



**CITY of THE DALLES**

313 COURT STREET  
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125  
PLANNING DEPARTMENT

**AGENDA**  
**CITY OF THE DALLES PLANNING COMMISSION**  
CITY HALL COUNCIL CHAMBERS  
313 COURT SREET  
THE DALLES, OREGON 97058  
CONDUCTED IN A MEETING ROOM IN COMPLIANCE WITH ADA STANDARDS  
**THURSDAY, FEBRUARY 16, 2017**  
**5:30 P.M.**

**I. CALL TO ORDER**

**II. ROLL CALL:**

**Commission Chair:** Bruce Lavier

**Commissioners:** Sherry DuFault, John Nelson, Mark Poppoff, Steve Ross, Jeff  
Stiles, Chris Zukin

**III. APPROVAL OF MINUTES:** February 2, 2017

**IV. PUBLIC COMMENT:** *Items not on the agenda*

**V. DISCUSSION / WORK SESSION**

**i. ZONING ORDINANCE AMENDMENT: ZOA 93-17**

**REQUEST:** Proposed text amendments pertaining to recreational retail marijuana facilities separation requirements and to establish odor control and screening requirements for personal grow sites

**VI. STAFF COMMENTS**

Next scheduled meeting: March 2, 2017

**VII. COMMISSIONER COMMENTS OR QUESTIONS**

**VIII. ADJOURNMENT**



**MINUTES**  
**CITY OF THE DALLES PLANNING COMMISSION**

CITY HALL COUNCIL CHAMBERS  
313 COURT SREET  
THE DALLES, OREGON 97058

CONDUCTED IN A MEETING ROOM IN COMPLIANCE WITH ADA STANDARDS

**THURSDAY, FEBRUARY 2, 2017**

**5:30 P.M.**

**I. CALL TO ORDER**

**II. ROLL CALL:**

**In Attendance:**

**Commission Chair:** Bruce Lavier

**Commissioners:** Sherry DuFault (5:55p), John Nelson, Mark Poppoff (5:55p),  
Steve Ross, Jeff Stiles, Chris Zukin (5:55p)

**Staff:** City Attorney Parker, Planning Director Harris, and Senior Planner Hert

**III. APPROVAL OF AGENDA**

Commissioner Nelson moved to approve the agenda as written. Commissioner Stiles seconded the motion and the agenda was unanimously approved by the Commission.

**IV. ELECTION OF OFFICERS**

Chair Lavier asked if the Commission should move the agenda item due to the lack of present commissioners. Planning Director Harris concurred that it might be prudent to delay the vote in case more commissioners arrived during the meeting.

**V. APPROVAL OF MINUTES**

Commissioner Stiles indicated he had arrived at the previous meeting at 5:45p, not 6:15p. Commissioner Nelson moved to approve the amended minutes and Commissioner Stiles seconded the motion. The minutes were unanimously approved by the Planning Commission.

**VI. PUBLIC COMMENT – *Items not on the agenda***

Chair Lavier asked if there were any public comments for items not listed on the agenda. There were none.

**VII. QUASI-JUDICIAL PUBLIC HEARINGS**

Chair Lavier read the rules for quasi-judicial hearing, and asked the Commission if they had any conflicting interests in the matter to be heard. The Commissioners indicated they did not have any conflicting interests; there were no challenges from the public.

**CONDITIONAL USE PERMIT 184-17 – Luke Tanner and Edward Sohler, Jr.**

Senior Planner Hert introduced the Conditional Use Application and cited the conditions of approval. She indicated that the proposed use was less intense than the previous use of the property (automotive repair). With this and the conditions in mind, the staff recommended approval pending the applicants' ability to meet the paved parking requirement. She requested the Commission make a judgement on that condition, and indicated that although the client had only submitted concept drawings, if approved, they would be submitting professional plans for Site Plan approval. Senior Planner Hert also mentioned the applicants' willingness to work with staff to meet conditions and be in compliance with the code. She mentioned that some of the issues with parking improvements were with the property owner.

Commissioner Stiles asked for clarification that the building would only be used for wholesale and production, not retail. Senior Planner Hert said that it was only a wholesale and production facility with no future plans for retail use.

Commissioner Nelson asked about the hard surface requirements for parking. Senior Planner Hert said that all parking and maneuvering space for the building needed to be hard surface. The applicants were proposing to put all of the parking in front of Building #15 (Referenced in Exhibit 3). The applicants were then proposing a marked, gravel pedestrian walkway to be installed from Building #15 to Building #18. This was to abide by the owners' wishes to keep the majority of the area gravel for maneuvering large construction equipment.

Commissioner Nelson asked how a walkway would work with current condition of gravel and obvious puddles and ruts. Senior Planner Hert indicated that the employee path only needed to be marked.

Based on several Commissioners' concerns that the applicant would utilize the gravel area for traffic, Senior Planner Hert indicated that any deviation from the approved Site Plan would be subject to the Code Enforcement process.

Commissioner Zukin asked for clarification that although there was currently product in Building #15, there was not product in Building #18. Senior Planner Hert confirmed that the first building was in use for medical marijuana production. The City of The Dalles had not chosen to proceed with code enforcement because the regulations and zoning for the industry had not been in place when the applicant began production.

Chair Lavier asked if there was anyone to speak in favor of the application.

**Proponent**

**Edward Sohler, Jr., 1378 Golden Mantle, Terrebonne, Oregon 97760**

Mr. Sohler expressed to the Planning Commission that he had been regularly attending meetings on marijuana regulation in order to keep in compliance with any enacted laws. He also said that he was being mindful of the property owner's wishes and would try and balance those with the Planning Commission's decision. The owner, Bud Brace, wished to keep a majority of the property unpaved to maneuver machinery.

Chair Lavier said that the main idea is that the applicant be committed to working with staff to come to a solution.

Commissioner Nelson expressed a concern that the pedestrian walkway between the two buildings would not be maintained based on the current condition of the driveway.

**Proponent**

**Luke Tanner, 1105 29th Street, Hood River, Oregon 97031**

The applicant expressed a wish to comply with the LUDO standards. He added that the pedestrian walkway would be marked with railroad ties and that he personally would ensure that the driveway would be maintained regularly. In response to the commission questions, he described how the product would be moved from building to building. He added that per State regulations the movement of product would be minimal based on the amount of tracking needed for each plant.

The applicants entered two exhibits into the record. An amended site plan (Exhibit 1) and a letter form the property owner Bud Brace (Exhibit 2).

Chair Lavier closed the Public Hearing and opened discussion among the Commission.

Commissioners Stiles and Nelson wished to see professional site plans from the applicant before making a decision. Commissioner Poppoff believed their submission was sufficient. Commissioner Zukin added that he wished for the applicant to be in complete compliance with the LUDO and their premature occupancy of the building and property that did not fit the guidelines was a “self-made hardship.”

