



# 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 09, 2016

Jurisdiction: City of Newberg

Local file no.: DCA-15-002

DLCD file no.: 005-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 02/08/2016. 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 35 days prior to the first evidentiary hearing.

### Appeal Procedures

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

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

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

### DLCD Contact

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



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

**FOR DLCD USE**  
File No.: 005-15 {24168}  
Received: 2/8/2016

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 Newberg

Local file no.: **DCA-15-002**

Date of adoption: 2/1/16

Date sent: 2/8/2016

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): 12/10/15

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:

Medical Marijuana Processor was moved from the Industrial Use category to Miscellaneous Uses and the use was removed from the M-4-C zone; Footnote (36) was modified by deleting the words "... or two patients."; A new section 15.305.030 Zoning Use Table - Use Subdistricts was added.

Local contact (name and title): Doug Rux, Community Development Director

Phone: 503.537.1212

E-mail: [doug.rux@newbergoregon.gov](mailto:doug.rux@newbergoregon.gov)

Street address: 414 E First St

City: Newberg

Zip: 97132-

## 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:

Title 15 Development Code, 15.05.030 Definitions; 15.305.020 Zoning Use Table - Use Districts; 15.305.030 Zoning Use Table - Use Subdistricts.

**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:

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.

Copy of Ordinance No. 2016-2793 with Exhibit A Development Code changes and Exhibit B Findings.



## **ORDINANCE NO. 2016-2793**

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**AN ORDINANCE AMENDING THE NEWBERG DEVELOPMENT CODE  
REGARDING MEDICAL MARIJUANA GROW SITES, PROCESSORS AND  
DISPENSARIES; AND DECLARING AN EMERGENCY**

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### **RECITALS:**

1. House Bill 3400 enacted by the Oregon Legislature in 2015 modified provisions of ORS 475.300 – 475.346 the Oregon Medical Marijuana Act.
2. The Newberg City Council initiated a potential amendment to Newberg's Development Code regarding medical marijuana grow sites, processors and dispensaries on December 7, 2015 under City Council Resolution 2015-3244.
3. After proper notice, the Newberg Planning Commission held a hearing on January 14, 2016 to consider the amendment. The Commission considered testimony, deliberated, and found that adding regulations for medical marijuana grow sites, processors and modifying regulations of dispensaries would be in the best interests of the city. They approved Resolution 2016-312, which recommends that the City Council adopt the proposed amendments to the Newberg Development Code.
4. After proper notice, the Newberg City Council held a hearing on February 1, 2016 to consider the proposed amendment. The Council considered testimony and deliberated.

### **THE CITY OF NEWBERG ORDAINS AS FOLLOWS:**

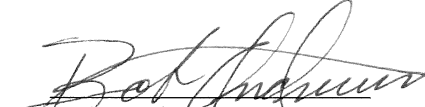
1. The Council finds that adding regulations for medical marijuana grow sites and processors, and modifying regulations of dispensaries would be in the best interests of the city. The Council adopts the amendments to the Newberg Development Code as shown in Exhibit "A". Exhibit "A" is hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit "B" are hereby adopted. Exhibit "B" is by this reference incorporated.
3. 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 be in full force and effect immediately upon passage by the council and signature of the mayor.

➤ **EFFECTIVE DATE** of this February 2, 2016.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 1<sup>st</sup> day of February, 2016, by the following votes: **AYE:**      **NAY:**      **ABSENT:**      **ABSTAIN:**

  
\_\_\_\_\_  
Sue Ryan, City Recorder

**ATTEST** by the Mayor this 4<sup>th</sup> day of February 2016.

  
\_\_\_\_\_  
Bob Andrews, Mayor

**Exhibit “A” to Ordinance 2016-2793  
Development Code Amendments –File DCA-15-002  
Medical Marijuana Grow Sites,  
Processors and Dispensaries**

**Section 1. The Newberg Development Code 15.05.030 shall be amended to read as follows:**

**Note: Existing text is shown in regular font.  
Added text is shown in double-underline  
Deleted text is shown in ~~strikethrough~~.**

**15.05.030 Definitions**

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“Medical marijuana dispensary” means a medical marijuana facility registered by the Oregon Health Authority and in compliance with all other provisions of Oregon law.

“Medical Marijuana Grow Site” means a location registered under ORS 475.304 where marijuana is produced for use by a registry identification cardholder.

“Medical Marijuana Processor” means a medical marijuana processing facility registered by the Oregon Health Authority.

“School, primary or secondary category” means a category of uses under Chapter 15.303 NMC that includes public and private schools, secular or parochial, at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education primarily to minors.

~~“School, career”, for the purposes of medical marijuana dispensaries, means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession at a physical location attended primarily by minors.~~

**Section 2. Newberg Development Code Section 15.305.020 shall be amended to read as follows:**

**15.305.020 Zoning use table**

**See Exhibit A, Attachment 1**

**Section 3. Newberg Development Code Section 15.305.030 is added to read as follows:**

**See Exhibit A, Attachment 2**

**Exhibit “B” to Ordinance 2016-2793  
Findings –File DCA-15-002  
Medical Marijuana Grow Sites,  
Processors and Dispensaries**

**Findings –File DCA-15-002  
Medical Marijuana Grow Sites, Processors and Dispensaries**

**I. Statewide Planning Goals - relevant goals**

**Goal 1, Citizen Involvement**, requires the provision of opportunities for citizens to be involved in all phases of the planning process.

