NEWBERG CITY COUNCIL

WORK SESSION

MAY 16, 2016, 6:00 PM

NEWBERG PUBLIC SAFETY BUILDING (401 EAST THIRD STREET)

WORK SESSIONS ARE INTENDED FOR DISCUSSION. NO ACTION WILL BE TAKEN ON THE AGENDA ITEMS AND NO DECISIONS WILL BE MADE. NO ORAL OR WRITTEN TESTIMONY WILL BE HEARD OR RECEIVED FROM THE PUBLIC.

I. CALL MEETING TO ORDER

II. ROLL CALL

III. DISCUSSION ON OUTSIDE CITY WATER USE

IV. PRESENTATION FROM MOUNTAINVIEW MIDDLE SCHOOL

V. ADJOURNMENT

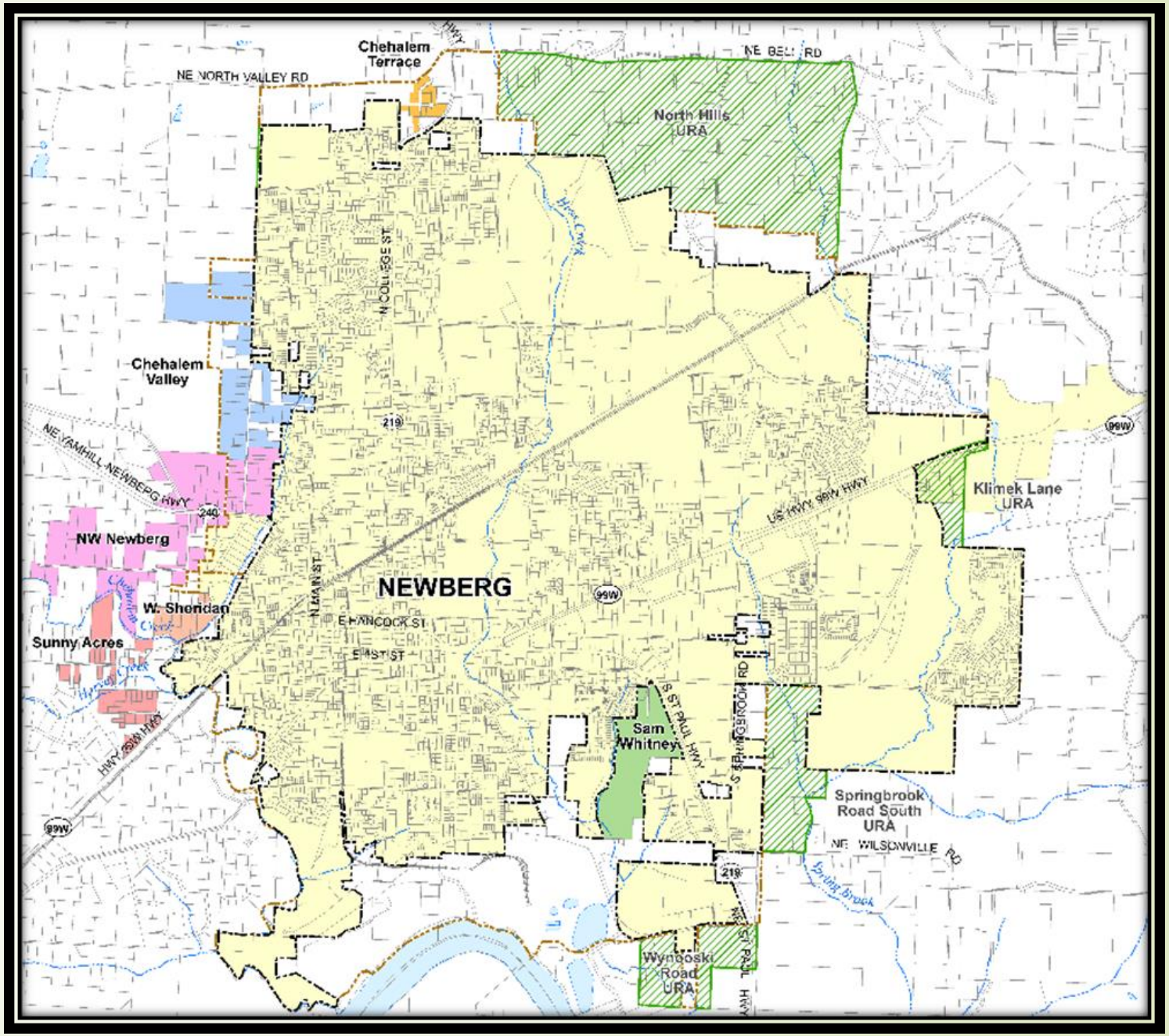
ACCOMMODATION OF PHYSICAL IMPAIRMENTS:
In order to accommodate persons with physical impairments, please notify the City Recorder's Office of any special physical accommodations you may need as far in advance of the meeting as possible and no later than two business days prior to the meeting. To request these arrangements, please contact the city recorder at (503) 537-1283. For TTY service please dial 711.

GROUP WATER CONNECTIONS

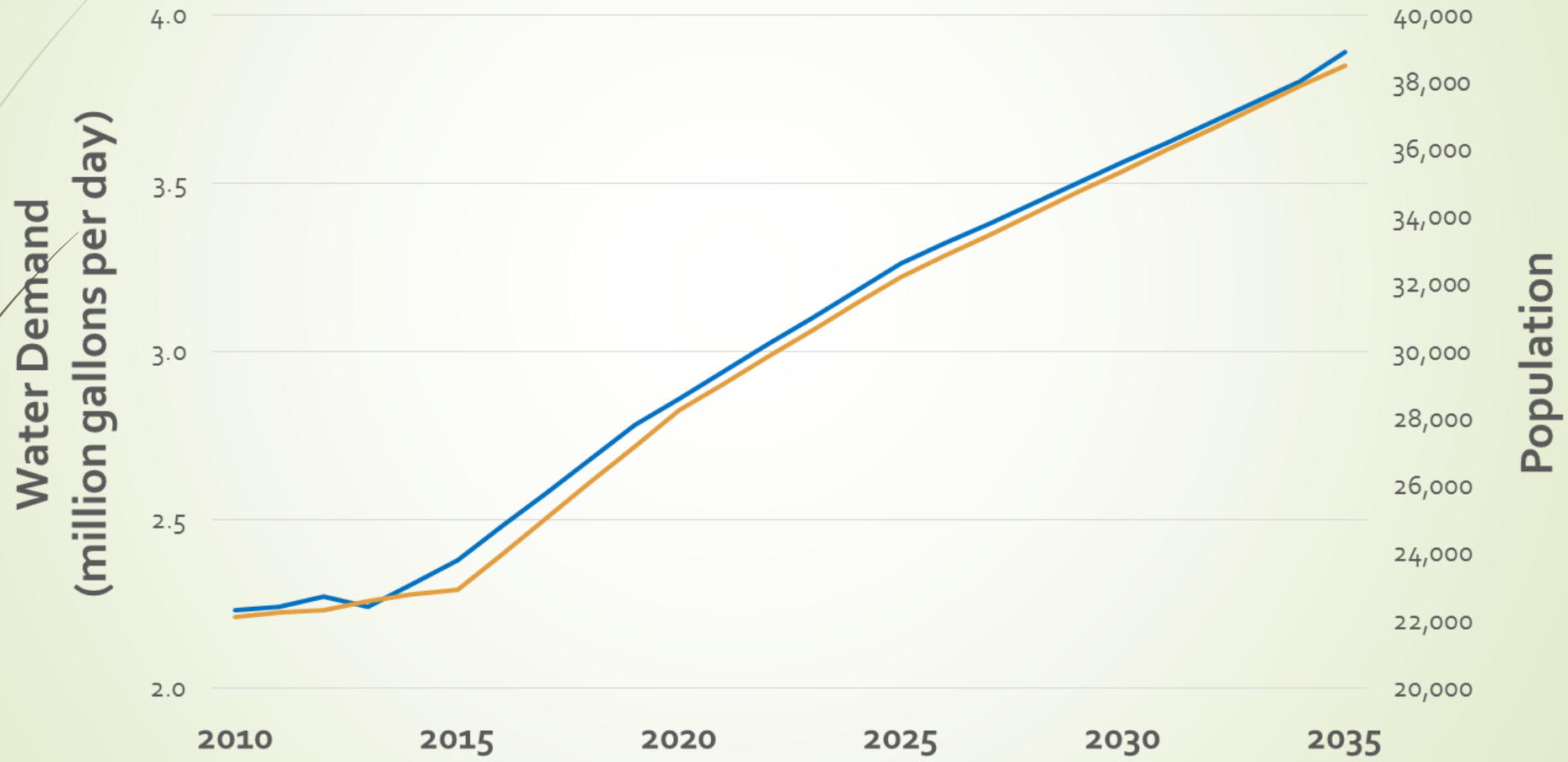
CITY COUNCIL WORK SESSION

MAY 16, 2016

WATER SERVICE AREA



Water Demand



History/Policy

- Ord. 1398 (May, 1965)
- Intention of the City is to not supply water to any additional users outside the City limits
- After December 1, 1965 there will be no new or additional water connections allowed to either individuals or as an additional connection to a group customer line
- Group Customers were to provide a sworn statement of the list of connections to the group system by July 1, 1965
- Property must have been ready for use by that December 1 date

History (cont.)

- Ord. 1912 (July, 1978)
- Maintains City's intent not to service properties outside the City
- Provides an Exception due to Hardships
- Creates criteria to prove a hardship and a process for the City Council to grant a hardship exception
- May connect as an individual or as an additional connection to a private group customer line
- Hardship comes with conditions under which exception was granted to be recorded against the property

History (cont.)

- September 20, 1988
- Presentation at the Council meeting indicates that the City has discovered several illegal connections in the water districts served by the City
- The Council through its goal setting process asked staff to review the existing water policy
- There was some interest in selling excess water to out of City residents
- Staff recommended policy change to the following:
  1. No hardship required for existing residences
  2. Residence must exist as of January 1, 1988
  3. Residence be in UGB or existing water district
  4. Properties agree to annex
  5. Water for domestic purpose only
  6. Water district make joint application with property owner and new agreement between water district and City be established
  7. Water district submit engineering study showing compliance with State Regulations

History (cont.)

- September 20, 1988 (cont.)
- A Councilor asked that the policy include not only existing residences, but any property that is abutting and can be subdivided and that there be a six month window to decide whether to hook up to system
- The remaining Council expressed concern that this would encourage development outside the City
- The City Attorney was directed to prepare an ordinance regarding water policy for Council consideration

History (cont.)

- October 3, 1988
- Council adopts an Interim Policy until an Ordinance can be fully vetted and revised
- Ord. 88-2247
- Applies to water districts/group customers only
- Requires residence to be in existence January 1, 1988
- District makes joint application and enter into agreement with City
- Expressly preempts Hardship provisions for those connecting to group customer lines
- Requires a 6 month Council review on policy

History (cont.)

- June 20, 1989
- Back before Council
- City Manager states that one request to connect during the grace period provided by Ord. 88-2247
- City Attorney reports that the City has not entered into any agreements with water districts and the City has not gone out and solicited agreements with the water districts due to personnel changes and other priorities
- Ord. 89-2264, slightly modifies 2247 to accommodate the single request by allowing request for service by January 1, 1988 or residence in existence by that date
- Maintains language that expressly preempts Hardship process for those connecting to group customer lines

Land Use

- Newberg Comprehensive Plan
  - Public Facilities and Services, Goal: To Plan and develop a timely, orderly and efficient arrangement of public facilities and service to serve as a framework for urban development
  - Policies: 2.d. – Sewer and water service shall not be provided outside the city limits except for cases of health hazards, where no other alternative exists, and where property owners agree to annex upon request of the City
  - Urbanization, Goals: 1. To provide for the orderly and efficient transition from rural to urban land uses
  - Policies: 1.a. The conversion of lands from rural to urban uses within the Urban Growth Boundary will be based on a specific plan for the extension of urban services

Land Use (cont.)

- Newberg Comprehensive Plan
  - Policies: 1.e. The City will support development within areas outside of the City limits but within the Newberg Urban Growth Boundary or Urban Reserve Area based on the following standards or restrictions:
  - Residential development will be allowed on the basis of one house per 10 acres, or any lot of record created prior to January 1, 1989
  - … The following strategies will be used to ensure that interim rural development does not inhibit long-term urbanization of lands within the Newberg UGB and Urban Reserve area (these include but are not limited to): 1) shadow plats, 2) cluster development, 3) redevelopment plans, 4) non-remonstrance agreements for annexation and provision of urban facilities

Land Use (cont.)

- Comprehensive Plan
  - III. Plan Classifications, 2. Residential Land Use, a. Low Density Residential (LDR) – The objective of this designation is to provide a wide range of housing types and styles, while allowing for an overall density of up to 4.4 units per acre
  - b. High Density Residential (HDR) – The objective of this designation is to provide multi-family housing of different types while maintaining an overall density of up to 21.8 units to the acre

Land Use (cont.)

- Newberg Urban Area Growth Management Agreement
  - V. Urban Services, d. Service Expansion Plans – City to share updated utility plans for services within UGB with Yamhill County

- Comprehensive Plan Designations:
  - 1208 NE Chehalem Drive – HDR
  - 1650 NE Chehalem Drive – LDR

Current Status

- There are seven known water associations/districts served by meters
- The number of current accounts served by the water associations/districts is unknown
- Number or properties connected to group customer lines is also unknown
- Number of connections since 1989 is unknown
- The City has not entered into a single agreement with ANY group customer or district
- There are 81 private customers (not associations/districts) served by the City outside of the City limits
- The hardships that that have been granted by the Council have not been reviewed to determine if any of the conditions have been triggered

Current Issues

- 1208 NE Chehalem Drive
  - NW Newberg Water Association
  - Currently undeveloped – wants to add an additional water services to serve a new structure
  - Would like a water connection
  - Hardship criteria not applicable
  - WOULD NOT QUALIFY AS HARDSHIP

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Current Issues

- 1650 NE Chehalem Drive
  - Chehalem Valley Water Association
  - Has a house (built after 1988)
  - Existing well is going dry– the property owners have exhausted all measures to rehabilitate the well
  - Has requested a hardship to connect to a group line – MEETS THE INTENT OF HARDSHIP
  - HARDSHIP CRITERIA NOT APPLICABLE



Vicinity of 1650 NE Chehalem Dr

WHERE DO WE GO FROM HERE?

- The Council should not entertain hardship requests to group customer lines per the Code.

- We need additional information from the current status list in order to develop a recommendation on the policy direction.

CITY COUNCIL AGENDA
MAY 16, 2016, 7:00 PM
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

Mission Statement

The City of Newberg serves its citizens, promotes safety, and maintains a healthy community.

Vision Statement

Newberg will cultivate a healthy, safe environment where citizens can work, play and grow in a friendly, dynamic and diverse community valuing partnerships and opportunity.

I. CALL MEETING TO ORDER

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. PRESENTATIONS

1. Recognition of Student Commissioners Luis Saavedra and Isamar Ramirez

V. PROCLAMATIONS

1. Approve a proclamation declaring May 15-21, 2016 as National Public Works Week — Pages 1-2

VI. APPOINTMENTS

1. Planning Commissioner Appointment of Noelle Torres — Page 3

VII. CITY MANAGER'S REPORT

VIII. PUBLIC COMMENTS

(30 minutes maximum, which may be extended at the Mayor's discretion, with an opportunity to speak for no more than 5 minutes per speaker allowed)

IX. CONSENT CALENDAR

1. Minutes from April 18 and 23, 2016 — Pages 4-11
2. Resolution 2016-3276, A Resolution rejecting all bids for the Blaine Street Stormwater Improvements – Phase 1 project — Pages 12-15
3. Resolution 2016-3300, A Resolution accepting the storm drainage and access easements for the Blaine Street stormwater improvements project — Pages 16-21
4. Oregon Department of Transportation Noise Variance — Pages 22-24
5. Northside Community Church Fireworks Noise Variance — Pages 25-28

Agenda continued on next page

The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

IX. CONSENT CALENDAR, continued

6. Resolution 2016-3280, A Resolution authorizing the City Manager Pro Tem to enter into a contract with Sungard Public Sector, LLC for TRAKiT, a permitting software system — Pages 29-48

7. Resolution 2016-3303 Lease of City's Illinois Street House to Joe Hannan — Page 49

X. PUBLIC HEARING: ADMINISTRATIVE

1. Resolution 2016-3287, A Resolution approving the dedication of two permanent easements on city owned property located at 305 W. Illinois Street — Pages 50-61

2. Resolution 2016-3301, A Resolution approving Adjusted Solid Waste and Recycling Services Rates for Waste Management effective July 1, 2016 — Pages 62-74

XI. PUBLIC HEARING: LEGISLATIVE

1. Ordinance 2016-2801, An Ordinance amending the Newberg development code regarding recreational marijuana wholesalers, laboratories, research certificates producers and retailers; and declaring an emergency. — Pages 75-109

XII. NEW BUSINESS

1. Resolution 2016-3279, A Resolution appointing Joe Hannan as City Manager — Pages 110-120

2. Resolution 2016-3288, A Resolution approving a new design and replacement of the existing downtown banners with new banners celebrating George Fox University's 125th anniversary — Pages 121-123

3. Resolution 2016-3292, An update on PERS — Page 124

XIII. COUNCIL BUSINESS

XIV. EXECUTIVE SESSION pursuant to ORS 192.660 (2) (i) Performance Evaluations of Public Officers

1. City Attorney Evaluation

XV. ADJOURNMENT

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Recorder's Office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than two business days prior to the meeting. To request these arrangements, please contact the City Recorder at (503) 537-1283. For TTY services please dial 711.

Council accepts comments on agenda items during the meeting. Fill out a form identifying the item you wish to speak on prior to the agenda item beginning and turn it into the City Recorder. Speakers who wish the Council to consider written material are encouraged to submit written information in writing by 12:00 p.m. (noon) the day of the meeting.

The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016				
Order ___ No.	**Ordinance ___ No.**	**Resolution ___ No.**	**Motion** XX	**Information ___**
SUBJECT: Approve a proclamation declaring May 15-21, 2016 as National Public Works Week.			**Contact Person (Preparer) for this Motion: Russ Thomas Dept.: Public Works File No.:**	

RECOMMENDATION: Approve a proclamation declaring May 15-21, 2016 as National Public Works Week.

EXECUTIVE SUMMARY: The Newberg Public Works department joins other public works departments across the nation in celebrating the week of May 15-21, 2016 as National Public Works Week. Since 1960, the American Public Works Association has sponsored National Public Works Week. Across North America, more than 28,000 members in the US and Canada use this week to energize and educate the public on the importance of the contribution of public works to their daily lives.

In Newberg, the Public Works department provides installation, operation and maintenance of water, sewers, stormwater, streets, highways, public buildings and grounds.

FISCAL IMPACT: None

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS):
With great appreciation and gratitude, we recognize and celebrate the work of these professionals who keep our City operating smoothly on a daily basis.

PROCLAMATION

A PROCLAMATION DECLARING THE WEEK OF MAY 15-21, 2016 AS NATIONAL PUBLIC WORKS WEEK

WHEREAS, public works services provided in our community are an integral part of our citizens' everyday lives; and

WHEREAS, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, sewers, stormwater, streets and highways, public buildings and grounds; and

WHEREAS, the health, safety and comfort of this community greatly depends on these facilities and services; and

WHEREAS, the quality and effectiveness of these facilities, as well as their planning, design, and construction, are vitally dependent upon the efforts and skill of public works officials; and

WHEREAS, the efficiency of the qualified and dedicated personnel who staff public works departments is materially influenced by the people's attitude and understanding of the importance of the work they perform,

NOW, THEREFORE, IT IS PROCLAIMED by the Mayor and City Council of the City of Newberg, Oregon, the week of May 15-21, 2016, as

NATIONAL PUBLIC WORKS WEEK

in the City of Newberg and I call upon all citizens and civic organizations to acquaint themselves with the issues involved in providing our public works and to recognize the contributions which public works officials make every day to our health, safety, comfort and quality of life.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Newberg to be affixed on this 16th day of May, 2016.

SEAL

_____
Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016				
Order ___ No.	**Ordinance ___ No.**	**Resolution ___ No.**	**Motion** XX	**Information ___**
SUBJECT: Appoint Noelle Torres to the City of Newberg Planning Commission.			**Contact Person (Preparer) for this Motion: Mayor Bob Andrews Dept.: Administration**	

RECOMMENDATION:

To consent to the Mayor's appointment of Noelle Torres to the Planning Commission to fill a vacant position with a term expiring December 31, 2016.

EXECUTIVE SUMMARY:

The Newberg Planning Commission is an eight member committee with one position designated as a non-voting student commissioner position. There is one full-time commissioner position open with the selection of Planning Commissioner Patrick Johnson for the District 4 vacancy on the Newberg City Council, effective April 6, 2016.

Noelle is a 10 year resident of Newberg who would like to see the City encourage aspects of community health through the spaces, events and businesses in the City. She is interested in the position because she wants to be an active partner and voice in the community. She wants to develop a deeper understanding of planning strategy within the city and the process and development of those choices. She wishes to act as an advocate for the families that makeup the community and participate in the choices that ultimately affect the environment.

Noelle feels she can contribute to strengthening the city government through her enthusiasm for public health, service and outreach. She looks toward finding solutions with both creativity and logical reasoning.

FISCAL IMPACT:

None.

STRATEGIC ASSESSMENT:

The Newberg Planning Commission serves a very important role in the betterment of our community and downtown making our City government viable and a great place to grow.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016				
Order ___ No.	**Ordinance ___ No.**	**Resolution ___ No.**	**Motion** XX	**Information ___**
SUBJECT: Minutes			**Contact Person (Preparer) for this Motion: Sue Ryan, City Recorder Dept.: Administration File No.:**	

RECOMMENDATION:

Approve City Council minutes from April 18 and 23, 2016.

NEWBERG CITY COUNCIL MINUTES
REGULAR SESSION
April 18, 2016, 5:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

A joint work session with the Yamhill County Board of Commissioners was held at 5:00 p.m. preceding the meeting. Present were Mayor Bob Andrews, Councilors Lesley Woodruff, Denise Bacon, Mike Corey, Patrick Johnson, Stephen McKinney and Scott Essin. Yamhill County Chair Mary Starrett, Commissioner Stan Primozich and Commissioner Allen Springer were present as was Yamhill County Administrator Laura Tschabold. Also present were City Manager Pro Tem Stephen Rhodes, City Attorney Truman Stone, City Recorder Sue Ryan, Finance Director Matt Zook, Public Works Director Jay Harris and Community Development Director Doug Rux.

