REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: February 1, 2016				
Order ___ No.	Ordinance XX No. 2016-2793	Resolution ___ No.	Motion ___	Information ___

SUBJECT: An ordinance amending the Newberg Development Code regarding medical marijuana grow sites, processors and dispensaries; and declaring an emergency	**Contact Person (Preparer) for this Motion: Doug Rux, Director** **Dept.: Community Development** **File No.: DCA-15-002**

HEARING TYPE: ☒ **LEGISLATIVE** ☐ **QUASI-JUDICIAL** ☐ **NOT APPLICABLE**

RECOMMENDATION:

Adopt Ordinance No. 2016-2793 amending the Newberg Development Code for medical marijuana grow sites, processors and dispensaries.

EXECUTIVE SUMMARY:

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

- Add Medical Marijuana Grow Sites allowing up to twelve mature plants as a permitted use in the R-1, R-2 and R-3 districts, indoor operations only. Medical Marijuana Grow Sites would be allowed as a conditional use in all other districts and subdistricts.
- Add Medical Marijuana Processors as an industrial use in all industrial districts and subdistricts (M-1, M-2, M-3, M-4, AI, SD/E, M-1/SP).
- Add definitions for Medical Marijuana Grow Sites and Medical Marijuana Processor.
- Modifies a footnote for Medical Marijuana Dispensaries deleting the reference to "Career School" and modifying reference to public or private primary, elementary, secondary schools to align with definitions in HB 3400.
- Adds a footnote for electrical inspections for grow sites as a permitted use in R-1, R-2 and R-3 districts.

B. BACKGROUND:

On March 19, 2014, Senate Bill (SB) 1531 was signed into law. SB 1531 gives local governments the ability to impose certain regulations and restrictions on the operation of medical marijuana dispensaries, including the ability to impose a moratorium for a period of time up until May 1, 2015. The city adopted a moratorium on April 7, 2014 by passage of Ordinance No. 2014-2772. On February 2, 2015, the Newberg City Council initiated a potential amendment to Newberg's Development Code regarding medical marijuana dispensaries.

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 and the Oregon Health Authority adopted temporary OAR's on September 22, 2015 for revisions to the medical marijuana program under Chapter 333, Division 8.

On April 6, 2015 the Newberg City Council passed Ordinance No. 2015-2780 regulating the time, place and manner for medical marijuana dispensaries within the city.

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 2015-2787 declaring a ban on the early sale of recreational marijuana by medical marijuana dispensaries and declaring an emergency.

The Subcommittee met on November 19, 2015 to review the similarities and differences between the medical marijuana and recreational marijuana programs. The Subcommittee was briefed that the operational date for the medical marijuana modifications in HB 3400 was March 1, 2016. The Subcommittee was also provided a timeline of dates and activities that would need to occur to prepare place, time and manner land use regulations for medical marijuana grow sites and processors. The Subcommittee subsequently passed a motion 3-0 directing staff to create a Request for Council Action (RCA) to initiate the Development Code Amendment for medical marijuana grow site and processor regulations to bring forward for Council consideration on December 7.

The City Council adopted Resolution No. 2015-3244 on December 7, 2015 initiating the Development Code amendment process (Attachment 1).

The Subcommittee met again on December 9, 2015 and developed recommendations on Medical Marijuana Grow Sites, Processors and modifications to text in footnote (35) related to Medical Marijuana Dispensaries in the Zoning Use Table.

C. PROCESS: A development code amendment is a Type IV application and follows the procedures in Newberg Development Code 15.100.060. Important dates related to this application are as follows:

1. 12/7/15: The Newberg City Council initiated the Development Code amendment.

2. 1/14/16: After proper notice, the Planning Commission held a legislative hearing to consider the item, took public comment, and approved

Resolution 2016-312.

3. 2/1/16: After proper notice, the City Council held a legislative hearing to consider the item.

D. 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 City Council.

E. ANALYSIS:

Place, Time and Manner: Medical Marijuana Grow Sites and Processors have certain limitations per ORS 475.300 – 342, OAR 333-008 and HB 3400. HB 3400 states (bracketed and italicized test is deleted and bold text is new).

