



## PLANNING COMMISSION RESOLUTION 2016-314

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A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL AMEND THE  
NEWBERG DEVELOPMENT CODE REGARDING RECREATIONAL MARIJUANA  
WHOLESALEERS, LABORATORIES, RESEARCH CERTIFICATES AND RETAILERS

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### RECITALS

1. In November 2014 voters in Oregon approved Ballot Measure 91 related to recreational marijuana.
2. House Bill (HB) 3400 was passed in the 2015 Oregon Legislative session related to recreational marijuana and is now part of Oregon Revised Statutes Chapter 475B – Cannabis Regulation.
3. The Oregon Liquor Control Commission adopted temporary Oregon Administrative Rules (OAR's) on October 22, 2015 that were subsequently modified on November 20, 2015 for recreational marijuana under Chapter 845, Division 25.
4. The Newberg City Council established the Marijuana Subcommittee on September 8, 2015 to review and provide recommendations on local place, time and manner regulations for recreational marijuana.
5. The Newberg City Council initiated a potential amendment to Newberg's Development Code regarding recreational marijuana wholesalers, laboratories, research certificates and retailers on February 1, 2016 by Resolution No. 2015-3253.
6. The Marijuana Subcommittee met on February 4, 2016 and developed recommendations to the Planning Commission on recreational marijuana wholesalers, laboratories, research certificates and retailers.
7. After proper notice, the Newberg Planning Commission held a hearing on April 14, 2016 to consider the amendment. The Commission considered testimony and deliberated.

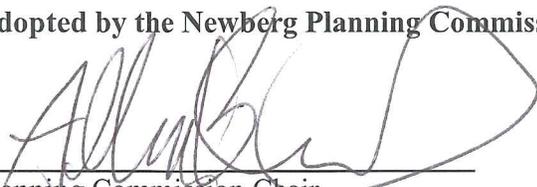
### The Newberg Planning Commission resolves as follows:

1. The Commission finds that adding regulations for recreational marijuana wholesalers, laboratories, research certificates and retailers, and adding definitions for recreational marijuana wholesalers, laboratories and retailers, 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.

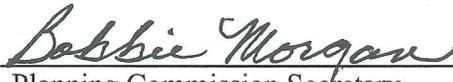
*"Working Together For A Better Community-Serious About Service"*

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Adopted by the Newberg Planning Commission this 14<sup>th</sup> day of April, 2016.

  
\_\_\_\_\_  
Planning Commission Chair

ATTEST: 

  
\_\_\_\_\_  
Planning Commission Secretary

List of Exhibits:

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

**Exhibit “A” to Planning Commission Resolution 2016-314  
Development Code Amendments –File DCA-16-001  
Recreational Marijuana Wholesalers, Laboratories, Research Certificates and  
Retailers**

**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:

“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.

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

**See Exhibit A, Attachment 1**

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

**See Exhibit A, Attachment 2**

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

**15.342.110 Prohibited uses and activities.**

The following activities or uses are prohibited within this subdistrict:

- A. Except as provided in NMC 15.342.040(R), the planting or propagation of any plant identified as a nuisance plant as determined by a qualified botanist or indicated as a nuisance plant on the Newberg plant list.
- B. The removal of native trees that are greater than six inches in diameter at breast height, except as is otherwise permitted within this chapter.
- C. Any use dealing with hazardous substances or materials, including but not limited to gas service stations.
- D. Public pathways, except those in conjunction with public lands, public parks or public easements that have been acquired by other than eminent domain. [Ord. 2451, 12-2-96. Code 2001 § 151.475.]
- E. Recreational Marijuana Producer and Recreational Marijuana Processor.
- F. Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers.

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

**15.350.030 Permitted buildings and uses.**

All uses permitted in the underlying primary district are permitted within the CC subdistrict except as follows:

- A. In addition to the **buildings and uses** permitted conditionally in NMC 15.305.020, the **planning commission** may grant a **conditional use permit** for any of the following **buildings and uses** in accordance with a Type III procedure:
  - 1. Facilities which exist for the purpose of providing for the temporary care and/or lodging of adult indigent persons.
  - 2. **Hospitals.**
- B. The following uses are prohibited within the CC subdistrict:
  - 1. **Automobile sales, new and used.**

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2. Car washes, coin-operated or mechanical.
3. Garages, repair.
4. Service stations. [Amended during 11/13 supplement; Ord. 2561, 4-1-02. Code 2001 § 151.526.3.]
5. Recreational Marijuana Producer and Recreational Marijuana Processor.
6. Recreational Marijuana Wholesalers and Retailers.

