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PLANNING COMMISSION STAFF REPORT - DEVELOPMENT CODE AMENDMENT

HEARING DATE: August 11, 2016

FILE NO: DCA-16-003

APPLICANT: Initiated by Newberg City Council on July 5, 2016

REQUEST: A Resolution amending the Newberg Development Code for medical marijuana dispensaries, processors, wholesalers and recreational marijuana processors as permitted or conditional uses in districts and subdistricts within the City of Newberg

ATTACHMENTS:

Resolution 2016-321 with
Exhibit "A": Proposed Development Code Text Amendment
Exhibit "B": Findings

1. City Council Resolution 2015-3312
2. 1,000 foot Schools/Parks Buffer Map

A. SUMMARY: The proposed Development Code amendments do the following:

- Allows Medical Marijuana Dispensaries as a permitted use in C-1 and C-4.
- Allows Medical Marijuana Dispensaries as a permitted use in C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC and SD/H Subdistricts with a 1,000 foot buffer from schools and parks, a 1,000 foot separation between dispensaries and operating hours between 9:00 a.m. and 8:00 p.m.
- Allows Medical Marijuana Processors as a conditional use in C-2 with a 1,000 foot buffer from schools and parks.
- Modifies Medical Marijuana Processors to be an indoor use only in M-1, M-2, M-3 and M-4-I.
- Allows Medical Marijuana Wholesalers as a conditional use in C-2 as an indoor use only and with a 1,000 foot buffer from schools and parks.
- Allows Medical Marijuana Wholesalers as a permitted use in M-1, M-2, M-3, M-4-I and AI with a 1,000 foot buffer from schools and parks.
- Allows recreational marijuana processors in the M-1/SP Subdistrict.

BACKGROUND: The Oregon voters passed Measure 91 on recreational marijuana in November

2014. The Oregon Legislature enacted four bills during the 2015 legislative session related to the Oregon Medical Marijuana Act and Measure 91. House Bill (HB) 3400 was the omnibus bill covering recreational marijuana and modifications to the medical marijuana program. HB 2014 was enacted addressing taxes on the sale of recreational marijuana, SB 460 related to limited retail sales of marijuana from medical marijuana dispensaries and SB 844 enacted a task force on researching the medical and public health properties of cannabis. In addition to the enacting of the four bills the Oregon Liquor Control Commission adopted temporary Oregon Administrative Rules (OAR's) on October 22, 2015 that were subsequently modified on November 20, 2015 for recreational marijuana under Chapter 845, Division 25

On September 8, 2015 the Newberg City Council was provided background information on medical and recreational marijuana at its Work Session. At the City Council Business Session on September 8th they established the Marijuana Subcommittee (Subcommittee) comprised of Councilors Rourke, Bacon and McKinney along with non-voting member Mayor Andrews. The City Council also directed staff to bring back an ordinance with a ban of the sale of recreational marijuana from Medical Marijuana Dispensaries.

On September 21, 2015 the Newberg City Council passed Ordinance No. 2015-2787 declaring a ban on the early sale of recreational marijuana by marijuana dispensaries and declaring an emergency.

The original Marijuana Subcommittee met between November 19, 2015 and March 3, 2016 to discuss possible regulations for medical and recreational marijuana. The Subcommittee held its last meeting on March 3, 2016 discussing paraphernalia and taxes. The Oregon Legislature met in its short session in early 2016 and passed several new bills related to marijuana. These include SB 1601 (Taxes), SB 1511, HB 4014, SB 1598 and HB 4094 (Banking). The State also took prior legislation and incorporated them into ORS 475B – Cannabis Regulation (2015 Edition).

SB 1601 (Taxes) and HB 4049 (Banking) will not be the focus of this report as taxes were discussed by the Subcommittee on March 3 and the City Council on April 4, 2016, and the marijuana banking bill is not applicable to the City. This leaves the remaining three bills passed by the legislature and signed by the Governor.

The City Council by Ordinance No. 20125-2780 adopted land use regulations for medical marijuana dispensaries and Ordinance No. 2016-2793 for medical marijuana grow sites and processors. The City Council also adopted land use regulations for recreational marijuana producers and processors by Ordinance No. 2016-2798. Local land use regulations for recreational marijuana wholesalers, laboratories, research certificates and retailers was passed by Ordinance 2016-2801 on June 6, 2016.

At the May 10, 2016 Marijuana Subcommittee (Subcommittee) meeting the Subcommittee passed a motion 3-0 directing staff to create a Request for Council Action (RCA) to initiate a Development Code amendment to reconcile the differences between the medical marijuana and recreational marijuana programs based on 2016 Oregon Legislature actions to bring forward for Council consideration on July 5, 2016. The City Council adopted Resolution No.

2016-3312 on July 5, 2016 initiating the Development Code amendment process (Attachment 1).

The Subcommittee at their meeting on May 10, 2016 also developed recommendations on medical marijuana and recreational marijuana reconciling previous City Council actions and the new 2016 laws.

B. PROCESS: A development code amendment is a Type IV application and follows the procedures in Newberg Development Code 15.100.060. The Planning Commission will hold a legislative hearing on the application. The Commission will make a recommendation to the Newberg City Council. Following the Planning Commission's recommendation, the Newberg City Council will hold a legislative hearing to consider the matter. Important dates related to this application are as follows:

1.	7/5/16:	The Newberg City Council initiated the Development Code amendment.
2.	7/27/16:	Planning staff placed notice on Newberg's website, and posted notice in four public buildings. *The Newberg Graphic* published notice of the Planning Commission hearing.
3.	8/11/16:	The Planning Commission will hold a legislative hearing to consider the application.

C. PUBLIC COMMENTS: As of the writing of this report, the city has received no comments on the application. If the city receives additional written comments by the comment deadline, Planning staff will forward them to the Commissioners.

D. ANALYSIS:

Provisions of SB 1511 that are applicable to land use place, time and manner are recreational marijuana producers, process, wholesalers and retailers with OLCC licenses that are now allowed to perform these activities for medical marijuana purposes but must register with OLCC for those activities (SB 1511, Sections 2-10). Important provisions are highlighted in yellow. The law reads:

(Marijuana Producers)

<u>SECTION 2.</u> (1) As used in this section, "designated primary caregiver," "marijuana processing site," "medical marijuana dispensary" and "registry identification cardholder" have the meanings given those terms in ORS 475B.410.
(2) To produce marijuana for medical purposes, a marijuana producer that holds a license under ORS 475B.070 must register with the Oregon Liquor Control Commission under this section.
(3) The commission shall register a marijuana producer for the purpose of producing marijuana for medical purposes if the marijuana producer:

(a) Holds a license under ORS 475B.070;
(b) Meets any qualifications adopted by the commission by rule;
(c) Applies to the commission in a form and manner prescribed by the commission; and
(d) Pays any fee adopted by the commission by rule.
(4)(a) A marijuana producer registered under this section may produce marijuana for a registry identification cardholder, and provide usable marijuana to the registry identification cardholder or to the designated primary caregiver of the registry identification cardholder, if the marijuana producer enters into an agreement with the registry identification cardholder for whom the marijuana producer is producing the marijuana. An agreement entered into under this subsection:
(A) Must be submitted to the commission in a manner prescribed by the commission;
(B) Except as provided in subparagraph (C) of this paragraph, may not allow the marijuana producer to be compensated for producing the marijuana or providing the usable marijuana;
(C) May require a registry identification cardholder, or a designated primary caregiver on behalf of a registry identification cardholder, to reimburse a marijuana producer for all costs associated with producing marijuana for the registry identification cardholder or providing usable marijuana to the registry identification cardholder or designated primary caregiver;
(D) May not allow the marijuana producer to produce for the registry identification cardholder an amount of mature marijuana plants that exceeds the amount that a registry identification cardholder and a designated primary caregiver may jointly possess under ORS 475B.428;
(E) May not allow the marijuana producer to provide to the registry identification cardholder an amount of usable marijuana that exceeds the amount that a registry identification cardholder and a designated primary caregiver may jointly possess under ORS 475B.430; and
(F) May allow the marijuana producer to keep a portion of the usable marijuana harvested from the marijuana produced for the registry identification cardholder for the purposes of:
(i) Providing usable marijuana to additional registry identification cardholders or designated primary caregivers; and
(ii) Transferring or selling usable marijuana to marijuana processing sites or medical marijuana dispensaries.
(c) Marijuana produced for a registry identification cardholder, and usable marijuana transferred or sold to a marijuana processing site or medical marijuana dispensary, pursuant to an agreement entered into under this subsection must be tracked by the system developed and maintained under ORS 475B.150.
(d)(A) Upon request by the commission, the Oregon Health Authority shall provide the
commission, notwithstanding any laws relating to the confidentiality of information under ORS 475B.460 and 475B.462, with the registration information of:
(i) A registry identification cardholder who enters into an agreement under this subsection; or
(ii) A registry identification cardholder, designated primary caregiver, marijuana

processing site or medical marijuana dispensary that receives usable marijuana pursuant to an agreement entered into under this subsection.
(B) Registration information received by the commission under this paragraph that is confidential and not subject to public disclosure under ORS 475B.460 and 475B.462 remains confidential and not subject to public disclosure after being provided to the commission.
(e) Marijuana produced pursuant to an agreement entered into under this subsection is not subject to rules restricting the size of mature marijuana plant grow canopies adopted by the commission under ORS 475B.075.
(5)(a) The commission shall adopt rules necessary to administer this section, including rules:
(A) For the equitable conversion of a number of mature marijuana plants to a size of mature marijuana plant grow canopy;
(B) Limiting the amount of marijuana that may be produced under section (4) of this section;
(C) Limiting the amount of usable marijuana that may be provided, transferred or sold under subsection (4)(a)(F) of this section;
(D) Limiting the number of registry identification cardholders for whom a marijuana producer registered under this section may produce marijuana; and
(E) Prohibiting a registry identification cardholder from entering into more than one agreement with a marijuana producer registered under this section.
(b) The rules must provide that any fee adopted by the commission under subsection (3)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.395, the cost of administering ORS 475B.010 to 475B.395.