Chair Lavier asked if it was within the Commission’s purview to ask for a formal drawing. Senior Planner Hert said that the intent of the concept plan being allowed was to lessen the financial costs for applicants who were denied. City Attorney Parker asked for a brief recess to review the wording of the LUDO referring to concept plans. Chair Lavier called for a ten minute recess.

Planning Director Harris resumed the meeting by giving the Commission options to proceed. If they believed that the concept plans and information given by the applicants was enough to make a decision, they could vote for or against the application. If they believed the information to be insufficient they could require the applicant to provide a professional set of plans, either in a continued hearing or as part of the Site Plan approval process.

The Commission discussed the parking as the main issue with the permit. Commissioners DuFault, Zukin, and Stiles all expressed concern with the current state of the property and an issue with believing that the maintenance would occur.

Chair Lavier and Commissioner Poppoff both expressed similar stances that the property would be improved and the Commission was impeding business.

Commissioner Nelson made a motion to approve the application according to finding and staff recommendations. The motion was seconded by Commissioner Ross. The Commission approved the application (5-2). Chair Lavier, Commissioners Nelson, Poppoff, DuFault and Ross were in favor. Commissioners Zukin and Stiles were opposed.

### **VIII. RESOLUTIONS**

Nelson motioned to approve the resolution. This motion was seconded by Poppoff. The Commission approved the application (4-3). Chair Lavier, Nelson, Poppoff and Ross were in favor. Zukin, DuFault, and Stiles were opposed.

### **IX. STAFF COMMENTS**

City Engineer McCabe reminded the Commission of the joint City Council and Planning Commission meeting the next Monday at 5:30. They would be discussing the TSP. Kittleson and Associates would be coming to present.

The Commission discussed keeping the time change and agreed to keep the meeting at 5:30p.

Planning Director Harris formally welcomed Steve Ross to the Commission.

Planning Director Harris announced an APA conference in Hood River and noted that there were enough funds in the Planning Commission budget for two or three Commissioners wishing to attend.

Planning Director Harris added that the next meeting would be a discussion of several marijuana ordinance changes that the City Council was wishing to be reconsidered or changed. The meeting would be a work session with no other business items at the moment.

### **X. COMMISSIONER COMMENTS**

Commissioner Zukin informed the Planning Commission that he had sold his home within the city limits, and therefore would be resigning from the Commission as soon as the sale was final, he believed sometime in March.

### **XI. ELECTION OF OFFICERS**

Lavier was nominated. Nominations were closed. Stiles motioned for Lavier to be elected Chair of the Planning Commission. Poppoff seconded the motion. The motion carried unanimously.

Commissioner Nelson was nominated for Vice Chair. The nominations were closed. Commissioner Zukin motioned to elect Commissioner Nelson. Commissioner DuFault seconded the motion. The motion carried unanimously.

### **XII. NEXT SCHEDULED MEETING: February 16, 2017**

### **XIII. ADJOURNMENT**

Respectfully submitted by Planning Secretary Paula Webb.

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Bruce Lavier, Chairman




## CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125  
PLANNING DEPARTMENT

DATE: February 16, 2017

TO: Chair and Members of the Planning Commission

FROM: Steven Harris, AICP   
Planning Director

SUBJECT: ZONING ORDINANCE AMENDMENT ZOA 93-17 - PROPOSED TEXT AMENDMENTS PERTAINING TO RECREATIONAL RETAIL MARIJUANA FACILITIES SEPARATION REQUIREMENTS AND TO ESTABLISH ODOR CONTROL AND SCREENING REQUIREMENTS FOR PERSONAL GROW SITES

### BACKGROUND

At their meeting of November 14, 2016 the City Council gave direction to staff to study and draft possible alternative language to the 1,000 foot separation requirement for recreational retail marijuana facilities as established in General Ordinance No. 16-1343, adopted September 12, 2016 (see attached). Staff has prepared three alternative text amendments addressing the 1,000 foot separation requirement.

Additionally, staff has prepared proposed text amendments addressing odor control and screening requirements for personal marijuana grow sites in the RL (Residential Low Density District), RM (Residential Medium Density District) and RH (Residential High Density District).

*(The proposed text amendments are summarized below and can also be found as an attachment to the Notice of Proposed Change.)*

### PROPOSED TEXT AMENDMENTS

#### **Existing Separation Requirements**

The 1,000 foot separation requirement for recreational marijuana retailers is established in the CBC (Central Business Commercial District), CG (General Commercial District) and the CLI (Commercial/ Light Industrial District) as follows:

- CBC – Section 5.050.030(A)(23)(b)(5)** The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:

5. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission.

- **CG – Section 5.060.20 (A)(26)(b)(5)** The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:

5. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission.

- **CLI – Section 5.070.20(A)(27)(b)(5)** The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:

5. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission.

### **Proposed Separation Requirements**

In addition to the “no project or no change” alternative, staff has prepared three alternative text amendments addressing the 1,000 foot separation requirement for the Commission’s consideration. In staff’s review of possible alternatives, it was determined to forego an alternative based on “physical barriers” between one or more retail sales locations due to the difficulty in defining a physical barrier, as well as the permanence of such a barrier.

- **Alternative No. 1** – reduces the 1,000 foot separation requirement to a 500 foot minimum separation requirement between recreational marijuana retailers. The use would still be allowed by right, subject to operating standards (e.g., hours of operation, no drive-up facility, etc.).

*The current 1,000 foot separation requirement for recreational marijuana retailers and elementary and secondary schools, public libraries, public parks and recreational facilities will remain, as will the 500 foot separation requirement for recreational marijuana retailers and the RL, RH, or RM Residential Districts.*

- **Alternative No. 2** – allows for a reduction in the 1,000 foot separation requirement to a minimum of 500 feet separation with the issuance of a Condition Use Permit (CUP). Recreational marijuana retailers would be allowed by right if they were located more than 1,000 feet apart. Whether allowed by right or through the issuance of a CUP the use would be subject to operating standards.

*The current 1,000 foot separation requirement for recreational marijuana retailers and elementary and secondary schools, public libraries, public parks and*

*recreational facilities will remain, as will the 500 foot separation requirement for recreational marijuana retailers and the RL, RH, or RM Residential Districts.*

- **Alternative No. 3** – allows for a reduction in the 1,000 foot separation requirement with no minimum separation requirement established, with the issuance of a Conditional Use Permit (CUP). Recreational marijuana retailers would be allowed by right if they were located more than 1,000 feet apart. Whether allowed by right or through the issuance of a CUP the use would be subject to operating standards.