SECTION 89. Section 2, chapter 79, Oregon Laws 2014, is amended to read:
Sec. 2. *[Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities registered, or applying for registration, under ORS 475.314 that are located in the area subject to the jurisdiction of the city or county. For purposes of this section, "reasonable regulations" includes reasonable limitations on the hours during which a medical marijuana facility may be operated, reasonable limitations on where a medical marijuana facility may be located within a zone described in ORS 475.314 (3)(a) and reasonable conditions on the manner in which a medical marijuana facility may dispense medical marijuana.]*

(1) For purposes of this section, "reasonable regulations" includes:

(a) Reasonable limitations on the hours during which the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may operate;

(b) Reasonable conditions on the manner in which a marijuana processing site or medical marijuana dispensary may transfer usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts, immature marijuana plants and seeds;

(c) Reasonable requirements related to the public's access to the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary;

(d) Reasonable limitations on where the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may be located.

(2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of marijuana grow sites of persons designated to produce marijuana by registry identification cardholders, marijuana processing sites and medical marijuana dispensaries that are located in the area subject to the jurisdiction of the city or county.

PLACE

HB 3400 establishes limits on the number of mature plants that may be grown. The law reads as follows (bracketed and italicized text is deleted and bold text is new). Yellow highlighted text is applicable to grow sites.

(Grow Site Possession Limits)

SECTION 82. ORS 475.320 is amended to read:

475.320. *[(1)(a) A registry identification cardholder or the designated primary caregiver of the cardholder may possess up to six mature marijuana plants and 24 ounces of usable marijuana.]*
[(b) Notwithstanding paragraph (a) of this subsection, if a registry identification cardholder has been convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, the registry identification cardholder or the designated primary caregiver of the cardholder may possess one ounce of usable marijuana at any given time for a period of five years from the date of the conviction.]
[(2) A person authorized under ORS 475.304 to produce marijuana at a marijuana grow site:]
[(a) May produce marijuana for and provide marijuana:]
[(A) To a registry identification cardholder or a cardholder's designated primary caregiver as authorized under this section; or]
[(B) If the marijuana is usable marijuana or an immature marijuana plant and the registry identification cardholder authorizes the person responsible for the marijuana grow site to transfer the usable marijuana or immature marijuana plant to a medical marijuana facility registered under ORS475.314, to the medical marijuana facility.]
[(b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each cardholder or caregiver for whom marijuana is being produced.]
[(c) May produce marijuana for no more than four registry identification cardholders or designated primary caregivers concurrently.]
[(d) Must obtain and display a marijuana grow site registration card issued under ORS 475.304 for each registry identification cardholder or designated primary caregiver for whom marijuana is being produced.]
[(e) Must provide all marijuana produced for a registry identification cardholder or designated primary caregiver to the cardholder or caregiver at the time the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.]
[(f) Must return the marijuana grow site registration card to the registry identification cardholder to whom the card was issued when requested to do so by the cardholder or when the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.]
[(3) Except as provided in subsections (1) and (2) of this section, a registry identification cardholder, the designated primary caregiver of the cardholder and the person responsible for a marijuana grow site producing marijuana for the registry identification cardholder may possess a combined total of up to six mature plants and 24 ounces of usable marijuana for that registry identification cardholder.]
[(4)(a) A registry identification cardholder and the designated primary caregiver of the cardholder may possess a combined total of up to 18 marijuana seedlings or starts as defined by rule of the Oregon Health Authority.]
[(b) A person responsible for a marijuana grow site may possess up to 18 marijuana seedlings or starts as defined by rule of the authority for each registry identification cardholder for whom the person responsible for the marijuana grow site is producing marijuana.]

(1) Subject to subsection (2) of this section, a registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess six or fewer mature marijuana plants.