(Marijuana Processors)

<u>SECTION 3.</u> (1) To process marijuana for medical purposes, a marijuana processor that
holds a license under ORS 475B.090 must register with the Oregon Liquor Control Commission under this section.
(2) The commission shall register a marijuana processor for the purpose of processing
marijuana for medical purposes if the marijuana processor:
(a) Holds a license under ORS 475B.090;
(b) Meets any qualifications adopted by the commission by rule;
(c) Applies to the commission in a form and manner prescribed by the commission; and
(d) Pays any fee adopted by the commission by rule.
(3) A marijuana processor registered under this section may process marijuana and usable marijuana into medical grade cannabinoid products, cannabinoid concentrates and
cannabinoid extracts.
(4) The commission shall adopt rules necessary to administer this section. The rules must provide that any fee adopted by the commission under subsection (2)(d) of this

section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.395, the cost of administering ORS 475B.010 to 475B.395.

(Marijuana Wholesalers)

<u>SECTION 4.</u> (1) To sell marijuana at wholesale for medical purposes, a marijuana wholesaler that holds a license under ORS 475B.100 must register with the Oregon Liquor Control Commission under this section.
(2) The commission shall register a marijuana wholesaler for the purpose of selling marijuana at wholesale for medical purposes if the marijuana wholesaler:
(a) Holds a license under ORS 475B.100;
(b) Meets any qualifications adopted by the commission by rule;
(c) Applies to the commission in a form and manner prescribed by the commission; and
(d) Pays any fee adopted by the commission by rule.
(3) A marijuana wholesaler registered under this section may sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale.
(4) The commission shall adopt rules necessary to administer this section. The rules must provide that any fee adopted by the commission under subsection (2)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.395, the cost of administering ORS 475B.010 to 475B.395.

(Marijuana Retailers)

<u>SECTION 5.</u> (1) As used in this section, "designated primary caregiver" and "registry identification cardholder" have the meanings given those terms in ORS 475B.410.
(2) To sell marijuana at retail for medical purposes, a marijuana retailer that holds a license under ORS 475B.110 must register with the Oregon Liquor Control Commission under this section.
(3) The commission shall register a marijuana retailer for the purpose of selling marijuana at retail for medical purposes if the marijuana retailer:
(a) Holds a license under ORS 475B.110;
(b) Meets any qualifications adopted by the commission by rule;
(c) Applies to the commission in a form and manner prescribed by the commission; and
(d) Pays any fee adopted by the commission by rule.
(4) A marijuana retailer registered under this section:
(a) May sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to registry identification cardholders and designated primary caregivers;
(b) May not sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to individuals other than registry identification cardholders

and designated primary caregivers;
(c) May sell usable marijuana and medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to registry identification cardholders and designated primary caregivers at a discounted price; and
(d) May provide usable marijuana and medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to registry identification cardholders and designated primary caregivers free of charge.
(5) The commission shall adopt rules necessary to administer this section. The rules must provide that any fee adopted by the commission under subsection (3)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.395, the cost of administering ORS 475B.010 to 475B.395.

SECTION 6. **Notwithstanding the provisions of ORS 475B.400 to 475B.525, rules adopted by the Oregon Health Authority under ORS 475B.400 to 475B.525 must allow for the provision, transfer and sale of usable marijuana as described in section 2 of this 2016 Act.**

(General Rulemaking Authority)

SECTION 7. ORS 475B.070 is amended to read:
475B.070. (1) The production of marijuana is subject to regulation by the Oregon Liquor Control Commission.
(2) A marijuana producer must have a production license issued by the commission for the premises at which the marijuana is produced. To hold a production license under this section, a marijuana producer:
(a) Must apply for a license in the manner described in ORS 475B.040;
(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under ORS 475B.040 has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older; and
(c) Must meet the requirements of any rule adopted by the commission under subsection (3) of
this section.
(3) The commission shall adopt rules that:
(a) Require a marijuana producer to annually renew a license issued under this section;
(b) Establish application, licensure and renewal of licensure fees for marijuana producers;
(c) Require marijuana produced by marijuana producers to be tested in accordance with ORS
475B.555;
(d) Allow a marijuana producer registered under section 2 of this 2016 Act to produce marijuana for medical purposes in the same manner that rules adopted under ORS 475B.010 to 475B.395 allow a marijuana producer to produce marijuana for nonmedical purposes, excepting those circumstances where differentiating between the production of marijuana for medical purposes and the production of marijuana for nonmedical purposes is necessary to protect the public health and safety;

[*(d)*] **(e)** Require marijuana producers to submit, at the time of applying for or renewing a license under ORS 475B.040, a report describing the applicant's or licensee's electrical or water usage; and
[*(e)(A)*] **(f)(A)** Require a marijuana producer to meet any public health and safety standards and industry best practices established by the commission by rule related to:
(i) The production of marijuana; or
(ii) The propagation of immature marijuana plants and the seeds of the plant Cannabis family Cannabaceae.
(B) For purposes of establishing rules under subparagraph (A)(ii) of this paragraph, the commission may not limit:
(i) The number of immature marijuana plants that may be possessed by a marijuana producer licensed under this section;
(ii) The size of the grow canopy a marijuana producer licensed under this section uses to grow immature marijuana plants; or
(iii) The weight or size of shipments of immature marijuana plants made by a marijuana producer licensed under this section.
(4) Fees adopted under subsection (3)(b) of this section:
(a) May not exceed the cost of administering ORS 475B.010 to 475B.395 with respect to marijuana producers;
(b) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage or on which more mature marijuana plants are grown; and
(c) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.240.

SECTION 8. ORS 475B.090 is amended to read:
475B.090. (1) The processing of marijuana items is subject to regulation by the Oregon Liquor Control Commission.
(2) A marijuana processor must have a processor license issued by the commission for the premises at which marijuana items are processed. To hold a processor license under this section, a marijuana processor:
(a) Must apply for a license in the manner described in ORS 475B.040;
(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under ORS 475B.040 has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;
(c) If the marijuana processor processes marijuana extracts, may not be located in an area zoned exclusively for residential use; and
(d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.
(3) The commission shall adopt rules that:
(a) Require a marijuana processor to annually renew a license issued under this section;
(b) Establish application, licensure and renewal of licensure fees for marijuana processors;
(c) Require marijuana processed by a marijuana processor to be tested in accordance with ORS 475B.555; [*and*]
(d) Allow a marijuana processor registered under section 3 of this 2016 Act to process marijuana and usable marijuana into medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts in the same manner that rules

adopted under ORS 475B.010 to 475B.395 allow a marijuana processor to process marijuana and usable marijuana into general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts, excepting those circumstances where differentiating between the processing of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the processing of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and
[*(d)*] **(e)** Require a marijuana processor to meet any public health and safety standards and industry best practices established by the commission by rule related to:
(A) Cannabinoid edibles;
(B) Cannabinoid concentrates;
(C) Cannabinoid extracts; and
(D) Any other type of cannabinoid product identified by the commission by rule.
(4) Fees adopted under subsection (3)(b) of this section:
(a) May not exceed the cost of administering ORS 475B.010 to 475B.395 with respect to marijuana processors; and
(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.240.

