comprehensive Land Use Plan Map and Zoning Map amendments must be consistent with the identified function, capacity, and level of services of transportation facilities.

Finding 15

The proposal will implement Transportation Objective #25, #26, and #29 by allowing individual site design review through the conditional use permit process for recreational marijuana facility uses in the Commercial, Industrial and Light-Industrial Zones and their impact on existing or planned transportation facilities under TMC 17.64.040.

ARTICLE 14: URBANIZATION AND LIVABILITY

Goal 2. Design and encourage land use patterns that: a) are compact. b) mix land uses to reduce transportation costs and create vitality. C) retain Toledo's detailed and human scale design features. d) can be effectively serviced. e) protect the environment. f) provide a proper balance between jobs and housing.

Finding 16

The proposal will implement Urbanization Goal 2 by allowing site design plans for developments of recreational marijuana facility uses in the Commercial, Industrial and Light-Industrial Zones to be reviewed and conditioned to ensure that development is compact, consistent with surrounding development design, has adequate public services and access, and that significant natural features are protected or enhanced as needed.

Goal 3. Ensure that all new developments are reviewed expeditiously and thoroughly and result in compliance with the Comprehensive Plan goals and policies and Toledo's Municipal Code and standards.

Finding 17

The proposal will require all new recreational marijuana facilities to get a conditional use permit in advance. Conditional Use Permit applications that are complete are processed a timely manner that meet State and City requirements provided in TMC Chapters 17 and 19. TMC Chapters 17 and 19 have been acknowledged for being consistent with and implementing the Toledo Comprehensive Plan.

Objective 1. Encourage urban level development that is properly serviced with public facilities to locate within the city limits.

...

Objective 9. Continue to focus upon Toledo's central city design but allow for mixed-uses where neighborhood commercial and other facilities can be located, designed, and operated to be compatible with the surrounding residential uses.

Objective 10. Encourage community, project, site, and building designs that: a. Protect the natural amenities and characteristics of Toledo; b. Provide a varied, detailed, and human-scaled design; c. Maintain a functional pattern for neighborhood services; d. Improve the appearance of the community.

Finding 18

The proposal will implement Urbanization Objectives 1, 9, and 10 by allowing for recreational marijuana facilities in the Commercial, Industrial and Light-Industrial Zones when they are found to be compatible with the surrounding area through the conditional use permit review, have access to adequate public services, and that are consistent with or improve the appearance or development pattern of a neighborhood.

Goal 12. Ensure that all new development addresses the following factors: a. General needs and service capabilities of the neighborhood and the community in relationship to the impact of the proposed development; b. Any special locational characteristics or concerns identified with the location of the site such as being within or adjacent to a wetland or in a floodplain; c. Consideration of the characteristics of the site itself such as slope, drainage patterns, and/or access to transportation facilities; d. Potential impacts of the development upon the surrounding area; e. Use and enjoyment of a subdivision or planned development by future occupants and users.

Finding 19

The proposal will implement Urbanization Goal 12 by allowing site design plans for developments of recreational marijuana facilities in the Commercial, Industrial and Light-Industrial Zones to be reviewed and conditioned, if necessary, to ensure that the development is compact, consistent with surrounding development design, has adequate public services and access, and that significant natural features are protected or enhanced as needed.

Goal 13. Ensure that Toledo's land use planning process, policy framework, and regulatory processes are workable for and understandable by local officials, staff, and the public.

Ensure that the requirement of application and review are commensurate with the size and complexity of the development request and the site characteristics.

Goal 14. Encourage flexibility in design and mixed-uses but ensure that functional design and community benefit remain as the principal review criteria.

Finding 20

The proposal will implement Urbanization Goal 13 and 14 by requiring an individual development review for each recreational marijuana facilities in the Commercial, Industrial and Light-Industrial Zones. This will ensure that conditions imposed are commensurate with the size and complexity of the development being proposed and the degree of potential impact to neighboring properties. Ensuring that policy framework and

regulatory processes are workable for staff and the public, consistent with Goal 13, no marijuana recreational facility may operate or conduct business within 1,000 feet of a public or secondary school for which attendance is compulsory under ORS 339.020 (2013); or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a) (2013); or another recreational or medical facility

ARTICLE 16: ESTUARINE RESOURCES

Goal 1. Recognize and protect the unique environmental, economic and social values of the Yaquina River Estuary and the associated wetlands.