(2)(a) A person may be designated to produce marijuana under ORS 475.304 by no more than four registry identification cardholders.
(b) A person who is designated to produce marijuana by a registry identification cardholder may produce no more than six mature marijuana plants per registry identification cardholder.
(3) If the address of a person responsible for a marijuana grow site under ORS 475.304 is located within city limits in an area zoned for residential use:
(a) Except as provided in paragraph (b) of this subsection, no more than 12 mature marijuana plants may be produced at the address; or
(b) Subject to subsection (5) of this section, if each person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475.304 before January 1, 2015, no more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 12 mature marijuana plants, not to exceed 24 mature marijuana plants, may be produced at the address.
(4) If the address of a person responsible for a marijuana grow site under ORS 475.304 is located in an area other than an area described in subsection (3) of this section:
(a) Except as provided in paragraph (b) of this subsection, no more than 48 mature marijuana plants may be produced at the address; or
(b) Subject to subsections (5) and (6) of this section, if each person responsible for a marijuana grow site located at the address first registered with the authority under ORS 475.304 before January 1, 2015, no more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 48 mature marijuana plants, not to exceed 96 mature marijuana plants, may be produced at the address.
(5) If the authority suspends or revokes the registration of a person responsible for a marijuana grow site that is located at an address described in subsection (3)(b) or (4)(b) of this section:
(a) No more than 12 mature marijuana plants may be subsequently produced at any address described in subsection (3) of this section at which the person responsible for that marijuana grow site produces marijuana.
(b) No more than 48 mature marijuana plants may be subsequently produced at any address described in subsection (4) of this section at which the person responsible for that marijuana grow site produces marijuana.
(6) If a registry identification cardholder who designated a person to produce marijuana for the registry identification cardholder pursuant to ORS 475.304 terminates the designation, the person responsible for the marijuana grow site whose designation has been terminated may not be designated to produce marijuana by another registry identification cardholder, except that the person may be designated by another registry identification cardholder if no more than 48 mature marijuana plants are produced at the address for the marijuana grow site at which the person produces marijuana.
(7) If a law enforcement officer determines that a registry identification cardholder, the designated primary caregiver of a registry identification cardholder, or a person responsible for a marijuana grow site under ORS 475.304 who grows marijuana for a registry identification cardholder, possesses a number of mature marijuana plants in excess of the quantities specified in this section, the law enforcement officer may confiscate only the excess number of mature marijuana plants.

<u>SECTION 82a.</u> (1) Except as provided in subsection (2) of this section, a registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess no more than 24 ounces of usable marijuana.
(2) Subject to subsection (3) of this section, a person designated to produce marijuana by a registry identification cardholder may possess the amount of usable marijuana that the person harvests from the person's mature marijuana plants, provided that the person may not possess usable marijuana in excess of the amount of usable marijuana in the person's possession as reported to the Oregon Health Authority under section 81a of this 2015 Act.

(3) A person designated to produce marijuana by a registry identification cardholder may not possess usable marijuana in excess of:
(a) For a marijuana grow site located outdoors, 12 pounds of usable marijuana per mature marijuana plant; or
(b) For a marijuana grow site located indoors, six pounds of usable marijuana per mature marijuana plant.

SECTION 82b. The amendments to ORS 475.320 by section 82 of this 2015 Act apply to persons who registered with the Oregon Health Authority under ORS 475.304 before, on or after the operative date specified in section 179 of this 2015 Act.

HB 3400 contains language on medical marijuana processing sites. At this time staff has not identified any OAR language regarding medical marijuana processing sites. The Planning Commission may want to include in their discussion the limitation on processing locations noted in HB 3400. Yellow highlighted text is applicable to processor locations.

(Medical Marijuana Processors)