DISCUSSION: Land Use, Transportation and Economic Development.

Yamhill County Chair Mary Starrett said it was a County Commission goal to visit every city in the county and discuss issues and concerns specific to each city. Councilor Corey said the Urban Growth Boundary expansion was an issue, especially at the State level. There was discussion on the constraints of existing land uses due to State regulations and the needs the communities had that required land including affordable housing and manufacturing. There was discussion on solutions, such as working together and lobbying efforts for change in legislation. There was discussion on the lawsuits challenging the expansion of city urban growth areas which also needed to be dealt with.

Mayor Andrews brought up some additional issues for the future including the agreement with Newberg and Dundee over 99W and using the Newberg Urban Area Management Commission (NUAMC).

Chair Starrett discussed transportation. She said the County spent $200,000 yearly on transit service in the Newberg area. She said there was a program called Well Ride available for low-income residents. On average they spent $48,000 per month on non-emergent transportation for over 500 drop offs and 500 pick-up trips. She said $336,000 was spent by the County since October and they needed to have some kind of renumeration for these costs.

Commissioner Springer said aside from McMinnville, Newberg was the only other city in the county that had fixed routes that went off of the main line and throughout the city. Up until last year, Newberg was contributing $18,000 towards transit, but then it was taken out of the budget. He thought it was critical for the City to participate in providing these services. City Manager Pro Tem Stephen Rhodes said it was included in the next fiscal year budget.

Mayor Andrews discussed the maintenance of County roads within the City and the possibility of jurisdictional transfers. Mayor Andrews said the City had identified 18 sections of streets that were owned by the County and they needed to decide what to do about them. Chair Starrett said their Public Works Director maintained the roads to County standards, and they would reimburse the City for two inches of overlay on any road and then would surrender the road to the City. They were amenable to discuss jurisdictional transfer.

There was discussion regarding collaboration, affordable housing, economic development, keeping the small town feel of Newberg, and future of the West Rock property where the paper mill shut down.

Mayor Andrews asked about the Bike/Ped activities connected to the Newberg-Dundee Bypass. Commissioner Primovich said there was an application in for Connect Oregon Grant funding for the trail. He thought connecting all of the trails in Newberg would be something to look at in the future.

Commissioner Springer said solving problems took teamwork and they could do much more if they were united than divided. He discussed the challenge of the rental market and affordable housing and he thought they needed to work together as a team and put pressure on State lawmakers.

Commissioner Primovich said they needed to pull together which would help them meet their goals. These were critical issues that needed to be addressed. Newberg had a lot going for it and they could all be a part of making it better and enhance the entire County.

Mayor Andrews adjourned the work session at 6:15 p.m.

Yamhill County Commissioners held a town hall from 6:15 to 7:00 p.m.

CALL MEETING TO ORDER
The Mayor called the meeting to order at 7:00 p.m.

ROLL CALL

Members Present:	Mayor Bob Andrews	Scott Essin	Stephen McKinney
	Lesley Woodruff	Denise Bacon	Mike Corey
	Patrick Johnson		

Staff Present:	Stephen Rhodes, City Manager Pro Tem	Sue Ryan, City Recorder
	Truman Stone, City Attorney	Jessica Pelz, Associate Planner
	Doug Rux, Community Development Director	Jason Wuertz, Senior Engineer
	Steve Olson, Associate Planner	

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was performed.

CITY MANAGER PRO TEM'S REPORT: CMPT Rhodes reported the Tourism Advisory Body and consultants toured Newberg and talked about needs and gaps in tourism promotion for the City. He said the Budget Committee toured the City as well and looked at its operations including issues in the coming budget. The first budget meeting would be held on Tuesday, April 26, in the Public Safety Training Room at 6:00 p.m.

PUBLIC COMMENTS:
Jeanie Sandall stated she was running for the office of Yamhill County Assessor. She spoke about her experience and qualifications as well as goals if she was elected. She hoped to do re-appraisals of the County as market values were out of date. She would explain property taxes to anyone who had questions. To cut the budget, she would start from the top down and take money out of her salary first.

CONSENT CALENDAR:
Councilor Johnson said each time there was a liquor license request he had to state that while he worked for the Oregon Lottery he did not have any authority over liquor licenses and he had no conflict of interest.

MOTION: Bacon/Corey moved to approve minutes from March 2, March 28, and April 9, 2016; approved an Oregon Liquor Control Commission Winery Permit for Et Fille Wines Inc. dba Et Fille Wines; approved an Oregon Liquor Control Commission Off-Premises Sales permit for Yamhills Inc. dba Yamhills; Resolution 2016-3278, A Resolution authorizing the City Manager Pro Tem to enter into a contract with McClure & Sons, Inc. for the Wastewater Treatment Plant On-site Sodium Hypochlorite Generation System project; Resolution 2016-3260, A Resolution to authorize the City Manager Pro Tem to enter into a Professional Services Agreement Amendment with Murray Smith and Associates to provide additional design services for the City's Villa Road Improvement project in the amount of $297,555.00; and Resolution 2016-3283, A Resolution authorizing the acquisition of storm drainage and access easements for the Blaine Street Stormwater Improvement project. Motion carried (7 Yes/ 0 No).

PUBLIC HEARING – ADMINISTRATIVE: Resolution 2016-3268 Master Fee Schedule:
Mayor Andrews opened the public hearing and called for any abstentions or conflicts of interest on the part of the Council. There were none.

City Recorder Sue Ryan gave the staff report. She had compiled the master fee schedule with oversight from CMPT Rhodes. It would be adopted once a year and the Finance Department would review the fees to make sure incremental increases were being adjusted as needed in a timely fashion. Staff thought the master fee schedule would help staff do their jobs more efficiently and would be easier for the public as all the fees would be in one place. No written communications had been received. She recommended approval of the resolution.

Public testimony: None.

Mayor Andrews closed the public hearing.

Deliberations:
Councilor Johnson clarified this would establish a year to year cost of living increase for fees. He thought the process for public records needed to be easier and less expensive and if they did not give the information to the public, it did not promote trust with the City.

MOTION: Corey/Bacon moved to approve Resolution 2016-3268, a Resolution establishing a Master Fee Schedule. Motion carried (7 Yes/0 No).

PUBLIC HEARING - LEGISLATIVE: Ordinance 2016-2800:
Mayor Andrews opened the public hearing and called for any abstentions or conflicts of interest on the part of the Council. There were none.

City Attorney Stone gave the staff report. He said there had been a mechanism in place for adopting public safety fees since 2009. There were two fees, one was to fund police officer positions and the second was to fund two dispatcher positions. During the budget process, there was a question about adjusting the fees to reflect economic changes and increases in cost, and he found that there was no process for adjustments. This ordinance would create a new process to adjust an existing public safety fee dependent upon certain economic criteria. He said those criteria included: a presentation on the financial circumstances that had changed since the original enactment of the fee and a presentation on the amount of revenue needed to support the resources. This ordinance did not increase the public safety fees. In Section 3, he referenced the Fiscal Year 2015-2016, and it should be 2016-2017. No written communications had been received. He recommended approval of the ordinance.

Public Testimony: None.

Mayor Andrews closed the public hearing.

MOTION: Bacon/Corey moved to waive the second reading of Ordinance 2016-2800 and read by title only. Motion carried (7 Yes/0 No).

MOTION: Bacon/Woodruff moved to approve Ordinance 2016-2800, an Ordinance establishing a process for the Council to adjust an existing Public Safety Fee and declaring an emergency. Motion carried (7 Yes/0 No).

Deliberations:
Councilor McKinney asked if there was an anticipated change to the budget for the public safety fees. CMPT Rhodes said the budget included a proposal to increase the fees.

Councilor Corey was not a proponent of increasing fees but understood there was a need for increase due to the cost of living.

Councilor Johnson said the Ordinance set up the process to increase or decrease the fee as needed and the suspension of the fire fee was different. CA Stone said the fire fee was not a public safety fee adopted under this section of the code, and it predated the public safety fee code by many years. The fire fee was done by a resolution of the Council and was suspended by resolution.

PUBLIC HEARING – LEGISLATIVE: Ordinance 2016-2794:
Mayor Andrews opened the public hearing and called for any abstentions or conflicts of interest on the part of the Council. There were none.

Associate Planner Pelz gave the staff report. This was a Transportation System Plan amendment for the Wilsonville Road relocation. In 2013 there was a TSP amendment for Phase 1 of the Bypass which was adopted. In 2015 ODOT submitted an application to change the intersection to a no through movement. The Planning Commission voted to deny the recommendation and recommended the City Council deny it and delay the decision until there was further discussion with all of the parties. The resolution was an Agreement of Understanding to revise the TSP amendment and realign

Wilsonville Road south of Wynooski Road that was the previously approved full bypass final location. This would be a text amendment detailing the Wilsonville Road relocation and a temporary right in and right out intersection at the current Wilsonville and Springbrook roads intersection until such time as the Wilsonville Road relocation was done and open. She explained the several map amendments showing the cul-de-sac and Wilsonville Road relocations. Staff recommended adoption of the ordinance.

Kelly Amador and William Ciz from ODOT said they were asking for approval of the changes in the Transportation System Plan. These included: the Wilsonville Road relocation, Wilsonville Road cul-de-sac relocation, new lane configuration on OR 219 in the Phase 1 of the Bypass, and Wilsonville and Springbrook Road intersection temporary right in and right out. The Wilsonville Road relocation was already in the TSP. This would take Wilsonville Road south to a new intersection south of Wynooski Road. How it would be signalized or not signalized at 99W would be discussed at a later time in the design process. The preliminary traffic analysis showed that without a signalized intersection it would function at a volume/capacity ratio of .78 which was within the Oregon Highway Plan Standard and with a signal it would operate at a .64 in 2020 when the intersection would open. Most of the Wilsonville Road relocation would be in Yamhill County on EFU land. There was a portion on Adolph Road which was in Newberg. The relocation would require right-of-way purchase and two residential relocations and one business relocation. The schedule for completion was July 2020. The location of the cul-de-sac was not in the TSP, and it would be east of Adolph Road. It would be renamed McCurren Court. A portion of the cul-de-sac was in the Newberg UGB and a portion was in Yamhill County. The properties in the UGB would continue to access Newberg via the existing Springbrook and Wilsonville roads intersection,which would be changed to the Springbrook Road and McCurren Court intersection. The changes to the Wilsonville Road intersection would remove any connection to the east. The intersection lane configuration would change and there would be no turn lanes or through lanes east of OR 219. Phase 1 of the bypass would open in 2017 and the Wilsonville Road relocation would not open until 2020. With the bypass open, there would need to be a temporary right turn in and right turn out at the existing Wilsonville Road and Springbrook intersection due to traffic and safety issues. It would be removed in 2020 when the Wilsonville relocation project was complete.

Councilor Woodruff asked about the volume/capacity ratio and what the acceptable range was for the new intersection. Mr. Ciz explained the acceptable range was .8, but for new intersections it was .65 and this was a new intersection. It would meet the ODOT mobility standard of .8 when it opened in 2020, but would not meet the ODOT design manual standard of .65 without a signal.

Proponents: Stan Halle, representing the Ladd Hill Neighborhood Association, spoke in favor of the ordinance. He said in the last couple months the issue had moved from being adversarial to a collaborative effort. The six parties that signed the agreement in March continued to press forward in a timely fashion including ODOT moving forward with funding. The notice to proceed for the contractor for Phase 1 had been issued and the discussions for a contract change order from a four way to a three way intersection had commenced. This TSP amendment was in line with the process.

Opponents and Neutral: None.

No written communications had been received. AP Pelz said staff recommended adoption of the ordinance.

Mayor Andrews closed the public hearing.

MOTION: Bacon/Corey moved to waive the second reading of Ordinance 2016-2794 and read by title only. Motion carried (7 Yes/0 No).

Councilor Johnson said a citizen had been concerned that the right in, right out was permanent. Councilor Johnson clarified it would be temporary and he was in support of the ordinance.

MOTION: Corey/Essin moved to approve Ordinance 2016-2794, an Ordinance amending the Newberg Transportation System Plan to reflect changes necessary to accommodate the relocation of Wilsonville Road to a location south of Wynooski Road. Motion passed (6 Yes/1 No [McKinney]).

NEW BUSINESS: Resolution 2016-3274:
Community Development Director Rux said this resolution would adopt the Newberg Economic Development Strategy. Newberg did not have an overall economic strategy and he explained the steps staff and the Chamber took to create one. There was a core facilitation group and the plan was vetted by about 60 different organizations. The comments were wide-ranging and the group came back with the strategies in the plan. The four pillars in the plan included the industrial sector, commercial sector, business development/workforce, and tourism/hospitality and there were strategies under each of the pillars. The five initiatives created for the America's Best Community Competition were also embedded in the strategy. This plan had a three-year rolling horizon with short term, mid term, and long term projects. The Chamber Board approved the strategy and many other public agencies were in support. Staff recommended adoption of the resolution.

Robin Sikkens, Newberg Downtown Coalition, said their Board had unanimously voted to support this resolution and acknowledged the hard work done by CDD Rux. The Coalition was committed to implementing the strategy. The commercial sector of the document called for completion of the Newberg Downtown Improvement Plan and she emphasized the importance of completing this companion effort in time to implement action plans to take advantage of the opening of the bypass in 2017. The Board was concerned with the extensive amount of work required to deliver the strategy and to accomplish the list it would require collaboration. The NDC accepted the challenge to do its part.

MOTION: McKinney/Johnson moved to approve Resolution 2016-3274, A Resolution approving the Newberg Economic Development Strategy. Motion carried (7 Yes/0 No).

Resolution 2016-3275:
Associate Planner Olson said Michael Roberts, a local business owner, owned a home on Chehalem Drive which was outside the City limits but inside the UGB. It was 1.17 acres and was zoned Low Density Residential. He applied to the County for a Home Occupation Permit to operate a small commercial kitchen out of a pole barn that he planned to build behind his house. He hoped to be able to produce more ice cream and expand his business. It required a Conditional Use Permit with Yamhill County. His family would continue to live in the main house. About 6% of the site would be improved and the footprint of the development was small compared to the size of the property. The applicant showed how the two rear lots could potentially be created in the future if the applicant took the steps to apply for annexation into the City. The development was consistent with the adopted plans. Chehalem Drive was in the TSP and would be a major collector at some point in the future. The addition would not create a conflict with any future street improvements. The proposed development was limited in scope and allowed for future development of the remainder of the property. Staff recommended approval of the resolution.

Michael Roberts, local business owner, enjoyed working in Newberg. He wanted to expand his business and have employees in the future.

MOTION: Woodruff/Bacon moved to approve Resolution 2016-3275, recommending that Yamhill County approve a proposed conditional use permit for a Home Occupation commercial kitchen at 1400 NE Chehalem Drive, Yamhill County Tax Lot No. 3218CA-2500. Motion carried (7 Yes/0 No).

COUNCIL BUSINESS:
CR Ryan said the Providence Community Connections Program asked if the Council wanted to sign up as a team for the May 7 Neighbor to Neighbor Day. This event would help older neighbors with yard and home maintenance.

Councilor Bacon discussed an email from Sherry Ralston, owner of a medical marijuana dispensary, who was requesting a repeal of the ban on early recreational sales. The reason the Council approved the ban was that OLCC had not developed rules for recreational sales. OLCC had developed the rules and things had been running smoothly for six months. This was a local business who had invested a lot of money in the community and had been turning away dozens of customers. She asked that staff bring back a repeal of the ban on early sales of recreational marijuana by medical marijuana dispensaries.

Councilor Essin asked if the City was already out of the running to receive the 25% sales tax since it was banned. CDD Rux replied that recreational sales in dispensaries started in October 2015 and would go until December 2016. The State was collecting the tax and if the ban was lifted, the dispensaries selling recreational marijuana would have to pay the 25% tax to the State and the State would allocate it. He did not know how much the City would receive, especially since OLCC

would use the tax to pay back the loan they took out to create the program and other State and County agencies would be receiving a portion of the money as well. The City also had a local 10% tax on recreational marijuana which would be paid directly to the City.

MOTION: Bacon/Essin moved to have staff prepare a Request for Council Action on lifting the ban on the recreational sales of marijuana by medical marijuana dispensaries. Motion passed (6 Yes/1 No [McKinney]).

ADJOURNMENT: The meeting was adjourned at 8:17 p.m.

ADOPTED by the Newberg City Council this 16th day of May, 2016.

_____
Sue Ryan, City Recorder

ATTESTED by the Mayor this ___ day of May, 2016.

_____Bob Andrews, Mayor

DRAFT

NEWBERG CITY COUNCIL MINUTES
SPECIAL SESSION
APRIL 23, 2016

CALL MEETING TO ORDER
Mayor Andrews called the meeting to order at 12:10 p.m.

ROLL CALL

Members Present:	Mayor Bob Andrews	Scott Essin	Stephen McKinney
	Lesley Woodruff	Denise Bacon	Mike Corey
	Patrick Johnson		

Staff Present: Stephen Rhodes, City Manager Pro Tem; Truman Stone, City Attorney; Nancy McDonald, Interim Human Resources Director

Also Present: Bob Murray, Cameron Ferguson, Rick Rogers, and Carr Biggerstaff

EXECUTIVE SESSION: Pursuant to ORS 192.660 (2) a Employment of Officers.

Council entered executive session at 12:15 p.m. The Council exited executive session at 5:25 p.m.

The Council interviewed finalist candidates for the City Manager position.

ADJOURNMENT: The meeting was adjourned at 5:30 p.m.

ADOPTED by the Newberg City Council this 16th day of May, 2016.

_____
Sue Ryan, City Recorder

ATTESTED by the Mayor this ____ day of May, 2016.

_____Bob Andrews, Mayor

DRAFT

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016				
Order No. ___	**Ordinance No.** ___	**Resolution No. 2016-3276** XX	**Motion** ___	**Information** ___
SUBJECT: A resolution rejecting all bids for the Blaine Street Stormwater Improvements – Phase 1 project.			**Contact Person (Preparer) for this Motion: Paul Chiu, P.E., Senior Engineer Dept.: Engineering Services Department File No.:**	

RECOMMENDATION:

Adopt Resolution No. 2016-3276 rejecting all bids for the Blaine Street Stormwater Improvements – Phase 1 construction project.

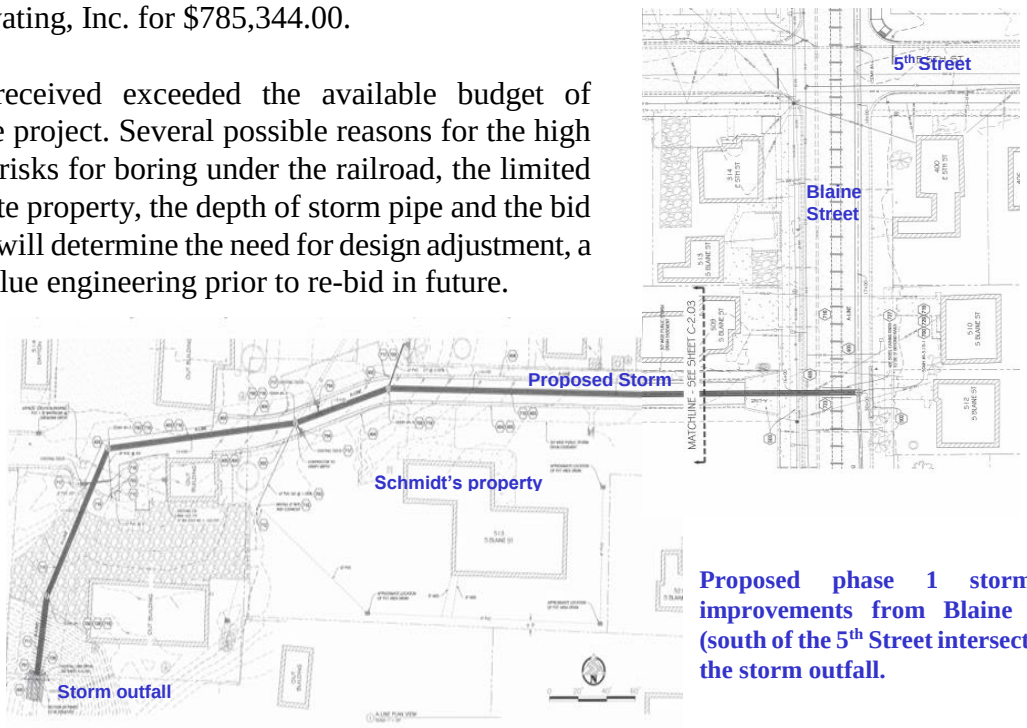
EXECUTIVE SUMMARY:

The city's Blaine Street stormwater conveyance system has pipes that are under existing buildings, under capacity, and at the end of their design life.

Phase 1 of the Blaine Street stormwater improvement project as depicted in Figure 1 below was advertised for bid on March 2, 2016. The Engineer's estimate was in the range of $250,000.00 to $300,000.00. On April 13, 2016, the city received and opened two qualified bids from:

(a) Emery & Sons Construction Group for $774,391.00; and
(b) K&E Excavating, Inc. for $785,344.00.

All of the bids received exceeded the available budget of $350,000.00 for the project. Several possible reasons for the high bids are additional risks for boring under the railroad, the limited site access on private property, the depth of storm pipe and the bid environment. Staff will determine the need for design adjustment, a higher budget or value engineering prior to re-bid in future.



Proposed phase 1 stormwater improvements from Blaine Street (south of the 5th Street intersection) to the storm outfall.

FISCAL IMPACT:

Funding for construction of the Blaine Street Stormwater Improvements – Phase 1 project has been appropriated in the current fiscal budget, with additional funding in the next fiscal budget (FY 2016-2017), under account number 04-5150-717711.

However, there will be no impact to the construction budget of $350,000.00 because of the bid rejection. The project will be re-advertised for bids in future. Other phases of the project will be planned for future fiscal years.

STRATEGIC ASSESSMENT:

Phase 1 of the project provides upsizing, relocation and replacement for the downstream segment of pipes to their outfall through the Schmidt's property at Blaine Street, south of 5th Street. This project to replace deteriorated pipes with new and larger diameter pipes and to mitigate systemic flooding will be temporarily on hold until new bids are requested in the future.

RESOLUTION NO. 2016-3276

A RESOLUTION REJECTING ALL BIDS FOR THE BLAINE STREET STORMWATER IMPROVEMENTS – PHASE 1 PROJECT.