*The current 1,000 foot separation requirement for recreational marijuana retailers and elementary and secondary schools, public libraries, public parks and recreational facilities will remain, as will the 500 foot separation requirement for recreational marijuana retailers and the RL, RH, or RM Residential Districts.*

### **Odor Control and Screening Requirements**

The proposed text amendments would address concerns raised pertaining to the visibility of and odors emanating from homegrown recreational or personal medical marijuana grow sites in the RL, RM and RH Residential Districts. Current State and City regulations allow for the cultivation of homegrown recreational and personal medical marijuana. Specifically, LUDO Sections 5.010.040, 5.020.040 and 5.040.040 would be amended to add the following to prohibited uses in those zoning districts:

- Odor associated with marijuana allowed to “*emanate from the (subject) property...to any other property.*”
- Marijuana to be located in place where “*the grow site may be seen by normal unaided from a public space or neighboring property.*”

Appropriate screening materials are defined in LUDO Section 6.010.050 (see attached), while odor complaints would be addressed pursuant to nuisance abatement procedures established in General Ordinance Chapter 5 Nuisances.

### **RECOMMENDED ACTION**

Staff recommends that the Commission discuss the proposed text amendments and provide staff with direction, as appropriate. The public hearing has been scheduled for the Planning Commission meeting of March 16, 2017.

### **Attachments**

Notice of Propose Change w/attachments

General Ordinance No. 16-1343

LUDO Section 6.01.050

City Council meeting minutes (dated November 14, 2016)



# NOTICE OF A PROPOSED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

<b>FOR DLCD USE</b>
File No.:
Received:

Local governments are required to send notice of a proposed change to a comprehensive plan or land use regulation **at least 35 days before the first evidentiary hearing.** (See OAR 660-018-0020 for a post-acknowledgment plan amendment and OAR 660-025-0080 for a periodic review task). The rules require that the notice include a completed copy of this form.

Jurisdiction: **City of The Dalles**

Local file no.: **ZOA 93-17**

Please check the type of change that best describes the proposal:

- Urban growth boundary (UGB) amendment** including more than 50 acres, by a city with a population greater than 2,500 within the UGB
- UGB amendment** over 100 acres by a metropolitan service district
- Urban reserve designation**, or amendment including over 50 acres, by a city with a population greater than 2,500 within the UGB
- Periodic review task** – Task no.:
- Any other change** to a comp plan or land use regulation (e.g., a post-acknowledgement plan amendment)

Local contact person (name and title): **Steven Harris, Planning Director**

Phone: 541-296-5481 E-mail: [sharris@ci.the-dalles.or.us](mailto:sharris@ci.the-dalles.or.us)

Street address: 313 Court St City: The Dalles Zip: 97058-

**Briefly summarize the proposal** in plain language. Please identify all chapters of the plan or code proposed for amendment (maximum 500 characters):

**The City of The Dalles is considering zoning text amendments to the Chapter 5 Zone District Regulations that regulate the locations of Recreational and Medical Marijuana Businesses and grow sites. The amendments to be considered are focused on the separation requirements between Marijuana businesses and the regulation of marijuana grow sites in residential zones.**

Date of first evidentiary hearing: 03/16/2017

Date of final hearing: 4/24/2017

This is a revision to a previously submitted notice. Date of previous submittal:

Check all that apply:

- Comprehensive Plan text amendment(s)
- Comprehensive Plan map amendment(s) – Change from \_\_\_\_\_ to \_\_\_\_\_  
Change from \_\_\_\_\_ to \_\_\_\_\_
- New or amended land use regulation
- Zoning map amendment(s) – Change from \_\_\_\_\_ to \_\_\_\_\_  
Change from \_\_\_\_\_ to \_\_\_\_\_
- An exception to a statewide planning goal is proposed – goal(s) subject to exception:
- Acres affected by map amendment:

Location of property, if applicable (site address and T, R, Sec., TL):

List affected state or federal agencies, local governments and special districts:

**City of The Dalles**  
**ZOA #93-17**  
**Potential LUDO Amendments Related to**  
**Additional Marijuana Regulations**

**RL – Residential Low Density Residential District**

Section 5.010.040 Prohibited Uses shall be amended by adding subsections (1) and (2) after subsection B, which shall read as follows:

1. No owner of real property or person in charge of the property shall allow, permit, or cause the odor of marijuana associated with a Homegrown Recreational Marijuana Grow Site or a Personal Medical Marijuana Grow Site, to emanate from the property upon which the Grow Site is located, to any other property.
2. No owner of real property or person in charge of the property shall allow, permit, or a Homegrown Recreational Marijuana Grow Site or a Personal Medical Marijuana Grow Site to be located in a place where the Grow Site may be seen by normal unaided vision from a public place or neighboring property. The Grow Site shall be screened using appropriate screening material as defined in Section 6.010.050 of this Ordinance.

**RH – Residential High Density Residential District**

Section 5.020.040 Prohibited Uses shall be amended by adding subsections (1) and (2) after subsection B, which shall read as follows:

1. No owner of real property or person in charge of the property shall allow, permit, or cause the odor of marijuana associated with a Homegrown Recreational Marijuana Grow Site or a Personal Medical Marijuana Grow Site, to emanate from the property upon which the Grow Site is located, to any other property.
2. No owner of real property or person in charge of the property shall allow, permit, or a Homegrown Recreational Marijuana Grow Site or a Personal Medical Marijuana Grow Site to be located in a place where the Grow Site may be seen by normal unaided vision from a public place or neighboring property. The Grow Site shall be screened using appropriate screening material as defined in Section 6.010.050 of this Ordinance.

**RM – Residential Medium Density Residential District**

Section 5.040.040 Prohibited Uses shall be amended by adding subsections (1) and (2) after subsection B, which shall read as follows:

1. No owner of real property or person in charge of the property shall allow, permit, or cause the odor of marijuana associated with a Homegrown Recreational Marijuana Grow Site or a Personal Medical Marijuana Grow Site, to emanate from the property upon which the Grow Site is located, to any other property.
2. No owner of real property or person in charge of the property shall allow, permit, or a Homegrown Recreational Marijuana Grow Site or a Personal Medical Marijuana Grow Site to be located in a place where the Grow Site may be seen by normal unaided vision from a

public place or neighboring property. The Grow Site shall be screened using appropriate screening material as defined in Section 6.010.050 of this Ordinance.

### Alternative #1

#### **CBC – Central Business Commercial District**

Section 5.050.030(A)(23) would be revised to decrease the separation requirement for retail marijuana facilities from 1,000 feet to 500 feet, which shall read as follows:

23. Recreational Marijuana Facilities. An application for a retail marijuana facility shall also comply with the following criteria:

- a) The retail facility must be located more than 500 feet from:
  1. Any RL, RH, or RM Residential District measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property in the RL, RH, or RM Residential District, and
  2. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission, measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property on which the other facility is located.
- b) The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:
  - ~~5. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission.~~

#### **CG – General Commercial District**

Section 5.060.20 (A)(26) would be revised to decrease the separation requirement for retail marijuana facilities from 1,000 feet to 500 feet, which shall read as follows:

26. Recreational Marijuana Facilities. An application for a retail marijuana facility shall also comply with the following criteria:

- a) The retail facility must be located more than 500 feet from:
  1. Any RL, RH, or RM Residential District measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property in the RL, RH, or RM Residential District, and
  2. The retail facility must be located more than 500 feet from any other recreational marijuana retailer registered with the Oregon Liquor Control Commission, measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property on which the other facility is located.