SECTION 85. (1)(a) The Oregon Health Authority shall establish by rule a marijuana processing site registration system to track and regulate the processing of marijuana by a person responsible for a marijuana processing site.
(b) Except as provided in paragraph (c) of this subsection, a person may not process marijuana unless the person is registered under this section.
(c) Paragraph (b) of this subsection does not apply to the processing of marijuana as provided in sections 3 to 70, chapter 1, Oregon Laws 2015, or as otherwise provided for by the statutory laws of this state.
(2) The registration system established under subsection (1) of this section must require an applicant for a marijuana processing site to submit an application to the authority that includes:
(a) The name of the individual who owns the marijuana processing site or, if a business entity owns the marijuana processing site, the name of each individual who has a financial interest in the marijuana processing site;
(b) The name of the individual or individuals responsible for the marijuana processing site, if different from the name of the individual who owns the marijuana processing site;
(c) The address of the marijuana processing site;
(d) Proof, until January 1, 2020, that each individual responsible for the marijuana processing
site has been a resident of this state for two or more years, and proof that each individual responsible for the marijuana processing site is 21 years of age or older;
(e) Documentation, as required by the authority by rule, that demonstrates the marijuana processing site meets the requirements of subsection (3) of this section; and
(f) Any other information that the authority considers necessary.
(3) To qualify for registration under this section, a marijuana processing site:
(a) May not be located in an area that is zoned for residential use if the marijuana processing site processes cannabinoid extracts;
(b) Must be registered as a business, or have filed an application to register as a business, with the office of the Secretary of State; and
(c) Must meet the requirements of any rule adopted by the authority under subsection (10) of this section.
(4)(a) The authority shall conduct a criminal records check under ORS 181.534 for each individual named in an application under subsection (2) of this section.

(b) An individual convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a marijuana processing site for two years from the date the individual is convicted.
(c) An individual convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a marijuana processing site.
(5) If a person submits the application required under subsection (2) of this section, if the marijuana processing site identified in the application meets the requirements of this section and any rules adopted under this section and if each individual named in the application passes the criminal records check required under subsection (4) of this section, the authority shall register the marijuana processing site and issue proof of registration. Proof of registration must be displayed on the premises of the marijuana processing site at all times.
(6) A marijuana processing site that is registered under this section is not required to register with the State Board of Pharmacy under ORS 475.125.
(7) The individual or individuals responsible for a marijuana processing site shall maintain documentation of each transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts.
(8) The authority may inspect:
(a) The premises of a proposed marijuana processing site or a registered marijuana processing site to ensure compliance with this section and sections 85a and 85b of this 2015 Act and any rules adopted under this section and sections 85a and 85b of this 2015 Act; and
(b) The records of a registered marijuana processing site to ensure compliance with subsection (7) of this section.
(9) Subject to the provisions of ORS chapter 183, the authority may refuse to register an applicant under this section or may suspend or revoke the registration of a marijuana processing site if the authority determines that the applicant, the owner of the marijuana processing site, a person responsible for the marijuana processing site, or an employee of the marijuana processing site, violated a provision of ORS 475.300 to 475.346, a rule adopted under ORS 475.300 to 475.346 or an ordinance adopted pursuant to section 2, chapter 79, Oregon Laws 2014.
(10) The authority shall adopt rules to implement this section, including rules that:
(a) Require a registered marijuana processing site to annually renew the registration for that site;
(b) Establish fees for registering, and renewing the registration of, a marijuana processing site;
(c) Require that medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts transferred by a marijuana processing site be tested to ensure the public health and safety; and
(d) Impose any other standard on the operation of a marijuana processing site to ensure the public health and safety.

<u>SECTION 85a.</u> (1) A marijuana processing site must meet any public health and safety standards established by the Oregon Health Authority by rule related to:
(a) Cannabinoid edibles, if the marijuana processing site processes marijuana into cannabinoid edibles;
(b) Cannabinoid concentrates, if the marijuana processing site processes marijuana into cannabinoid concentrates;
(c) Cannabinoid extracts, if the marijuana processing site processes marijuana into cannabinoid extracts; or
(d) Any other type of medical cannabinoid product identified by the authority by rule, if the marijuana processing site processes marijuana into that type of medical cannabinoid product.
(2) The authority shall adopt rules to implement this section.