RECITALS:

1. Project Delivery Group, LLC completed the phase 1 design of the Blaine Street stormwater improvement project that is needed to replace the aging, under capacity pipes to reduce the risk of blockages and sinkholes, and to begin the relocation of pipes away from existing buildings.

2. The Blaine Street stormwater improvements phase 1 project is an approved capital improvement project in the 2015-16 and proposed 2016-17 fiscal year budgets.

3. Phase 1 of Blaine Street stormwater improvement project includes, but not limited to, the installation of approximately 770 lineal feet of storm line, a 48" steel casing for the Blaine Street railroad crossing, and assorted pavement and site restoration work. The proposed work is from Blaine Street (south of the 5th Street intersection) to the existing storm outfall.

4. The City of Newberg advertised the project on the city's website and in the Daily Journal of Commerce on March 2, 2016, soliciting bids in accordance with ORS Chapter 279B Public Contracting and Public Procurement requirements.

5. Two qualified bids were received on April 13, 2016. They were from: (a) Emery & Sons Construction Group for $774,391.00; and (b) K&E Excavating, Inc. for $785,344.00.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council, acting as contract review board for the city, does hereby reject all bids for the Blaine Street Stormwater Improvements – Phase 1 project because they have exceeded the available construction budget for the project.

2. The City Manager Pro Tem, or the City Manager, is authorized to re-advertise the project and call for new bids in the future in accordance with Oregon Revised Statutes Chapter 279C.395.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: May 17, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of May, 2016.

_____
Sue Ryan, City Recorder

ATTEST by the Mayor this 19th day of May, 2016.

_____
Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016				
Order No. ___	**Ordinance No.** ___	**Resolution No. 2016-3300** XX	**Motion** ___	**Information** ___
SUBJECT: A resolution accepting the storm drainage and access easements for the Blaine Street Stormwater Improvements Project			**Contact Person (Preparer) for this Motion: Paul Chiu, PE, Project Manager Dept.: Engineering Services Department File No.:**	

RECOMMENDATION:

Adopt Resolution No. 2016-3300, accepting the storm drainage and access easements for the Blaine Street Stormwater Improvements Project.

EXECUTIVE SUMMARY:

The current stormwater master plan identifies the Blaine Street Stormwater Improvements Project as a high priority project for the City of Newberg. Phase 1 of the project, depicted in Figure 1 below, will provide upsizing, relocation and replacement for the segment of pipes from Blaine Street, south of 5th Street, to their outfall through the Schmidt's property.

By the authority of Council Resolution No. 2016-3283, city staff completed the negotiation with the Schmidt's for the storm drainage and access easements on their property. The proposal is that the property owners will receive a negotiated compensation of $18,500.00 for dedication of the permanent storm drainage and access easements to the city.

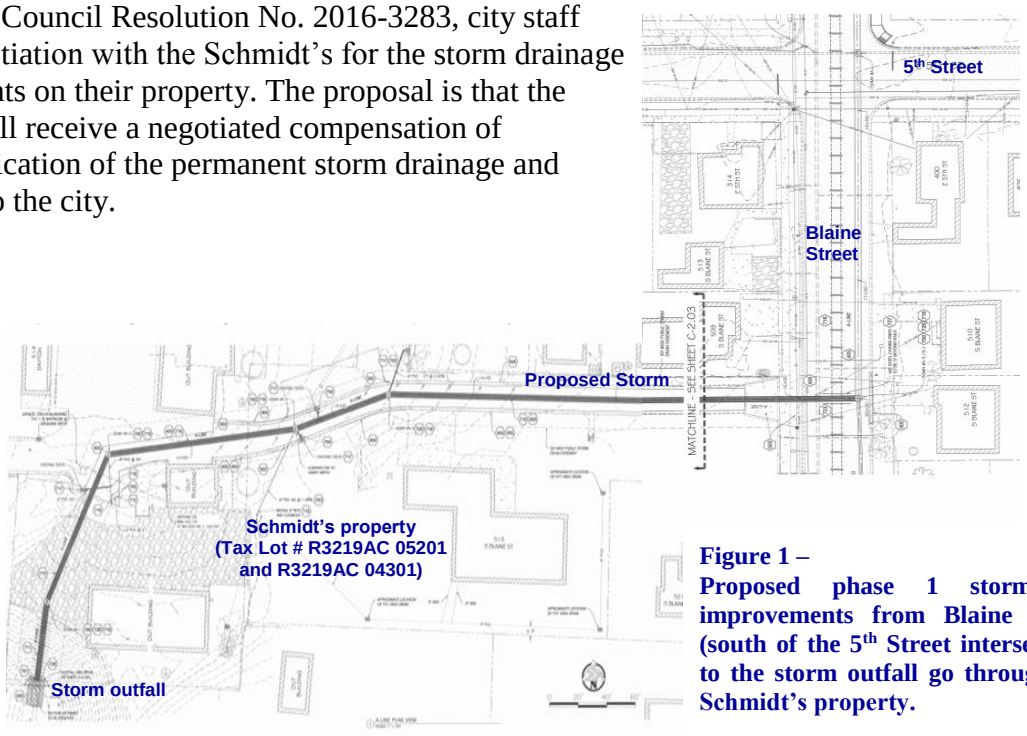


Figure 1 – Proposed phase 1 stormwater improvements from Blaine Street (south of the 5th Street intersection) to the storm outfall go through the Schmidt's property.

FISCAL IMPACT:

Compensation for the storm drainage and access easements is funded through the approved budget for the Blaine Street Stormwater Improvements Project, under account number 04-5150-717711.

STRATEGIC ASSESSMENT:

Acquisition of the storm drainage and access easements will allow for the construction and maintenance of needed stormwater improvements for the Blaine Street Stormwater Improvements Project.

RESOLUTION NO. 2016-3300

A RESOLUTION ACCEPTING THE STORM DRAINAGE AND ACCESS EASEMENTS FOR THE BLAINE STREET STORMWATER IMPROVEMENTS PROJECT

RECITALS:

1. Under the laws of the State of Oregon, the City of Newberg is authorized and empowered to locate, acquire, access, install, construct, use, repair and maintain stormwater pipe conveyance systems with appurtenant structures across private property as are necessary and proper for the city in the judgment of the Council.

2. Under the laws of the State of Oregon, the City of Newberg may acquire by purchase, gift, condemnation proceedings, or otherwise, storm drainage and access easements as are necessary and/or proper to exercise its powers in the judgment of the Council.

3. It is necessary and in the public interest to acquire and accept the storm drainage and access easements over the Schmidt's property (Tax Lot Nos R3219AC 05201 and R3219AC 04301) for the purpose of constructing, maintaining, repairing, and reconstructing the public stormwater improvements.

4. The stormwater pipe conveyance system is being planned and located in a manner that is most compatible with the greatest public good and the least private injury.

5. The city's consultant completed the negotiation for the acquisition of the storm drainage and access easements over the Schmidt's property and both parties agreed with the negotiated compensation of $18,500.00 for dedicating the permanent easements to the city.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council does hereby accept the storm drainage and access easements over the Schmidt's property (Tax Lot Nos R3219AC 05201 and R3219AC 04301) as shown in Exhibit "A" which is hereby adopted and by the reference incorporated, for an agreed compensation of $18,500.00.

2. The City Council does hereby authorize the City Manager Pro Tem, or the City Manager, to have the easements recorded at Yamhill County accordingly. All documents shall be approved as to form and content by the City Attorney.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: May 17, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of May, 2016.

_____
Sue Ryan, City Recorder

ATTEST by the Mayor this 19th day of May, 2016.

_____
Bob Andrews, Mayor

EXHIBIT "A" - 1

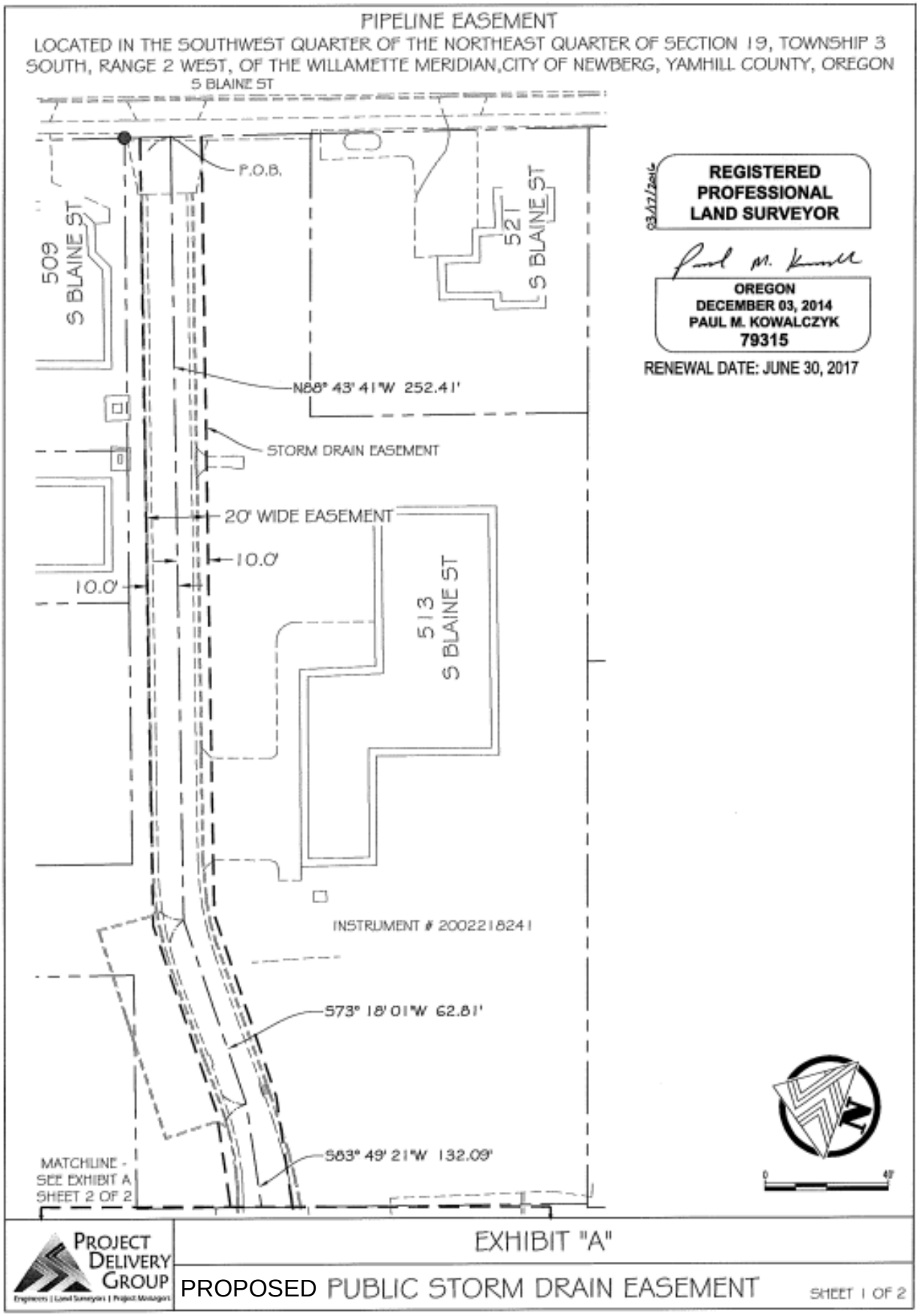
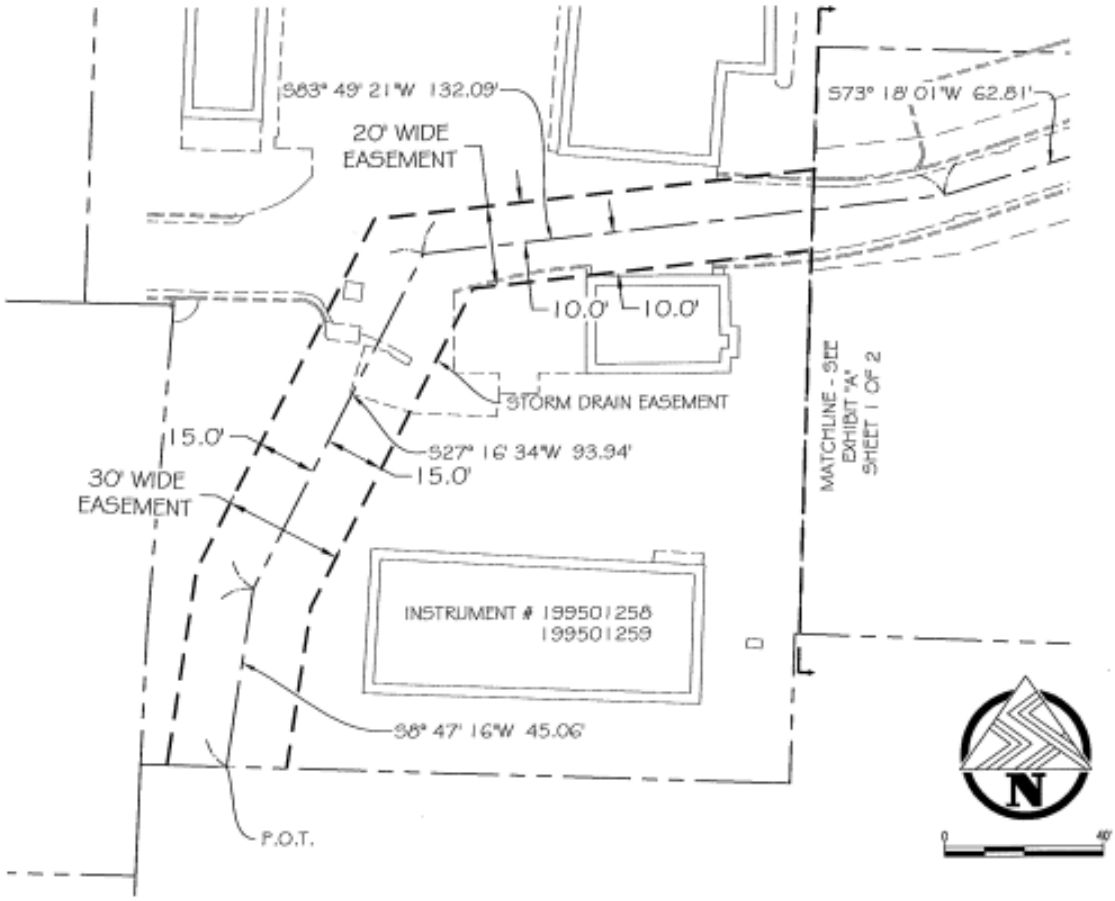

PIPELINE EASEMENT
LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 2 WEST, OF THE WILLAMETTE MERIDIAN, CITY OF NEWBERG, YAMHILL COUNTY, OREGON
S BLAINE ST
P.O.B.
509 S BLAINE ST
521 S BLAINE ST
N88° 43' 41"W 252.41'
STORM DRAIN EASEMENT
20' WIDE EASEMENT
10.0'
10.0'
513 S BLAINE ST
INSTRUMENT # 200221824 I
S73° 18' 01"W 62.81'
S83° 49' 21"W 132.09'
MATCHLINE - SEE EXHIBIT A SHEET 2 OF 2
REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
DECEMBER 03, 2014
PAUL M. KOWALCZYK
79315
RENEWAL DATE: JUNE 30, 2017
PROJECT DELIVERY GROUP
Engineers | Land Surveyors | Project Managers
EXHIBIT "A"
PROPOSED PUBLIC STORM DRAIN EASEMENT
SHEET 1 OF 2

EXHIBIT "A" - 2

PIPELINE EASEMENT
LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 2 WEST, OF THE WILLAMETTE MERIDIAN, CITY OF NEWBERG, YAMHILL COUNTY, OREGON

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
DECEMBER 03, 2014
PAUL M. KOWALCZYK
79315
RENEWAL DATE: JUNE 30, 2017



PROJECT DELIVERY GROUP
Engineers | Land Surveyors | Project Managers

EXHIBIT "A"

PROPOSED PUBLIC STORM DRAIN EASEMENT

SHEET 2 OF 2

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016

Order No. ___	**Ordinance No.** ___	**Resolution No.** ___	**Motion** X	**Information** ___

SUBJECT: A motion to approve a noise variance request from ODOT for the OR99W and Hwy 219 reconstruction as part of the Hwy 99w By-Pass Project from May 17, 2016 to December 31, 2017 that would allow for nighttime work as needed during the hours of 7 PM and 7 AM.	**Contact Person (Preparer) for this Motion: Chris Bolek, Police Captain** **Dept.: Police Department** **File No.:**

RECOMMENDATION:

Approve the Police Department's recommendation to approve a noise variance request from ODOT for the OR Hwy 99W and Hwy 219 reconstruction as part of the Hwy 99w By-Pass Project from May 17, 2016 to December 31, 2017 that would allow for nighttime work as needed during the hours of 7 PM and 7 AM.

EXECUTIVE SUMMARY:

At the July 7, 2014 Council Meeting, Council approved Ordinance No. 2014-2773, an ordinance amending City Code 8.15.150(c) by adding section four (4) to create a council approved variance from the noise ordinance for specific events or activities of limited duration. The approval of Ordinance No.2014-2773 allows the City Council to address specific events or activities that were not anticipated when the noise ordinance was adopted, without having to make frequent amendments to the Newberg Municipal Code. The amendment became effective August 7th, 2014.

The following information provided by ODOT indicates what portions of the project are planned to be worked on with the proposed days and hours are listed below:

Pacific Highway West (OR99W), MP 21.20, Southbound:
- Monday between 12:01 a.m. and 6:30 a.m.
- Daily, Monday through Thursday between 8:00 p.m. and 6:30 a.m.

Pacific Highway West (OR99W), MP 21.84 – MP 22.16, Northbound:
- Monday between 12:01 a.m. and 4:30 a.m.
- Daily, Monday through Thursday between 8:00 p.m. and 4:30 a.m.

Pacific Highway West (OR99W), MP 21.84 – MP 22.16, Southbound:
- Monday between 12:01 a.m. and 6:30 a.m.
- Daily, Monday through Thursday between 8:00 p.m. and 6:30 a.m.
- Friday between midnight and 6:30 a.m.

Hillsboro - Silverton Highway (OR219), both directions:
- Monday between 12:01 a.m. and 6:30 a.m.

- Daily, Monday through Thursday between 9:00 a.m. and 3:00 p.m.
- Friday between 9:00 a.m. and Noon
- Daily, Monday through Thursday between 7:00 p.m. and 6:30 a.m.

Springbrook Road, both directions:

- In areas not impacting any State Highway, lane closures are allowed at any time.

Traffic Lane closures of more than one lane on Pacific Highway West and on the Hillsboro - Silverton Highway shall be allowed as indicated in 00220.40(f).

Add the following subsections:

00220.40(e-2-c) Drive-in Theater Restriction – Do not close or interfere with any facility access to or from the subject business during the following times:

- March 15 – November 15; weekly, Thursday through Sunday; between 6:00 p.m. and 3:00 a.m., daily.

00220.40(f) Limited Duration Road Closure - The Contractor will be permitted to close all Traffic Lanes in one direction of travel for periods not to exceed 15 minutes in duration during signal mast arm or cantilever sign placement over the Traffic Lanes at all locations. This work will only be permitted between the hours of:

10:00 p.m. and 4:00 a.m. Monday through Thursday

The Contractor will be permitted to close all Traffic Lanes in both directions of travel for one period not to exceed 20 minutes in duration during sign bridge placement over all Traffic Lanes of Pacific Highway West (OR99W). This work will only be permitted between the hours of:

11:30 p.m. and 3:30 a.m. Monday through Thursday

Outreach to the public was a concern by Council when the new process was approved and it should be noted that ODOT staff has been in contact with each person that has contacted ODOT with their concerns about the construction noise and ODOT intends to give advance warning to those requesting the notice before each nighttime pour. They are also preparing periodic press releases, keeping stakeholders informed, and they have inspectors and contractor personnel on-site during all construction activities.

FISCAL IMPACT:

None

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS):

The new code states that the City Manager will place the application on the City Council's agenda for the next regular meeting after the date the City Manager receives the application. The City Council may grant a variance of limited duration for a specific event or activity if the City Council so chooses and it can impose further conditions or limitations if reasonable. A variance granted may be revoked by the City Manager or designee in the case of an emergency or safety hazard or if the conditions of the variance granted are violated.

REQUESTFOR COUNCILACTION

DATE ACTION REQUESTED: May 16, 2016				
Order No. __	**Ordinance No. __**	**Resolution No. __**	**Motion XX**	**Information ___**
SUBJECT: A motion to approve a noise variance for the Northside Community Church fireworks display date on July 02, 2016 from 6:00 PM to 10:00 PM			**Contact Person (Preparer) for this Motion: Chris Bolek, Police Captain** **Dept.: Police** **File No.:**	

RECOMMENDATION:

Approve the Police Department's recommendation to approve a noise variance for the Northside Community Church fireworks display on July 02, 2016 from 6:00 pm to 10:00 pm.

EXECUTIVE SUMMARY:

This event is a public Non-Commercial event with audible sound that will travel in excess of 200 feet.

The variance requestor, Robert Sharp of the Northside Community Church told me this event is open to anyone who wants to attend, that the Church sends out invitations to the event for an approximate ten block radius and that there is no fee charged. The church also provides snacks to anyone in attendance, also for no fee.

This will be the third year the event has taken place. The first year, the event went until 9:30 pm. The second year, the event was approved for 10:00 pm. However, in 2015, the fireworks display went until approximately 10:20 pm and in an approximately 30 minute time frame from 9:46 pm to 10:20 pm, the Newberg-Dundee Police Department received approximately 23 complaints about the noise from the event.

As a result, I sent a letter to the requestor three days after the 2015 event making him aware of the violations and neighborhood disruption and that 1 would not recommend future approval of this event. That letter is attached with this Request for Council Action.

This year, the requestor has again requested the fireworks display and the accompanying noise be permitted until 10:30 pm.

Newberg City Code 8.15.150 Section C. 4, allows for the City Council to grant variances of limited duration from the particular requirements of this chapter for a specific event or activity if the City Council determines that not granting the variance would produce hardship without equal or greater benefit to the public.

This event does seem to have positive community value however, any public value turns into a deficit if allowed to exist past 10:00 pm. Due to the public complaints received last year, strict adherence to and firm compliance with the 10:00 pm end of event time must be maintained.

