

Development Code Amendment: Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers

Newberg City Council

May 16, 2016

File # DCA-16-001

Proposal: Amend the Newberg Development Code to address Recreational Marijuana Wholesalers, Labs, Research Certificates & Retailers

- Adds Recreational Marijuana Laboratories as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.
- Adds Recreational Marijuana Research Certificates as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.
- Adds Recreational Marijuana Retailers as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC and SD/H with footnotes for a 1,000 foot buffer from parks and schools, 1,000 foot separation between marijuana retailers and marijuana retailers to dispensaries, and operating hours limited to the hours between 9 AM and 8 PM.

Proposal (cont.)

- Adds Recreational Marijuana Wholesalers as a conditional use in C-2 with footnotes allowed indoors only and 1,000 foot buffer from parks and schools.
- Adds Recreational Marijuana Wholesalers as a permitted use in M-1, M-2, M-3, M-4-I, M-1/SP, SD/E and II with footnote 1,000 foot buffer from parks and schools.
- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in the Stream Corridor Overlay.

Proposal (cont.)

- Prohibits Recreational Marijuana Wholesalers and Retailers in the Civic Corridor Overlay.
- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in in the Bypass Interchange Overlay.
- Prohibits Recreational Marijuana Wholesalers, Laboratories and Research Certificates in the Interim Industrial Overlay.
- Prohibits Recreational Marijuana Retailers in the Interim Industrial Overlay.

Proposal (cont.)

- **Definitions:** Recreational Marijuana Laboratory, Marijuana Retailer, Marijuana Wholesaler.

The proposal is...

- A set of requirements for recreational marijuana wholesalers, laboratories, research certificates and retailers Measure 91, HB 3400 and OAR Division 25 and ORS 475B.

The proposal is not...

- A discussion about whether marijuana should be legal.
- Addressing medical marijuana.

Background

- Measure 91, HB 3400 and OAR Division 25, ORS 475B allows recreational marijuana wholesalers, labs, research & retailers.
- City Council Work Session September 8, 2015 established the Marijuana Subcommittee.
- OLCC adopted Temporary OAR's in November 2015.
- City Council initiated the Development Code amendment, February 1, 2016 (Res No. 2016-3253).
- The Marijuana Subcommittee developed recommendations to the Planning Commission, February 4, 2016.

Background (cont.)

- The Planning Commission held a public hearing on April 14, 2016.
- OLCC anticipates issuing licenses for wholesalers, labs, and research certificates beginning in April 2016 (none issued in Newberg at this time) and retailers in July 2016.

Public comments

Two public comments have been received from Leif Patterson and Canna Bros.. The comments focus on allowing retail operations and requesting a 1,000 separation between Retail operations.

Analysis

- City can regulate Place, Time and Manner (Measure 91, HB 3400, OAR Division 25, ORS 475B).
- OLCC LUCS. If LUCS indicates use is not allowed OLCC will not issue a license.
- OLCC License not issued for operations on federal property, at same location or address as medical marijuana grow site or medical marijuana processing site, medical marijuana dispensary, same location or address as liquor licensee, producers not allowed on public land or same tax lot/parcel as another producer.

Analysis (cont.)

- OLCC Licenses not issued for a primary residence.
- Wholesaler – not in area zoned exclusively for residential use.
- Retailer - not in area zoned exclusively for residential use.
- Retailer – 1,000 feet from schools (primary/secondary/public/private/parochial).
- Retailers can be required to have a separation of not more than 1,000 feet.
- Retail hours limited to 7 am to 10 pm.

Analysis (cont.)

- Research – OLCC license is good for 3 years.
- Marijuana products must be tested by a laboratory (accredited by OHA) and licensed by OLCC.
- Manner limits in Oregon Laws, ORS or OAR's – many.
- Handler Permits.
- Laws have changed again with 2016 Legislative Session.