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

**15.356.050 Prohibited uses.**

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

1. Automobile sales, new and used.
2. Billboards.
3. Car washes.
4. Convenience grocery stores.
5. Restaurants larger than 2,000 square feet or with drive-up service windows.
6. Service stations.
7. Drive-in theaters.
8. Auction sales.
9. Bakeries, retail.
10. Building material sales.
11. Driving ranges.
12. Feed and seed stores.

13. Miniature **golf courses**.

14. Skating rinks.

15. Recreational Marijuana Producer and Recreational Marijuana Processor.

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

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

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

**15.358.030 Permitted uses.**

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

A. Contractor's equipment or storage.

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

C. Recreational Marijuana Producer (indoor).

D. Recreational Marijuana Wholesalers, Laboratories, Research Certificates.

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

**15.358.050 Prohibited uses.**

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

A. Cemeteries.

B. Garbage dumps, sanitary landfills.

C. Parks.

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D. Permanent **buildings**.

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

F. Recreational Marijuana Processor.

G. Recreational Marijuana Retailers.

**Findings –File DCA-16-001**  
**Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers**

**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 February 1, 2016. The Marijuana Subcommittee meet on February 4, 2016 at a public meeting to review potential place, time and manner regulations for Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers. The Planning Commission, after proper notice, held a public hearing on April 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 Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers 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 February 1, 2016. The Marijuana Subcommittee meet on February 4, 2016 at a public meeting to review potential place, time and manner regulations for Recreational Wholesalers, Laboratories, Research Certificates and Retailers. The Planning Commission, after proper notice, held a public hearing on April 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 Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers 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 Recreational Marijuana Wholesale, Laboratory, Research Certificate and Retail operations are a legal operation under State law. Allowing Recreational Marijuana Wholesale, Laboratory, Research Certificate and Retail operations as a permitted or conditional use as represented in Exhibit A, Attachments 1 and 2 is consistent with this Comprehensive Plan goal.

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







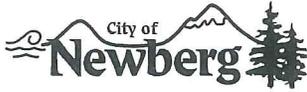
- (9) Permitted on the ground floor, one per lot in conjunction with any other use permitted or conditional use in the C-1 zone. On upper floors, dwelling units are unlimited and one parking space per dwelling unit is required.
- (10) Permitted above any permitted use in the C-2 zone. There shall be no density limitation. Parking shall be provided in private parking areas or garages on the basis of one parking space for each dwelling unit.
- (11) Must be located above ground floor commercial uses.
- (12) One residence of area not more than 40 percent of the area of the hangar floor, up to a maximum of 1,500 square feet, for an airport caretaker or security officer on each separate parcel.
- (13) Permitted in existing dwelling units only. New dwelling units may not be created for this use unless the dwelling unit would otherwise be allowed.
- (14) Allowed exclusively for employers or employees of businesses located within this district.
- (15) Facility over 40,000 square feet gross floor area requires a conditional use permit.
- (16) Allowed in areas designated in industrial area plans.
- (17) Limited to facilities owned or operated by a public agency.
- (18) Parking garages are a conditional use, and must have first floor street frontage of 40 feet or less for ingress or egress. First floor development must be commercial.
- (19) A conditional use permit is required if the facility is less than 2,000 feet from the nearest telecommunication facility.
- (20) Businesses in the C-1 zone that have hours of operation between 10:00 p.m. and 7:00 a.m. require a conditional use permit.
- (21) Drive-up service windows accessory to an existing business on the site with walk-in customer service, such as a drive-up bank window, are allowed only with a conditional use permit. Otherwise, drive-up service windows, except those in service on April 1, 2002, are prohibited. Changes in use will not be allowed.
- (22) Retail sales of goods on site not allowed.
- (23) Limited to secondhand stores.
- (24) Store size is limited to 2,000 square feet gross floor area.
- (25) Store size is limited to 5,000 square feet gross floor area.
- (26) Use must demonstrate that it is compatible with airport operations.
- (27) Limited to service stations.
- (28) Limited to card lock fueling only. Retail services are limited to self-vending services.
- (29) Permitted provided the structure is designed for easy conversion to industrial use, including not having fixed seating.
- (30) Limited to 10,000 square feet maximum floor area.
- (31) Allowed indoors only.
- (32) Allowed indoors only. Outdoor use requires a conditional use permit.
- (33) Must be aviation-related. See Chapter 15.332 NMC.
- (34) Limited to expansion or change of existing heavy manufacturing uses.
- (35) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a dispensary. The premises consist of the dispensary building, or the portion of the building used for a dispensary. Shall not be located within 1,000 feet of another medical marijuana dispensary. Operating hours are limited to the hours between 9:00 a.m. and 8:00 p.m.
- (36) Allows up to 12 mature plants; indoor operations only.
- (37) Indoor use only.
- (38) The use is not allowed within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a recreational processor, wholesaler or retailer.
- (39) 1,000 foot separation between retailer to retailer premises and 1,000 foot separation between retailer to dispensary premises.
- (40) Operating hours limited to the hours between 9:00 a.m. and 8:00 p.m.