FISCAL IMPACT:

None

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS):

The new code states that the City Manager will place the application on the City Council's agenda for the next regular meeting after the date the City Manager receives the application. The City Council may grant a variance of limited duration for a specific event or activity if the City Council so chooses and it can impose further conditions or limitations if reasonable. A variance granted may be revoked by the City Manager or designee in the case of an emergency or safety hazard or if the conditions of the variance granted are violated.

Newberg-Dundee Police Department
401 E. 3rd Street
Newberg, Oregon 97132
(503) 537-1280

DANCE PERMIT APPLICATION ☐
SOUND PERMIT APPLICATION ☒

(Allow a minimum of 10 working days to process)

Fee: $10.00 per dance

APPLICANT: Robert JOHNSON DRIVERS LICENSE # _____ DATE: 11-7-16

ADDRESS (street, city, zip code): 3070 MIDDLE ROCK DR. Newberg OR 97132

TELEPHONE: HOME 503-538-5449 BUSINESS: 971-572-4256 Cell

EVENT SPONSOR: Northside Church (Currently) No Church

ADDRESS (street, city, zip code): 1500 HOSKINS ST Newberg OR 97132

EVENT LOCATION: 1500 HOSKINS ST New Hope Church

DATE OF EVENT: 1-21-16 DANCE: TIME: _____ to _____ SOUND: TIME: 6pm to 10:30PM

TYPE OR NATURE OF EVENT (please choose one of the following):

7 Public Commercial or noncommercial event with audible sound OVER 200 ft.
(requires City Council approval allow 30 working days minimum to process)

☐ Noncommercial event with audible sound of 200 ft. or less
☐ Public
☐ Private/Invitational

NUMBER OF PEOPLE EXPECTED: 250

(All events are subject to Newberg Police Department Reserve personnel or other private security personnel)

WILL A FEE BE CHARGED FOR ADMITTANCE TO THE EVENT? Yes ☐ No ☒

WILL ALCOHOLIC BEVERAGES BE PRESENT ON THE PREMISES? Yes ☐ No ☒

TYPE AND AMOUNT OF SECURITY PROVIDED FOR THE EVENT: 1 Officer for PD

DESCRIBE PROVISIONS FOR THE CONTROL AND DISPENSING OF ALCOHOLIC BEVERAGES

(Will a licensed OLCC server be on site or will alcohol be dispensed without consumption controls and oversight?)

I have read and understand the rules contained on the back of this form. The statements and information provided above are in all respects true, complete and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations and procedures officially adopted by the City of Newberg.

Applicant Signature

11-7-16

Property Owner Signature

FOR CITY OF NEWBERG USE ONLY (comments & conditions)

☐ Police Services Request attached ☐ Liquor Application attached ☐ Insurance Certificate attached ☐ OLCC Permit attached

---

City Designee ☐ approved ☐ denied Signature _____ Date: _____

Newberg-Dundee
Police Department
P. O. Box 970
401 E. Third Street
Newberg, OR 97132
503-538-8321
Brian T. Casey
Chief of Police

June 30, 2015

Mr. Robert Sharp
C/O Northside Community Church
1800 N. Hoskins Street
Newberg, Oregon 97132

Mr. Sharp:

On May 28, 2015 the Northside Community Church was granted a sound permit by me for your event scheduled for Sunday June 27, 2015 at Northside Community Church, 1800 Hoskins St., Newberg, from 6:30 pm to 10:00 pm.

I recognize that you requested the sound to be extended to 10:30 pm. However, the City Code does not allow me to authorize this permit past 10:00 pm and the permit was not granted for past 10:00pm

I am aware that your fireworks display extended past 10:00 pm by at least 20 minutes and that the Newberg-Dundee Police Department received many complaints about the noise your event created; 23 complaints between 9:46 pm and 10:20 pm.

This letter serves as notice to you that if you wish sound variance for a future similar event that your organization must get approval from the Newberg City Council. All applications for a request to come before council must be submitted at least 30 days prior to your event. You should also know that all sound variance requests that are expected to go to the Newberg City Council come to me for a recommendation for approval or denial. If you or a member of your organization do make such a request, I will recommend denial to the City Council. Of course, the City Council has the authority to follow the recommendation or deviate from it.

If you have any questions, please do not hesitate to contact me at 503-554-7710.

Sincerely,

Chris Bolek
Captain – Patrol Division
(503)554-7710
(971)246-1591
Chris.bolekfainewbergoregon.gov

Cc: NDPD Communications Briefing Board
NDPD Patrol Briefing Board
Newberg Fire Department - Mayfield

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016				
Order No. ___	**Ordinance No.** ___	**Resolution No. 2016-3280** XX	**Motion** ___	**Information** ___
SUBJECT: A resolution authorizing the City Manager Pro Tem to enter into a contract with Sungard Public Sector, LLC for TRAKiT, a permitting software system			**Contact Person (Preparer) for this Motion: Kaaren Hofmann, P.E., City Engineer** **Dept.: Engineering Services Department** **File No.:**	

RECOMMENDATION:
Adopt Resolution No. 2016-3280

EXECUTIVE SUMMARY:
For years the City's Engineering and Building Departments used Permits Plus as their electronic permitting system. In 2013/2014, this system was no longer supported by the manufacturer and a new system needed to be implemented. The Building Department decided to utilize the State Building Code Division's ePermitting system by Accela. One of the main reasons for this decision was the fact that it was free to the City.

Almost immediately issues were found with this system. They include:

- Corrupted data in the conversion from our legacy system
- Engineering is unable to issue permits – they are being issued by hand
- Difficulty in getting data out – data is being entered into a spreadsheet to obtain reports thereby duplicating efforts
- Any revisions that the City would like to see has to be submitted to the State and approved which takes time

In early 2014, the Community Development Department, the Engineering Services Department, Code Enforcement and the IT Department started evaluating different software packages that would meet all of our needs. Over the course of 8 months, five different systems were demonstrated. At the end, of this phase, TRAKiT by Sungard was the system that was chosen by all of the users.

TRAKiT offers the City:

- Greater flexibility in that it is completely customizable
- Citizen portal for access via the website
- Contractors can submit all permits, etc. online
- Greater integration –
    - the system can be configured to speak directly to the financial software system eliminating the need for duplicate data entry and more errors
    - directly connected to the GIS system
    - Code Enforcement, Planning, Engineering and Building cases all talk to each other
- Inspection results can be entered from the field

Additionally, the City is the report writer and administrator. If we need to modify either our reports or the system itself we will have the capability to make the revisions ourselves.

The implementation schedule is estimated to be approximately 9 months.

FISCAL IMPACT:
The cost of this software is estimated at $294,860 to serve the needs of the City. There is also an annual fee of $29,400.

The payments will be spread out over the life of the project at significant milestones. The Engineering Services Department has $76,200 budgeted in FY15/16 and has entered an additional $260,000 into FY16/17's budget. After the preparation of the proposed budget, the contract amount was lowered to the amount noted above. The Water Utility Fund can front the initial capital costs with the General, Building, Wastewater, Stormwater and Street Utility and System Development Charge Funds paying the Fund back over a five year period.

The City Council in April with the adoption of the Master Fee Schedule implemented a 5% technology fee on all permits and land use applications to help cover the costs of this software.

STRATEGIC ASSESSMENT:
The acquisition and implementation of this software will improve transparency, enhance interdepartmental communication and will utilize our existing Geographical Information System. It will also reduce redundancies and duplications between the Engineering Services Department, the Community Development Department and Code Enforcement. This addresses several of the Council Strategic Priorities specifically technology and improving our communication between our citizens and allowing for expanded ability to do business electronically.

RESOLUTION NO. 2016-3280

A RESOLUTION AUTHORIZING THE CITY MANAGER PRO TEM TO ENTER INTO A CONTRACT WITH SUNGARD PUBLIC SECTOR, LLC FOR TRAKIT, A PERMITTING SOFTWARE SYSTEM

RECITALS:

1. The City Council adopted Strategic Priorities for technology that address the need to reduce redundancies and focus on the judicious use of funds to meet long-term needs rather than applying short-term "band-aid" fixes. Another Council goal is about improving communication and the ability of citizens to do City business electronically.

2. The ePermitting system currently in place has several issues including corrupted data, Engineering is unable to issue permits, difficulty in getting data out – data is being entered into a spreadsheet to obtain reports thereby duplicating efforts and any revisions that the City would like to see has to be submitted to the State and approved which takes time.

3. In early 2014, the Community Development Department, the Engineering Services Department, Code Enforcement and the IT Department started evaluating different software packages that would meet all of our needs.

4. TRAKiT by Sungard was the system that was chosen by all of the users. TRAKiT offers the City:
    - Greater flexibility in that it is completely customizable
    - Citizen portal for access via the website
    - Contractors can submit all permits, etc. online
    - Greater integration –
        - the system can be configured to speak directly to the financial software system eliminating the need for duplicate data entry and more errors
        - directly connected to the GIS system
        - Code Enforcement, Planning, Engineering and Building cases all talk to each other
    - Inspection results can be entered from the field

5. The contract is attached as Exhibit A.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council, acting as contract review board for the City, does hereby authorize the City Manager Pro Tem to enter into a contract with Sungard Public Sector for TRAKiT, a permitting software system. The City Manager Pro Tem is further authorized to negotiate any final modifications to said contract.

2. The City Council authorizes the expenditure from the Water Utility Fund to front the costs of the system with the General Fund, Building Fund, other Utility and System Development Charge

Funds to pay back the Water Utility Fund the appropriate proportional amount over no more than five fiscal years.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: May 17, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of May, 2016.

_____
Sue Ryan, City Recorder

ATTEST by the Mayor this 19th day of May, 2016.

_____
Bob Andrews, Mayor

ORDER

By the signatures of their duly authorized representatives below, the SunGard entity identified below and the customer identified below ("Customer"), intending to be legally bound, agree to all of the provisions of this Order, and agree that this Order represents a separate contract between such SunGard entity and Customer, effective upon the latest date shown on the signature page below ("Order Execution Date").

This Order incorporates and is governed by all of the terms of the SunGard Standard Terms and Conditions version 2016 January, to be found at http://www.sungardps.com/legal-agreements/ ("SST") as if the SunGard entity was "SunGard" and Customer was "Customer" thereunder.

Capitalized terms not defined in this Order have the meaning given them in the SST.

SunGard Public Sector LLC ("SunGard")	**City of Newberg, OR ("Customer")**
By:	By:
Print Name:	Print Name:
Print Title:	Print Title:
Date Signed:	Date Signed:

CUSTOMER # _____ SUNGARD ORDER # _____

SOLUTION AND RELATED INFORMATION

1. **SOLUTION:** SunGard TRAKiT applications identified in Project Cost Supplement, Section "A" below, Licensing

2. **INITIAL TERM: Perpetual**

3. **SCOPE OF USE:**

   a. **DESIGNATED LOCATION(s): 414 E. First Street, Newberg, OR 97132**

   b. **REGION: UNITED STATES**

   c. **COVERED CONFIGURATION**
   This Agreement covers the following configuration:

   __15_____ Simultaneous User licenses of the Solution purchased by Customer and installed on __unlimited____ workstations. (Platform support Windows 7 Operating System).

4. **LICENSE AND INITIAL SUPPORT FEES:**

   A. **License Fees:**

   SEE PROJECT COST SUMMARY SUPPLEMENT, SECTION "A"

B. Support Fees for the licenses above:

YEAR	FEES
INITIAL SUPPORT TERM	No Charge
FIRST RENEWAL YEAR	$ 29,400.00

Software Notes:

1. Interfaces are interfaces only. Customer is responsible for obtaining the applicable software, hardware and system software from the appropriate third party vendor.
2. Support for the Initial Support Term is provided at no charge. The Support Fee in the table above represents the support fee for the first Renewal Support Term and is payable only if Customer elects to extend the term through the first Renewal Support Term as provided for in Section 9.3 of the SST.
3. Annual Subscription Fee: The initial annual subscription term for any subscription product(s) listed above shall commence on the Execution Date and extend for a period of one (1) year. Thereafter, the subscription terms shall automatically renew for successive one (1) year terms, unless either party gives the other part written notice of non-renewal at least sixty (60) days prior to expiration of the then-current term. The then-current fee will be specified by SunGard in an annual invoice to Customer thirty (30) days prior to the expiration of then-current annual period.

5. SUPPORT TERM:

a. INITIAL SUPPORT TERM: 12 months from the Order Execution Date.

b. RENEWAL SUPPORT TERM(S): Additional one year renewal periods commencing upon the expiration of the Initial Support Term (or anniversary thereof).

6. PROFESSIONAL SERVICES:

See Project Cost Supplement, Section "B"

Professional Services Notes:

1. Pricing is a good faith estimate based on the information available to SunGard at the time of execution of this Order. The total amount that Customer will pay for these services (i.e., the "TOTAL SERVICES FEE") will vary based on the actual number of hours of services required to complete the services. If required, additional services will be provided on a time and materials basis at hourly rates equal to SunGard's then-current list price rates for the services at issue.

2. Travel and living expenses are additional and will be billed monthly as SunGard renders the services.

8. SUMMARY OF COSTS AND PAYMENT TERMS:

SUMMARY OF COST	Fees
Solution License Fees	$ 147,000
Professoinal Services (excluds: Conversions & Customizations)	$ 110,360
Data Conversions	$ 20,000
Customizations/Integrations	$ 17,500
Total	**$ 294,860**

APPLICABLE TAXES ARE NOT INCLUDED IN THE SCHEDULES ABOVE, AND, IF APPLICABLE, WILL BE ADDED TO THE AMOUNT IN THE PAYMENT INVOICE(S) BEING SENT SEPARATELY TO CUSTOMER.

The amounts noted above shall be payable as follows:

License Fee:
$76,200 the Execution Date.
$70,800 due July 1st, 2016

Annual Support Fees: Support Fees are due thirty (30) days prior to the commencement of the Renewal Support Term for which such fees are being remitted.

Professional Services Fees (includes: Discovery Phase, Configuration Phase, Testing Phase, Education Phase, Launch Phase, and Reports & Forms Development): On invoice daily, as incurred.

Data Conversion Fees: 50% July 1st 2016; 50% on invoice, upon completion.

Customizations/Integrations Fees: 50% July 1st 2016; 50% on invoice, upon completion.

9. ADDRESSES:

a. **CUSTOMER ADDRESS FOR INVOICES:** _____

b. **CUSTOMER ADDRESS FOR NOTICES:** _____

c. **CUSTOMER ADDRESS FOR SOFTWARE SHIPMENT:** _____

d. **SUNGARD'S ADDRESS FOR NOTICES:**

SunGard Public Sector LLC
Attn: Legal Counsel
1000 Business Center Drive
Lake Mary, FL 32746

10. LIABILITY CAP: The greater of ten thousand US dollars ($10,000) or the License Fee actually paid by Customer to SunGard under this Order

11. SPECIFIED CONFIGURATION: Host(s) or client server configuration(s) and/or combinations of host(s) and client server configuration(s) within the United States of America for which SunGard supports the Solution. Customer acknowledges that certain Solutions software may require specific host or client configurations. Customer, as soon as reasonably practicable, will provide a detailed written description of the specified configuration so that SunGard can confirm that it is a configuration on which SunGard supports use of the Solution.

12. Regulatory Access. Not withstanding provisions in Section 8.4 of the SST, Regulatory Access, is hereby amended to include reference to the Oregon Public Records Law (OPRL) (ORS 192.420 et. seq.) including interpretations of such law by the Oregon Attorney General's office.

Any document submitted under this contract that the contracting party deems to be a "trade secret" must be specifically designated as such by the following method:

- The top of each page of the document shall be marked "TRADE SECRET- NOT PUBLIC RECORD".
- This designation shall be in bold print and a font larger than the rest of the document such that it is conspicuous.
- In the event that the trade secret is computer code and the contracting party is unable to accomplish the above designation, the contracting party will specifically inform Customer of the exact items deemed trade secrets by sending a letter addressed to the City Attorney with a list of the specific items in detail sufficient to separate material which is a trade secret, from material which is not a trade secret. This letter must be received by Customer prior to receipt of the material deemed a trade secret.

The Trade Secret exemption under ORS 192.501(2) is a conditional exemption, meaning that there may be circumstances under which Customer is required to disclose trade secrets when Customer believes that the public interest requires disclosure. Unless there is clear and convincing evidence of bad faith on behalf of Customer, the parties agree that Customer may unilaterally make the determination whether to release the information. The parties further agree that there shall be no liability on behalf of Customer for such a determination and release of information, absence clear and convincing evidence of bad faith.

13. Choice of Law; Severability. Not withstanding provisions in 10.10 (a) Jurisdiction and Governing Law of the Agreement, is hereby changed to be in accordance with the, laws of the State of Oregon, with jurisdiction in the Yamhill County Circuit Court.

14. OTHER TERMS APPLICABLE TO THIS ORDER:

- **PROJECT COST SUPPLEMENT**
- **SUPPORT SUPPLEMENT**
- **SUNGARD TRAVEL EXPENSE GUIDELINES**
- **PROJECT SCOPE OF WORK**

PROJECT COST SUPPLEMENT

A. LICENSING				
Core Suite	$67,500	15	Users (concurrent)	
GeoTRAK				
PermitTRAK				
ProjectTRAK				
AEC TRAK				
CodeTRAK				
CRM TRAK				
Regulatory Licensing Suite	$15,000	5	Users (concurrent)	
GIS Engine – Standard	$12,500			
Mobility – iTRAKiT Inspect & Code modules	$20,000			
eCitizen Portal	$20,000			
Cashiering Suite – Standard Merchant	$12,000			
Sub-total:				**$ 147,000**
Total Licensing:				**$ 147,000**
B. SERVICES				
Discovery Phase				
Upfront Remote Training	$1,280	8	Remote Hours	
Onsite Meetings	$4,800	24	Onsite Hours	
Remote Reviews	$8,000	50	Remote Hours	
Configuration Phase				
Remote Configuration	$35,000	200	Remote Hours	
Testing Phase				
Onsite Training	$3,840	24	Onsite Hours	
Onsite Meetings	$8,000	40	Onsite Hours	
Remote Configuration	$17,500	100	Remote Hours	
Education Phase				
Onsite End User	$12,800	80	Onsite Hours	
Remote eTRAKiT Admin	$640	4	Remote Hours	
Remote Administrator	$750	1	Attendee(s)	
Remote Report Writing	$750	1	Attendee(s)	
Launch Phase				
Onsite Go Live Assistance	$3,200	16	Onsite Hours	
Data Conversion				
Assessor/GIS Connect	$7,000			
Accela, State BCD database	$13,000			
Reports & Forms				
Standard Report Library	Included	100	Reports	
Customized Reports	$1,800	8	Remote Hours	
Permit Library	$3,500	1	Library	
Enforcement Library	$2,500	1	Library	
Plan Corrections Library	$2,500	1	Library	
Regulatory License Library	$3,500	1	Library	

Customizations/Integrations		
Enhancements	$15,000	
Financial System: Springbrook	$2,500	
Total Services:		**$147,860**
Total Licensing & Services:		**$294,860**

APPLICABLE TAXES ARE NOT INCLUDED IN THE SUMMARY ABOVE, AND, IF APPLICABLE, WILL BE ADDED TO THE AMOUNT IN THE PAYMENT INVOICE(S) BEING SENT SEPARATELY TO CUSTOMER.

SUPPORT SUPPLEMENT

1. SunGard shall provide to Customer, during SunGard's support hours as set forth in the Support Standards below ("Support Hours"), telephone assistance regarding Customer's proper and authorized use of a new edition of a Solution or Custom Modification (the “Release”), as applicable.

2. SunGard shall provide to Customer, during the Support Hours, commercially reasonable efforts in solving Errors reported by Customer in accordance with this Order. Customer shall provide to SunGard reasonably detailed documentation and explanation, together with underlying data, to substantiate any Error and to assist SunGard in its efforts to diagnose, reproduce and correct the Error. These support services shall be provided by SunGard at Customer location(s) if and when SunGard and Customer agree that on-site services are necessary to diagnose or resolve the problem. If a reported Error did not, in fact, exist or was not attributable to a defect in the Solution or an act or omission of SunGard, then Customer shall pay for SunGard's investigation and related services at SunGard’s standard professional services rates. Customer must provide SunGard with such facilities, equipment and support as are reasonably necessary for SunGard to perform its obligations under this Order, including remote access to the Specified Configuration.

3. Customer shall promptly install and/or use any Release provided by SunGard to avoid or mitigate a performance problem or infringement claim. All modifications, revisions and updates to the Solution shall be furnished by means of new Releases of the Solution and shall be accompanied by updates to the Documentation whenever SunGard determines, in its sole discretion, that such updates are necessary.

4. Support Surcharge Imposed In Certain Instances: At the commencement of any Renewal Support Term where Customer is operating on a Solution version that is more than two (2) general release versions behind the then-current release for any Solution, SunGard will assess a ten percent (10%) surcharge over and above the support fee for that Renewal Support Term, with such surcharge to be imposed on a prorated basis for the portion of the Renewal Support Term that Customer remains on a general release version that is more than two (2) releases behind the then-current release of the Solution in question. Once Customer is using a release that is no more than two (2) general release versions behind the then-current release, the support surcharge will be removed on a prospective basis, as of the date that Customer is using the release that is no more than two (2) general release versions behind the then-current release.

Support Standards

I. Support Hours: Hours During Which SunGard Public Sector's Telephone Support Will be Available to Customer in Connection with the Provision of Maintenance: Unless otherwise noted in the Order as to Support Type, support hours are Monday through Friday, 8:00 A.M. to 5:00 P.M. Customer's Local Time within the continental United States, excluding holidays ("5x9").

II. Targeted Response Times.

"Notification" means a communication to SunGard's help desk by means of: (i) SunGard's web helpline; (ii) the placement of a telephone call; or (iii) the sending of an e-mail, in each case, in accordance with SunGard's then-current policies and procedures for submitting such communications.