**Finding:** The City Council initiated the potential development code amendment at a public meeting on December 7, 2015. The Marijuana Subcommittee meet on December 9, 2015 at a public meeting to review potential place, time and manner regulations for Medical Marijuana Grow Sites, Processors and Dispensaries. The Planning Commission, after proper notice, held a public hearing on January 14, 2016. The City Council will consider the recommendation of the Planning Commission at a future public hearing date, and decide whether or not to adopt the development code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

**Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions.

**Finding:** The Medical Marijuana Grow Site, Processor and Dispensary proposal is supportive of this goal because it was developed following city procedures for legislative action.

**II. Newberg Comprehensive Plan - relevant policies**

**A. CITIZEN INVOLVEMENT GOAL:** To maintain a Citizen Involvement Program that offers citizens the opportunity for involvement in all phases of the planning process.

**Finding:** The City Council initiated the potential development code amendment at a public meeting on December 7, 2015. The Marijuana Subcommittee meet on December 9, 2015 at a public meeting to review potential place, time and manner regulations for Medical Marijuana Grow Sites, Processors and Dispensaries. The Planning Commission, after proper notice, held a public hearing on January 14, 2016. The City Council will consider the recommendation of the Planning Commission at a future public hearing date, and decide whether or not to adopt the development code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

**B. LAND USE PLANNING GOAL:** To maintain an on-going land use planning program to implement statewide and local goals. The program shall be consistent with natural and cultural resources and needs.

**Finding:** The Medical Marijuana Grow Sites, Processors and Dispensaries proposal is supportive of this goal because it was developed following city procedures for legislative action.



**H. THE ECONOMY GOAL:** To develop a diverse and stable economic base.

1. General Policies

c. The City will encourage the creation of a diversified employment base, the strengthening of trade centers and the attraction of both capital and labor intensive enterprises.

g. The City shall encourage business and industry to locate within the Newberg City limits.

**Finding:** The city encourages new businesses to develop within the city. A Medical Marijuana Grow Sites, Processor and Dispensary operation is a legal business under State law. Allowing Medical Marijuana Grow Sites in residential zones R-1, R-2 and R-3 as permitted uses with up to 12 mature plants or two patients as an indoor operation and as conditional in all other zones; allowing Medical Marijuana Processors as a permitted use in M-1, M-2, M-3, M-4, AI and SD/E; and adjusting the footnote language for Medical Marijuana Dispensaries to align with HB 3400 definitions for public, private or parochial schools, is consistent with this Comprehensive Plan goal.

**III. Conclusion:** The proposed development code amendments meet the applicable requirements of the Statewide Planning Goals, and the Newberg Comprehensive Plan, and should be approved.







- (21) Drive-up service windows accessory to an existing business on the site with walk-in customer service, such as a drive-up bank window, are allowed only with a conditional use permit. Otherwise, drive-up service windows, except those in service on April 1, 2002, are prohibited. Changes in use will not be allowed.
- (22) Retail sales of goods on site not allowed.
- (23) Limited to secondhand stores.
- (24) Store size is limited to 2,000 square feet gross floor area.
- (25) Store size is limited to 5,000 square feet gross floor area.
- (26) Use must demonstrate that it is compatible with airport operations.
- (27) Limited to service stations.
- (28) Limited to card lock fueling only. Retail services are limited to self-vending services.
- (29) Permitted provided the structure is designed for easy conversion to industrial use, including not having fixed seating.
- (30) Limited to 10,000 square feet maximum floor area.
- (31) Allowed indoors only.
- (32) Allowed indoors only. Outdoor use requires a conditional use permit.
- (33) Must be aviation-related. See Chapter 15.332 NMC.
- (34) Limited to expansion or change of existing heavy manufacturing uses.
- (35) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030 ~~(1)(a) public or private primary, elementary, secondary or career school~~. Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school ~~private elementary, secondary or career school~~ to the closest point of the premises of a dispensary. The premises consist of the dispensary building, or the portion of the building used for a dispensary. Shall not be located within 1,000 feet of another medical marijuana dispensary. Operating hours are limited to the hours between 9:00 a.m. and 8:00 p.m.
- (36) Allows up to 12 mature plants; indoor operations only.

1 Code reviser's note: Section 25 of Ordinance 2763 provides:

**SECTION 25: Grace period for previously permitted or conditional uses.** Where an applicant demonstrates that a particular use was a permitted or conditional use on a specific property immediately prior to adoption of this ordinance, but that the use is no longer either a permitted or conditional use on that property due to this ordinance, the applicant may establish the use as either a permitted or conditional use, as provided in the prior code, provided the use is legally commenced prior to January 1, 2018.