- b) The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:

~~5. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission.~~

#### **CLI- Commercial/Light Industrial District**

Section 5.070.20 (A)(27) would be revised to decrease the separation requirement for retail marijuana facilities from 1,000 feet to 500 feet, which shall read as follows:

27. Recreational Marijuana Facilities. An application for a retail marijuana facility shall also comply with the following criteria:

- a) The retail facility must be located more than 500 feet from:
  - 1. Any RL, RH, or RM Residential District measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property in the RL, RH, or RM Residential District, and
  - 2. The retail facility must be located more than 500 feet from any other recreational marijuana retailer registered with the Oregon Liquor Control Commission, measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property on which the other facility is located.
- b) The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:

~~5. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission.~~

#### **Alternative # 2**

#### **CBC – Central Business Commercial District**

Section 5.050.040 Conditional Uses would be revised by adding subsection (O) to require a conditional use permit to allow retail marijuana facilities to locate less than 1,000 feet from each other with a minimum separation requirement of 500 feet, which shall read as follows:

5.050.040 (O) Recreational Marijuana Facilities, located between 1,000 feet and 500 feet from any other recreational marijuana retailer registered with the Oregon Liquor Control Commission, measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property on which the other facility is located, shall be subject to the provisions of Section 5.050.030(A)(23).

Section 5.050.030(A)(23) would be revised to delete the 1,000 foot separation requirement for retail marijuana facilities, which shall read as follows:

23. Recreational Marijuana Facilities. An application for a retail marijuana facility shall also comply with the following criteria:

b) The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:

~~5. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission.~~

#### **CG – General Commercial District**

Section 5.060.030 Conditional Uses would be revised by adding subsection (O) to require a conditional use permit to allow retail marijuana facilities to locate less than 1,000 feet from each other with a minimum separation requirement of 500 feet, which shall read as follows:

5.060.030 (O) Recreational Marijuana Facilities located between 1,000 feet and 500 feet from any other recreational marijuana retailer registered with the Oregon Liquor Control Commission, measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property on which the other facility is located, shall be subject to the provisions of Section 5.060.020(A)(26).

Section 5.060.020(A)(26) would be revised to delete the 1,000 foot separation requirement for retail marijuana facilities, which shall read as follows:

26. Recreational Marijuana Facilities. An application for a retail marijuana facility shall also comply with the following criteria:

b) The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:

~~5. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission.~~

#### **CLI – Commercial/Light Industrial District**

Section 5.070.030 Conditional Uses would be revised by adding subsection (G) to require a conditional use permit to allow retail marijuana facilities to locate less than 1,000 feet from each other with a minimum separation requirement of 500 feet, which shall read as follows:

5.070.030(G) Recreational Marijuana Facilities located between 1,000 feet and 500 feet from any other recreational marijuana retailer registered with the Oregon Liquor Control Commission, measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property on which the other facility is located, shall be subject to the provisions of Section 5.070.020(A)(27).

Section 5.070.020(A)(27) would be revised to delete the 1,000 foot separation requirement for retail marijuana facilities, which shall read as follows:

27. Recreational Marijuana Facilities. An application for a retail marijuana facility shall also comply with the following criteria:
- b) The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:
- ~~5. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission.~~

### Alternative # 3

#### **CBC – Central Business Commercial District**

Section 5.050.040 Conditional Uses would be revised by adding subsection (O) to require a conditional use permit to allow retail marijuana facilities to locate less than 1,000 feet from each other with no minimum separation requirement, which shall read as follows:

5.050.040 (O) Recreational Marijuana Facilities located less than 1,000 feet from any other recreational marijuana retailer registered with the Oregon Liquor Control Commission, measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property on which the other facility is located, subject to the provisions of Section 5.050.030(A)(23).

Section 5.050.030(A)(23) would be revised to delete the 1,000 foot separation requirement for retail marijuana facilities, which shall read as follows:

23. Recreational Marijuana Facilities. An application for a retail marijuana facility shall also comply with the following criteria:
- b) The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:
- ~~5. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission.~~

#### **CG – General Commercial District**

Section 5.060.030 Conditional Uses would be revised by adding subsection (O) to require a conditional use permit to allow retail marijuana facilities to locate less than 1,000 feet from each other with no minimum separation requirement, which shall read as follows:

5.060.030 (O) Recreational Marijuana Facilities located less than 1,000 feet from any other recreational marijuana retailer registered with the Oregon Liquor Control Commission, measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property on which the other facility is located, subject to the provisions of Section 5.060.020(A)(26).

Section 5.060.020(A)(26) would be revised to delete the 1,000 foot separation requirement for retail marijuana facilities, which shall read as follows:

26. Recreational Marijuana Facilities. An application for a retail marijuana facility shall also comply with the following criteria:

b) The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:

~~5. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission.~~

#### **CLI – Commercial/Light Industrial District**

Section 5.070.030 Conditional Uses would be revised by adding subsection (G) to require a conditional use permit to allow retail marijuana facilities to locate less than 1,000 feet from each other with no minimum separation requirement, which shall read as follows:

5.070.030(G) Recreational Marijuana Facilities located less than 1,000 feet from any other recreational marijuana retailer registered with the Oregon Liquor Control Commission, measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property on which the other facility is located, subject to the provisions of Section 5.070.020(A)(27).

Section 5.070.020(A)(27) would be revised to delete the 1,000 foot separation requirement for retail marijuana facilities, which shall read as follows:

27. Recreational Marijuana Facilities. An application for a retail marijuana facility shall also comply with the following criteria:

b) The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:

~~5. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission.~~

**GENERAL ORDINANCE NO. 16-1343**

**AN ORDINANCE AMENDING GENERAL ORDINANCE NO. 98-1222,  
ESTABLISHING TIME, PLACE, AND MANNER REGULATIONS OF  
FACILITIES FOR PROCESSING, PRODUCTION, RETAILING,  
AND WHOLESALING OF RECREATIONAL MARIJUANA**

**WHEREAS**, in November, 2014, Oregon voters approved Ballot Measure 91, which decriminalized the personal growing and use of certain amounts of recreational marijuana by persons 21 years of age or older; and

**WHEREAS**, ORS 475B.340 provides that local governments may impose reasonable regulations on the time, place, and manner of operation of marijuana facilities; and

**WHEREAS**, on May 5 and May 25, 2016, the City Planning Commission conducted public hearings upon proposed amendments to the City's Land Use and Development Ordinance to establish time, place, and manner regulations for facilities for the production, processing, retailing, and wholesaling of marijuana, and voted to adopt Resolution No. P.C. 551-16 for Zoning Ordinance Amendment #92-16; and