<u>SECTION 85b.</u> (1) The Oregon Health Authority shall require by rule a marijuana processing site to submit to the authority for inclusion in the database developed and maintained pursuant to section 85e of this 2015 Act the following information:
(a) The amount of usable marijuana transferred to the marijuana processing site;
(b) The amount and type of medical cannabinoid products transferred by the marijuana processing site;
(c) The amount and type of cannabinoid concentrates transferred by the marijuana processing site; and
(d) The amount and type of cannabinoid extracts transferred by the marijuana processing site.
(2) The authority by rule may require a marijuana processing site to submit to the authority for inclusion in the database developed and maintained pursuant to section 85e of this 2015 Act information that is in addition to the information described in subsection (1) of this section as the authority considers necessary to fulfill the authority's duties under section 85 (1) of this 2015 Act. The authority may not employ any method other than that described in this section to obtain information from a marijuana processing site.

<u>SECTION 85c.</u> (1) A marijuana processing site may not transfer medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts to a person other than a registry identification cardholder, a designated primary caregiver or a medical marijuana dispensary.
(2) A person other than a marijuana processing site may not transfer medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts to a medical marijuana dispensary.

<u>SECTION 85d.</u> Section 85 of this 2015 Act does not apply to a registry identification cardholder or a person who has been designated as a primary caregiver under ORS 475.312 who processes a medical cannabinoid product or a cannabinoid concentrate for a registry identification cardholder.

HB 3400, Section 34 identifies marijuana as a crop for purposes of farm use, farm, farming practice and as farm product as noted below.

SECTION 34. (1) Notwithstanding any other provision of law, marijuana is:
(a) A crop for the purposes of "farm use" as defined in ORS 215.203;
(b) A crop for purposes of a "farm" and "farming practice," both as defined in ORS 30.930;
(c) A product of farm use as described in ORS 308A.062; and
(d) The product of an agricultural activity for purposes of ORS 568.909.
(2) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses on land designated for exclusive farm use:
(a) A new dwelling used in conjunction with a marijuana crop;
(b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a marijuana crop; and
(c) A commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a marijuana crop.
(3) A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones under this section and ORS 215.213 and 215.283.

TIME

HB 3400, Section 89 allows local government to regulate the hours of marijuana grow sites and processing sites. There are no additional provisions in Oregon Revised Statutes (ORS) or OAR's regarding hours of operation for grow sites or processors. The City Council may want to consider the hours required for growing marijuana which is likely on a 24-hour bases. For processors, the operation could be considered similar to an industrial operation, the Development Code does not limit hours.

MANNER

HB 3400, Section 89 allows local government to regulate the manner and access hours of marijuana grow sites and processing sites. There are no additional provisions in ORS or OAR's regarding manner of operation for grow sites or processors. The City Council may want to consider if a grow site can occur outdoors or indoors. If outdoors what type of visual screening or security requirements should be established? For processors should the operation be entirely indoors? There may be other manners of operation the City Council identifies for discussion and consideration.

MEDICAL MARIJUANA DISPENSARIES

HB 3400 modified the definition for schools related to medical marijuana dispensaries. The Bill redefines public primary and secondary schools and provides a definition for private and parochial schools. The former Oregon Revised Statute (ORS) 457 also included a definition for Career School and was deleted by HB 3400. The Oregon Administrative Rule (OAR) Division 8 still has the definition for Career School (bracketed and italicized text is deleted and bold text is new).

(Medical Marijuana Dispensaries)

SECTION 86. ORS 475.314, as amended by section 5, chapter 79, Oregon Laws 2014, is amended
to read:
Enrolled House Bill 3400 (HB 3400-A) Page 45
475.314. [*(1) The Oregon Health Authority shall establish by rule a medical marijuana facility registration system to authorize the transfer of usable marijuana and immature marijuana plants from:*]
[*(a) A registry identification cardholder, the designated primary caregiver of a registry identification cardholder, or a person responsible for a marijuana grow site to the medical marijuana facility;*
or]
[*(b) A medical marijuana facility to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.*]
(1)(a) The Oregon Health Authority shall establish by rule a medical marijuana dispensary registration system for the purpose of tracking and regulating the transfer of:
(A) Usable marijuana, immature marijuana plants and seeds from registry identification cardholders, designated primary caregivers and persons responsible for marijuana grow sites
to medical marijuana dispensaries;
(B) Medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts