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

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



# Attachment 1



## RESOLUTION No. 2016-3253

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**A RESOLUTION INITIATING AN AMENDMENT TO THE NEWBERG MUNICIPAL CODE, TITLE 15 DEVELOPMENT CODE FOR PLACE, TIME AND MANNER REGULATIONS FOR RECREATIONAL MARIJUANA WHOLESALERS, LABORATORIES, RESEARCH CERTIFICATES AND RETAILERS**

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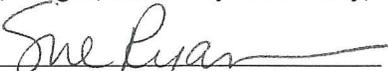
### RECITALS:

1. The Oregon Legislature enacted four bills during the 2015 legislative session related to the Oregon Medical Marijuana Act and Measure 91. House Bill (HB) 3400 was the omnibus bill covering recreational marijuana and modifications to the medical marijuana program.
2. On September 8, 2015 the Newberg City Council was provided background information on medical and recreational marijuana at its Work Session. At its Business Session on September 8th the City Council established the Marijuana Subcommittee (Subcommittee) comprised of Councilors Rourke, Bacon and McKinney along with non-voting member Mayor Andrews.
3. The Subcommittee held its third meeting on January 12, 2016. A proposed timeline was included in their packet of material to address recreational marijuana place, time and manner for recreational wholesalers, laboratories, research certificates and retailers. The Oregon Liquor Control Commission has indicated they will start issuing licenses for retailers in the 3<sup>rd</sup> Quarter of 2016.
4. The Subcommittee subsequently passed a motion 3-0 directing staff to create a Request for Council Action to initiate the Development Code amendment process for Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers to bring forward for Council consideration on February 1, 2016.

### THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council initiates an amendment to the Newberg Municipal Code, Title 15 Development Code for Place, Time and Manner Regulations for Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers. This starts the public process to study the proposed amendments.
2. By initiating this amendment, the council does not commit to taking any specific action on the proposal. It only wishes to give the amendment full consideration in a public hearing.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: February 2, 2016  
**ADOPTED** by the City Council of the City of Newberg, Oregon, this 1<sup>st</sup> day of February, 2016.

  
\_\_\_\_\_  
Sue Ryan, City Recorder

**ATTEST** by the Mayor this 1<sup>st</sup> day of February, 2016.

  
\_\_\_\_\_  
Bob Andrews, Mayor

## Attachment 2

**Doug Rux**

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**From:** Sue Ryan  
**Sent:** Tuesday, January 19, 2016 11:33 AM  
**To:** Doug Rux  
**Subject:** FW: Recreational sales

Please advise  
sue

**From:** Steve Rhodes  
**Sent:** Tuesday, January 19, 2016 11:29 AM  
**To:** Sue Ryan  
**Subject:** Re: Recreational sales

Check with Doug.

Sent from my iPad

On Jan 19, 2016, at 10:38 AM, Sue Ryan <[Sue.Ryan@newbergoregon.gov](mailto:Sue.Ryan@newbergoregon.gov)> wrote:

Do you want me to forward this to Council ?  
Sue

Sue Ryan  
City Recorder  
City of Newberg  
[cityrecorder@newbergoregon.gov](mailto:cityrecorder@newbergoregon.gov)  
(503) 537-1283