With respect to SunGard's support obligations, SunGard will use diligent, commercially reasonable efforts to respond to Notifications from Customer relating to the Solution or Custom Modifications identified in the Order in accordance with the following guidelines with the time period to be measured beginning with the first applicable SunGard "Telephone Support" hour occurring after SunGard's receipt of the Notification:

Priority	Description	Response Goal*	Resolution Goal*
Urgent 1	A support issue shall be considered **Urgent** when it produces a Total System Failure; meaning SunGard's Solution/Custom Modification is not performing a process that has caused a complete work stoppage.	SunGard has a stated goal to respond within 60 minutes of the issue being reported and have a resolution plan within 24 hours.	Although resolution times vary depending on the exact issue and customer environment, SunGard has a stated goal to resolve an urgent issue within 24 hours or provide a resolution plan with urgent issues within 24 hours of the issue being reported. A resolution plan details the steps necessary to understand and possibly resolve the issue.
Critical 2	A support issue shall be considered **Critical** when a critical failure in operations occurs; meaning SunGard's Solution/Custom Modification is not performing a critical process and prevents the continuation of basic operations. Critical problems do not have a workaround. This classification does not apply to intermittent problems.	SunGard has a stated goal to respond within two hours of the issue being reported.	
Non-Critical 3	A support issue shall be considered **Non-Critical** when a non-critical failure in operations occurs; meaning SunGard's Solution/Custom Modification is not performing non-critical processes, but the system is still usable for its intended purpose or there is a workaround.	SunGard has a stated goal to respond within four hours of the issue being reported.	
Minor 4	A support issue will be considered **Minor** when the issue causes minor disruptions in the way tasks are performed, but does not affect workflow or operations. This may include cosmetic issues, general questions, and how to use certain features of the system.	SunGard has a stated goal to respond within 24 hours of the issue being reported.	

** Measured from the moment a Case number is created. As used herein a "Case number" is created when a) SunGard's support representative has been directly contacted by Customer either by phone, email, in person, or through SunGard's online support portal, and b) when SunGard's support representative assigns a case number and conveys that case number to the Customer.*

Customer must provide remote access to its facility using a SunGard approved remote access client so that SunGard can perform the support obligations and/or services under this Order; and will provide appropriate security access and accounts for SunGard staff and each session participant.

SUNGARD PUBLIC SECTOR TRAVEL EXPENSE GUIDELINES

SunGard will adhere to the following guidelines when incurring travel expenses:

All arrangements for travel are to be made through the SunGard Corporate Travel Agent unless other arrangements have been made with the Customer and are documented in writing.

AIR TRAVEL – SunGard will use the least expensive class of service available with a minimum of seven (7) day, maximum of thirty (30) day, advance purchase. Upon request, SunGard shall provide the travel itinerary as the receipt for reimbursement of the air fare and any fees. Fees not listed on the itinerary will require a receipt for reimbursement.

Trips fewer than 250 miles round are considered local. Unless a flight has been otherwise approved by the Customer, Customer will reimburse the current IRS approved mileage rate for all local trips.

LODGING –Reasonable lodging accommodations are reimbursable, up to $125 per night. If, depending on the city, reasonable accommodations cannot be secured for $125 per night, Customer's prior approval will be required. Upon request by Customer, the hotel receipt received upon departure will be submitted for reimbursement. All food items, movies, and phone/internet charges are not reimbursable.

RENTAL CAR – Compact or Intermediate cars will be required unless there are three or more SunGard employees sharing the car in which case the use of a full size car is authorized. Gas is reimbursable however pre-paid gas purchases will not be authorized and all rental cars are to be returned with a full tank of gas. Upon request, receipts for car rental and gas purchases will be submitted to Customer. SunGard shall decline all rental car insurance offered by the car rental agency as staff members will be covered under the SunGard auto insurance policy. Fines for traffic violations are not reimbursable expenses.

OTHER TRANSPORTATION – SunGard staff members are expected to use the most economical means for traveling to and from the airport (Airport bus, hotel shuttle service). Airport taxi or mileage for the employee's personal vehicle (per IRS mileage guidelines) are reimbursable if necessary. Upon request, receipt(s) for the taxi will be submitted to Customer. Proof of mileage may be required and may be documented by a readily available electronic mapping service. The mileage rate will be the then-current IRS mileage guideline rate (subject to change with any change in IRS guidelines).

OTHER BUSINESS EXPENSES – Parking at the airport is reimbursable. Tolls to and from the airport and while traveling at the client site are reimbursable. Tipping on cab fare exceeding 15% is not reimbursable. Porter tips are reimbursable, not exceeding $1.00 per bag. Laundry is reimbursable when travel includes a weekend day or Company Holiday and the hotel stay is four nights or more. Laundry charges must be incurred during the trip and the limit is one shirt and one pair of pants/skirt per day. With the exception of tips, receipts shall be provided to Customer upon request for all of the aforementioned items.

MEALS

$52.00 per day Standard Per Diem

- $10.40 – Breakfast
- $13.00 – Lunch
- $28.60 – Dinner

PROJECT SCOPE OF WORK

Statement of Work (____ pages in total, including an additional cover page plus a table of contents) are inserted immediately following this Cover Page.

Permitting Software

TRAKiT

May 16, 2016

SUNGARD® PUBLIC SECTOR

ENVISION THE FUTURE HAPPENING TODAY

TRAKiT: 100% Web-based, Integrated Solution

GeoTRAK Land Management



iTRAKiT

Mobile Inspection Capability



GIS



GIS Interface to Spatially View City's Data

eTRAKiT

Web based Citizen & Contractor Access



TRAKiT

AECTRAK



Central Contacts Database



CodeTRAK

Code Enforcement & Compliance



ProjectTRAK

Planning & Related Development



PermitTRAK

Permitting, Plan Check, Inspections, Issuance & C of O

Increased Communication & Collaboration

City-Wide & External – One Platform for All

TRAKiT


Building Department


Planning/Engineering Dept.


Code Enforcement


Public Works


Fire Department


Citizens & Contractors


GIS


City Council & City Manager

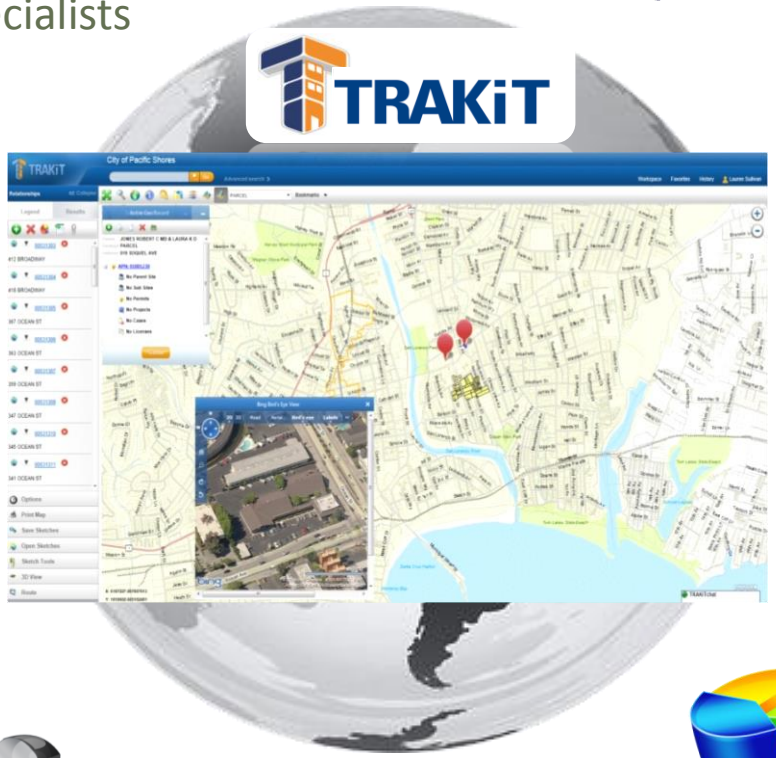
User Friendly **GIS Interface to City's Maps & GIS Data**

User Friendly for the average, non-GIS specialists





Integrated Street & Bird's Eye View via Google Map



Spatial View of City Activity





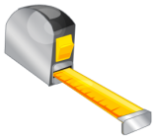
GPS Routing for Inspectors

Drawing Tools





Spatial Queries on TRAKiT Data



Measurement Tools



Spatial Reporting

Increased Government Transparency



Public Facing Web Portal for Citizens & Contractors

- Simple Interface the public to learn and adopt into practice
- Convenient 24/7 Online access for Citizens & Contractors
- Paperless Applications
- Digital plan-set submittals
- Easily submit inspections requests
- Real-time Permit and Project status updates
- View of activity within the City
- Significant reduction in processing times

Automate & Streamline Current Processes

The Old Way



- Paper based Applications
- Manually distribute Applications Attachments
- Send notices by mail
- Store paper files in bins, racks
- Report generation

Vs.

The New Way



- Electronically upload plans
- Electronically routed
- Concurrent review
- Electronic notices
- Store plans electronically
- Quickly generate reports within minutes

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016				
Order ___ No.	**Ordinance ___ No.**	**Resolution __ No.**	**Motion ___**	**Information XX**
SUBJECT: Resolution 2016-3303			**Contact Person (Preparer) for this Item: Jay Harris Dept.: File No.:**	

EXECUTIVE SUMMARY:

Staff is preparing Resolution 2016-3303, a lease of the City's Illinois Street House to Joe Hannan for the City Council meeting on May 16, 2016. The RCA for this Resolution will be sent out on Friday, May 13.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016				
Order No. ___	**Ordinance No.** ___	**Resolution No. 2016-3287** XX	**Motion** ___	**Information** ___

SUBJECT: A Resolution approving the dedication of two permanent easements on city owned property located at 305 W. Illinois Street.	**Contact Person (Preparer) for this Motion: Jay Harris** **Dept.: Public Works** **File No.:**

HEARING TYPE: **ADMINISTRATIVE**

RECOMMENDATION:

Adopt Resolution No. 2016-3287.

EXECUTIVE SUMMARY:

The City of Newberg owns approximately 0.45 acres of property at 305 W. Illinois Street, shown as Tax Lots 1601 and 1602 on Yamhill County Assessors Map 3S-2W-18CA, commonly known as the highway 240 lift station and house. The site is located on the north side of W. Illinois street (Hwy 240) near the intersection of N. Morton Street.

The city purchased the 0.45 acre property single family home site in March of 2009 by Council Resolution #2008-2822 for the construction of the Highway 240 pump station.

In June of 2010, Council Resolution #2010-2904 authorized the City Manager to award the construction contract to Mortenson Construction for the Highway 240 lift station and force main project. Mortenson Construction completed the lift station and force main improvements in February of 2011.

In 2012, city staff completed the land use planning and surveying to partition the existing house from the lift station site. In December of 2012, Yamhill County Partition Plat #2012-21 recorded, which completed the division of the property into two parcels. After the new property corners were set for the new parcels, Mr. Stan Bunn, the adjacent property owner at 301 W. Illinois Street, raised concerns that the property line is located in the side yard to his house and did not follow the existing retaining wall and fence line between the two properties, as shown in the two pictures below.



Picture #1: Taken in the side yard area of the Bunn residence looking east. The Bunn Residence is on the left and the rear yard retaining wall and City owned shed are on the right. The existing property line is the solid line. The proposed easement limit line is the dashed line.



Picture #2: Taken in the side yard area of the Bunn residence looking west. The Bunn Residence is on the right and the fence of the City Hwy 240 pump station is on the left. The existing property line is the solid line. The proposed easement limit line is the dashed line.

Mr. Bunn is contends that he should own the property that is under dispute, and alleges that until the property survey was completed, all property owners assumed that the property line was adjacent to the wall and fence locations. The cost to complete the land use planning and surveying for a lot line adjustment between the two properties is in excess of $5,000.00. Mr. Bunn has agreed to accept landscape and exclusive easements in lieu of adjusting the property lines, which allows all parties to continue their existing use of their respective properties.

Parcel 1, the existing house parcel, was listed for sale last year with Kris Horn at Coldwell Banker. The city received an offer to purchase the property, which was contingent on dedication of the easement on Parcel 1. The buyers offer was eventually retracted due to the requirement to grant the easement to Mr. Bunn. The proposal is for Council to consider the dedication of the easements to Mr. Bunn, city staff will then re-list the house for sale after the easements are recorded at Yamhill County.

FISCAL IMPACT:
The value of the city parcels may be reduced by the granting of both the exclusive and landscape easements. When assigning a reduction in value to a property, items to consider would be: limitations to surface uses, easement location, can landlord alter the easement area, maintenance responsibilities, landowner rights to use the easement area, loss of view, impact to security, and who pays the taxes and insurance on the property. Per the International Right of Way Association, easements that have a nominal effect on use or utility of a property could potentially reduce the value of the encumbered property up to 10%. An opinion of value of each easement is estimated below:

Parcel 1: (existing house)
Lot area=10,625 sf.
Easement Area: 597 sf.
Yamhill County Assessors Land value= $113,555.00 or $10.69 per square foot
Landowner has surface use limitations=yes
Easement location: North of existing retaining wall/fence and outside of existing rear yard
Can landowner alter easement area= no
Is landowner responsible for easement maintenance= no
Is there a loss of view or impact to security= no
Who pays for property taxes and insurance= Landowner

General observations: The dedication of the easement would have minimal impact to the property value as

the area encumbered by the proposed easement is not part of the rear yard that is in active use, as the easement area is located on the north side of the rear yard fence/wall.

Impact to property value: The exclusive easement significantly limits the use of the easement area by the landowner and potentially reduces the value of the property encumbered by the easement upwards of 10%.

Reduction in value= 10% x 597 sf x $10.69/sf= $638.19

Parcel 2: (existing pump station site)
Lot area=8,988 sf.
Easement Area: 1,136 sf.
Yamhill County Assessors Land value= $89,000.00 or $10.10 per square foot
Landowner has surface use limitations=yes
Easement location: North of existing pump station fence and in the required building setback
Can landowner alter easement area= yes
Is landowner responsible for easement maintenance= no
Is there a loss of view or impact to security= no
Who pays for property taxes and insurance= Landowner

General observations: The area encumbered by the easement is also not actively used by the city, is a required building setback area, and the easement area serves as a landscape buffer between the wastewater pump station activities and the rear yard activities at the Bunn property.

Impact to property value: The granting of the landscape easement by the city potentially reduce the property value of the property within the easement upwards of 5%. The maintenance of the easement area by Mr. Bunn will reduce activities needed to be completed each growing season by the city.

Reduction in value= 5% x 1,136 sf x $10.10/sf= $573.68

STRATEGIC ASSESSMENT:

The completion of the highway 240 pump station project has significantly reduced the number of wastewater overflows at the Dayton pump station into Chehalem Creek. The dedication of the easements to Mr. Bunn will allow for the sale of excess city owned property and complete the high priority project identified in the 2007 Sewerage Master Plan Update.

RESOLUTION NO. 2016-3287

A RESOLUTION APPROVING THE DEDICATION OF TWO PERMANENT EASEMENTS ON CITY OWNED PROPERTY LOCATED AT 305 W. ILLINOIS STREET.

RECITALS:

1. The City of Newberg owns approximately 0.45 acres of property at 305 W. Illinois Street, shown as Tax Lots 1601 and 1602 on Yamhill County Assessors Map 3S-2W-18CA, commonly known as the highway 240 lift station and house. The site is located on the north side of W. Illinois street (Hwy 240) near the intersection of N. Morton Street.

2. The 2007 City of Newberg Sewerage Master Plan identified a priority project to reduce the winter wastewater overflows into Chehalem Creek at the Dayton Avenue pump station. The city purchased the 0.45 acre property single family home site located at 305 W. Illinois Street for $282,000 in March of 2009 by Council Resolution #2008-2822 for the construction of the Highway 240 pump station.

3. The lift station and force main improvements were completed in February of 2011, which began bypassing flows away from the Dayton Avenue pump station. In 2012, Partition Plat #2012-21 recorded, which completed the division of the property into two parcels. Parcel 1, the existing house parcel, was listed for sale last winter with Coldwell Banker.

4. In 2012, Mr. Stan Bunn, the adjacent property owner at 301 W. Illinois Street, raised concerns that the common property line does not follow the existing retaining wall and fence line between the two properties.

5. The City listed Parcel 1 (existing home site) last year and received an offer to purchase the property. The potential buyer withdrew their offer to purchase the site due to the boundary line dispute.

6. Mr. Bunn has agreed to accept an exclusive easement as shown on Exhibit A, and a landscape easement shown on Exhibit B; both referenced exhibits are hereby incorporated. The dedication of the two easements by the city to Mr. Bunn will settle the boundary line dispute. The granting of the landscape and exclusive easements will allow for the use of all properties to remain as-is, and will also allow for the City to commence activities to sell Parcel 1, the existing home site.

7. Oregon Revised Statutes 221.725, requires published notice of the public hearing for sale of any interest in real property held by the City, which in this case includes the granting of the landscape and exclusive easements. Notice was published on May 11, 2016, in the Newberg Graphic, a newspaper of general circulation that meets the requirements of the Statute.

8. In compliance with ORS 221.725, a public hearing was held with the opportunity for any resident of

the city, or members of the general public, to present written or oral testimony. Evidence of market value of the transfer of interests in the real property, was fully disclosed by the City Council at the public hearing.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council approves the dedication of the exclusive easements to benefit the Bunn property, adjacent and north of parcel 1 and parcel 2 of partition plat 2012-21.

2. The City Council delegates, authorizes, and directs the city manager, or city manager pro-tem, to perform all necessary acts to create, modify, and execute all necessary documents, and carry out any other necessary matters in order to complete the dedication of the easements. All documents and agreements shall be approved as to form and content by the City Attorney.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: May 17, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of May, 2016.

_____
Sue Ryan, City Recorder

ATTEST by the Mayor this 19th day of May, 2016.

_____
Bob Andrews, Mayor

EXHIBIT "A"

May ____, 2016

Exclusive Easement

The City of Newberg as grantor does grant to Stan Bunn as grantee a perpetual easement in the following described property:

An easement for the benefit of Stan Bunn across Parcel 1 Partition 2012-21

An easement in the Northeast ¼ Southwest ¼ Section 18 Township 3 South, Range 2 West, W.M. Yamhill County, Oregon and being across that tract of land shown as Parcel 1 Partition 2012-21, the exterior boundary being more particularly described as follows:

> Beginning at a point which bears North 67º 47' 57" West 2.43 feet from the Northeast corner of Parcel 1 of Partition 2012-21; thence North 67º 47'57" West along the north line of said Parcel 1 a distance of 96.57 feet to the Northwest corner of Parcel 1; thence South 0 º 27' 08" West along the boundary between Parcel 1 and 2 of said partition 14.17 feet; thence South 56 º 42' 52" East 4.45 feet; thence South 84º 26' 53" East 18.50 feet to a point which is 0.25 feet northerly of the extension of an existing retaining wall westerly; thence South 74º 58' 23" East 69.78 feet parallel to and 0.25 feet northerly of wall to the point of beginning.

The easement is adjacent to the property owned by Stan Bunn and shall run with the land. The easement is for the full use and enjoyment of the easement area for residential yard and landscape purposes not prohibited by the city of Newberg Municipal Code and shall be exclusive use. However, the owner or agent of the servient estate may come upon the easement area for necessary repair of said adjacent property fence.

If owner of adjacent property comes on to said easement property for reasonable and necessary repair or maintenance of their adjacent fence they will promptly return the easement property to its condition prior to the repair.

Grantee shall be allowed to place a fence on the easement area if Grantor substantially lowers or removes the fence on Grantor's northern border. Placement of any fence by Grantee shall allow sufficient space for Grantor to maintain the Grantor's fence and wall and should Grantee's fence interfere with this right, Grantee shall remove such fence at Grantee's cost.

Grantee shall have full and exclusive use and control of the property except for said maintenance and repair of the fence.

This easement has been granted in exchange for good and valuable consideration including $5.00.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

IN WITNESS WHEREOF, the parties have executed this easement on this ___ day of _____, _____.

_____

Steve Rhodes
City Manager, Pro Tem
City of Newberg

STATE OF OREGON)
) s.s.
County of Yamhill)

This instrument was acknowledged before me this ____ day of _____, ____, by Steve Rhodes.

_____
Notary Public for Oregon
My Commission expires:

ACCEPTED:

_____
Stan Bunn

Dated: _____

APPROVED AS TO FORM

_____
Truman A. Stone, City Attorney

Dated: _____

Easement Survey for:
City of Newberg

EXHIBIT A: EASEMENT SKETCH

Location: NE 1/4 SW 1/4 Section 18 T. 3 S., R. 2 W., WM.,
Yamhill County, OR
Tax Lot: 3218CA-1601
Date: 28 May, 2015

Newberg Surveying, Inc.
1205 NE Evans
McMinnville, OR 97128
(503)-474-4742 (971)-237-1956 Cell
(503)-474-3752 Fax newberg@viclink.com

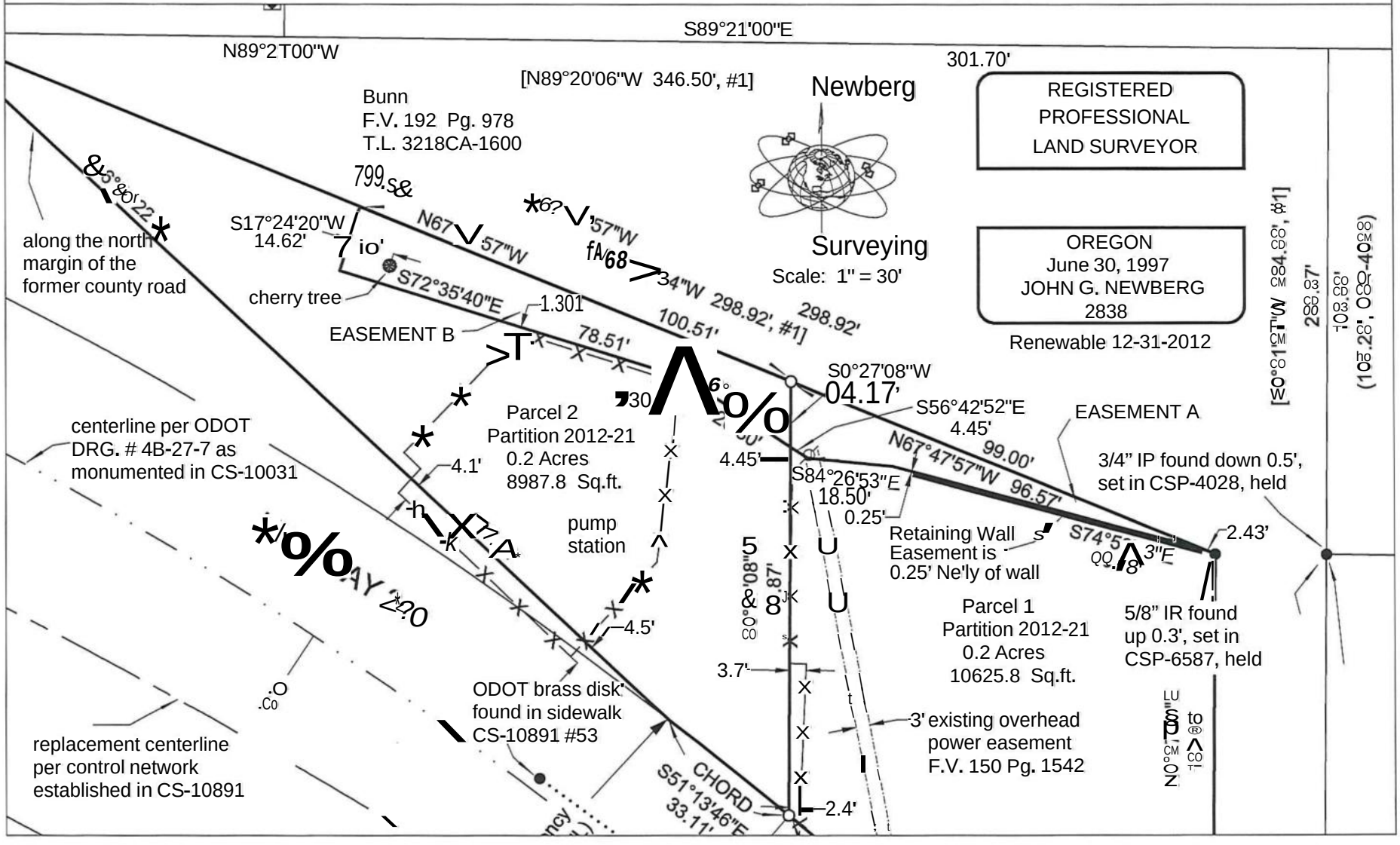


EXHIBIT "B"

LANDSCAPE EASEMENT

The City of Newberg, as grantor, does grant to Stan Bunn, as grantee, a perpetual easement in the following described property:

SEE EXHIBIT B LEGAL DESCRIPTION & SKETCH

This easement is over land owned by the City of Newberg (servient estate) and adjacent to the property owned by Stan Bunn (dominant estate) and shall run with the land. The easement is for landscape purposes and shall be used by grantee for landscape, lawn and yard purposes only.