from persons responsible for marijuana processing sites to medical marijuana dispensaries; and
(C) Usable marijuana, immature marijuana plants, seeds, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from medical marijuana dispensaries to registry identification cardholders and designated primary caregivers.
(b) A person may not operate an establishment for the purpose of providing the services described in paragraph (a) of this subsection unless the person is registered under this section.
(2) The registration system established under subsection (1) of this section must require **an applicant for** a medical marijuana [*facility*] **dispensary** to submit an application to the authority that
includes:
(a) The name of the individual who owns the medical marijuana dispensary or, if a business entity owns the medical marijuana dispensary, the name of each individual who has a financial interest in the medical marijuana dispensary;
[*(a)*] **(b)** The name of the [*person*] **individual or individuals** responsible for the medical marijuana [*facility*] **dispensary, if different from the name of the individual who owns the medical marijuana dispensary**;
[*(b)*] **(c)** The address of the medical marijuana [*facility*] **dispensary**;
[*(c)*] **(d)** Proof**, until January 1, 2020,** that [*the person*] **each individual** responsible for the medical marijuana [*facility is a resident of Oregon*] **dispensary has been a resident of this state for two or more years, and proof that each individual responsible for the medical marijuana dispensary is 21 years of age or older**;
[*(d)*] **(e)** Documentation, as required by the authority by rule, that demonstrates the medical marijuana [*facility*] **dispensary** meets the [*qualifications for a medical marijuana facility as described*
in] **requirements of** subsection (3) of this section; and
[*(e)*] **(f)** Any other information that the authority considers necessary.
(3) To qualify for registration under this section, a medical marijuana [*facility*] **dispensary**:
[*(a) Must be located in an area that is zoned for commercial, industrial or mixed use or as agricultural land;*]
(a) May not be located in an area that is zoned for residential use;
(b) May not be located at the same address as a marijuana grow site;
(c) Must be registered as a business**,** or have filed [*a pending*] **an** application to register as a business**,** with the office of the Secretary of State;
[*(d) Must not be located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors;*]
(d) 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);
(e) Must not be located within 1,000 feet of another medical marijuana [*facility*] **dispensary**; and
[*(f) Must comport with rules adopted by the authority related to:*]
[*(A) Installing a minimum security system, including a video surveillance system, alarm system and*
safe; and]
[*(B) Testing for pesticides, mold and mildew and the processes by which usable marijuana and immature marijuana plants that test positive for pesticides, mold or mildew must be returned to the*
registry identification cardholder, the cardholder's designated primary caregiver or the cardholder's
registered grower.]

(f) Must meet the requirements of any rule adopted by the authority under subsection (10) of this section.

Staff therefore proposes the following code amendments for Medical Marijuana Grow Sites, Processors, a footnote modification for Dispensaries related to "Career Schools" and a new footnote on electrical inspection:

- Add Medical Marijuana Grow Sites as a permitted use for up to twelve mature plants in R-1, R-2 and R-3 districts as indoor operations only.
- Add Medical Marijuana Grow Sites as a conditional use to all other districts and subdistricts.
- Add Medical Marijuana Processors as a permitted use in all industrial districts and subdistricts (M-1, M-2, M-3, M-4, AI, SD/E and M-1/SP).
- Delete the definition of Career School.
- Add definitions for Medical Marijuana Grow Site and Medical Marijuana Processor.
- Modify the footnote for Medical Marijuana Dispensaries in the Zoning Use Table to delete "Career School" and modify the public or private primary, elementary, secondary school references to align with new definitions in HB 3400.
- Add a footnote for electrical inspections for grow sites as a permitted use in R-1, R-2 and R-3 zones in the Zoning Use Table.

F. MEDICAL MARIJUANA SUBCOMMITTEE RECOMMENDATION: The Subcommittee developed the following recommendations.

Marijuana Grow Sites:

1. Allow up to twelve mature plants in residential R-1, R-2, R-3 or two patients as indoor operations. Above that the use would be a conditional use in all other zones.