SECTION 9. ORS 475B.100 is amended to read:
475B.100. (1) The wholesale sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.
(2) A marijuana wholesaler must have a wholesale license issued by the commission for the premises at which marijuana items are received, stored or delivered. To hold a wholesale license under this section, a marijuana wholesaler:
(a) Must apply for a license in the manner described in ORS 475B.040;
(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under ORS 475B.040 has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;
(c) May not be located in an area that is zoned exclusively for residential use; and
(d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.
(3) The commission shall adopt rules that:
(a) Require a marijuana wholesaler to annually renew a license issued under this section;
(b) Establish application, licensure and renewal of licensure fees for marijuana wholesalers;
(c) Require marijuana items received, stored or delivered by a marijuana wholesaler to be tested in accordance with ORS 475B.555; [*and*]
(d) Allow a marijuana wholesaler registered under section 4 of this 2016 Act to sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale in the same manner that rules adopted under ORS 475B.010 to 475B.395 allow a marijuana wholesaler to sell general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale, excepting those circumstances where differentiating between the sale of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the sale of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is

necessary to protect the public health and safety; and
[*(d)*] **(e)** Require a marijuana wholesaler to meet any public health and safety standards and industry best practices established by the commission by rule.
(4) Fees adopted under subsection (3)(b) of this section:
(a) May not exceed the cost of administering ORS 475B.010 to 475B.395 with respect to marijuana wholesalers; and
(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.240.

SECTION 10. ORS 475B.110 is amended to read:
475B.110. (1) The retail sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.
(2) A marijuana retailer must have a retail license issued by the commission for the premises at which marijuana items are sold. To hold a retail license under this section, a marijuana retailer:
(a) Must apply for a license in the manner described in ORS 475B.040;
(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under ORS 475B.040 has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;
(c) May not be located in an area that is zoned exclusively for residential use;
(d) **Except as provided in section 29b of this 2016 Act,** may not be located within 1,000 feet of:
(A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and
(e) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.
(3) The commission shall adopt rules that:
(a) Require a marijuana retailer to annually renew a license issued under this section;
(b) Establish application, licensure and renewal of licensure fees for marijuana retailers;
(c) Require marijuana items sold by a marijuana retailer to be tested in accordance with ORS 475B.555; [*and*]
(d) Subject to the limitations and privileges described in section 5 (4) of this 2016 Act, allow a marijuana retailer registered under section 5 of this 2016 Act to sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail in the same manner that rules adopted under ORS 475B.010 to 475B.395 allow a marijuana retailer to sell general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail, excepting those circumstances where differentiating between the sale of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the sale of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and
[*(d)*] **(e)** Require a marijuana retailer to meet any public health and safety standards and industry best practices established by the commission by rule.
(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed the cost of administering ORS 475B.010 to 475B.395 with respect to marijuana retailers; and
(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.240.

SB 1511 also has new provisions that allow a reduced buffer for medical marijuana dispensaries and recreational marijuana retail stores from schools.

<u>SECTION 29.</u> (1) Notwithstanding ORS 475B.450 (3)(d), a city or county may adopt an ordinance allowing a medical marijuana dispensary to be located within 500 feet of 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), if the county or city determines that a physical or geographic barrier capable of preventing children from traversing to the school separates the medical marijuana dispensary from the school.
(2) A city or county that adopts an ordinance under this section must inform the Oregon Health Authority, in a form and manner prescribed by the authority, of the content and effective date of the ordinance.

<u>SECTION 29b.</u> (1) Notwithstanding ORS 475B.110 (2)(d), a city or county may adopt an ordinance allowing a premises for which a license has been issued under ORS 475B.110 to be located within 500 feet of 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), if the county or city determines that a physical or geographic barrier capable of preventing children from traversing to the school separates the premises from the school.
(2) A city or county that adopts an ordinance under this section must inform the Oregon Liquor Control Commission, in a form and manner prescribed by the commission, of the content and effective date of the ordinance.

HB 4014 has modified the language for Land Use Compatibility Statements. The law reads:

LIQUOR CONTROL COMMISSION LICENSEES

<u>SECTION 11.</u> ORS 475B.063 is amended to read:
475B.063. (1) Prior to [*the issuance of*] **receiving** a license under ORS 475B.070, 475B.090, 475B.100 or 475B.110, [*the Oregon Liquor Control Commission*] **an applicant** shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The **Oregon Liquor Control** Commission may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.
(2) **Except as provided in subsection (3) of this section,** a city or county that receives a

request for a land use compatibility statement under this section must act on that request within 21 days of:
(a) Receipt of the request, if the land use is allowable as an outright permitted use; or
(b) Final local permit approval, if the land use is allowable as a conditional use.
(3) A city or county that receives a request for a land use compatibility statement under this section is not required to act on that request during the period that the commission discontinues licensing those premises pursuant to ORS 475B.800 (4)(b).
[*(3)*] **(4)** A city or county action concerning a land use compatibility statement under this section is not a land use decision for purposes of ORS chapter 195, 196, 197**,** [*or*] 215 **or 227**.

HB 4014 added language for public disclosure of information. The law reads:

EXEMPTION FROM PUBLIC DISCLOSURE

SECTION 21. Section 22 of this 2016 Act is added to and made a part of ORS 475B.010 to 475B.395.

SECTION 22. (1) Subject to subsection (2) of this section, information is exempt from public disclosure under ORS 192.410 to 192.505 if the information is:
(a) The address of a premises for which a license has been issued or for which an applicant has proposed to be licensed under ORS 475B.070, 475B.090 or 485B.100;
(b) Is related to the security plan or the operational plan for a premises for which a license has been issued or for which an applicant has proposed to be licensed under ORS 475B.070, 475B.090, 485B.100 or 475B.110; or
(c) Is related to any record that the Oregon Liquor Control Commission determines contains proprietary information of a person who holds a license under ORS 475B.070, 475B.090, 485B.100 or 475B.110.
(2) The exemption from public disclosure as provided by this section does not apply to a request for information if the request is made by a law enforcement agency.

HB 4014 added language for the ability of a medical marijuana grow site, medical processor and medical dispensary to transition to licensing by OLCC. The law reads:

MEDICAL MARIJUANA BUSINESSES
APPLYING TO BE LICENSED BY THE
OREGON LIQUOR CONTROL COMMISSION

SECTION 24. Section 25 of this 2016 Act is added to and made a part of ORS 475B.010 to 475B.395.

SECTION 25. (1) The Oregon Liquor Control Commission shall adopt by rule procedures by which:
(a) A person responsible for a marijuana grow site registered under ORS 475B.420, or, if multiple persons responsible for a marijuana grow site registered under ORS 475B.420 are located at the same address, each person responsible for a marijuana

grow site located at the address, may apply for a license under ORS 475B.070 to transition from being registered by the Oregon Health Authority to being licensed by the commission;
(b) A marijuana processing site registered under ORS 475B.435 may apply for a license under ORS 475B.090 to transition from being registered by the authority to being licensed by the commission; and
(c) A medical marijuana dispensary registered under ORS 475B.450 may apply for a license under ORS 475B.110 to transition from being registered by the authority to being licensed by the commission.
(2)(a) In adopting rules under this section, the commission shall adopt, at a minimum, procedures by which the inventory possessed by a person responsible for a marijuana grow site, a marijuana processing site or a medical marijuana dispensary on the date on which the person responsible for a marijuana grow site, the marijuana processing site or the medical marijuana dispensary is first subject to tracking by the commission under ORS 475B.150:
(A) May be delivered to a premises for which a license has been issued under ORS 475B.090, 475B.100 or 475B.110; or
(B) May be sold to consumers by marijuana retailers that hold a license under ORS 475B.110.
(b) Procedures adopted under this subsection must require a person responsible for a marijuana grow site registered under ORS 475B.420, or, if multiple persons responsible for a marijuana grow site registered under ORS 475B.420 are located at the same address, each person responsible for a marijuana grow site located at the address, to return to an individual to whom a registry identification card has been issued under ORS 475B.415, and for whom the person or persons are producing marijuana, all the marijuana and usable marijuana owned by the individual, except as otherwise allowed under a personal agreement entered into under ORS 475B.425, at the time that the person or the persons receive a license under ORS 475B.070.

HB 4014 modified language allowing cities to enter into an Intergovernmental Agreement (IGA) with the Department of Revenue to collect local marijuana taxes on behalf of a city. The Department of Revenue would charge a cost for the collection service. The law reads:

(Intergovernmental Agreements Between Cities and Counties and the Department of Revenue)

SECTION 32. ORS 305.620 is amended to read:
305.620. (1) Any state agency or department may enter into agreements with any political subdivision of this state for the collection, enforcement, administration and distribution of local taxes of the political subdivision imposed upon or measured by gross or net income, wages or net earnings from self-employment**,** [*or*] local general sales and use taxes **or taxes imposed under ORS 475B.345**.
(2) The department or agency shall prescribe the rules by which the agreements entered into under subsection (1) of this section are administered.
(3) The department or agency shall prescribe the rules by which the taxes described by subsection (1) of this section are administered, collected, enforced and distributed.