The landscaping within this easement shall be maintained substantially in the same condition as exists at the time of recording of this easement. No change shall be made without prior written consent of the servient estate owner. No building, masonry wall, fences, or other structures shall be erected within the easement. The grantee shall be allowed to place plantings along the southerly line of the easement for screening purposes where no fence line exists and where it will not interfere with grantor's access to the easement area. Those that currently exist are excepted.

The landscaping within the easement shall be maintained in good order. In the event that this condition is violated, or the screening plants interfere with access, the servient estate owner shall notify the dominant estate owner in writing of any deficiency. If the deficiencies are not corrected within 20 days, the servient estate order may elect to perform maintenance or removal, in which case the dominant estate owner shall release the servient owner and its agents from any claims related to performance of such maintenance, including any claims under ORS 105.810-815 or similar statutes. The servient estate owner shall be entitled to reimbursement for the cost of maintenance or removal and the dominant estate owner shall reimburse such costs within 60 days of receipt of a statement. Failure to reimburse such costs in full within that time frame shall be a violation of the terms herein and servient estate holder shall be entitled to any collection costs or attorney's fees incurred in enforcing the terms herein, including fees and costs on appeal.

The use of this easement for landscape purposes shall not in any way interfere with the City's use of the servient estate for public works or similar purposes. The servient estate owner may enter the easement at anytime and for any purpose that does not interfere with the landscaping or purpose of this easement. If the servient owner disturbs the easement landscaping while conducting inspection or repairs, such servient owner will promptly return the easement landscaping to its condition prior to disturbance.

In the event that a public body through eminent domain acquires the easement property, the dominant estate shall claim no compensation, but all compensation shall accrue to the servient estate.

No hazardous chemicals shall be stored, applied or used on the easement property, except readily available consumer herbicides and pesticides. Use of such herbicides and pesticides shall be according to the label and the dominant estate shall be responsible for any damages resulting from the use of such chemicals.

This easement has been granted in exchange for good and valuable consideration including $5.00.

The witness whereof, the parties have executed this instrument on the date stated above. Any signature on behalf of the City of Newberg is made with the authority of said city.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

IN WITNESS WHEREOF, the parties have executed this landscape easement on this ___ day of _____, _____.

_____
Steve Rhodes
City Manager, Pro Tem
City of Newberg

STATE OF OREGON)
) s.s.
County of Yamhill)

This instrument was acknowledged before me this ____ day of _____, ____, by Steve Rhodes.

_____
Notary Public for Oregon
My Commission expires:

ACCEPTED:

_____
Stan Bunn

Dated: _____

APPROVED AS TO FORM

_____
Truman A. Stone, City Attorney

Dated: _____

EXHIBIT B: LEGAL DESCRIPTION

Newberg
Surveying

Newberg Surveying, Inc
1205 NE Evans
McMinnville, OR 97128
(503)-474-4742* (503)-474-3752 FAX

Exclusive Easement

for the benefit of Stan Bunn across Parcel 1 Partition 2012-21

A landscape easement in the Northeast 1/4 Southwest 1/4 Section 18 Township 3 South, Range 2 West, W.M. Yamhill County, Oregon and being across that tract of land shown as Parcel 1 Partition 2012-21, the exterior boundary being more particularly described as follows:

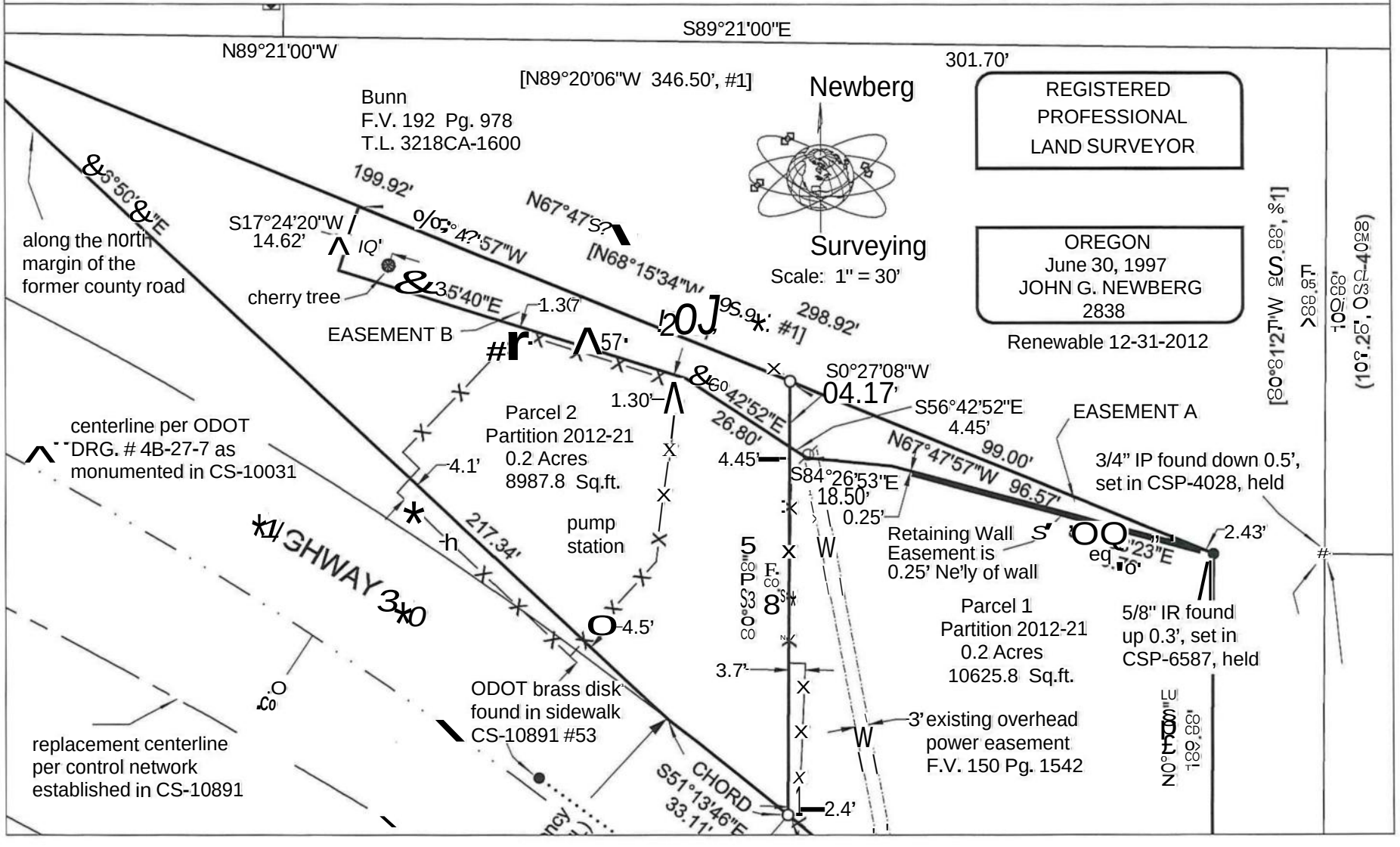
Beginning at a point which bears North 67° 47' 57" West 2.43 feet from the Northeast corner of Parcel 1 of Partition 2012-21; thence North 67° 47' 57" West along the north line of said Parcel 1 a distance of 96.57 feet to the Northwest corner of Parcel 1; thence South 0° 27' 08" West along the boundary between Parcel 1 and 2 of said partition 14.17 feet; thence South 56° 42' 52" East 4.45 feet; thence South 84° 26' 53" East 18.50 feet to a point which is 0.25 feet northerly of the extension of an existing retaining wall westerly; thence South 74° 58' 23" East 69.78 feet parallel to and 0.25 feet northerly of wall to the point of beginning.

Easement Survey for:
City of Newberg

EXHIBIT B: EASEMENT SKETCH

Location: NE 1/4 SW 1/4 Section 18 T. 3 S., R. 2 W., WM.,
Yamhill County, OR
Tax Lot: 3218CA-1601
Date: 28 May, 2015

Newberg Surveying, Inc.
1205 NE Evans
McMinnville, OR 97128
(503)-474-4742 (971)-237-1956 Cell
(503)-474-3752 Fax newberg@viclink.com



REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016					
Order No. ___	**Ordinance No.** ___	**Resolution No. 2016-3301** _XX_	**Motion** ___	**Information** ___	
SUBJECT: Approving Adjusted Solid Waste and Recycling Services Rates for Waste Management effective July 1, 2016			**Contact Person (Preparer) for this Motion:** Matt Zook, Finance Director **Dept.:** Finance **File No.:**		

HEARING TYPE: ☐ **LEGISLATIVE** ☐ **QUASI-JUDICIAL** ☒ **ADMINISTRATIVE**

RECOMMENDATION: Adopt Resolution No. 2016-3301 approving adjusted garbage and recycling service rates for Waste Management (WM) effective July 1, 2016.

EXECUTIVE SUMMARY: The City has an exclusive franchise with WM for the hauling of garbage and the collection of recyclable materials within the City. The franchise agreement gives the City the right to regulate and fix rates.

Resolution No. 1999-2160 adopted January 19, 1999 requiring the garbage rates be reviewed every two (2) years.

History of approved rates
July 1999 – 10.62%
July 2001 – 18.50%
July 2003 – 0.00%
July 2007 – 3.50%
July 2009 – 4.23%
July 2011 – 5.47%
Aug 2013 – 4.70%
Sept 2014 – 2.50% (in conjunction with City franchise fee increase from 3% to 5%)

WM is requesting a 3.34% general rate increase effective July 1, 2016 to help with a system conversion of their commercial collection system. The proposed garbage and recycling rates and other operating data for the Council's review and consideration is attached as Exhibit "A" to the resolution. Per the franchise agreement, Council will give consideration to all relevant factors, including current and projected revenue, the cost of acquiring and replacing equipment, the net cost of reuse and recycling, rates established by other jurisdictions for similar service under the same or similar service conditions, and other factors as the Council deems relevant. The conversion of the collection system falls under the criterion listed above as the cost of replacing equipment. Further, the financial information provided in Exhibit "A" indicates a lower projected return on revenue for the next year of 6.99% before the requested fee increase. WM will be present at meeting to answer any questions.

FISCAL IMPACT: If approved, garbage and recycling rates for customers within the City will increase by 3.34%. For the typical residential customer, the monthly rate would increase from $20.81 to $21.50 per month – an increase of $0.69 per month. Newberg assesses a franchise fee of 5% of gross annual revenue. The projected FY 2016/2017 City budget estimated franchise revenue of $168,662.

STRATEGIC ASSESSMENT: The City of Newberg strives to provide a clean and healthy environment for its citizens. WM has and continues to offer excellent garbage collection and recycling services to the community. It is necessary to set collection rates that are adequate to ensure that these

services continue to be delivered and improved upon. The addition of curbside glass recycling will enhance customer service.

RESOLUTION NO. 2016-3301

A RESOLUTION ADOPTING ADJUSTED GARBAGE AND RECYCLING SERVICE RATES FOR WASTE MANAGEMENT EFFECTIVE JULY 1, 2016

RECITALS:

1. The City has an exclusive franchise with Waste Management (WM) for the hauling of garbage as well as the collection of recyclable materials within the City, as approved by Ordinance 2012-2756. Sections 6 & 7 of the Franchise Agreement between WM and the City give the City the right to regulate and fix rates. An excerpt from the Franchise Agreement outlining Authorized Rates is hereby attached as Exhibit "B" and by this reference incorporated.

2. The City finds that WM has established justification for a rate increase by the following critieria:
    a. The cost of acquiring and replacing equipment, specifically the conversion of the collection system;
    b. Current and projected revenue, specifically that projected net revenue will decrease in without the proposed rate increase;

3. The City finds that it is appropriate to adjust rates as proposed by WM by 3.34%.

4. Franchisee is required to provide a minimum of a 30-day notice to its customers of revisions to the service rate schedule. This fee increase would not take effect until after July 1, 2016.

5. The public has been given the opportunity to comment on the proposed rate increase as required by ORS 294.160.

6. Rates will be reviewed in even-numbered years going forward.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The garbage and recycling rates for individual services proposed by Waste Management (WM) is a 3.34% general rate increase as shown in Exhibit "A" is hereby attached and by this reference incorporated.

2. The 3.34% general rate increase may take effect on July 1, 2016, or such date after customers are provided a minimum of 30 days advance notice of the rate increase.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: May 17, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of May, 2016.

_____
Sue Ryan, City Recorder

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

_____
Bob Andrews, Mayor

IAJHH.
WASTE MANAGEMENT

WASTE MANAGEMENT
P.O. Box 1000
2904 Wynooski Rd.
Newberg, OR 97132
(503) 538-1388
(503) 538-1383 Fax

April 28, 2016

Stephen Rhodes
City Manager/City of Newberg
414 E. First St.
PO Box 970
Newberg, Oregon 97132

Dear Stephen,

Attached please find our 2015 annual detailed cost report. The report compares our 2015 results to 2014 as well as projects our performance within the City of Newberg for 2016.

The report shows our return on revenue has changed from 8.94% for 2014 to 9.47% for 2015 and we are projecting 2016 to be 6.99%. While it is our goal to be as efficient as possible, we find it necessary to request a 3.34% rate increase to help with a system conversion of our commercial collection system. If possible, we would like these new rates to be effective as July 1, 2016.

We are requesting that the proposed rate changes go before the city council for approval as soon as possible. Should you have any questions or need additional information, please feel free to contact me at 503-462-0508.

Sincerely,

Dave Hubert&wrict Manager
Waste Management of Oregon Inc. Newberg Hauling Operations

City of Newberg Garbage and Recycling Rates
Current and Proposed as of 7/1/2016

Rate Increase Request	3.34%

3

Residential Service			
Monthly Rate			
Weekly Curbside Service	**Current Rate**	**Rate Increase**	**Proposed New Rate**
20 gallon cart	$19.30	$0.64	$19.94
35 gallon cart	$20.81	$0.69	$21.50
35 gallon cart - Each additional	$14.16	$0.47	$14.63
35 gallon cart (Non-Curb garbage only)	$22.85	$0.76	$23.61
64 gallon cart	$25.58	$0.85	$26.44
96 gallon cart	$28.11	$0.94	$29.05
additional Recycling / Yard Debris cart	$3.25	$0.11	$3.36
Recycling only - Every other week	$7.74	$0.26	$8.00
Monthly Curbside Service			
35 gallon cart	$15.23	$0.51	$15.74

Every Other Week recycling & yard debris service is included with garbage service.

Multiple Residential Units and Mobile Parks Service (Five or more units) Single Billing			
Monthly Rate			
Weekly Curbside Service	**Current Rate**	**Rate Increase**	**Proposed New Rate**
20 gallon cart	$17.36	$0.58	$17.94
35 gallon cart	$18.95	$0.63	$19.58
35 gallon cart (Non-Curb garbage only)	$20.81	$0.69	$21.50
96 gallon cart	$28.11	$0.94	$29.05
Each additional 35 gallon cart	$12.45	$0.42	$12.87
Recycling only	$7.74	$0.26	$8.00
Monthly Curbside Service			
35 gallon cart	$15.23	$0.51	$15.74

Every Other Week recycling & yard debris service is included with garbage service.

Additional Rates			
Service			
Extra On Service Day	**Current Rate**	**Rate Increase**	**Proposed New Rate**
Regular Customer - additional 32 gal equivalent can curbside	$3.11	$0.10	$3.21
Regular Customer - additional 32 gal equivalent can non-curbside	$3.78	$0.13	$3.91
On Call Customer - 32 gallon equivalent	$8.31	$0.28	$8.59
Regular Customer - Yard Debris - 32 gal equivalent	$3.41	$0.11	$3.53
Extra - Non-Service Day			
Go Back Charge - Per Cart	$7.37	$0.25	$7.62
Bulky Items - Hourly plus disposal			
Truck - Hourly rate (one person)	$82.57	$2.76	$85.33
Truck - Hourly rate (two people)	$103.21	$3.45	$106.66
Weekly Walk in Rate - per foot after first 50 feet	$0.01		No Longer Offered
Recycling Contamination Charge	$11.20	$0.37	$11.57
Cart Exchange Fee	$12.44	$0.42	$12.86
Overweight Charge	$2.26	$0.09	$2.35
Restart Fee - Service stopped for Non-payment	$12.44	$0.42	$12.86
NSF - Non Sufficient Funds	$21.87	$13.13	$35.00

City of Newberg Garbage and Recycling Rates
Current and Proposed as of 7/1/2016

Commercial

Monthly Rate - Regular Service	Current Rate		Rate Increase		Proposed New Rate	
Regular Weekly Service	One Stop/Week	Each Additional Stop/Week	One Stop/Week	Each Additional Stop/Week	One Stop/Week	Each Additional Stop/Week
35 gallon cart	$24.11	N/A	$081	N/A	$24.91	N/A
64 gallon cart	$26.82	N/A	$0.90	N/A	$27.72	N/A
96 gallon cart	$29.36	N/A	$0.98	N/A	$30.34	N/A
1 yard container	$85.53	$64.70	$236	$276	$88.39	$66.87
1.5 yard container	$116.19	$102.08	$398	$3.41	$120.07	$105.48
2 yard container	$148.24	$132.34	3435	$4.42	$153.19	$136.76
3 yard container	$211.22	$186.98	$795	$6525	$218.28	$193.23
4 yard container	$277.39	$236.96	97	$7.91	$286.66	$244.88
5 yard container	$340.04	$284.12			No Longer Offered	
6 yard container	$440.81	$336.88	$14.72	$11.25	$455.53	$348.13
Yard Debris 96 gallon cart EOW	$774	$0.00	$0.26		$8.00	$0.00

Temporary Service	Current Rate		Rate Increase		Proposed New Rate	
Container Size	One Stop/Week	Each Additional Stop/Week	One Stop/Week	Each Additional Stop/Week	One Stop/Week	Each Additional Stop/Week
1.5 yard container	$38.72	$27.78	$1.29	$0.93	$40.01	$28.71
2 yard container	$49.11	$37.46	$1941	$1.25	$50.75	$38.71
3 yard container	$65.69	$53.15	$279	$1.78	$67.88	$54.92
4 yard container	$81.87	$70.13	$2.73	$2.34	$84.60	$72.47

Monthly Rate Commingled Recycling Service

For Additional Commercial Recycling, Drop Box Recycling, and Recycling Only Customers

	Current Rate		Rate Increase		Proposed New Rate	
Regular Weekly Service	One Stop/Week	Each Additional Stop/Week	One Stop/Week	Each Additional Stop/Week	One Stop/Week	Each Additional Stop/Week
96 gallon cart	$10.66	$997	$036	$0.30	$11.02	$9.38
1 yard container	$34.60	$29.41	$176	$0.98	$35.76	$30.39
1.5 yard container	$45.21	$38.43	$1$1	$1.28	$46.72	$39.71
2 yard container	$56.64	$4876	$1.89	$1.61	$58.53	$49.77
3 yard container	$78.83	$67.02	$2.63	$274	$81.46	$69.26
4 yard container	$102.77	$87.36	$343	$297	$106.21	$90.28
5 yard container	$124.75	$106.05	$4.17	$3.54	$128.92	$109.60
6 yard container	$167.72	$142.57	$5.60	$476	$173.32	$147.33

Commingle recycling is included with regular service up to two times the garbage volume.

