



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

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

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### **RECITALS:**

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

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

1. The Council finds that adding regulations for medical marijuana grow sites and processors, and modifying regulations of dispensaries would be in the best interests of the city. The Council adopts the amendments to the Newberg Development Code as shown in Exhibit "A". Exhibit "A" is hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit "B" are hereby adopted. Exhibit "B" is by this reference incorporated.
3. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect immediately upon passage by the council and signature of the mayor.

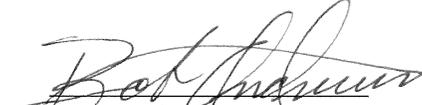
➤ **EFFECTIVE DATE** of this February 2, 2016.

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



Sue Ryan, City Recorder

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

  
Bob Andrews, Mayor

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

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

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

**15.05.030 Definitions**

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

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

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

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

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

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

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

**15.305.020 Zoning use table**

**See Exhibit A, Attachment 1**

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

**See Exhibit A, Attachment 2**

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

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

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

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

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

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

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

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

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

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

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

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

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

1. General Policies

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

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

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

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

## 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 Use Standards		
100	<b>AGRICULTURAL USES</b>																					
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	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	<b>RESIDENTIAL USES</b>																					
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 home on 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															Chapter 15.445 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 these 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(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(13)	C	C	C(13)	NMC15.415.060	
300	<b>INSTITUTIONAL AND PUBLIC USES</b>																					
310	<b>INSTITUTIONAL CARE AND HOUSING</b>																					
Def.	Family child care home	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)									P	P(13)	Chapter 657A ORS	
312	Day care	P	P	P	C	P	P	P	P		C	C	C	C	P					P(14)	Chapter 657A ORS	
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												ORS 197.665	
315	Group care facility (16+ people)	C	C	C		C		C											P			
316	Hospital	C	C	C		C		P	P													
Def.	Prison										C	C	C	C								
320	<b>ASSEMBLY</b>																					
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	<b>SCHOOLS</b>																					





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

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

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