(4) A political subdivision may appear as an intervenor at any conference held by the Department of Revenue or conference, hearing or proceeding held by another department or agency in connection with a local tax administered by the department or agency. The political subdivision may be represented by its own counsel. The department or agency shall adopt rules governing the procedures to be followed by the political subdivision in making an appearance.
(5) Costs incurred by the department or agency in the administration, enforcement, collection and distribution of taxes under the agreements entered into under subsection (1) of this section shall be first deducted from the taxes collected before distribution is made to the political subdivision which is a party to the agreement.
(6) The Oregon Tax Court shall have exclusive jurisdiction to review determinations of the Department of Revenue or orders of another department or agency relating to the collection, enforcement, administration and distribution of local taxes under agreements entered into under subsection (1) of this section.
(7) A proceeding for refund or to set aside additional taxes or taxes assessed when no return was filed may be initiated before the state agency or department.
(8) An appeal from a determination or an order may be taken by the taxpayer or by the political subdivision whose taxes are in issue, by filing a complaint with the clerk of the Oregon Tax Court at its principal office in Salem, Oregon, within 60 days after the notice of the determination of the Department of Revenue or the order of the department or agency is sent to the taxpayer or the political subdivision. The filing of the complaint in the Oregon Tax Court shall constitute perfection of the appeal. Service of the taxpayer's complaint shall be accomplished by the clerk of the tax court by filing a copy of the complaint with the administrative head of the department or agency and a copy with the political subdivision. Service of the political subdivision's complaint shall be accomplished by the clerk of the tax court by filing a copy of the complaint with the administrative head of the department or agency and mailing a copy of the complaint to the taxpayer. The complaint of a taxpayer shall be entitled in the name of the person filing as plaintiff and the department or agency as defendant. The complaint of a political subdivision shall be entitled in the name of the political subdivision as plaintiff and the taxpayer and the department or agency as defendants. A copy of the order of the department or agency shall be attached to the complaint. All procedures shall be in accordance with ORS 305.405 to 305.494.

SB 1598 added new language on land use compatibility statements. The law reads:

LAND USE LAWS

<u>SECTION 1.</u> Section 2 of this 2016 Act is added to and made a part of ORS 475B.010 to 475B.395.

<u>SECTION 2.</u> The requirement under ORS 475B.063 to obtain a land use compatibility
statement as a condition of receiving a license under ORS 475B.070 does not apply to an applicant if:
(1) The applicant is applying for a license at an address where a marijuana grow site registered under ORS 475B.420 is located;
(2) The address is outside of city limits;
(3) At least one person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475B.420 before January 1, 2015;
(4) Each person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475B.420 before February 1, 2016; and
(5) The applicant is applying for a mature marijuana plant grow canopy of:
(a) 5,000 square feet or less, if the marijuana is produced outdoors; or
(b) 1,250 square feet or less, if the marijuana is produced indoors.

SB 1598 modified language on local time, place and manner regulations. The law reads:

<u>SECTION 4.</u> ORS 475B.340 is amended to read:
475B.340. (1) For purposes of this section, "reasonable regulations" includes:
(a) Reasonable conditions on the manner in which a marijuana producer licensed under ORS 475B.070 may produce marijuana **or in which a person who holds a certificate issued under ORS 475B.235 may produce marijuana or propagate immature marijuana plants**;
(b) Reasonable conditions on the manner in which a marijuana processor licensed under ORS 475B.090 may process marijuana **or in which a person who holds a certificate issued under ORS 475B.235 may process marijuana**;
(c) Reasonable conditions on the manner in which a marijuana wholesaler licensed under ORS 475B.100 may sell marijuana at wholesale;
(d) Reasonable limitations on the hours during which a marijuana retailer licensed under ORS 475B.110 may operate;
(e) Reasonable conditions on the manner in which a marijuana retailer licensed under ORS 475B.110 may sell marijuana items;
(f) Reasonable requirements related to the public's access to a premises for which a license **or certificate** has been issued under ORS 475B.070, 475B.090, 475B.100 [*or*]**,** 475B.110 **or 475B.235**; and
(g) Reasonable limitations on where a premises for which a license **or certificate** may be issued under ORS 475B.070, 475B.090, 475B.100 [*or*]**,** 475B.110 **or 475B.235** may be located.
(2) Notwithstanding ORS **30.935, 215.253 (1) or** 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under ORS 475B.070, 475B.090, 475B.100 or 475B.110**, or for which a certificate has been issued under ORS 475B.235,** if the premises are located in the area subject to the jurisdiction of the city

or county, except that the governing body of a city or county may not**:**
(a) Adopt an ordinance that prohibits a premises for which a license has been issued under ORS 475B.110 from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under ORS 475B.110.
(b) Adopt an ordinance after January 1, 2015, that imposes a setback requirement for an agricultural building used to produce marijuana located on a premises for which a license has been issued under ORS 475B.070 if the agricultural building:
(A) Was constructed on or before July 1, 2015, in compliance with all applicable land use and building code requirements at the time of construction;
(B) Is located at an address where a marijuana grow site first registered with the Oregon Health Authority under ORS 475B.420 on or before January 1, 2015;
(C) Was used to produce marijuana pursuant to the provisions of ORS 475B.400 to 475B.525 on or before January 1, 2015; and
(D) Has four opaque walls and a roof.
[*(3) Regulations adopted under this section must be consistent with city and county comprehensive plans and zoning ordinances and applicable provisions of public health and safety laws.*]

The Newberg Municipal Code states the following regarding retail, wholesale and warehouse:

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:

"**Light manufacturing category**" means a category of uses under Chapter 15.303 NMC that involves manufacturing, processing, fabrication, packaging, or assembly of goods. These types of firms are involved in the secondary processing and assembly of materials and components into finished products, generally for the wholesale market, for transfer to other plants, or to order for firms or consumers. The external impact from these uses is generally less than heavy manufacturing. Outdoor storage and processing of goods and materials is less than 10 percent of the site. Transportation needs are often met by truck. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site (typically fewer than five per day per 1,000 square feet of floor area).

"**Retail sales – general category**" means a category of uses under Chapter 15.303 NMC that sell or rent goods to the general public. Items are sold indoors, or, if outdoors, are limited to small items that do not require machinery to load to customers. Most items for sale are stored on or picked up from the site. Operators may be commercial or nonprofit entities.

"**Wholesale and industry sales category**" means a category of uses under Chapter 15.303 NMC that sell goods or merchandise to retailers, to industrial,

commercial, institutional, or other professional business users, or to other wholesalers and related subordinated services. Items are only occasionally sold directly to the general public.

"**Warehouse, storage and distribution category**" means a category of uses under Chapter 15.303 NMC that involve the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. It includes data centers that store and distribute electronic data. There is little on-site sales activity with the customer present.

Use Categories

15.303.421 Retail sales – General category.
A. Characteristics. General retail sales uses sell or rent goods to the general public. Items are sold indoors, or, if outdoors, are limited to small items that do not require machinery to load to customers. Most items for sale are stored on or picked up from the site. Operators may be commercial or nonprofit entities.

15.303.503 Wholesale and industry sales category.
A. Characteristics. Wholesale sales uses sell goods or merchandise to retailers, to industrial, commercial, institutional, or other professional business users, or to other wholesalers and related subordinated services. Items are only occasionally sold directly to the general public.

15.303.504 Warehouse, storage and distribution category.
A. Characteristics. Warehouse. Storage and distribution uses involve the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. It includes data centers that store and distribute electronic data. There is little on-site sales activity with the customer present.

15.303.506 Light manufacturing category.

A. Characteristics. Light manufacturing uses involve manufacturing, processing, fabrication, packaging, or assembly of goods. These types of firms are involved in the secondary processing and assembly of materials and components into finished products, generally for the wholesale market, for transfer to other plants, or to order for firms or consumers. The external impact from these uses is generally less than heavy manufacturing. Outdoor storage and processing of goods and materials is less than 10 percent of the site. Transportation needs are often met by truck. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site (typically fewer than five per day per

1,000 square feet of floor area).

B. Accessory Uses. Retail sales of goods produced on site, provided the floor area devoted to retail sales is small (less than 10 percent of the floor area, up to 2,000 square feet).

C. Examples. Instrument and machinery manufacturers, food processors, furniture manufacturers, wineries, wholesale bakeries.

D. Exclusions. Heavy manufacturing is a separate category. [Ord. 2763 § 1 (Exh. A § 5), 9-16-13.]

	USES	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
400	COMMERCIAL USES																			
	Retail sales - General						P (20)	P	P (15) (21)	P		P (23)								
500	INDUSTRIAL USES																			
	Wholesale and industry sales							C (31)			P (31)	P	P	P					P(33)	
	Warehouse, storage and distribution										P (32)	P	P	P					P (33)	
	Light Manufacturing										P	P	P	P					P(33)	

Key:

P: Permitted use
S: Special use – Use requires a special use permit
C: Conditional use – Requires a conditional use permit
X: Prohibited use
(#): See notes for limitations

Notes.
(15) Facility over 40,000 square feet gross floor area requires a conditional use permit.
(20) Businesses in the C-1 zone that have hours of operation between 10:00 p.m. and 7:00 a.m. require a conditional use permit.
(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.
(23) Limited to secondhand stores.
(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.