City of Newberg Garbage and Recycling Rates
Current and Proposed as of 7/1/2016

Dropbox

Disposal Rates	Current Rate		Rate Increase		DEQ Pass-through		Proposed New Rate	
Container Size	Loose Rate	Compacted Rate	Loose Rate	Compacted Rate	Loose Rate	Compacted Rate	Loose Rate	Compacted Rate
10 yard	$205.19	$327.67	$6/\5	$10.94	$L36	$2/73	$213.41	$341.34
15 yard	$297.21	$437.86	$9.93	$14.62	$2.05	$4.09	$309.18	$456.58
20 yard	$338.50	$538.73	$11.31	$17.99	$2.73	$5.46	$352.54	$562.18
25 yard	$000	$676.08		$22.58		$6.82	$0lxr	$705.49
30 yard	$498.98	$776.95	$16.67	$25.95	$4.09	$8.19	$519.74	$811.08
40 yard	$650.63	$1,006.35	$21.73	$33.61	$5.46	$10.92	$677.82	$1,050.88

Permanent Drop box Rental Rates

Container Size	Current Rate	Rate Increase	Proposed New Rate
20 yard	$55.67	$1.86	$57.53
30 yard	$69.91	f 33	$72.24
40 yard	$74.51	$2/49	$77.00
Screen Lid	$13.37	$0.45	$13.82
Metal Covered Lid	$16.85	5536	$17.41
Demurrage - daily fee	$5.49	$0.18	$5(67

Additional Rate Information	Current Rate	Rate Increase	Proposed New Rate
Delivery/Trip Charge - First Box	$20.64	$24.36	$45.00
One drop box truck (one person) hourly rate	$89.45	$2/\9	$92.43
One drop box truck & trailer (one person) hourly rate	$110.09	$3.68	$113.77
Mileage - per mile over 10 miles round trip	$2(27	$0.08	$2.35

•Rate adjusted to account trip charges and initial placement of container

Note;

Drop boxes must be loaded to the point where the loaded vehicle will not exceed truck weight laws, or to the point where the drop box can not be dumped by normal dumping methods. Additional fees may apply for cost of penalties that are incurred due to overweight drop boxes.

Drop boxes shall not be loaded above the top of the box.
Weekend service for drop boxes shall be at 1.5 times the regular rate and shall be arranged prior to the service

Other Special Rates
Additional Rate Information

Tires	Current Rate	Rate Increase		Proposed New Rate
Car tire - on or off rim	$3.16	$0.11	plus processing fee	$3.27
Truck tire - on or off rim	$3.16	$0.11	plus processing fee	$3.27

Note;

Tenants are responsible for waste collection fees (unless separate payment arrangements are made by the landlord).

Definition of extra; bundles, bags, sacks, and other - based on volume, securely tied and limited to 60 lbs. (1.5 x 1.5 x 4 feet will be equivalent to a full garbage carts
Plastic Bags securely tied and limited to 30 lbs. will be equivalent to a full garbage can. Plastic bags to be used for occasional additional garbage, not as full-time garbage service container.

Medical - Commercial Customers Only

Container Sales	Current Rate		Rate Increase		Proposed New Rate	
Container Size	1- 2 Containers	3 or More	1- 2 Containers	3 or More	1- 2 Containers	3 or More
17 gallon tub	$37.52	$27.98	$1.25	$0.93	$38.78	$28.91
23 gallon box	$40.32	$30.21	3135	?ToT	$41.67	$31.22
31 gallon tub	$41.66	$31.22	$1.39	Sl04	$43.05	$32.26
43 gallon tub	$46.97	$36.40	$1.57	$1.22	$48.54	$37.61
30 gallon box	$50.25	$35.97	$T68	1T20	$51.93	$37.17

Waste Management - Newberg Operations
Newberg Rate Review Report
For The Year Ended December 31, 2015

	2014	2015	Projected
Total Revenue	$ 3,043,385	$ 3,232,097	$ 3,202,359
Total Direct Costs	$ 2,296,123	$ 2,452,001	$ 2,498,587
Total Indirect Costs	$ 475,239	$ 474,131	$ 479,860
Operating Income	$ 272,023	$ 305,964	$ 223,912
Return on Revenue	8.94%	9.47%	6.99%

Hours	Total Company 2014	Newberg 2014	Total Company 2015	Newberg 2015	Variance (2015 vs. 2014)
Commercial	5,157	4,212	5,288	4,249	37
Res'l Garbage	7,113	3,585	6,520	3,498	(87)
Res'l Recycling	3,648	1,899	3,098	1,588	(311)
Res'l Yard Waste	1,716	1,493	1,414	1,170	(323)
Rolloff	12,983	3,086	12,370	3,397	311
Total	**30,618**	**14,275**	**28,690**	**13,902**	(373)
	Tons				
Commercial	4,248	3,565	5,118	4,332	767
Res'l Garbage	5,473	3,253	7,273	4,585	1,333
Res'l Recycling	1,860	1,125	2,028	1,196	71
Res'l Yard Waste	2,465	2,011	2,742	2,283	272
Rolloff	67,067	11,811	66,353	11,008	(803)
Total	**81,113**	**21,765**	**83,514**	**23,404**	1,640

Miles				
Total Company 2014	Newberg 2014	Total Company 2015	Newberg 2015	Variance (2015 vs. 2014)
30,548	23,945	30,542	23,645	(299)
44,063	15,873	40,666	15,185	(688)
22,985	8,647	20,176	7,347	(1,300)
8,241	6,619	7,357	5,964	(655)
146,387	43,633	129,223	45,063	1,430
252,224	**98,717**	**227,964**	**97,204**	(1,513)
		Stops		
59,140	37,871	46,896	38,404	533
479,981	285,227	469,479	289,216	3,989
233,236	144,740	237,171	146,968	2,228
166,244	142,711	167,395	142,995	284
-				-
938,601	**610,549**	**920,941**	**617,583**	7,034

CPI				Customers	
Year		Annual	% Change	Commercial	Residential
2012	229.779	229.78		480	5540
2013	235.5285	235.53	2.50%	494	5549
2014	241.215	241.22	2.41%	509	5618
2015	244.19	244.19	1.23%	523	5720

Franchise Payment	Revenue		Fran. Fee
Residential:	1,652,833	5%	82,642
Commercial:	943,769	5%	47,188
Drop Box:	585,858	5%	29,293
Total Income:	$3,182,460		159,123

Waste Management - Newberg Operations
Newberg Rate Review Report
For The Year Ended December 31, 2015

Revenue	Line #	Allocation Method	Actual 2014	Actual 2015	Variance	Adjustments %	Adjustments Amount	Projected 2016
Commercial	18	Actual	$ 888,732	$ 943,769	$ 55,037	$	$ -	$ 943,769
Residential	18	Actual	$ 1,565,994	$ 1,652,833	$ 86,839	$	$ -	$ 1,652,833
Industrial	18	Actual	$ 470,179	$ 585,858	$ 115,679	$	$ -	$ 585,858
Other	20	Actual	$ 23,774	$ 19,899	$ (3,875)	$	$ -	$ 19,899
Recycling Material Sales	19	Recycling Tons	$ 94,706	$ 29,738	$ (64,968)	$	$ (29,738)	$ -
Total Operating Revenue			**$ 3,043,385**	**$ 3,232,097**		**$**	**$ -**	**$ 3,202,359**

Direct Cost	Line #	Allocation Method	Actual 2014	Actual 2015	Variance	Adjustments %	Adjustments Amount	Projected 2016
Wages - Route Drivers	22	Labor Hours	467,057	$ 486,488	$ 19,431	1.23%	$ 6,000	$ 492,488
Wages - Utility Workers	23	Labor Hours	37,245	$ 42,888	$ 5,643	1.23%	$ 529	$ 43,417
Wages - Mechanic	24	Labor Hours	155,220	$ 152,282	$ (2,938)	1.23%	$ 1,878	$ 154,160
Payroll Tax Expense	25	Labor Hours	76,611	$ 77,865	$ 1,254	1.23%	$ 960	$ 78,825
Pension Plan Expense	26	Labor Hours	23,180	$ 22,578	$ (601)	1.23%	$ 278	$ 22,857
Workers Compensation	27	Labor Hours	33,154	$ 5,114	$ (28,040)	1.23%	$ 63	$ 5,177
Training and Worker Safety	29	Labor Hours	6,423	$ 5,747	$ (676)	1.23%	$ 71	$ 5,818
Fuel	30	Miles	162,488	$ 100,748	$ (61,740)	1.23%	$ 1,243	$ 101,990
Repairs & Maintenance - Vehicles	31	Labor Hours	144,836	$ 136,053	$ (8,783)	1.23%	$ 1,678	$ 137,731
Repairs & Maintenance - Containers & C	32	Labor Hours	8,929	$ 10,910	$ 1,981	1.23%	$ 135	$ 11,044
Depreciation - Vehicles	35	Labor Hours	12,570	$ 56,480	$ 43,909		$ -	$ 56,480
Depreciation - Containers & Carts	36	Customers	20,360	$ 38,923	$ 18,563	System Conv.	$ 25,904	$ 64,827
Disposal fees	39	Tons	919,493	$ 1,021,877	$ 102,385	DEQ Rate Change	$ 6,183	$ 1,028,060
Yard Rent	42	Customers	92,377	$ 98,111	$ 5,733	1.23%	$ 1,210	$ 99,321
Insurance	45	Labor Hours	17,518	$ 16,048	$ (1,470)	1.23%	$ 198	$ 16,245
PUC / License / Fees	47	Labor Hours	16,159	$ 20,767	$ 4,608	1.23%	$ 256	$ 21,023
Franchise Fees	48	Actual Amount	102,504	$ 159,123	$ 56,619		$ -	$ 159,123
Total Direct Cost			**$ 2,296,123**	**$ 2,452,001**	**$ 155,878**			**$ 2,498,587**

*The Newberg Operations include four separate jurisdictions; Newberg, Dundee, Yamhill County, and a small portion of Unicorporated Washington County. Specific costs and revenue are directly assigned to the appropriate jurisdiction. Costs that cannot be specifically assigned are allocated based on industry standards such as, labor hours, tons, miles, and customer counts. All statistics are based on actual hours, miles, customers, and tons collected on the collection routes associated with each customer. The allocation method associated with each cost is identified under the "Allocation Method" column.

Waste Management - Newberg Operations
Newberg Rate Review Report
For The Year Ended December 31, 2015

Indirect Cost	Line #	Allocation Method	Actual 2014	Actual 2015	Variance	Adjustments %	Adjustments Amount	Projected 2016
Management Salaries	56	Customers	132,468	146,366	13,899	1.23%	1,805	148,172
Management Payroll Tax Expense	57	Customers	5,680	6,947	1,267	1.23%	86	7,033
Management Medical Insurance	58	Customers	11,021	12,776	1,755	1.23%	158	12,934
Management Pension Plan Expense	60	Customers	2,530	2,712	181	1.23%	33	2,745
Management Other Benefits	61	Customers	-	-	-	1.23%	-	-
Administrative Salaries	62	Customers	31,223	33,705	2,483	1.23%	416	34,121
Administrative Payroll Tax Expense	63	Customers	6,824	8,507	1,683	1.23%	105	8,612
Administrative Medical Insurance	64	Customers	12,217	16,384	4,167	1.23%	202	16,586
Administrative Pension Plan Expense	65	Customers	-	-	-	1.23%	-	-
Administrative Other Benefits	67	Customers	772	424	(348)	1.23%	5	429
Office Rent	68	Customers	10,143	9,947	(195)	1.23%	123	10,070
Advertising and Public Education	69	Customers	363	382	18	1.23%	5	386
Contributions	70	Customers	3,194	4,750	1,556	1.23%	59	4,808
Training and Worker Safety	71	Customers	6,638	9,559	2,922	1.23%	118	9,677
Insurance	73	Customers	1,421	880	(541)	1.23%	11	891
Telephone	74	Customers	13,745	13,215	(530)	1.23%	163	13,378
Utilities	75	Customers	14,798	12,989	(1,809)	1.23%	160	13,150
Property Taxes/Licenses/Fees	76	Customers	17,821	17,867	47	1.23%	220	18,088
Dues & Subscriptions	77	Customers	6,154	6,404	250	1.23%	79	6,483
Depreciation - Office Building	78	Customers	11,120	10,906	(214)		-	10,906
Repairs & Maintenance-office	80	Customers	11,677	15,958	4,281	1.23%	197	16,155
Cleaning and Maintenance	81	Customers	1,111	1,141	31	1.23%	14	1,155
Equipment Rental	82	Customers	8,055	13,515	5,459	1.23%	167	13,681
Office Supplies	83	Customers	22,985	14,499	(8,486)	1.23%	179	14,678
Postage & Freight	84	Customers	1,747	3,799	2,052	1.23%	47	3,846
Miscellaneous expense	85	Customers	1,754	1,995	241	1.23%	25	2,020
Travel/Meals/Lodging	86	Customers	3,712	7,433	3,722	1.23%	92	7,525
Bad Debt	88	Customers	25,881	12,839	(13,042)	1.23%	158	12,997
Corporate overhead costs	89	Customers	94,720	74,135	(20,584)	1.23%	914	75,050
Sale of Asset	20	Customers	(1,287)	(1,253)	34		-	(1,253)
Interest Expense	91	Customers	16,754	15,349	(1,405)	1.23%	189	15,538
Total Indirect Cost			**$ 475,239**	**474,131**	**(1,107)**			**479,860**
Allowable Costs			$ 2,771,362	2,926,133	154,771			2,978,447
Operating Income			$ 272,023	305,964	33,942			223,912
Operating Margin			8.94%	9.47%				6.99%

with all laws and regulations applicable to Franchisee's operations, including federal, state, and local laws, ordinances, rules and regulations applicable to the location where Solid Waste or Recyclable Materials and Yard Debris may be transported, disposed of, or recycled hereunder.

5. EXEMPTIONS FROM FRANCHISE.

Notwithstanding the exclusivity of this Franchise granted in Section 2 above, nothing in this Franchise will prohibit other persons from collecting or transporting the following materials:

5.1 Solid Waste which is removed from any premises and personally transported by the person who generated the Solid Waste;

5.2 Source Separated Recyclable Materials that are donated by the generator to youth, civic, charitable, or other nonprofit organizations;

5.3 Beverage containers delivered for recycling under Oregon's Bottle Bill, ORS §§ 459A.700 - .740;

5.4 Construction and demolition debris that is incidentally removed for Recycling by a duly licensed construction or demolition contractor, or as part of a total service offered by such licensed company, and where the licensed company uses its own equipment and employees; and

5.5 Yard Debris removed from premises by a gardening, landscaping or tree trimming company using its own equipment and employees as an incidental part of a total service offered by the company, as opposed to a hauling service;

6. AUTHORIZED RATES.

The City expressly reserves the right to set and regulate the rates for the Services to be rendered hereunder by the Franchisee such that the rates are reasonable and in the public's interest. Franchisee will provide the Services under this Franchise for the rates set forth in the Service Rate Schedule attached hereto and incorporated herein as *Exhibit B*, as the same may be adjusted in accordance with this Section and Section 7 below. City may require changes in the Services or the addition of new services and Franchisee will comply with such changes, provided that if such changes result in increases in cost to Franchisee, Franchisee will have the right to receive a special rate adjustment pursuant to Section 7 of this Franchise.

7. REVISIONS TO AUTHORIZED RATES.

7.1 The Council may, from time to time, by resolution, revise the Service Rate Schedule, *Exhibit B*. The City or the Franchisee may request a rate revision whenever a significant change in revenue or expenses occurs or is anticipated. In the event the Franchisee requests a rate revision, the City will consider such request in good faith and will act upon the request without undue delay, but in no case later than 120 days from the date the request was made.

7.2 In determining reasonable rates, Council will consider all relevant factors, and the Parties will work in good faith to develop and adjust rates, as necessary, to allow Franchisee to earn a reasonable rate of return. Council will give due consideration to current and projected revenue and Allowable Expenses; the cost of acquiring and replacing equipment; the net cost of reuse and recycling; and such other factors as the Council deems relevant. Council may consider rates established by other jurisdictions for similar service under the same or similar service conditions. Council will provide the public opportunity to comment on a proposed rate increase as required by ORS 294.160.

7.3 Franchisee will be entitled to increase the rates and City will approve such increases sufficient to recover the increase if the City increases the Franchise Fee as provided in Section 0 below,

or if new taxes, fees or surcharges are imposed by the City. Franchisee will be entitled to an increase in rates sufficient to recover the increase in the Franchise Fee or the additional taxes and fees.

7.4 When a new or unusual solid waste service, not included in the Service Rate Schedule, is requested, the Franchisee may establish a reasonable rate for providing such service. However, if such service is provided for more than six (6) months, the Franchisee will obtain the approval of the City Manager.

7.5 All books, records, accounts and data relating to collection service operations conducted within the city by the Franchisee are subject to inspection and audit by the city.

7.5 All revisions to the Service Rate Schedule, *Exhibit B*, will be approved by resolution of Council. Franchisee shall provide a minimum of a 30-day notice to its customers of such revisions to the Service Rate Schedule.

8. FRANCHISE FEES.

8.1 As consideration for the Franchise granted herein, Franchisee will pay to the City each calendar quarter the sum of three percent (3%) of Franchisee's Gross Service Revenues for the preceding calendar quarter (the "Franchise Fee"). Franchisee will submit payment to the City, along with supporting documentation confirming the Franchisee's Gross Service Revenues, on or before the end of the second month after the end of each calendar quarter. By way of example, the Franchise Fee for the first quarter of each year will be due on or before May 30th of that year. The Franchisee will pay interest at the rate of nine percent (9%) per year for any payment due pursuant to this Section made after the due date.

8.2 City may increase the amount of the Franchise Fee, provided however that the increase in the Franchise Fee will not become effective until the City has approved an adjustment in the rates for the Services in an amount sufficient for Franchisee to recover the increase in the Franchise Fee.

8.3 If a dispute arises as to the amount of Gross Service Revenues within the meaning of this Franchise, the amount of such Gross Service Revenues as determined by audit by a certified public accountant, mutually selected by the City and Franchisee, will be deemed the correct amount. The audit may cover one or more continuous quarterly reporting periods. If the audit demonstrates that the Gross Service Revenues were understated resulting in the Franchise Fee being underpaid by five percent or more in any one reporting quarter, the Franchisee will reimburse the City for the reasonable costs of the audit. Any underpayment, including interest or audit cost reimbursement, will be paid within 30 days of the City's notice to the Franchisee of such underpayment. If such notice requires reimbursement of audit costs, City will provide reasonable documentation establishing the actual costs of the audit. Any overpayment of the Franchise Fee will be credited against the subsequent quarterly Franchise Fee payment by the Franchisee to the City.

9. BILLING AND PAYMENT.

Franchisee may bill residential customers either in arrears or in advance and on a monthly or bi-monthly basis for all Services, including regular and special services. Franchisee may bill all commercial customers on a monthly or bi-monthly basis for Services performed during the prior month or two months, including regular and special services. Franchisee will be entitled to charge a late fee of 1.5% per month or $3.00, whichever is more, until paid, on all customer account balances that are not paid within THIRTY (30) days of the date of invoice. Franchisee will have the right to suspend Service to any customer whose account balance remains unpaid for a period of SIXTY (60) days or more, or exercise any other remedies available under law.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016

Order No.	Ordinance No. 2016-2801	Resolution No.	Motion	Information
___	XX	___	___	___

SUBJECT: An ordinance amending the Newberg development code regarding recreational marijuana wholesalers, laboratories, research certificates producers and retailers; and declaring an emergency.	**Contact Person (Preparer) for this Motion: Doug Rux, Director** **Dept.: Community Development** **File No.: DCA-16-001**

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

RECOMMENDATION:

Adopt Ordinance No. 2016-2801 amending the Newberg Development Code for recreational marijuana wholesalers, laboratories, research certificates and retailers.

EXECUTIVE SUMMARY:

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

- Adds Recreational Marijuana Laboratories as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.

- Adds Recreational Marijuana Research Certificates as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.

- Adds Recreational Marijuana Retailers as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC and SD/H with footnotes for a 1,000 foot buffer from parks and schools, 1,000 foot separation between marijuana retailers and marijuana retailers to marijuana dispensaries, and operating hours limited to the hours between 9 AM and 8 PM.

- Adds Recreational Marijuana Wholesalers as a conditional use in C-2 with footnotes allowed indoors only and 1,000 foot buffer from parks and schools.

- Adds Recreational Marijuana Wholesalers as a permitted use in M-1, M-2, M-3, M-4-I, M-1/SP, SD/E and II with footnote 1,000 foot buffer from parks and schools.

- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in the Stream Corridor Overlay.

- Prohibits Recreational Marijuana Wholesalers and Retailers in the Civic Corridor Overlay.

- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers

in the Bypass Interchange Overlay.

- Prohibits Recreational Marijuana Wholesalers, Laboratories and Research Certificates in the Interim Industrial Overlay.

- Prohibits Recreational Marijuana Retailers in the Interim Industrial Overlay.

B. **BACKGROUND:** The Oregon voters passed Measure 91 on recreational marijuana in November 2014. The Oregon Legislature enacted four bills during the 2015 legislative session related to the Oregon Medical Marijuana Act and Measure 91. House Bill (HB) 3400 was the omnibus bill covering recreational marijuana and modifications to the medical marijuana program. HB 2014 was enacted addressing taxes on the sale of recreational marijuana, SB 460 related to limited retail sales of marijuana from medical marijuana dispensaries and SB 844 enacted a task force on researching the medical and public health properties of cannabis. In addition to the enacting of the four bills the Oregon Liquor Control Commission adopted temporary Oregon Administrative Rules (OAR's) on October 22, 2015 that were subsequently modified on November 20, 2015 for recreational marijuana under Chapter 845, Division 25.

On September 8, 2015 the Newberg City Council was provided background information on medical and recreational marijuana at its Work Session. At the City Council Business Session on September 8th they established the Marijuana Subcommittee (Subcommittee) comprised of Councilors Rourke, Bacon and McKinney along with non-voting member Mayor Andrews. The City Council also directed staff to bring back an ordinance with a ban of the sale of recreational marijuana from Medical Marijuana Dispensaries.

On September 21, 2015 the Newberg City Council passed Ordinance No. 2015-2787 declaring a ban on the early sale of recreational marijuana by marijuana dispensaries and declaring an emergency.

At the January 12, 2016 Marijuana Subcommittee (Subcommittee) meeting the Subcommittee passed a motion 3-0 directing staff to create a Request for Council Action (RCA) to initiate a Development Code amendment for recreational marijuana wholesale, laboratory, research certificate and retail regulations to bring forward for Council consideration on February 1. The City Council adopted Resolution No. 2015-3253 on February 1, 2016 initiating the Development Code amendment process (Attachment 1).

The Subcommittee met again on February 4, 2016 and developed recommendations on recreational marijuana wholesalers, laboratories, research certificates and retailers.

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

1.	2/1/16:	The Newberg City Council initiated the Development Code amendment.
2.	2/4/16:	The City Council Marijuana Subcommittee met and developed recommendations to the Planning Commission.
3.	4/14/16:	After proper notice, the Planning Commission held a legislative

hearing to consider the item, took public comment, and approved Resolution 2016-314.

4. 5/16/16: After proper notice, the City Council held a legislative hearing to consider the item.

D. PUBLIC COMMENTS: As of the writing of this report, the city has received two comments on the application. The comments indicate recreational marijuana sales should be allowed in Newberg and a request to consider a 1,000 foot separation between retail operations (Attachment 2). If the city receives additional written comments by the comment deadline, Planning staff will forward them to the City Council.