**WHEREAS**, the City Council conducted a public hearing on June 13, 2016 to consider the Planning Commission's recommendations, and following the close of the public hearing, the City Council conducted deliberations on June 13<sup>th</sup> and June 27<sup>th</sup>, and the Council members voted 4 to 0 to modify the Planning Commission's recommendations by eliminating licensed day care facilities and established churches from proposed buffer zones around recreational marijuana facilities; allowing marijuana production, processing, storage, and wholesaling in the Commercial/Light Industrial zoning district as a conditional use with a 500 foot buffer from schools; and extending the hours of operation for recreational marijuana facilities from 10:00 AM to 8:00 PM;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF THE DALLES  
ORDAINS AS FOLLOWS:**

**Section 1. Findings.** In support of the adoption of General Ordinance No. 16-1343, the City Council makes the following findings:

- A. State law authorizes the operation of recreational marijuana businesses and provides these businesses with immunity from state criminal prosecution.
- B. Although the State of Oregon has passed legislation authorizing marijuana businesses and providing criminal immunity under state law, the operation of those businesses remains illegal under federal law.
- C. The City Council has home rule authority to decide whether, and under what conditions, certain commercial conduct should be regulated within the City and subject to the general and police powers of the City, except when local action has been clearly and unambiguously preempted by state statute.



- D. Whether a certain business should operate within a local jurisdiction is a local government decision, and local governments may enforce that decision through the general and police powers of that jurisdiction.
- E. The City Council wants to regulate the operation of marijuana businesses in the City in ways that protect and benefit the public health, safety and welfare of existing and future residents and businesses in the City.
- F. This ordinance is intended to impose restrictions, not provide authorizations.
- G. This ordinance is intended to apply only to recreational marijuana businesses, and not to medical marijuana businesses or to personal possession, growing or use of marijuana as authorized by the state in ORS 475B.245 to ORS 475B.255.
- H. Upon approval of City voters, the City shall impose a local sales tax of three percent (3%) on the sales of recreational marijuana by marijuana retailers.
- I. The operation of a marijuana business without proper authority from either the Oregon Liquor Control Commission or the Oregon Health Authority is prohibited within the City.

**Section 2. Criteria for Amendment Satisfied.** Section 3.110.030 of the City's Land Use and Development Ordinance provides that text amendments to the Ordinance shall be consistent with the City's Comprehensive Plan, and State laws and administrative rules. Concerning the Comprehensive Plan, Goal #9, Economic Development is stated as follows: "To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens". The proposed amendments provide specific locations where the commercial activity associated with the operation of retail marijuana dispensaries can occur. Requiring the retail marijuana facilities to comply with the same area restrictions which are intended to prevent such businesses from being located adjacent to residential zoning districts, public or private schools attended primarily by minors, public libraries, public parks, and recreational facilities, will protect the safety and welfare of the community. In addition to the commercial activities associated with the operation of the retail facilities, the proposed amendment also provides opportunities, under restricted conditions, for economic activity associated with recreational marijuana production, processing, storage, and wholesaling, within the commercial light industrial and industrial zoning district. The Council finds and concludes that the proposed text amendments are consistent with the City's Comprehensive Plan.

Regarding the criteria of compliance with State laws and administrative rules, ORS 475B.340 provides that local governments may impose reasonable regulations on the time, place, and manner of operation of recreational marijuana facilities. Consistent with state law, this ordinance includes provisions regulating the hours of operation for retail marijuana facilities. State law permits the City to include additional restrictions upon the location of marijuana producers, processors, wholesalers, and retailers. The additional location restrictions proposed in this ordinance do not reduce the size of the location restrictions provided by state law. State law and administrative rules adopted by the Oregon Liquor Control Commission and the Oregon Health Authority include a significant volume of provisions which regulate the manner of operation of recreational producers, processors, wholesalers, and retailers. The additional restrictions on the operation of these types of businesses imposed by this ordinance do not lessen the provisions or

regulations adopted by State law and administrative rules. The Council finds and concludes that the proposed text amendments comply with State laws and administrative rules.

**Section 3. New Definitions.** Section 2.030 shall be amended to add the following new definitions for Marijuana, Marijuana Items, Recreational Marijuana Processing, Recreational Marijuana Production, Recreational Marijuana Retailing, and Recreational Marijuana Wholesaling

**Marijuana** - Means all parts of the plant cannabis family moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

**Marijuana Items** – Means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

**Recreational Marijuana Processing** – The processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission.

**Recreational Marijuana Production** – The manufacture, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Liquor Control Commission.

**Recreational Marijuana Retailing** - The sale of marijuana items to a consumer, provided the marijuana retailer is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.

**Recreational Marijuana Wholesaling** - The purchase of marijuana items for resale to a person other than a consumer, provided the marijuana wholesaler is licensed by the Oregon Liquor Control Commission.

**Section 4. RL – Residential Low Density District.** The provisions in this district shall be amended as follows:

**RL – Residential Low Density District**

Section 5.010.040 would be renamed Prohibited Uses and would read as follows:

**Section 5.010.040 Prohibited Uses**

The production, processing, wholesaling, and retailing of recreational marijuana are prohibited uses in all RL – Residential Low Density districts.

Section 5.010.040 through 5.010.070 would be renumbered 5.010.050 through 5.010.080, with 5.010.050 being renamed Neighborhood Compatibility, 5.010.060 Development Standards, 5.010.070 Design Standards, and 5.010.080 being renamed Exceptions to Standards.

**Section 5. RH – Residential High Density District.** The provisions in this district shall be amended as follows:

**RH – Residential High Density District**

Section 5.020.040 would be renamed Prohibited Uses and would read as follows:

**Section 5.020.040 Prohibited Uses**

The production, processing, wholesaling, and retailing of recreational marijuana are prohibited uses in all RH – Residential High Density districts.

Section 5.020.040 through 5.020.080 would be renumbered 5.020.050 through 5.020.090, with 5.020.050 being renamed Neighborhood Compatibility, 5.020.060 Development Standards, 5.020.070, Design Standards, 5.020.080, Open Spaces, and 5.020.090 being renamed Exceptions to Standards.

**Section 6. RM – Residential Medium Density District.** The provisions in this district shall be amended as follows:

Section 5.030.040 would be renamed Prohibited Uses and would read as follows:

**Section 5.030.040 Prohibited Uses**

The production, processing, wholesaling, and retailing of recreational marijuana are prohibited uses in all RM – Residential Medium Density districts.

Section 5.030.040 through 5.030.080 would be renumbered 5.030.050 through 5.030.090, with 5.030.050 being renamed Neighborhood Compatibility, 5.030.060 Development Standards, 5.030.070 Design Standards, 5.030.080 Open Area, and 5.030.090 being renamed Exceptions to Standards.