E. MARIJUANA SUBCOMMITTEE RECOMMENDATION: The Subcommittee developed the following recommendations.

Medical Marijuana

1. Allow medical marijuana dispensaries to be permitted in C-1 and C-4 to align with recreational.
2. Allow medical marijuana processors as a conditional use in C-2 with a 1,000 foot buffer from schools and parks.
3. Have the medical marijuana wholesaler regulations mirror those for recreational wholesaler.
4. Include medical marijuana dispensaries in the same subdistricts as recreational retailers.
5. Keep the buffer for schools and parks at 1,000 feet.

Recreational Marijuana

1. Allow recreational marijuana processors in the same subdistricts as medical marijuana processors.
2. Keep the buffer for schools and parks at 1,000 feet.

F. PRELIMINARY STAFF RECOMMENDATION: The preliminary staff recommendation is made in the absence of public hearing testimony, and may be modified subsequent to the close of the public hearing. The Planning Commission may want to consider if recreational marijuana wholesalers should be allowed as a permitted use with no product on site in the residential districts and residential subdistricts with the Oregon Liquor Control Commission definition of a premises and that licenses will not be issued where a primary residence is located.

At this writing, staff recommends the following motion:

Move to adopt Planning Commission Resolution 2016-321, which recommends that the City Council adopt the requested amendments.

PLANNING COMMISSION RESOLUTION 2016-321

A RESOLUTION AMENDING THE NEWBERG DEVELOPMENT CODE FOR MEDICAL MARIJUANA DISPENSARIES, PROCESSORS, WHOLESALERS AND RECREATIONAL MARIJUANA PROCESSORS AS PERMITTED OR CONDITIONAL IN DISTRICTS AND SUBDISTRICTS WITHIN THE CITY OF NEWBERG

RECITALS

1. In November 2014 voters in Oregon approved Ballot Measure 91 related to recreational marijuana.

2. House Bill (HB) 3400 was passed in the 2015 Oregon Legislative session related to recreational marijuana.

3. The Oregon Liquor Control Commission adopted temporary Oregon Administrative Rules (OAR's) on October 22, 2015 that were subsequently modified on November 20, 2015 for recreational marijuana under Chapter 845, Division 25.

4. The Newberg City Council established the Marijuana Subcommittee on September 8, 2015 to review and provide recommendations on local place, time and manner regulations for recreational marijuana.

5. The Newberg City Council initiated a potential amendment to Newberg's Development Code regarding medical marijuana and recreational marijuana on July 5, 2016 by Resolution No. 2015-3312.

6. The Marijuana Subcommittee met on May 10, 2016 and developed recommendations to the Planning Commission on medical marijuana dispensaries, processors and wholesalers, and recreational marijuana processors.

7. After proper notice, the Newberg Planning Commission held a hearing on August 11, 2016 to consider the amendment. The Commission considered testimony and deliberated.

The Newberg Planning Commission resolves as follows:

1. The Commission finds that amending regulations for medical marijuana dispensaries, processors and wholesalers, and recreational marijuana processors would be in the best interests of the city and recommends that the City Council adopt 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.

Adopted by the Newberg Planning Commission this 11th day of August, 2016.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

List of Exhibits:

Exhibit "A": Development Code Text Amendments

Exhibit "B": Findings

Exhibit "A" to Planning Commission Resolution 2016-321
Development Code Amendments –File DCA-16-003
Medical and Recreational Marijuana

Note: Existing text is shown in regular font.
Added text is shown in <u>double-underline</u>
Deleted text is shown in ~~strikethrough~~.

Section 1. Newberg Development Code, Zoning Use Table, Section 15.305.020 shall be amended to read as follows:

See Exhibit A, Attachment 1

Section 3. Newberg Development Code, Zoning Use Table, Section 15.305.030 shall be amended to read as follows:

See Exhibit A, Attachment 2

Section 4. Newberg Development Code, Stream Corridor Overlay Subdistrict, Section 15.342.110 is amended to read as follows:

15.342.110 Prohibited uses and activities.

The following activities or uses are prohibited within this subdistrict:

A. Except as provided in NMC 15.342.040(R), the planting or propagation of any plant identified as a nuisance plant as determined by a qualified botanist or indicated as a nuisance plant on the Newberg plant list.

B. The removal of native trees that are greater than six inches in diameter at breast height, except as is otherwise permitted within this chapter.

C. Any use dealing with hazardous substances or materials, including but not limited to gas service stations.

D. Public pathways, except those in conjunction with public lands, public parks or public easements that have been acquired by other than eminent domain. [Ord. 2451, 12-2-96. Code 2001 § 151.475.]

E. Recreational Marijuana Producer and Recreational Marijuana Processor.

F. Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers.

G. Recreational Marijuana Dispensaries.

Section 5. Newberg Development Code, Civic Corridor Overlay Subdistrict, Section 15.350.030 is amended to read as follows:

15.350.030 Permitted buildings and uses.
All **uses** permitted in the underlying primary district are permitted within the CC subdistrict except as follows:

A. In addition to the **buildings** and **uses** permitted conditionally in NMC 15.305.020, the **planning commission** may grant a **conditional use permit** for any of the following **buildings** and **uses** in accordance with a Type III procedure:

1. Facilities which exist for the purpose of providing for the temporary care and/or lodging of adult indigent **persons**.

2. **Hospitals**.

B. The following **uses** are prohibited within the CC subdistrict:

1. **Automobile sales**, new and used.

2. Car washes, coin-operated or mechanical.

3. Garages, repair.

4. Service stations. [Amended during 11/13 supplement; Ord. 2561, 4-1-02. Code 2001 § 151.526.3.]

5. Recreational Marijuana Producer and Recreational Marijuana Processor.

6. Recreational Marijuana Wholesalers and Retailers.

7. Medical Marijuana Dispensaries and Wholesalers.

Section 6. Newberg Development Code, Bypass Interchange Overlay, Section 15.356.050 is amended to read as follows:

15.356.050 Prohibited uses.

A. Several commercial types of **uses** are permitted outright or with conditional **use** approval in Newberg's industrial districts (M-1, M-2, and M-3). The area within the Newberg UGB near the Oregon 219 Interchange is generally planned for industrial **use**. To protect the interchange area from commercial development, the following **uses** are prohibited within the M-1, M-2, and M-3 districts within the boundaries of the bypass interchange overlay:

1. **Automobile sales**, new and used.

2. Billboards.

3. Car washes.

4. Convenience grocery stores.

5. **Restaurants** larger than 2,000 square feet or with drive-up service windows.

6. Service stations.

7. Drive-in theaters.

8. Auction sales.

9. Bakeries, retail.

10. **Building** material sales.

11. Driving ranges.

12. Feed and seed stores.

13. Miniature **golf courses**.

14. Skating rinks.

15. Recreational Marijuana Producer and Recreational Marijuana Processor.

16. Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers.

17. Medical Marijuana Dispensaries and Wholesalers.

B. The industrial commercial subdistrict of the M-4 district shall not be applied within the boundaries of the BI overlay. [Ord. 2734 § 1 (Exh. B), 3-7-11; Ord. 2708 § 2, 12-1-08; Ord. 2602, 9-20-04. Code 2001 § 151.531.4.]

Section 7. Newberg Development Code, Interim Industrial Overlay, Section 15.358.030 is amended to read as follows:

15.358.030 Permitted uses.
All **uses** of land and water that are permitted in the underlying zoning district(s) are also permitted in the interim industrial overlay, with the exception of those **uses** listed in NMC 15.358.050. In addition, the following are permitted:

A. Contractor's equipment or storage.

B. Construction material storage. [Ord. 2720 § 1(5), 11-2-09. Code 2001 § 151.532.2.]

C. Recreational Marijuana Producer (indoor).

D. Recreational Marijuana Wholesalers, Laboratories, Research Certificates.

E. Medical Marijuana Wholesalers.

Section 8. Newberg Development Code, Interim Industrial Overlay, Section 15.358.050 is amended to read as follows:

15.358.050 Prohibited uses.
The following **uses** are prohibited in the interim industrial overlay:

A. **Cemeteries**.

B. Garbage dumps, sanitary landfills.

C. **Parks**.

D. Permanent **buildings**.

E. **Wrecking yards** for motor vehicles, **building** materials, and other similar items. [Ord. 2720 § 1(5), 11-2-09. Code 2001 § 151.532.4.]