Subcommittee Recommendation

Retail:

- Not allow retail as a permitted use in residential districts R-1, R-2, R-3, R- 4, AR, RP, and all residential sub-districts.
- Allow retail as a permitted use in all commercial zones except Civic Corridor with a footnote regarding the 1,000 foot buffer from schools and parks as noted on the third map in the packet.
- Not allow retail in industrial districts and sub-districts.
- Not allow wholesale or retail in community facilities and institutional.
- Change the hours of operation for retail to 9 am to 8 pm.

Subcommittee Recommendation

Wholesale:

- Allow wholesale as a permitted use in all residential categories including the sub-districts with no product allowed on the premises.
- Allow wholesale as a conditional use in C-2 only with a footnote regarding indoor use only and new footnote regarding the 1,000 foot buffer from schools and parks.
- Not allow wholesale or retail in community facilities and institutional.
- Allow wholesale as a permitted use in all industrial districts and sub-districts, except Airport Industrial, with a footnote regarding the 1,000 foot buffer from schools and parks.
- Not allow retail or wholesale in the other sub-districts.

Subcommittee Recommendation

Laboratories and Research Certificates:

- Allow laboratories and research in all commercial districts and sub-districts, institutional districts, and all industrial districts and sub-districts, except AI. They are not allowed in all other districts, such as residential, community facilities, and other.

Planning Commission Recommendation

- Adds Recreational Marijuana Laboratories as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.
- Adds Recreational Marijuana Research Certificates as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.
- Adds Recreational Marijuana Retailers as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC and SD/H with footnotes for a 1,000 foot buffer from parks and schools, 1,000 foot separation between marijuana retailers and marijuana dispensaries, and operating hours limited to the hours between 9 AM and 8 PM.

Planning Commission Recommendation (cont.)

- Adds Recreational Marijuana Wholesalers as a conditional use in C-2 with footnotes allowed indoors only and 1,000 foot buffer from parks and schools.
- Adds Recreational Marijuana Wholesalers as a permitted use in M-1, M-2, M-3, M-4-I, M-1/SP, SD/E and II with footnote 1,000 foot buffer from parks and schools.
- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in the Stream Corridor Overlay.
- Prohibits Recreational Marijuana Wholesalers and Retailers in the Civic Corridor Overlay.

Planning Commission Recommendation (cont.)

- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in the Bypass Interchange Overlay.
- Prohibits Recreational Marijuana Wholesalers, Laboratories and Research Certificates in the Interim Industrial Overlay.
- Prohibits Recreational Marijuana Retailers in the Interim Industrial Overlay.
- Definitions: Recreational Marijuana Laboratory, Marijuana Retailer, Marijuana Wholesaler.

Proposed Development Code Amendment

15.05.030 Definitions

- “Marijuana Laboratory” means a laboratory certified by the Oregon Health Authority under ORS 438.605 to 438.620 and authorized to test marijuana items for purposes specified in these rules.
- “Marijuana Retailer” means a marijuana retailer licensed by the Oregon Liquor Control Commission.
- “Marijuana Wholesaler” means a marijuana wholesaler licensed by the Oregon Liquor Control Commission.

Proposed Development Code Amendment

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

15.305.020 Zoning use table

See Exhibit A, Attachment 1 (after page 109) for Table

Section 3. Newberg Development Code Section 15.305.030 shall be amended as follows:

15.305.030 Zoning use table

See Exhibit A, Attachment 1 (after page 109) for Table

Proposed Development Code Amendment

Sections 4 – 8. See Pages 104 - 107.