### OREGON PUBLIC RECORD

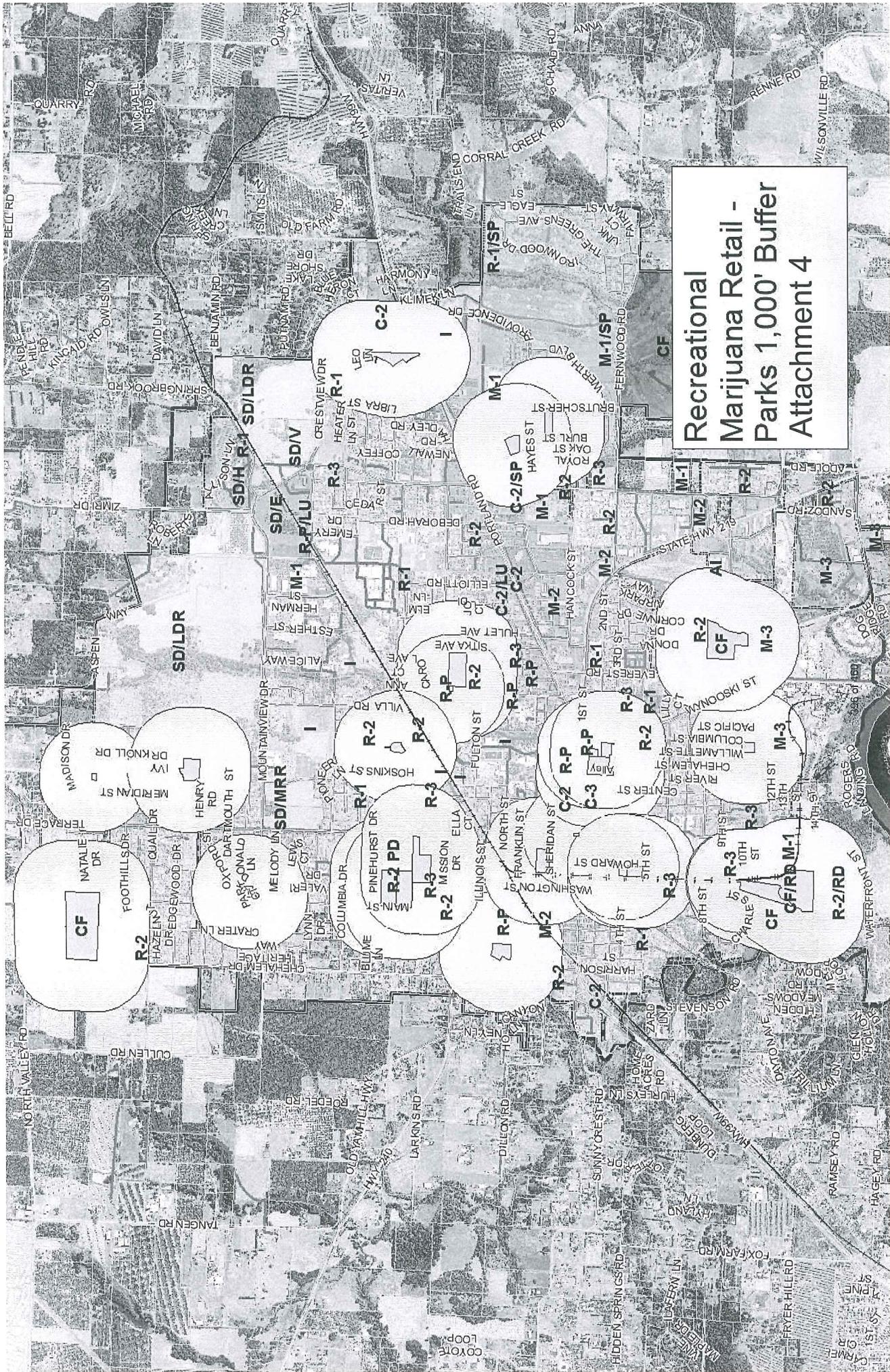
Messages to and from this email address may be subject to the Oregon Public Records Law.

**From:** Leif Patterson [<mailto:leifer956@gmail.com>]  
**Sent:** Monday, January 18, 2016 5:18 PM  
**To:** Sue Ryan  
**Subject:** Recreational sales

Hello, as a Newberg resident I feel compelled to offer my two cents that we should allow recreational marijuana sales. Most of the neighboring towns are benefiting from this program and the tax revenue it generates. Currently, I drive into Portland a few times a week to purchase products there. I spend money on food, gas etc that would all be spent in Newberg if rec sales were allowed. Lets stop sending revenue elsewhere and start keeping it here for our schools, roads and other public services.

Thanks for your time,  
Leif





Recreational  
 Marijuana Retail -  
 Parks 1,000' Buffer  
 Attachment 4

