

Development Code Amendment: Recreational Marijuana Producers and Processors

Newberg City Council

March 21, 2016

File # DCA-15-003

Proposal: Amend the Newberg Development Code to address recreational marijuana producers and processors

- **Producers:** Prohibited indoors or outdoors in R-1, R-2, R-3, R-4, R-P, AR, 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, 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, CC, M-4-C, CF, CF/RF, RF, I, IO, FHO, AI, AIO, H, SC & BI.
- **Producers:** Permitted indoors M-1, M-2, M-3, M-4, M-1/SP, SD/E & II.
Conditional outdoors M-1, M-2, M-3, M-4, M-1/SP, SD/E & II.
- **Processors:** Permitted indoors M-1, M-2 M-3, M-4, SD/E.

Proposal Con't

- **Processors:** Prohibited in all residential, commercial, community facility, institutional and misc. districts and subdistricts.
- **Definitions:** Recreational Producers and Processors.

The proposal is...

- A set of requirements for recreational marijuana producers and processors which are legal per Measure 91, HB 3400 and OAR Division 25.

The proposal is not...

- A discussion about whether marijuana should be legal.
- Addressing medical marijuana.
- Reviewing recreational marijuana wholesalers, laboratories, research certificates and retailers.

Background

- Measure 91, HB 3400 and OAR Division 25 allows recreational marijuana producers and processors.
- City Council Work Session September 8, 2015 established the Marijuana Subcommittee.
- City Council initiated the Development Code amendment, January 4, 2016 (Res No. 2015-3248).
- The Marijuana Subcommittee developed recommendations to the Planning Commission, January 12, 2016.
- OLCC adopted Temporary OAR's in November 2015.
- OLCC anticipates issuing licenses for producers & processors beginning in April 2016.

Public comments

One public comment has been received from Ms. Sheri Ralston. The comment focuses on the location for processors facilities and the desire to allow processing to occur in the C-2 district.

Analysis

- City can regulate Place, Time and Manner (Measure 91, HB 3400, OAR Division 25) producers & processors.
- 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.
- Processors with endorsement to process extracts not allowed in areas zoned exclusively for residential use.

Analysis

- Producers – two types, indoor (uses artificial light) and outdoor (open ground or in greenhouse/hop house with no artificial lighting) or combination.
- Marijuana is considered a crop for purposes of farm use/farming practice.
- Medical marijuana grow sites can opt into the recreational producer licensing program.
- Time limit regulations in Oregon Laws, ORS or OAR's - none
- Manner limits in Oregon Laws, ORS or OAR's - many

Analysis

- Grow canopy limits (mature plants): Indoor Tier I – up to 5,000 sqft, Tier II 5,001 – 10,000 sqft; Outdoor Tier I – up to 20,000 sqft, Tier II 20,001 to 40,000 sqft. Multiple grow canopies (separation by wall or 10 feet open space).
- Processors – edible, topical, concentrate & extract. Requires an endorsement, may hold multiple endorsements.
- Marijuana products must be tested by a laboratory (registered by OHA).
- Edible – Oregon Department of Agriculture, may not process where there is an operating restaurant, seasonal temporary, intermittent temporary, limited service, single-event restaurants, commissary, mobile unit, bed or breakfast, warehouse (ORS 624).

Analysis

- Concentrate & Extract – use hydrocarbon-based solvent 99% purity, non-hydrocarbon based that's food grade, only potable water, ventilation. Extract operations in enclosed room & other requirements.
- Topical – not at location of restaurant, seasonal temporary, intermittent temporary, limited service or single-event restaurants.
- Waste Management – comply with state laws for solid waste, hazardous waste, wastewater.

Subcommittee Recommendation

- **Processors:** Industrial permitted M-1, M-2, M-3, M-4 & SD/E.
- **Processors:** Prohibit in AI & AIO, all residential/commercial/community facility/institutional/misc. districts and subdistricts.
- **Definition:** Add for Recreational Marijuana Processor.

Subcommittee Recommendation

- **Producer:** Conditional use indoors R-1, R-2, 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.
- **Producer:** Prohibit in commercial and subdistricts.
- **Producer:** Prohibit in Community Facility and subdistricts.
- **Producer:** Prohibit in Institutional and subdistricts.

Subcommittee Recommendation

- **Producer:** Permitted indoors M-1, M-2, M-3, M-4, SD/E, M-1/SP & II.
- **Producer:** Conditional Use outdoors M-1, M-2, M-3, M-4, SD/E, M-1/SP & II.
- **Producer:** Prohibit AI & AIO.
- **Producer:** Prohibit H, SC, BI
- **Producer:** Add definition Recreational Marijuana Producer.

Planning Commission Recommendation

- **Producers:** Prohibited indoors or outdoors in R-1, R-2, R-3, R-4, R-P, AR, 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, 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, CC, M-4-C, CF, CF/RF, RF, I, IO, FHO, AI, AIO, H, SC & BI.
- **Producers:** Permitted indoors M-1, M-2, M-3, M-4, M-1/SP, SD/E & II.
- **Producers:** Conditional outdoors M-1, M-2, M-3, M-4, M-1/SP, SD/E & II.

Planning Commission Recommendation

- **Processors:** Permitted indoors M-1, M-2 M-3, M-4, SD/E.
- **Processors:** Prohibited in all residential, commercial, community facility, institutional and misc. districts and subdistricts.
- **Definitions:** Recreational Producers and Processors.

Proposed Development Code Amendment

15.05.030 Definitions

- “Marijuana processor” means a person who processes marijuana items in this state.
- “Marijuana producer” means a person who produces marijuana in this state.

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 RCA Pages 68-71 for Table

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

15.305.030 Zoning use table

See RCA Page 72 for Table

Proposed Development Code Amendment

Sections 4 – 9. See RCA Pages 62 – 65.

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 conditional uses and 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. 2016-2798**, recommending that the City Council adopt the proposed Development Code amendment regarding recreational marijuana producers and processors.