F. Recreational Marijuana Processor.

G. Recreational Marijuana Retailers.

H. Medical Marijuana Dispensaries.

Exhibit "B" to Planning Commission Resolution 2016-321

Findings –File DCA-16-003
Medical and Recreational Marijuana

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 July 5, 2016. The Marijuana Subcommittee meet on May 10, 2016 at a public meeting to review potential amendments for place, time and manner regulations for Medical and Recreational Marijuana. The Planning Commission, after proper notice, held a public hearing on August 11, 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 and Recreational Marijuana 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 July 5, 2016. The Marijuana Subcommittee meet on May 10, 2016 at a public meeting to review potential amendments for place, time and manner regulations for Medical and Recreational marijuana. The Planning Commission, after proper notice, held a public hearing on August 11, 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 and Recreational Marijuana 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. Medical and Recreational Marijuana operations are a legal operation under State law. Allowing Medical and Recreational Marijuana operations as permitted or conditional use as represented in Exhibit A, Attachments 1 and 2 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.

Exhibit A, Attachment 1

Chapter
15.305
ZONING
USE

15.305.020 Zoning use table - Use Districts.

Newberg Development Code – Zoning Use Table

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special UseStandards
100	AGRICULTURALUSES																			
Def.	Horticulture	P	P	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	
Def.	Livestock and poultry farming	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Def.	Home gardening	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Home livestock and poultry raising	S	S															S		NMC Title 6
200	RESIDENTIAL USES																			
Def.	Dwelling, single-family detached	P(2)	P	P(3)		P		C(4)	C(5)								P	P(6)		Subject to density limits of NMC15.405.010(B)
Def.	Dwelling, single-family attached	S(2)	S	S(3)		S		C(4)	C(5)								P	P(6)		NMC15.415.050; subject to density limits of NMC15.405.010(B)
Def.	Manufactured homeon individual lot	S(2)	S	S(3)	P(7)	S												P(6)		NMC15.445.050 –15.445.070; subject to density limits of NMC15.405.010(B)
Def.	Manufactured dwelling park		S	S	S															NMC15.445.075 –15.445.160
Def.	Mobile home park		S	S	S															NMC15.445.075 –15.445.160
Def.	Manufactured home subdivision		S		S															NMC15.445.075 –15.445.160
Def.	Dwelling, two-family (duplex)	P(2)	P	P	C	P		C(4)	P(8)/C(5)								P			Subject to density limits of NMC15.405.010(B)
Def.	Dwelling, multifamily	C	P	P	C	P		C(4)	P(8)/C(5)								P			Subject to density limits of NMC15.405.010(B)
Def.	Dwelling, accessory	C	S	S		S											S			Chapter15.445 NMC, Article V
Def.	Dwelling, mixed use						P(9)	P(10)	P(8)/C(5)	P(11)	C	C								
Def.	Dwelling, caretaker										P	P	P	C					P(12)	Limited to one per lot, and allowed whenever theuse requires the on-site residence of such person.
Def.	Dormitory		C	P		P											P			
Def.	Home occupation(no more than one outside paid employee)	S	S	S(13)	S	S	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S	S	S(13)	NMC15.415.060
Def.	Home occupation(more than one outside paid employee)	C	C	C(13)	C	C	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C	C	C(13)	NMC15.415.060
300	INSTITUTIONAL AND PUBLIC USES																			
310	INSTITUTIONAL CARE AND HOUSING																			
Def.	Family child care home	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)							P	P(13)		Chapter 657AORS
312	Day care	P	P	P	C	P	P	P	P		C	C	C	C	P		P		P(14)	Chapter 657AORS
Def.	Residential care home (5 or fewer people)	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)							P	P(13)		ORS 197.665
Def.	Residential care facility (6 – 15 people)	C	P	P	C	P		C	C								P			ORS 197.665
315	Group care facility(16+ people)	C	C	C		C		C									P			
316	Hospital	C	C	C		C		P	P								P			
Def.	Prison										C	C	C	C						
320	ASSEMBLY																			
321	Religious institution, place of worship	P	P	P	P	P	P	P	P	P		P(29)				C	P			

322	Private club, lodge, meeting hall			C	C			P	P	C							P			
330	SCHOOLS																			
330	School, primary or secondary	P	P	P		P										C				
331	College	P	P	P		P	P	P	P(15)							C	P			
332	Commercial educational services	C	C	C		C	P	P	P								C			
340	PARKS AND OPEN SPACEs																			
341	Open space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
342	Park	P	P	P	P	P	P	P	P	P				P(16)		P(17)	P			
Def.	Golf course	P	P	P												P(17)				
350	PUBLIC SERVICES																			
351	Community services	C	C	C	C	P		P	P	P						C	P			
352	Emergency services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Pound, dog or cat							C	C		C	P	P	C	C					
Def.	Cemetery	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Chapter 97.46ORS
360	TRANSPORTATION																			
Def.	Transportation facilities and improvements	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Transit center							P	P	P	P	P	P							
Def.	Parking facility			P		C	C	P	P(18)	C	P	P	P		P		P			
Def.	Airport, landing field											C	C						P	
Def.	Heliport, helipad	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	
Def.	Marina									C										
	Pilings, piers, docks, and similar in-waterstructures									C										
370	UTILITIES																			
Def.	Basic utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Utility distribution plant or yard											P	P	P						
Def.	Wastewater treatment plant											C	P	C						
Def.	Telecommunication facility incorporated into existing structure/utility pole and no taller than 18 feet above existing structure/utility pole	C	C	C	C	C	S	S	S	S	S	S	S	S	S		S			Chapter15.445 NMC, Article IV
Def.	Telecommunication facility, includingradio towers and transmitters, which are 100 feet or less in height, except those incorporated into an existingstructure no taller than 18 feet above that structure.						C	C	C		C	S(19)	S(19)	P	C		C			Chapter15.445 NMC, Article IV
Def.	Telecommunication facility, includingradio towers and transmitters, which are over 100 feet						C	C	C		C	C	C	C	C		C			Chapter15.445 NMC, Article IV
400	COMMERCIAL USES																			
410	COMMERCIAL OFFICES																			
411	Medical office			C		P	P(20)	P	P(21)								P			
412	Local business office					P(22)	P(20)	P	P(21)											
420	COMMERCIAL SALES AND RENTALS																			
421	Retail sales – General						P(20)	P	P(15) (21)	P		P(23)								
422	Retail sales – Bulk outdoor							P	C			P								
423	Retail sales – Convenience						P(20)	P	P(21)	P		P(24)			P(25)					
Def.	Temporary merchant							S	S(21)											NMC5.15.050 et seq.
	~~Medical marijuana dispensary~~							~~P(35)~~	~~P(35)~~											
425	Retail food and beverage production							S	S											Chapter15.445 NMC, Article VIII
430	EATING AND DRINKING ESTABLISHMENTS																			
430	Eating and drinking – Alcohol-related							P	P(21)	P										Requires liquor license
430	Eating and drinking – Non-alcohol-related						P(20)	P	P(21)	P	P	P							C(26)	
440	COMMERCIAL SERVICES																			
441	Personal services					P	P(20)	P	P(21)	P										
442	Commercial services						P(20)	P	P(21)											

443	Commercial vehicle service							P	C		P(27)	P			P(28)					
Def.	Kennel, commercial							C	C		C	P	P	C	C					
450	COMMERCIAL RECREATION																			
451	Commercial recreation – Indoors							P	P(15)		P(29)	P(29)								
452	Commercial recreation – Outdoors							P				C								
453	Commercial recreation – Motor-vehicle-related											C							C(33)	
460	COMMERCIAL LODGING																			
Def.	Vacation rental home	C	C	S	S	S	S(13)	S(13)	S(13)	S(13)										Chapter15.445 NMC, Article VII
Def.	Bed and breakfast(2 or fewer rooms)	C	S	S		S	S	S	S	S										NMC15.445.010
Def.	Bed and breakfast(3 or more rooms)	C	C	C		C	C	S	S	S										NMC15.445.010
Def.	Hotel or motel							P	P(15)	P									C(26)	
Def.	Recreational vehicle park							C		C	C	C	C							NMC15.445.170
500	INDUSTRIAL USES																			
501	Traded sector industry office					P(30)	P(30)	P	P		P	P		P					P(33)	
502	Industrial services							C				P	P	P					P(33)	
503	Wholesale and industry sales							C(31)			P(31)	P	P	P					P(33)	
504	Warehouse, storage, and distribution										P(32)	P	P	P					P(33)	
505	Self-service storage							P			P	P	P	P						
506	Light manufacturing										P	P	P	P					P(33)	
507	Heavy manufacturing											P(34)	P	C						
508	Waste-related												C	C						
600	MISCELLANEOUS USES																			
Def.	Accessory buildingand use incidental to other permitted usesin the zone	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to permitted uses in the zone and not defined or categorized	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to conditional uses in the zone and not defined or categorized	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
	Medical Marijuana Dispensary						P(35)	P(35)	P(35)	P(35)										
	Medical Marijuana Processor							P(38)			P(37)	P(37)	P(37)	P(37)						
	Medical Marijuana Grow Site	P(36)	P(36)	P(36)	C	C	C	C	C	C	C	C	C	C	C	C	C	C		
	Medical Marijuana Wholesaer	X	X	X	X	X	X	C(31)/(38)	X	X	P(38)	P(38)	P(38)	P(38)	X	X	X	P(38)	X	
	Recreational Marijuana Processor	X	X	X	X	X	X	C(38)	X	X	P(37)	P(37)	P(37)	P(37)	X	X	X	X	X	
	Recreational Marijuana Producer (Indoor)	X	X	X	X	X	X	X	X	X	P	P	P	P	X	X	X	X	X	
	Recreational Marijuana Producer (Outdoor)	X	X	X	X	X	X	X	X	X	C	C	C	C	X	X	X	X	X	
	Recreational Marijuana Retailer	X	X	X	X	X	P(38)/(39)/(40)	P(38)/(39)/(40)	P(38)/(39)/(40)	P(38)/(39)/(40)	X	X	X	X	X	X	X	X	X	
	Recreational Marijuana Wholesaler	X	X	X	X	X	X	C(31)/(38)	X	X	P(38)	P(38)	P(38)	P(38)	X	X	X	P(38)	X	
	Recreational Marijuana Laboratories	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	P	X	X	
	Recreational Marijuana Research Certificate	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	P	X	X	