**Section 7. NC – Neighborhood Center Overlay District.** The provisions in this district shall be amended as follows:

Section 5.040.040 would be renamed Prohibited Uses and would read as follows:

**Section 5.040.040 Prohibited Uses**

The production, processing, wholesaling, and retailing of recreational marijuana are prohibited uses in all NC Neighborhood Center overlay zones.

Section 5.040.040 through 5.040.070 would be renumbered 5.040.050 through 5.040.080, with 5.040.050 being renamed Development Standards, 5.040.060 Design Standards, 5.040.070, Neighborhood Compatibility, and 5.040.080 being renamed Exceptions to Standards.

**Section 8. CBC – Central Business Commercial District.** The provisions in this district shall be amended as follows:

Section 5.050.030(A)(23) would be revised for a new permitted use concerning retail marijuana facilities, which would read as follows:

23. Recreational Marijuana Facilities. An application for a retail marijuana facility shall also comply with the following criteria:
- a) The retail facility must be located more than 500 feet from any RL, RH, or RM Residential District, measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property in the RL, RH, or RM Residential District.
  - b) The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:
    1. 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).
    2. A public library.
    3. A public park.
    4. A recreational facility, which has facilities such as a playground, swimming pool, baseball field, football field, soccer field, tennis court, basketball court, or volleyball court.
    5. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission.
  - c) The retail facility must be located in a building and may not be located in an intermodal cargo container, motor vehicle, recreational vehicle or residential trailer. Outdoor storage of merchandise, raw materials, or other material associated with the retail facility is prohibited.
  - d) The retail facility shall not have a drive-up use.
  - e) The retail facility shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed in the retail facility's exterior refuse containers.
  - f) The retail facility's license or authority must be in good standing with the Oregon Health Authority or Oregon Liquor Control Commission, and the retail facility must comply with all applicable laws and regulations administered by the respective state agency, including, without limitation those rules that relate to labeling, packaging, testing, security, waste management, food handling, and training.
  - g) The hours of operation for the retail facility shall be no earlier than 10:00 AM and no later than 8:00 P.M.

- h) The retail facility must use an air filtration and ventilation system which, to the greatest extent feasible, contains all marijuana-related odors within the facility rather than allowing such odors to escape outside. Sufficient measures and means of preventing odors, debris, fluids and other substances from exiting the facility must be in effect at all times.
- i) No one under the age of 21 shall be permitted to be present in the building space occupied by a marijuana retailer, except as allowed by state law.
- j) Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by a marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.
- k) A licensed retail facility may register with the Oregon Liquor Control Commission (OLCC) to engage in the same retail license activity for specified medical marijuana purposes, as allowed by the OLCC.

Section 5.050.030(A)(23) would be renumbered (A)(24).

Section 5.050.050 would be renamed Prohibited Uses and would read as follows:

Section 5.050.050 Prohibited Uses

The production, processing, and wholesaling of recreational marijuana are prohibited uses in all CBC – Central Business Commercial districts.

Section 5.050.050 through 5.050.080 would be renumbered 5.050.060 through 5.050.090, with 5.050.060 being renamed Development Standards, 5.050.070 Design Standards-All Development, 5.050.080 Design Standards-Sub-Districts and 5.050.090 being renamed Exceptions to Standards.

**Section 9. CG – General Commercial District.** The provisions in this district shall be amended as follows:

CG – General Commercial District

Section 5.060.020(A)(26) would be revised for a new permitted use concerning retail marijuana facilities, which would read as follows:

- 26. **Recreational Marijuana Facilities.** An application for a retail marijuana facility shall also comply with the following criteria:
  - a) The retail facility must be located more than 500 feet from any RL, RH, or RM Residential District, measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property in the RL, RH, or RM Residential District.
  - b) The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:

1. 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).
  2. A public library.
  3. A public park.
  4. A recreational facility, which has facilities such as a playground, swimming pool, baseball field, football field, soccer field, tennis court, basketball court, or volleyball court.
  5. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission.
- c) The retail facility must be located in a building and may not be located in an intermodal cargo container, motor vehicle, recreational vehicle or residential trailer. Outdoor storage of merchandise, raw materials, or other material associated with the retail facility is prohibited.
  - d) The retail facility shall not have a drive-up use.
  - e) The retail facility shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed in the retail facility's exterior refuse containers.
  - f) The retail facility's license or authority must be in good standing with the Oregon Health Authority or Oregon Liquor Control Commission, and the retail facility must comply with all applicable laws and regulations administered by the respective state agency, including, without limitation those rules that relate to labeling, packaging, testing, security, waste management, food handling, and training.
  - g) The hours of operation for the retail facility shall be no earlier than 10:00 AM and no later than 8:00 P.M.
  - h) The retail facility must use an air filtration and ventilation system which, to the greatest extent feasible, contains all marijuana-related odors within the facility rather than allowing such odors to escape outside. Sufficient measures and means of preventing odors, debris, fluids and other substances from exiting the facility must be in effect at all times.
  - i) No one under the age of 21 shall be permitted to be present in the building space occupied by a marijuana retailer, except as allowed by state law.
  - j) Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by a marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.

- k) A licensed retail facility may register with the Oregon Liquor Control Commission (OLCC) to engage in the same retail license activity for specified medical marijuana purposes, as allowed by the OLCC.

Section 5.060.020(A)(26) would be renumbered (A)(27)

Section 5.060.040 would be renamed Prohibited Uses and would read as follows:

Section 5.060.040 Prohibited Uses

The production, processing, and wholesaling of recreational marijuana are prohibited uses in all CG – General Commercial districts.

Section 5.060.050 through 5.060.060 would be renumbered 5.060.060 through 5.060.070, with 5.060.050 being renamed Development Standards, 5.060.060 Design Standards, and 5.060.070 being renamed Exceptions to Standards.

**Section 10. CLI – Commercial/Light Industrial District.** The provisions in this district shall be amended as follows:

Section 5.070.020(A)(27) would be revised for a new permitted use concerning retail marijuana facilities, which would read as follows:

27. Recreational Marijuana Facilities. An application for a retail marijuana facility shall also comply with the following criteria:
- a) The retail facility must be located more than 500 feet from any RL, RH, or RM Residential District, measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property in the RL, RH, or RM Residential District.
  - b) The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:
    1. 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).
    2. A public library.
    3. A public park.
    4. A recreational facility, which has facilities such as a playground, swimming pool, baseball field, football field, soccer field, tennis court, basketball court, or volleyball court.
    5. Any other recreational marijuana retailer registered with the Oregon Liquor Control Commission.