Medical Marijuana Processors:

1. Processors be allowed in industrial zones and light manufacturing (M-1, M-2, M-3, M-4, AI, Springbrook District)

Medical Marijuana Dispensaries:

1. Remove Career Schools and change the definition to adopt the new definition of primary/secondary and private/parochial school.

G. PLANNING COMMISSION RECOMMENDATION

The Newberg Planning Commission held a public hearing on January 14, 2016, heard public testimony, and approved Resolution 2015-312, which recommends that the City Council:

- Add Medical Marijuana Grow Sites as a permitted use for up to twelve mature plants in R-1, R-2 and R-3 districts as indoor operations only.
- Add Medical Marijuana Grow Sites as a conditional use to all other districts and subdistricts.

- Add Medical Marijuana Processors as a permitted use in all industrial districts and subdistricts (M-1, M-2, M-3, M-4, AI and SD/E).

- Delete the definition of Career School.

- Add definitions for Medical Marijuana Grow Site and Medical Marijuana Processor.

- Modify the footnote for Medical Marijuana Dispensaries in the Zoning Use Table to delete "Career School" and modify the public or private primary, elementary, secondary school references to align with new definitions in HB 3400.

- Add a footnote for electrical inspections for grow sites as a permitted use in R-1, R-2 and R-3 zones in the Zoning Use Table.

FISCAL IMPACT: The fiscal impact of allowing medical marijuana grow sites and processors is unknown at this time.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS):
Medical Marijuana Grow Sites and Processors are a legal activity under state law, and the city wishes to allow businesses the opportunity to operate in the city. Zoning restrictions on the uses are appropriate to address potential adverse impacts on adjacent uses.

ATTACHMENTS:
Ordinance 2016-2793 with
Exhibit "A": Proposed Development Code Text Amendment
Exhibit "B": Findings
1. Resolution No. 2015-3244
2. Planning Commission Resolution 2016-312

ORDINANCE NO. 2016-2793

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

RECITALS:

1. House Bill 3400 enacted by the Oregon Legislature in 2015 modified provisions of ORS 475.300 – 475.346 the Oregon Medical Marijuana Act.

2. The Newberg City Council initiated a potential amendment to Newberg's Development Code regarding medical marijuana grow sites, processors and dispensaries on December 7, 2015, under City Council Resolution 2015-3244.

3. After proper notice, the Newberg Planning Commission held a hearing on January 14, 2016 to consider the amendment. The Commission considered testimony, deliberated, and found that adding regulations for medical marijuana grow sites, processors and modifying regulations of dispensaries would be in the best interests of the city. They approved Resolution 2016-312, which recommends that the City Council adopt the proposed amendments to the Newberg Development Code.

4. After proper notice, the Newberg City Council held a hearing on February 1, 2016 to consider the proposed amendment. The Council considered testimony and deliberated.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The Council finds that adding regulations for medical marijuana grow sites and processors, and modifying regulations of dispensaries would be in the best interests of the city. The Council adopts the amendments to the Newberg Development Code as shown in Exhibit “A”. Exhibit "A" is hereby adopted and by this reference incorporated.

2. The findings shown in Exhibit “B” are hereby adopted. Exhibit "B" is by this reference incorporated.

3. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect immediately upon passage by the council and signature of the mayor.

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

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

_____
Sue Ryan, City Recorder

ATTEST by the Mayor this _____ day of _____, 2016.

_____
Bob Andrews, Mayor

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

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

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

15.05.030 Definitions

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

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

<u>"Medical Marijuana Grow Site" means a location registered under ORS 475.304 where marijuana is produced for use by a registry identification cardholder.</u>

<u>"Medical Marijuana Processor" means a medical marijuana processing facility registered by the Oregon Health Authority.</u>

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

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

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

15.305.020 Zoning use table

See Exhibit A, Attachment 1

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

See Exhibit A, Attachment 2

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

I. Statewide Planning Goals - relevant goals

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

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

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

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

II. Newberg Comprehensive Plan - relevant policies

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

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

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

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

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

1. General Policies

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

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

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

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

Exhibit A, Attachment 1

Chapter
15.305
ZONING USE TABLE

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**, including**radio** towers and transmitters, which are 100 feet or less in height, except those incorporated into an existing**structure** 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**, including**radio** 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 building**and **use** incidental to other permitted **uses**in 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 Processor										**P**	**P**	**P**	**P**					**P**	
	Medical Marijuana Grow Site	**P(36)/ P(37)**	**P(36)/ P(37)**	**P(36)/ P(37)**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	