Key:

P: Permitted use

S: Special use – Use requires a special use permit

C: Conditional use – Requires a conditional use permit

X: Prohibited use

(#): See notes for limitations

Notes.

(1) Limited to sites with preexisting agricultural uses, including at time of annexation.

(2) Limited to one per lot as a permitted use. More than one per lot allowed only through a conditional use permit or planned unit development, subject to density limits of NMC 15.405.010(B).

(3) Permitted on individual lots created prior to November 17, 1992. Homes on individual lots created on or after November 17, 1992, will only be permitted through the planned unit

development process.

(4) The permitted density shall be stated on the conditional use permit.

(5) The **dwelling units** must front onto Hancock or Second **Street**. No more than 30 percent of a single **street** frontage of a **block** may be occupied by residential **uses**. Contiguous residential **street** frontage must be less than 60 lineal feet. Density and parking standards for allowable **dwelling units** must be met.

(6) One residence per **lot** with the addition of a tie-down or **hangar** for an airplane. At a minimum, a paved tie-down or **hangar** shall be provided on the property, or the property shall include permanent rights to a private **hangar** within the **subdivision**. See Chapter 15.336 NMC.

(7) The homes are not subject to the development standards set forth in NMC 15.445.050 through 15.445.070.

(8) The units must be located on the same **lots** as another **use** permitted or conditionally permitted in the C-3 zone and may not occupy the first floor storefront area (the portion of the **building** closest to the primary **street**). There shall be no density limitation. **Private parking areas** or garages are not required for **dwelling units** located within **buildings** in existence prior to and including June 30, 1999. Parking shall be provided for all new **dwelling units** within any **building** constructed after June 30, 1999, in **private parking areas** or garages on the basis of one **parking space** for each **dwelling unit**.

(9) Permitted on the ground floor, one per **lot** in conjunction with any other **use** permitted or conditional **use** in the C-1 zone. On upper floors, **dwelling units** are unlimited and one **parking space** per **dwelling unit** is required.

(10) Permitted above any permitted **use** in the C-2 zone. There shall be no density limitation. Parking shall be provided in **private parking areas** or garages on the basis of one **parking space** for each **dwelling unit**.

(11) Must be located above ground floor commercial uses.

(12) One residence of area not more than 40 percent of the area of the **hangar** floor, up to a maximum of 1,500 square feet, for an **airport** caretaker or security officer on each separate **parcel**.

(13) Permitted in existing **dwelling units** only. New **dwelling units** may not be created for this **use** unless the **dwelling unit** would otherwise be allowed.

(14) Allowed exclusively for employers or employees of businesses located within this district.

(15) Facility over 40,000 square feet **gross floor area** requires a **conditional use permit**.

(16) Allowed in areas designated in industrial area plans.

(17) Limited to facilities owned or operated by a public agency.

(18) Parking garages are a conditional **use**, and must have first floor **street** frontage of 40 feet or less for ingress or egress. First floor development must be commercial.

(19) A **conditional use permit** is required if the facility is less than 2,000 feet from the nearest **telecommunication facility**.

(20) Businesses in the C-1 zone that have hours of operation between 10:00 p.m. and 7:00 a.m. require a conditional use permit.

(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). 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 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.

(37) Indoor use only.

(38) The use is not allowed 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). 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 to the closest point of the premises of a recreational processor, wholesaler or retailer ; or medical marijuana processor and wholesaler.

(39) 1,000 foot separation between retailer to retailer premises and 1,000 foot separation between retailer to dispensary premises.

(40) Operating hours limited to the hours between 9:00 a.m. and 8:00 p.m.

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.

Exhibit A, Attachment 2

15.305.030 Zoning use table - Use Subdistricts.

600	MISCELLANEOUS USES	R-1/PD	R-1/0.1	R-1/0.4	R-1/6.6	R-1/SP	R-2/PD	R-2/SP	SD/LDR	SD/MMR	R-3/PD	RP/SP	RP/LU	AO	ARO	C-1/SP	C-2/LU	C-2/PD	C-2/SP	C-3/LU	SD/V	SD/NC	SD/H	CC	CF/RF	RF	IO	M-1/SP	SD/E	FHO	II	AIO	H	SC	BI
	Medical Marijuana Dispensary	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P(4)	P(4)	P(4)	P(4)	P(4)	P(4)	P(4)	P(4)	X	X	X	X	X	X	X	X	X	X	X	X
	Medical Marijuana Processor																											P	P						
	Medical Marijuana Grow Site	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
	Medical Marijuana Wholesaler	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P(1)	P(1)	X	P(1)	X	X	X	X
	Recreational Marijuana Processor	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	X	X	X	X	X	X
	Recreational Marijuana Producer (Indoor)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	X	P	X	X	X	X
	Recreational Marijuana Producer (Outdoor)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	C	C	X	C	X	X	X	X
	Recreational Marijuana Retailer	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	X	X	X	X	X	X	X	X	X	X	X	X
	Recreational Marijuana Wholesaler	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P(1)	P(1)	X	P(1)	X	X	X	X
	Recreational Marijuana Laboratories	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	X	X	P	P	X	P	P	X	X	X
	Recreational Marijuana Research Certificate	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	X	P	P	P	X	P	P	X	X	X

Key:

P: Permitted use

S: Special use – Use requires a special use permit

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X: Prohibited use

(#): See notes for limitations

(1) The use is not allowed 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). 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 to the closest point of the premises of a recreational retailer or wholesaler; or medical marijuana wholesaler.

(2) 1,000 foot separation between retailer to retailer premises and 1,000 foot separation between retailer to dispensary premises.

(3) Operating hours limited to the hours between 9:00 a.m. and 8:00 p.m.

(4) 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). 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 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.

Attachment 1

RESOLUTION NO. 2016-3312

A RESOLUTION INITIATING AN AMENDMENT TO THE NEWBERG MUNICIPAL CODE, TITLE 15 DEVELOPMENT CODE TO RECONCILE PLACE, TIME AND MANNER REGULATIONS FOR MEDICAL MARIJUANA GROWERS, PROCESSORS AND DISPENSARIES; AND RECREATIONAL MARIJUANA WHOLESALERS, LABORATORIES, RESEARCH CERTIFICATES AND RETAILERS

RECITALS:

1. The Oregon Legislature enacted four bills during the 2015 legislative session related to the Oregon Medical Marijuana Act and Measure 91. House Bill (HB) 3400 was the omnibus bill covering recreational marijuana and modifications to the medical marijuana program.

2. On September 8, 2015 the Newberg City Council was provided background information on medical and recreational marijuana at its Work Session. At its Business Session on September 8th the City Council established the Marijuana Subcommittee (Subcommittee) comprised of Councilors Rourke, Bacon and McKinney along with non-voting member Mayor Andrews.

3. The Subcommittee held four meetings. On November 19, 2015 they reviewed the similarities and differences of medical marijuana and recreational marijuana. On December 9, 2015 medical marijuana growers and processors and modifications for dispensaries were reviewed. At the January 12, 2016 meeting they reviewed recreational marijuana producers and processors. On March 3, 2016 the Subcommittee reviewed marijuana taxes and paraphernalia.

4. The Oregon Legislature met in its short session in early 2016 and passed several new bills related to marijuana. These include SB 1601 (Taxes), SB 1511, HB 4014, SB 1598 and HB 4094 (Banking). The State also took prior legislation and incorporated them into ORS 475B – Cannabis Regulation (2015 Edition).