- c) The retail facility must be located in a building and may not be located in an intermodal cargo container, motor vehicle, recreational vehicle or residential trailer. Outdoor storage of merchandise, raw materials, or other material associated with the retail facility is prohibited.
- d) The retail facility shall not have a drive-up use.
- e) The retail facility shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed in the retail facility's exterior refuse containers.
- f) The retail facility's license or authority must be in good standing with the Oregon Health Authority or Oregon Liquor Control Commission, and the retail facility must comply with all applicable laws and regulations administered by the respective state agency, including, without limitation those rules that relate to labeling, packaging, testing, security, waste management, food handling, and training.
- g) The hours of operation for the retail facility shall be no earlier than 10:00 AM and no later than 8:00 P.M.
- h) The retail facility must use an air filtration and ventilation system which, to the greatest extent feasible, contains all marijuana-related odors within the facility rather than allowing such odors to escape outside. Sufficient measures and means of preventing odors, debris, fluids and other substances from exiting the facility must be in effect at all times.
- i) No one under the age of 21 shall be permitted to be present in the building space occupied by a marijuana retailer, except as allowed by state law.
- j) Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by a marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.
- k) A licensed retail facility may register with the Oregon Liquor Control Commission (OLCC) to engage in the same retail license activity for specified medical marijuana purposes, as allowed by the OLCC.

Section 5.070.020(A)(27) would be renumbered (A)(28).

Section 5.070.030 would be revised by adding a new section B and would read as follows:

- B. The production, processing, storage, and wholesaling of recreational marijuana, subject to the following additional provisions:
  - 1. Activity shall occur only in a completely enclosed building. Greenhouses are not allowed.
  - 2. A building used for marijuana production, processing, storage, or wholesaling shall be equipped with a carbon filtration system for odor control.

- a. The system shall consist of one or more fans and filters.
  - b. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the square footage of the building floor space (i.e., one CFM per square feet of building floor space).
  - c. The filter(s) shall be rated for the required CFM.
  - d. The filtration system shall be maintained in working order and shall be in use.
  - e. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.
3. The marijuana production, processing, storage, or wholesaling business's state licensing or authority must be in good standing with the Oregon Health Authority or the Oregon Liquor Control Commission, and the business must comply with all applicable rules and regulations administered by the respective state agency, including, without limitation those rules that relate to labeling, packaging, testing, security, waste management, food handling, and training.
  4. The recreational marijuana production, processing, storage, or wholesaling business must be located more than 500 feet from 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).

Sections 5.070.030 B through F would be renumbered C through G.

**Section 11. CR – Recreational Commercial District.** The provisions in this district shall be amended as follows:

Section 5.080.040 Development Standards would be renamed Prohibited Uses and would read as follows:

**Section 5.080.040 Prohibited Uses**

The production, processing, wholesaling and retailing of recreational marijuana are prohibited uses in all CR – Recreational Commercial districts.

Section 5.080.040 through 5.080.060 would be renumbered 5.080.050 through 5.080.070, with 5.080.050 being renamed Development Standards, 5.080.060 Design Standards, and 5.080.070 being renamed Exceptions to Standards.

**Section 12. I – Industrial District.** The provisions in this district shall be amended as follows:

Section 5.090.030 would be revised for a new conditional use concerning marijuana facilities, which would read as follows:

J. The production, processing, storage, and wholesaling of recreational marijuana. An application for a marijuana production, processing, storage, or wholesaling facility shall also comply with the following criteria:

- 1) The facility must be located in a building and may not be located in an intermodal cargo container, motor vehicle, recreational vehicle or residential trailer. Outdoor storage of merchandise, raw materials, or other material associated with the production, processing, storage, or wholesaling facility is prohibited.
- 2) The facility shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed in the facility's exterior refuse containers.
- 3) The production, processing, storage, or wholesaling facility shall be licensed by the Oregon Liquor Control Commission and comply with the requirements of any applicable administrative rule adopted by the Oregon Liquor Control Commission.
- 4) A building used for marijuana production, processing, storage, or wholesaling shall be equipped with a carbon filtration system for odor control.
  - a. The system shall consist of one or more fans and filters.
  - b. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the square footage of the building floor space (i.e., one CFM per square feet of building floor space).
  - c. The filter(s) shall be rated for the required CFM.
  - d. The filtration system shall be maintained in working order and shall be in use.
  - e. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.
- 5) The recreational marijuana production, processing, storage, or wholesaling business's state licensing or authority must be in good standing with the Oregon Health Authority or the Oregon Liquor Control Commission, and the business must comply with all applicable rules and regulations administered by the respective state agency, including, without limitation those rules that relate to labeling, packaging, testing, security, waste management, food handling, and training.

**Section 13. CFO - Community Facilities Overlay District.** The provisions in this district shall be amended as follows:

Section 5.100.030 Review Procedures would be renamed Prohibited Uses and would read as follows:

Section 5.100.030 Prohibited Uses

The production, processing, wholesaling, and retailing of recreational marijuana are prohibited uses in all CFO - Community Facilities Overlay zones.

Section 5.100.030 through 5.100.050 would be renumbered 5.100.040 through 5.100.060, with 5.100.040 being renamed Review Procedures, 5.100.050 Development Standards, and 5.100.060 being renamed Master Plans.

**Section 14. P/OS Parks and Open Space District.** The provisions in this district shall be amended as follows:

Section 5.110.040 Review Procedures would be renamed Prohibited Uses and would read as follows:

Section 5.110.040 Prohibited Uses

The production, processing, wholesaling, and retailing of recreational marijuana, are prohibited uses in all P/OS - Parks and Open Space zones.

Section 5.110.040 through 5.110.050 would be renumbered 5.110.050 through 5.110.060, with 5.110.050 being renamed Review Procedures, and 5.110.060 being renamed Development Standards.


**Section 15.** Section 6.020.020(D) – Prohibited Uses shall be amended to read as follows:

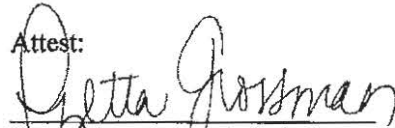
D. Prohibited Uses. Vehicle sales, vehicle repair, and any use where the vehicle is the focus of the work, or is a significant part of the home business, is prohibited unless the owner obtains a conditional use permit. The production, processing, wholesaling, and retailing of recreational marijuana, are prohibited as a home occupation in any zoning district.

**PASSED AND ADOPTED THIS 12<sup>th</sup> DAY OF SEPTEMBER, 2016.**

Voting Yes, Councilors: Miller, Brown, McClothlin, Elliott  
Voting No, Councilors: \_\_\_\_\_  
Abstaining, Councilors: \_\_\_\_\_  
Absent, Councilors: Spatz

**AND APPROVED BY THE MAYOR THIS 12<sup>th</sup> DAY OF SEPTEMBER, 2016.**

  
Stephen E. Lawrence, Mayor

Attest:  
  
Izetta Grossman, City Clerk

areas are used as a tire stop for parking, the planter or buffer area shall be a minimum width of 7.5 feet.