Finding 21

The proposal to add recreational marijuana facilities as a conditional use in the Commercial, Industrial and Light-Industrial Zones will ensure that areas of affected estuarine resources and associated wetlands can be protected as needed through the conditional use permit review process.

ARTICLE 17: COASTAL SHORELANDS

Goal 1. Conserve, protect, restore and, where appropriate, develop coastal shorelands recognizing the valuable roles that coastal shorelands have in protecting coastal estuary ecosystems and in providing water access for water-dependent uses important to a marine industrial economy.

Goal 2. Manage the coastal shorelands in a manner compatible with the characteristics of the nearby coastal waters.

Goal 3. Reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.

Finding 22

The proposal to add recreational marijuana facilities as a conditional use in the Commercial, Industrial and Light-Industrial Zones will ensure that areas of affected coastal shorelands can be protected, as needed, through the conditional use permit review process.

V. CONCLUSION AND STAFF RECOMMENDATION

Based upon the above analysis of the relevant criteria and findings, staff recommends approval of proposed Ordinance 1360.

VI. PLANNING COMMISSION RECOMMENDATION

On January 13, 2016, the Planning Commission held a public hearing to consider this request and recommended approval with the following revisions.

1. Revise definition of "Recreational marijuana business" in proposed ordinance Section 1 as follows:
"Recreational marijuana business" means (a) any person or entity that cultivates, produces, distributes, possesses, transports, or makes available more than

~~six marijuana plants or one ounce of marijuana; **or** (b) any person that sells any amount of marijuana, or (c) any person who possesses marijuana openly or publicly. The term “recreational marijuana business” shall not include the private cultivation, possession, production, or use within a person's residence of no more than (a) six plants in an enclosed, locked space, (b) one ounce of marijuana, or (c) the marijuana produced by no more than six plants on the premises where the plants were grown if the plants were grown in an enclosed, locked space.~~

2. Revise Standards Governing Conditional Uses 17.64.050(4)(g)-(i) in proposed ordinance Section 9 as follows:

g. Drive-through *recreational marijuana* ~~dispensaries or facilities~~ in any zone are prohibited.

~~h. Temporary dispensaries or facilities in any zone are prohibited.~~

hi. The proposed use must be located inside a permanent building. Outdoor storage of any merchandise; **or** plants; ~~or other materials~~ is not allowed.

(See the complete Planning Commission recommendation, attached to this staff report).

VII. PROPOSED MOTION:

CITY COUNCIL:

To approve the proposed amendment to the Toledo Municipal Code based on the testimony received, the findings within the staff report, the Planning Commission findings and recommendations, and the evidence and arguments before the City Council at the public hearing on February 3, 2016. The City Council determines that the request by the City of Toledo (ZOA-1-15) to amend Sections §17.04.020, §17.16.030, §17.20.030, §17.24.030, §17.46.080, §17.64.050, and repeal Subsections (C) and (D), and create Subsection (B), of §17.64.050, of the Toledo Municipal Code, complies with the criteria identified in TMC 19.20.070(A)-(D) as stated in the findings contained in the Staff Report. The City Council hereby adopts the staff report as findings and the other evidence in the record as findings supporting its decision and approves application ZOA-1-15. In addition, the City Council adopts Ordinance No. 1360, *by reading by title only, twice*, “AN ORDINANCE AMENDING SECTIONS 17.04.020, 17.16.030, 17.20.030, 17.24.030 17.46.080, 17.64.050, AND REPEALING SUBSECTIONS OF 17.64.050, OF THE TOLEDO MUNICIPAL CODE, RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA; AND, DECLARING AN EMERGENCY”.

Prepared by,

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