5. The Subcommittee was reformatted after Councilor Rourke's resignation on the City Council and he was replaced with Councilor Patrick Johnson. The Subcommittee met on May 10, 2016 to discuss the new State legislation and what reconciliation needed to occur for land use place, time and manner regulations based on locally adopted ordinances and the ordinance that was pending before the City Council on May 16, 2016.

6. The Subcommittee subsequently passed a motion 3-0 directing staff to create a Request for Council Action to initiate the Development Code amendment process to reconcile Place, Time and Manner Regulations for Medical Marijuana Growers, Processors and Dispensaries; and Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council initiates an amendment to the Newberg Municipal Code, Title 15 Development Code to reconcile Place, Time and Manner Regulations for Medical Marijuana Growers, Processors and Dispensaries; and Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers. This starts the public process to study the proposed amendments.

2. By initiating this amendment, the council does not commit to taking any specific action on the proposal. It only wishes to give the amendment full consideration in a public hearing.

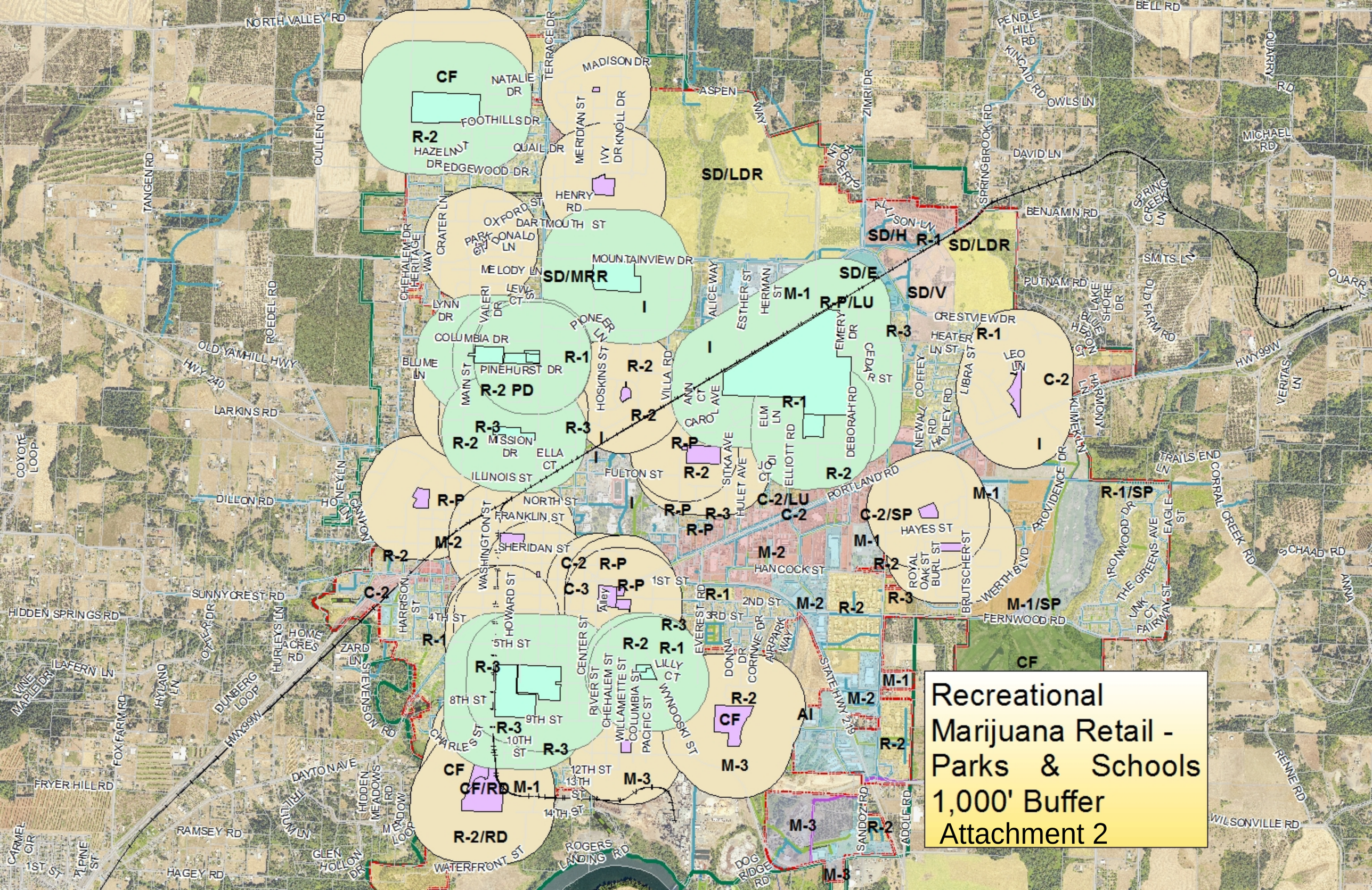
➢ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 6, 2016

ADOPTED by the City Council of the City of Newberg, Oregon, this 5th day of July, 2016.

Sue Ryan, City Recorder

ATTEST by the Mayor this 7th day of July, 2016.

Bob Andrews, Mayor


Recreational
Marijuana Retail -
Parks & Schools
1,000' Buffer
Attachment 2
NORTH VALLEY RD
BELL RD
PENDLE HILL RD
KINCAID RD
OWLS LN
QUARRY RD
MICHAEL RD
TANGEN RD
CULLEN RD
ROEDEL RD
OLD YAMHILL HWY
HWY 240
LARKINS RD
COYOTE LOOP
DILLON RD
HONEYEN LN
SUNNYCREST RD
HIDDEN SPRINGS RD
ILAFERN LN
VINE MAPLE DR
HYLAND LN
DUNBERG LOOP
FOX FARM RD
HWY99W
FRYER HILL RD
RAMSEY RD
HAGEY RD
CARMEL CIR
ALPINE ST
GLEN HOLLOW DR
DAYTON AVE
HIDDEN MEADOWS RD
MEADOW LOOP
WATERFRONT ST
ROGERS LANDING RD
DOG RIDGE RD
WILSONVILLE RD
RENNE RD
CHAAD RD
ANNA
CORRAL CREEK RD
VERITAS LN
TRAILS END LN
HARMONY LN
KLAMATH LN
PROVIDENCE DR
WERTH BLVD
FERNWOOD RD
THE GREENS AVE
IRONWOOD DR
EAGLE ST
LINK CT
FAIRWAY ST
SPRING CREEK LN
BENJAMIN RD
SMITS LN
PUTNAM RD
LAKE SHORE DR
OLD FARM RD
BLUE HERON CT
SPRINGBROOK RD
DAVID LN
ZIMRI DR
ASPEN
MADISON DR
TERRACE DR
NATALIE DR
FOOTHILLS DR
HAZELNUT DR
EDGEWOOD DR
QUAIL DR
MERIDIAN ST
IVY DR
KNOLL DR
HENRY RD
OXFORD ST
DARTMOUTH ST
PARK
MCDONALD LN
CRATER LN
CHEHALEM DR
HERITAGE WAY
MELODY LN
MOUNTAINVIEW DR
LEWIS CT
VALERI DR
LYNN DR
PIONEER LN
COLUMBIA DR
PINEHURST DR
BLUME LN
MAIN ST
HOSKINS ST
VILLA RD
ALICE WAY
ESTHER ST
HERMAN ST
ALLISON LN
CRESTVIEW DR
HEATER LN
ST
LIBRA ST
LEO LN
EMERY DR
CEDAR ST
DEBORAH RD
ANN CT
CAROLAVE
ELM LN
ELLIOTT RD
SITKA AVE
HULET AVE
COFFEY RD
NEWALL RD
HADLEY RD
MISSION DR
ELLA CT
ILLINOIS ST
FULTON ST
NORTH ST
FRANKLIN ST
SHERIDAN ST
WASHINGTON ST
HOWARD ST
HARRISON ST
4TH ST
5TH ST
8TH ST
9TH ST
10TH ST
12TH ST
13TH ST
14TH ST
CHARLES ST
CENTER ST
RIVER ST
CHEHALEM ST
WILLAMETTE ST
COLUMBIA ST
PACIFIC ST
WINOOSKI ST
LILLY CT
1ST ST
2ND ST
3RD ST
EVEREST RD
DONNA DR
CORINNE DR
AIRPARK WAY
STATE HWY 219
PORTLAND RD
HAYES ST
HANCOCK ST
ROYAL OAK ST
BURL ST
BRUTSCHER ST
Alley
ZARD LN
STEVENS RD
CF
CF/RD
R-2/RD
R-2
R-1
R-3
R-2 PD
R-P
M-1
M-2
M-3
C-2
C-2/LU
C-2/SP
C-3
SD/LDR
SD/MR
SD/H
SD/E
SD/V
R-P/LU
I
AI
R-1/SP
M-1/SP