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) ~~public or private primary, elementary, secondary or career school~~. Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school ~~private elementary, secondary or career school~~ to the closest point of the premises of a dispensary. The premises consist of the dispensary building, or the portion of the building used for a dispensary. Shall not be located within 1,000 feet of another medical marijuana dispensary. Operating hours are limited to the hours between 9:00 a.m. and 8:00 p.m.
(36) Allows up to 12 mature plants; indoor operations only.
(37) Provide for electrical inspection for permitted uses to support proposed operations as inspected by Yamhill County.

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/.01	R-1/.04	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 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

Key:

P: Permitted use

S: Special use – Use requires a special use permit

C: Conditional use – Requires a conditional permit

X: Prohibited use

(#): See notes for limitations

RESOLUTION NO. 2015-3244

A RESOLUTION INITIATING AN AMENDMENT TO THE NEWBERG MUNICIPAL CODE, TITLE 15 DEVELOPMENT CODE FOR TIME, PLACE AND MANNER REGULATIONS FOR MEDICAL MARIJUANA GROWERS AND PROCESSORS

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. The Oregon Health Authority adopted temporary OAR's on September 22, 2015 for revisions to the medical marijuana program under Chapter 333, Division 8.

3. 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 nonvoting member Mayor Andrews.

4. The Subcommittee met on November 19, 2015 to review the similarities and differences between the medical marijuana and recreational marijuana programs. The Subcommittee was briefed that the operational date for the medical marijuana modifications in HB 3400 is March 1, 2016. The Subcommittee was also provided a timeline of dates and activities that would need to occur to prepare time, place and manner land use regulations for medical marijuana growers and processors.

5. The Subcommittee passed a motion 3-0 directing staff to create an RCA to initiate the Development Code Amendment for medical marijuana grower and processor regulations to bring forward for Council consideration on December 7.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council initiates an amendment to the Newberg Municipal Code, Title 15 Development Code for Time, Place and Manner Regulations for Medical Marijuana Growers and Processors. 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.

ATTACHMENT 1

➢ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: December 8, 2015

ADOPTED by the City Council of the City of Newberg, Oregon, this 7th day of December, 2015.

Sue Ryan

Sue Ryan, City Recorder

ATTEST by the Mayor this 10th day of December, 2015.

Bob Andrews

Bob Andrews, Mayor

PLANNING COMMISSION RESOLUTION 2016-312

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL AMEND THE NEWBERG DEVELOPMENT CODE REGARDING MEDICAL MARIJUANA GROW SITES, PROCESSORS AND DISPENSARIES

RECITALS

1. On March 19, 2014, Senate Bill 1531 was signed into law. SB 1531 gives local governments the ability to impose certain regulations and restrictions on the operation of medical marijuana dispensaries.

2. House Bill (HB) 3400 was approved in the 2015 Oregon Legislative session related to recreational and medical marijuana. Some of the provision of HB 3400 modified the laws related to medical marijuana.

3. The Newberg City Council initiated a potential amendment to Newberg's Development Code regarding medical marijuana grow sites and processors on December 7, 2015.

4. After proper notice, the Newberg Planning Commission held a hearing on January 14, 2016 to consider the amendment. The Commission considered testimony and deliberated.

The Newberg Planning Commission resolves as follows:

1. The Commission finds that adding regulations for medical marijuana grow sites, medical marijuana processors and modifications to a footnote for medical marijuana dispensaries regarding Career Schools and definition of public elementary or secondary school or private or parochial school to align with HB 3400 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 14th day of January, 2016.

Planning Commission Chair

ATTEST:

Bobbie Morgan

Planning Commission Secretary

List of Exhibits:

Exhibit "A": Development Code Text Amendments
Exhibit "B": Findings