- J. Irrigation Systems. Irrigation systems shall be required where necessary to assure survival of plant materials.
- K. Vision Clearance. In no case shall site obscuring shrubs, landscape features, conifer trees, fences exceeding 24 inches in height, or other screening be permitted within vision clearance areas of street or alley intersections, or where the City Engineer otherwise deems such plantings would endanger pedestrians and vehicles. See *Section 6.100: Vision Clearance*.
- L. Fences. All fences over 4 feet in height shall require a permit. Permits for fences 6 feet or under in height shall not require a permit fee.

#### 6.010.040 Buffering

Buffer plantings are used to reduce building scale, provide transition between different land uses (i.e. residential and commercial) and contrasting architectural styles, and generally mitigates incompatible or undesirable views. They are used to soften rather than block viewing. Where required, a mix of plant materials shall be used to achieve the desired buffering effect.

XX

#### 6.010.050 Screening (Hedges, Fences, Walls other than Retaining Walls, Berms)

- A. General. Screening is used where unsightly views or visual conflicts must be obscured or blocked and where privacy and security are desired. All screening shall comply with the provisions of *Section 6.100: Vision Clearance*.
- B. Fences and Walls. Fences and walls used for screening may be constructed of wood, concrete, stone, brick, wrought iron, metal, or other commonly used fencing/wall materials. Acoustically designed fences and walls may also be used where noise pollution requires mitigation.
- C. Landscaping As Screening. Where landscaping is used for required screening, it shall be at least 6 feet in height and be at least 80 percent opaque, as seen from a perpendicular line of sight, within 18 months following establishment of the primary use of the site.
- D. Chain Link with Slats. A chain link fence with slats shall qualify for screening only if a landscape buffer is provided outside the fence. In this

case, the landscape buffer shall have an average height of 50% of the height of the fence within 1 year of planting. (See *Section 6.010.040: Buffering* above.)

- E. Height. The height of hedges, fences, walls, and berms shall be measured as provided for in Section 6.070.050(B), except where used to comply with screening requirements for parking, loading, storage, and similar areas. Hedges, fences, walls, and berms must comply with vision clearance requirements of Section 6.010.030 K. Height requirements for hedges, fences, and walls are as follows:
1. Residential Areas.
    - a) Hedges, fences, and walls shall not exceed 4 feet in height within a required front yard or in an exterior side yard within a 10 foot triangle adjacent to an alley or driveway.
    - b) Hedges, fences, and walls shall not exceed 6 feet in height within required side and rear yards, unless additional height is determined by the Director to be necessary for privacy screening from an adjacent use. In no case shall a fence or wall exceed 8 feet in height in a required side or rear yard.
    - c) Hedges, fences and walls not located in required yards may exceed the height standards listed above.
  2. Commercial and Industrial Areas. Barbed wire may be allowed above the fence or wall height requirement.
  3. All Areas. Fences and walls over 6 feet in height (not counting any permitted barbed wire) shall require a building permit prior to construction.
- F. Berms. Earthen berms up to 6 feet in height may be used to comply with screening requirements. The slope of the berm may not exceed 2:1, the top of the berm shall be relatively flat, and the faces of the slope shall be planted with ground cover, shrubs, and trees.
- G. Design. Fences and walls over 200 feet in length (of a single run) shall be designed to prevent visual monotony through use of offsets, changes of materials and textures, or landscaping in all zone districts except the I - Industrial district.
- H. Visual Clearance. Screening is not permitted within vision clearance areas, as described in *Section 6.100: Vision Clearance*.

- I. Gates. Gates are required in rear-yard fences on through lots for maintenance access to the area from curb to a proposed fence. (Gates shall not be used to make an access connection to the right-of way.)
- J. Service Facilities. Trash dumpsters, gas meters, ground level air conditioning units, and other service facilities shall be screened from off-site view with a fence, wall or plantings.
- K. Swimming Pools, Spas, and Hot Tubs. In addition to all other requirements in the Oregon Structural Specialty Code, swimming pools, spas and hot tubs more than 18 inches deep shall be surrounded and screened with a minimum 4 foot high secured fence or wall. Access to the secured area must have a self-latching gate.

#### ~~6.010.060 Street Trees~~

- A. General. Street trees shall count toward the required landscape requirement. Street trees shall be planted and maintained in accordance with the following standards for all public street frontages, and along private street and accessways more than 150 feet long. Street trees shall be required in all zoning districts where there is a designated planting strip in the public right-of-way. Selection of species may be made from the recommended tree list provided by the Director. Alternate selections must be requested in writing and approved by the Director.
- B. Spacing. Medium canopy trees shall be spaced a maximum of 30 feet on center, and large canopy trees shall be spaced a maximum of 50 feet on center.
- C. Planting Requirements. Trees planted within 5 feet of permanent hard surface paving or walkways shall use special planting techniques and specifications approved by the Public Works Director.
- D. Fire Hydrants. Clearance from fire hydrants shall be as specified in the Uniform Fire Code as adopted by the local fire protection district.
- E. Location. Unless approved otherwise by the City Engineer, trees may not be planted:
  - 1. Within 20 feet of street light standards.
  - 2. Within 10 feet of a public sanitary sewer, storm drainage or water line.
  - 3. In drainage ditch channels and flood ways.

MINUTES  
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City Clerk Grossman read the General Ordinance No. 16-1349 by title only.

It was moved by Brown and seconded by Miller to adopt General Ordinance No. 16-1349 accepting an offer from Wasco County pursuant to ORS 373.270 to transfer jurisdiction over portions of roads located in or near the City of The Dalles, to the City of The Dalles by title only. The motion carried, Elliot abstained, Spatz absent.

Adopting Special Ordinance No. 16-574 Granting a Non-Exclusive Telecommunications Franchise to Light Speed Networks, Inc. and Fixing Terms, Conditions and Compensation of Such Franchise, and Declaring an Emergency

City Attorney Parker reviewed the staff report.

City Clerk Grossman read Special Ordinance No. 16-574 by title only.

It was moved by Miller and seconded by McGlothlin to adopt Special Ordinance No. 16-574 Granting a Non-Exclusive Telecommunications Franchise to Light Speed Networks, Inc. and Fixing Terms, Conditions and Compensation of Such Franchise, and Declaring an Emergency by title only. The motion carried, Spatz absent.

### DISCUSSION ITEMS

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Mayor Lawrence said there was a concern that the current Ordinance regarding 1000 foot separation on recreational marijuana facilities might need an exception. He said currently there was someone wanting to open on 2<sup>nd</sup> Street and another in the old Arby's building. He said as the crow flies they were less than 1000 feet apart. However, the freeway was between the two locations.

He asked if it was the consensus of the Council to have staff look at alternative language and bring the results back to the Council. It was the consensus of the Council.

Update on Dog River Pipeline Replacement Environmental Permitting

Public Works Director Anderson reviewed the staff report.

In response to a question Anderson said it was possible for permits to be appealed.

It was the consensus of the Council for Anderson to proceed with working on the contract with the Forest Service.