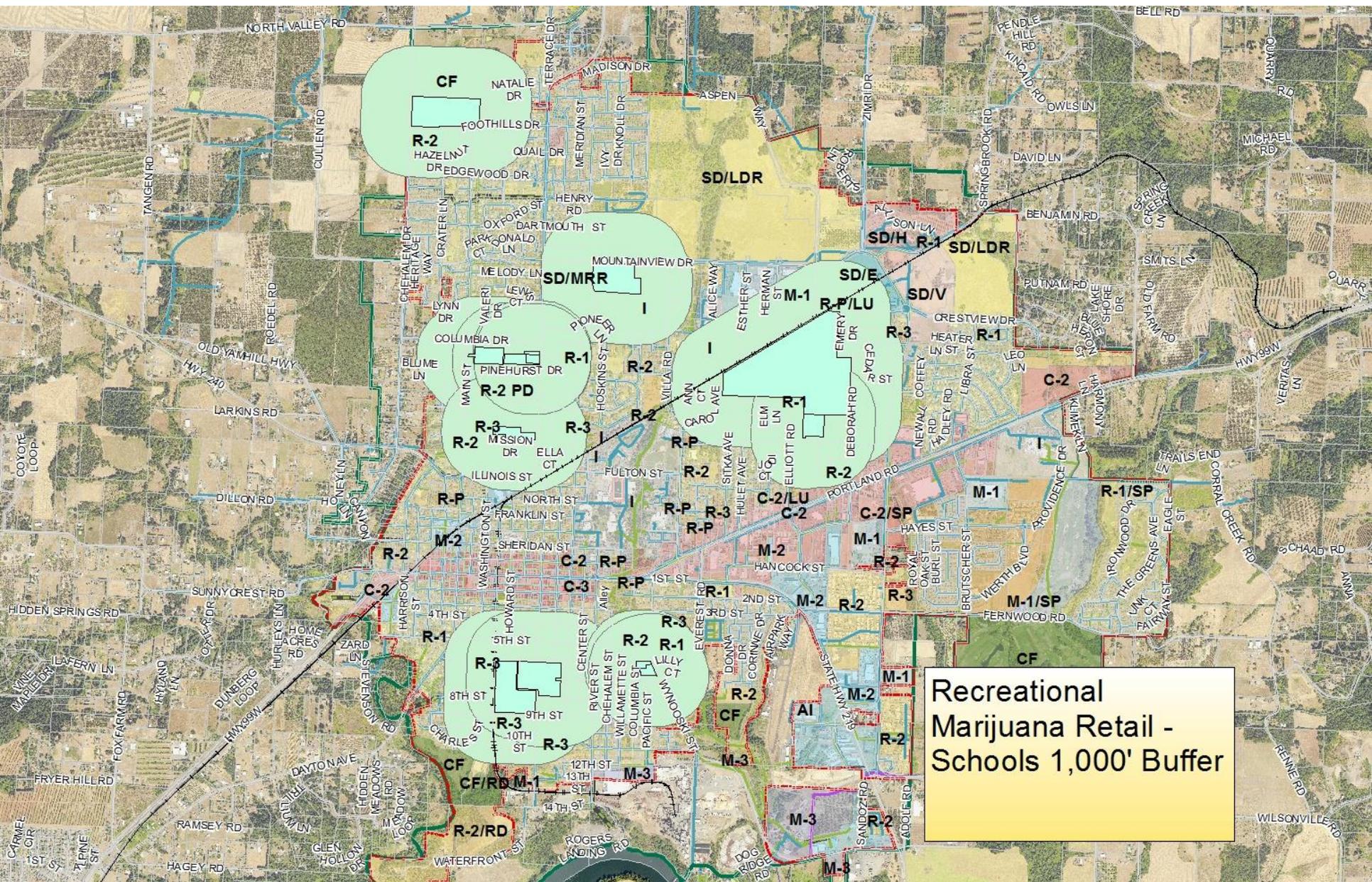
Findings

- Citizen involvement/public process goals: Code adoption requires at least 2 public hearings, newspaper notice. Also have a webpage on city website. Approval would be consistent with this goal.
- Economy goal – encourage new and diverse businesses: Provides opportunity for a new type of legal business, for which there is some local demand. Allows the use in some districts and subdistricts as permitted or prohibits the activities in other districts and subdistricts.

Staff Recommendation

The staff recommendation is made in the absence of public testimony and may be modified prior to the close of the hearing. At this time, staff recommends:

- **Adopt Ordinance No. 2016-2801**, amending the Newberg Development Code for recreational marijuana wholesalers, laboratories, research certificates & retailers.



Recreational
 Marijuana Retail -
 Schools 1,000' Buffer