E. ANALYSIS:

PLACE

Oregon Revised Statutes 475B.015 provides the following definitions:

(24)(a) "Premises" or "licensed premises" includes the following areas of a location licensed under ORS 475B.070, 475B.090, 475B.100 or 475B.110:
(A) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms;
(B) All areas outside a building that the commission has specifically licensed for the production, processing, wholesale sale or retail sale of marijuana items; and
(C) For a location that the commission has specifically licensed for the production of marijuana outside a building, the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases or has a right to occupy.
(b) "Premises" or "licensed premises" does not include a primary residence.

Oregon Administrative Rule, Division 25 provides the following definitions:

GENERAL REQUIREMENTS APPLICABLE TO ALL MARIJUANA LICENSES

845-025-1015
Definitions

(38) "Premises" or "licensed premises" includes the following areas of a location licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015:
(a) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms;
(b) All areas outside a building that the Commission has specifically licensed for the production, processing, wholesale sale or retail sale of marijuana items; and
(c) For a location that the Commission has specifically licensed for the production of marijuana outside a building, the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases or has a right to occupy.

(d) "Premises" or "licensed premises" does not include a primary residence.
(39) "Primary Residence" means real property inhabited for the majority of a calendar year by an owner, renter or tenant, including manufactured homes and vehicles used as domiciles.

HB 3400, Section 33 (ORS 475B.340) allows local governments to regulate the location of recreational marijuana wholesale and retail operations. The law reads:

(Land Use)

SECTION 33. Section 59, chapter 1, Oregon Laws 2015, is amended to read:
Sec. 59. [*(1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.*]
[*(2) The authority granted to cities and counties by this section is in addition to, and not in lieu*
of, the authority granted to a city or county under its charter and the statutes and Constitution of this state.]
(1) For purposes of this section, "reasonable regulations" includes:
(a) Reasonable conditions on the manner in which a marijuana producer licensed under section 19, chapter 1, Oregon Laws 2015, may produce marijuana;
(b) Reasonable conditions on the manner in which a marijuana processor licensed under section 20, chapter 1, Oregon Laws 2015, may process marijuana;
(c) Reasonable conditions on the manner in which a marijuana wholesaler licensed under section 21, chapter 1, Oregon Laws 2015, may sell marijuana at wholesale;
(d) Reasonable limitations on the hours during which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may operate;
(e) Reasonable conditions on the manner in which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may sell marijuana items;
(f) Reasonable requirements related to the public's access to a premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015; and
(g) Reasonable limitations on where a premises for which a license may be issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, may be located.
(2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015, from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015.
(3) Regulations adopted under this section must be consistent with city and county comprehensive plans and zoning ordinances and applicable provisions of public health and
safety laws.

HB 3400, Section 15 (ORS 575B.100) allows local governments to regulate the location of recreational marijuana wholesale operations. The law reads:

(License Holders)

SECTION 15. Section 21, chapter 1, Oregon Laws 2015, is amended to read:
Sec. 21. (1) The wholesale sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.
(2) A marijuana wholesaler must have a wholesale license issued by the commission for the premises at which marijuana items are received, [*kept,*] stored[,] or delivered. **To hold a wholesale license under this section, a marijuana wholesaler:**
(a) Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;
(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;
(c) May not be located in an area that is zoned exclusively for residential use; and
(d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.
(3) The commission shall adopt rules that:
(a) Require a marijuana wholesaler to annually renew a license issued under this section;
(b) Establish application, licensure and renewal of licensure fees for marijuana wholesalers;
(c) Require marijuana items received, stored or delivered by a marijuana wholesaler to be tested in accordance with section 92 of this 2015 Act; and
(d) Require a marijuana wholesaler to meet any public health and safety standards and industry best practices established by the commission by rule.
(4) Fees adopted under subsection (3)(b) of this section:
(a) May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana wholesalers; and
(b) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

HB 3400, Sections 16 and 17 (ORS 475B.110) allows local governments to regulate the location of recreational marijuana retail operations. The law reads:

SECTION 16. Section 22, chapter 1, Oregon Laws 2015, is amended to read:
Sec. 22. (1) The retail sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.
(2) A marijuana retailer must have a retail license issued by the commission for the premises at which marijuana items are sold. **To hold a retail license under this section, a marijuana retailer:**
(a) Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;

(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;
(c) May not be located in an area that is zoned exclusively for residential use;
(d) May not be located within 1,000 feet of:
(A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and
(e) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.
(3) The commission shall adopt rules that:
(a) Require a marijuana retailer to annually renew a license issued under this section;
(b) Establish application, licensure and renewal of licensure fees for marijuana retailers;
(c) Require marijuana items sold by a marijuana retailer to be tested in accordance with section 92 of this 2015 Act; and
(d) Require a marijuana retailer to meet any public health and safety standards and industry best practices established by the commission by rule.
(4) Fees adopted under subsection (3)(b) of this section:
(a) May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana retailers; and
(b) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

SECTION 17. If a school described in section 22 (2)(d), chapter 1, Oregon Laws 2015, that has not previously been attended by children is established within 1,000 feet of a premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015, the marijuana retailer located at that premises may remain at that location unless the Oregon Liquor Control Commission revokes the license of the marijuana retailer under section 30, chapter 1, Oregon Laws 2015.

HB 3400, Section 34 (ORS 475B.370 and ORS 475B.063) establishes a requirement for a land use compatibility statement for recreational marijuana wholesale and retail uses. The law reads:

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

carried on in conjunction with a marijuana crop.
(3) A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones under this section and ORS 215.213 and 215.283.
(4)(a) Prior to the issuance of a license under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, the Oregon Liquor Control Commission shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The commission may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.
(b) A city or county that receives a request for a land use compatibility statement under this subsection must act on that request within 21 days of:
(A) Receipt of the request, if the land use is allowable as an outright permitted use; or
(B) Final local permit approval, if the land use is allowable as a conditional use.
(c) A city or county action concerning a land use compatibility statement under this subsection is not a land use decision for purposes of ORS chapter 195, 196, 197 or 215.

Oregon Administrative Rule, Division 25 establishes a requirement for a land use compatibility statement for recreational marijuana wholesale and retail uses. The rule reads:

845-025-1090
Application Review
(1) Once the Commission has determined that an application is complete it must review the application to determine compliance with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, and these rules.
(2) The Commission:
(a) Must, prior to acting on an application, request a land use compatibility statement from the city or county that authorizes land use in the city or county in which the applicant's proposed premises is located or request verification that a land use compatibility statement submitted by an applicant is valid and accurate
(b) May, in its discretion, prior to acting on an application:
(A) Contact any applicant or individual with a financial interest and request additional documentation or information; and
(B) Verify any information submitted by the applicant.
(3) The Commission must inspect the proposed premises prior to issuing a license.
(4) If during an inspection the Commission determines the applicant is not in compliance with these rules, the applicant will be provided with a notice of the failed inspection and the requirements that have not been met.
(a) An applicant that fails an inspection will have 15 calendar days from the date the notice was sent to submit a written response that demonstrates the deficiencies have been corrected.
(b) An applicant may request in writing one extension of the 15-day time limit in subsection (a) of this section, not to exceed 30 days.
(5) If an applicant does not submit a timely plan of correction or if the plan of correction

does not correct the deficiencies in a manner that would bring the applicant into compliance, the Commission may deny the application.
(6) If the plan of correction appears, on its face, to correct the deficiencies, the Commission will schedule another inspection.
(7) If an applicant fails a second inspection, the Commission may deny the application unless the applicant shows good cause for the Commission to perform additional inspections.

Oregon Administrative Rule, Division 25 establishes requirements and limitations for denial of a license by the Oregon Liquor Control Commission for wholesale and retail recreational marijuana uses. The rule reads:

845-025-1115
Denial of Application
(1) The Commission must deny an initial or renewal application if:
(a) An applicant is under the age of 21 or, until January 1, 2020, has not been a resident or Oregon for at least two years. If the Commission determines that an applicant is a non-resident the Commission will hold that application under review until 30 days after the 2016 Oregon Legislature adjourns.
(b) The applicant's land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.
(c) The proposed licensed premises is located:
(A) On federal property.
(B) At the same physical location or address as a:
(i) Medical marijuana grow site registered under ORS 475.304, unless the grow site is also licensed under section 116, chapter 614, Oregon laws 2015;
(ii) Medical marijuana processing site registered under section 85, chapter 614, Oregon Laws 2015; or
(iii) Medical marijuana dispensary registered under ORS 475.314.
(C) At the same physical location or address as a liquor licensee licensed under ORS chapter 471 or as a retail liquor agent appointed by the Commission.
(d) The proposed licensed premises of a producer applicant is:
(A) On public land; or
(B) On the same tax lot or parcel as another producer licensee under common ownership.
(e) The proposed licensed premises of a processor who has applied for an endorsement to process extracts is located in an area that is zoned exclusively for residential use.
(f) The proposed licensed premises of a retail applicant is located:
(A) Within 1,000 feet of:
(i) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or (ii) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030.
(B) In an area that is zoned exclusively for residential use.
(g) The proposed licensed premises of a wholesaler applicant is in an area zoned exclusively for residential use.
(h) A city or county has prohibited the license type for which the applicant is applying, in accordance with sections 133 or 134, chapter 614, Oregon Laws 2015.

(2) The Commission may deny an initial or renewal application, unless the applicant shows good cause to overcome the denial criteria, if it has reasonable cause to believe that:
(a) The applicant:
(A) Is in the habit of using alcoholic beverages, habit-forming drugs, marijuana, or controlled substances to excess.
(B) Has made false statements to the Commission.
(C) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.
(D) Is not of good repute and moral character.
(E) Does not have a good record of compliance with sections 3 to 70, chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, or these rules, prior to or after licensure including but not limited to:
(i) The giving away of marijuana items as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind, in violation of section 49, chapter 614, Oregon Laws 2015; (ii) Providing marijuana items to an individual without checking that the individual is 21 or older;
(iii) Unlicensed transfer of marijuana items for financial consideration; or (iv) Violations of local ordinances adopted under section 33, chapter 614, Oregon Laws 2015, pending or adjudicated by the local government that adopted the ordinance.
(F) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.
(G) Is unable to understand the laws of this state relating to marijuana or these rules, including but not limited to ORS 475.300 to 475.346 and sections 91 to 99, chapter 614, Oregon Laws 2015. Inability to understand laws and rules of this state related to marijuana may be demonstrated by violations documented by the Oregon Health Authority.
(b) Any individual listed on the application has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license, except as specified in Section 29(3), chapter 1, Oregon Laws 2015.
(c) Any applicant is not the legitimate owner of the business proposed to be licensed, or other persons have an ownership interest in the business have not been disclosed to the Commission.
(3) The Commission may refuse to issue a license to any license applicant or refuse to renew the license of any licensee when conditions exist in relation to any person having a financial interest in the business or in the place of business which would constitute grounds for refusing to issue a license or for revocation or suspension of a license if such person were the license applicant or licensee. However, in cases where the financial interest is held by a corporation, only the officers and directors of the corporation, any individual or combination of individuals who own a controlling financial interest in the business shall be considered persons having a financial interest within the meaning of this subsection.
(4) The Commission will not deny an application under subsections (1) (c) (B) of this rule if the applicant surrenders the registration issued by the Authority prior to being issued an OLCC license.

(5) If the Commission denies an application because an applicant submitted false or misleading information to the Commission, the Commission may prohibit the applicant from re-applying for five years.
(6) A notice of denial must be issued in accordance with ORS 183.

Oregon Administrative Rule, Division 25 establishes restrictions and requirements for wholesale and retail recreational marijuana uses. The rule reads:

845-025-1230
Licensed Premises Restrictions and Requirements
(1) A licensed premises may not be located:
(a) On federal property; or
(b) At the same physical location or address as a:
(A) Medical marijuana grow site registered under ORS 475.304, unless the grow site is also licensed under section 116, chapter 614, Oregon Laws 2015;
(B) Medical marijuana processing site registered under section 85, chapter 614, Oregon Laws 2015; or
(C) Medical marijuana dispensary registered under ORS 475.314.
(D) Liquor licensee licensed under ORS Chapter 471 or as a retail liquor agent appointed by the Commission.
(2) The licensed premises of a producer applicant may not be on:
(a) Public land; or
(b) The same tax lot or parcel as another producer licensee under common ownership.
(3) The licensed premises of a retailer may not be located:
(a) Within 1,000 feet of:
(A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030.
(b) In an area that is zoned exclusively for residential use.
(4) The licensed premises of a processor who has an endorsement to process extracts may not be located in an area that is zoned exclusively for residential use.
(5) The licensed premises of a processor, wholesaler, laboratory and retailer must be enclosed on all sides by permanent walls and doors.
(6) A licensee may not permit:
(a) Any minor on a licensed premises except as described in section (7) and (8) of this rule; or
(b) On-site consumption of a marijuana item, alcohol, or other intoxicant by any individual, except that an employee who has a current registry identification card issued under ORS 475.309 may consume marijuana during his or her work shift on the licensed premises as necessary for his or her medical condition, if the employee is alone, in a closed room and not visible to others outside the room. An employee who consumes a marijuana item as permitted under this subsection may not be intoxicated while on duty.
(7) Notwithstanding section (6)(a) of this rule, a minor, other than a licensee's employee, who has a legitimate business purpose for being on the licensed premises, may be on the premises for a limited period of time in order to accomplish the legitimate business purpose. For example, a minor plumber may be on the premises in order to make a repair.

(8) Notwithstanding section (6)(a) of this rule, a minor who resides on the tax lot or parcel where a marijuana producer is licensed may be present on those portions of a producer's licensed that do not contain usable marijuana or cut and drying marijuana plants.
(9) A licensee must clearly identify all limited access areas in accordance with OAR 845-025- 1245.
(10) A licensee must keep a daily log of all employees, contractors and license representatives who perform work on the licensed premises. All employees, contractors and licensee representatives must wear clothing or a badge issued by the licensee that easily identifies the individual as an employee, contractor or licensee representative.
(11) The general public is not permitted in limited access areas on a licensed premises, except for the licensed premises of a retailer and as provided by section (14) of this rule. In addition to licensee representatives, the following individuals are permitted to be present in limited access areas on a licensed premises, subject to the requirements in section (12) of this rule:
(a) Laboratory personnel, if the laboratory is licensed by the Commission;
(b) A contractor, vendor or service provider authorized by a licensee representative to be on the licensed premises;
(c) Another licensee or that licensee's representative;
(d) Up to seven invited guests per week subject to requirements of section (12) of this rule; or
(e) Tour groups as permitted under section (14) of this rule.
(12) Prior to entering a licensed premises all visitors permitted by section (11) of this rule must be documented and issued a visitor identification badge from a licensee representative that must remain visible while on the licensed premises. A visitor badge is not required for government officials. All visitors described in subsection (11) of this rule must be accompanied by a licensee representative at all times.
(13) A licensee must maintain a log of all visitor activity. The log must contain the first and last name and date of birth of every visitor and the date they visited.
(14) A marijuana producer or research certificate holder may offer tours of the licensed premises, including limited access areas, to the general public if the licensee submits a control plan in writing and the plan is approved by the Commission.
(a) The plan must describe how conduct of the individuals on the tour will be monitored, how access to usable marijuana will be limited, and what steps the licensee will take to ensure that no minors are permitted on the licensed premises.
(b) The Commission may withdraw approval of the control plan if the Commission finds there is poor compliance with the plan. Poor compliance may be indicated by, for example, individuals on the tour not being adequately supervised, an individual on the tour obtaining a marijuana item while on the tour, a minor being part of a tour, or the tours creating a public nuisance.
(15) Nothing in this rule is intended to prevent or prohibit Commission employees or contractors, or other state or local government officials that have jurisdiction over some aspect of the licensed premises or licensee from being on the licensed premises.
(16) A licensee may not sublet any portion of a licensed premises.
(17) A licensed premises may receive marijuana items only from a marijuana producer, marijuana processor, or marijuana wholesaler for whom a premises has been licensed by the Commission.

(18) A licensed wholesaler or retailer who sells or handles food, as that term is defined in ORS 616.695, or cannabinoid edibles must also be licensed by the Oregon Department of Agriculture under ORS 616.706.

Oregon Administrative Rule, Division 25 establishes restrictions on the location of recreational marijuana retail uses. The rule reads:

845-025-2840
Retailer Premises
(1) The licensed premises of a retailer:
(a) May not be located in an area that is zoned exclusively for residential use.
(b) May not be located within 1,000 feet of:
(A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030.
(c) Must be enclosed on all sides by permanent walls and doors.
(2) A retailer must post in a prominent place signs at every:
(a) Point of sale that read:
(A) "No Minors Permitted Anywhere on the Premises"; and
(B) "No On-Site Consumption".
(b) Exit from the licensed premises that reads: "Marijuana or Marijuana Infused Products May Not Be Consumed In Public".
(3) A retailer must designate a consumer sales area on the licensed premises where consumers are permitted. The area shall include the portion of the premises where marijuana items are displayed for sale to the consumer and sold and may include other contiguous areas such as a lobby or a restroom. The consumer sales area is the sole area of the licensed premises where consumers are permitted.
(4) All inventory must be stored on the licensed premises.
(5) For purposes of determining the distance between a retailer and a school referenced in subsection (1)(b) of this rule, "within 1,000 feet" means a straight line measurement 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 a school to the closest point of the licensed premises of a retailer. If any portion of the licensed premises is within 1,000 feet of a school as described subsection (1)(b) of this rule an applicant will not be licensed.

HB 3400 and Oregon Administrative Rule, Division 25 have no specific provisions for the location of testing laboratories and research certificate facilities. Research certificates can be issued to qualifying private and public researchers. The City Council may want to consider limiting these two uses. One option is to allow testing laboratories as a permitted use in industrial districts. For research certificates an option is to allow the activity as a permitted use in industrial districts. The City Council may also want to consider if research certificate activities should be allowed in the Institutional District. The rules for testing laboratories and research certificates reads as follows:

MARIJUANA TESTING LABORATORIES

845-025-5000
Laboratory License Privileges
A licensed marijuana testing laboratory may:
(1) Obtain samples of marijuana items from licensees for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0490;
(2) Transport and dispose of samples as provided in these rules; and
(3) Perform testing on marijuana items in a manner consistent with the laboratory's accreditation by the Oregon Health Authority, these rules and OAR 333-007-0300 to 333-007-0490.

845-025-5030
Laboratory Licensing Requirements
(1) General Requirements
(a) A laboratory that intends to test marijuana items for producer, processor, wholesale or retail licensees must be licensed by the Commission.
(b) An applicant for a license under this rule must comply with all applicable application requirements in OAR 845-025-1030 and pay the required application and license fees, except that a laboratory licensee is not subject to any residency requirements.
(c) A laboratory application is subject to the same application review procedures as other applicants.
(d) In addition to the denial criteria in OAR 845-025-1115, the Commission may refuse to issue a laboratory license for any violation of sections 91 to 99, chapter 614, Oregon Laws 2015, sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules.
(e) Laboratory application and license fees are established in OAR 845-025-1060.
(2) Accreditation by the Oregon Health Authority
(a) In addition to the requirements listed in section (1) of this rule, an applicant for a laboratory license must be accredited by the Authority with a scope of accreditation that includes the sampling and testing analysis required in OAR 333-007-0300 to 333-007-0490 prior to exercising the licensed privileges in OAR 845-025-5000.
(b) An applicant for a license under this rule may apply for licensure prior to receiving accreditation, but the Commission will not issue a license until proof of accreditation is received. (c) The Commission may make efforts to verify or check on an applicant's accreditation status during the licensing process, but an applicant bears the burden of taking all steps needed to secure accreditation and present proof of accreditation to the Commission.
(d) In addition to the denial criteria in OAR 845-025-1115, the Commission may consider an application incomplete if the applicant does not obtain accreditation from the Authority within six months of applying for a license. The Commission shall give an applicant an opportunity to be heard if an application is declared incomplete under this section, but an applicant is not entitled to a contested case proceeding under ORS chapter 183. An applicant whose application is declared incomplete may reapply at any time.
(e) A licensed laboratory must maintain accreditation by the Authority at all times while licensed by the Commission. If a laboratory's accreditation lapses, is canceled or is suspended at any time for any reason while licensed by the Commission, the laboratory may not engage in any activities permitted under the license until accreditation is reinstated.
(f) Exercising license privileges while accreditation is suspended or canceled is a Category I violation and could result in license cancellation.

(3) Renewal.
(a) A laboratory must renew its license annually and pay the required renewal fees in accordance with OAR 845-025-1190.
(b) A laboratory renewal application may be denied for any violation of sections 91 to 99, chapter 614, Oregon Laws 2015, sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules.

845-025-5045
Laboratory Tracking and Reporting
(1) A laboratory licensee is required to utilize CTS and follow all requirements established by OAR 845-025-7500 to OAR 845-025-7590.
(2) A laboratory licensee is responsible for tracking and entering the following information into CTS:
(a) Receipt of samples for testing, including:
(A) Size of the sample;
(B) Name of licensee from whom the sample was obtained;
(C) Date the sample was collected; and
(D) UID tag information associated with the harvest or process lot from which the sample was obtained.
(b) Tests performed on samples, including:
(A) Date testing was performed;
(B) What samples were tested for;
(C) Name of laboratory responsible for testing; and
(D) Results of all testing performed. (c) Disposition of any testing sample material.

845-025-5060
Laboratory Transportation and Waste Disposal
(1) A laboratory licensee must follow all rules regarding transportation of marijuana items established in OAR 845-025-7700.
(2) A laboratory licensee must follow all rules regarding disposal of samples from marijuana items established in OAR 845-025-7750.

845-025-5075
Laboratory Licensee Prohibited Conduct
(1) In addition to the prohibitions set forth in OAR 845-025-8520, a laboratory licensee may not: (a) Perform any required marijuana testing using any testing methods or equipment not permitted under the laboratory's accreditation through the Authority;
(b) Perform any required marijuana testing for any licensed marijuana producer, processor, wholesaler or retailer in which the laboratory licensee has a financial interest; or
(c) Engage in any activity that violates any provision of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, OAR 333-007-0300 through OAR 333-007-0490 or OAR 333, Division 64 as applicable or these rules.
(2) The Commission may suspend or cancel a laboratory license for any violation of sections 91 to 99, chapter 614, Oregon Laws 2015, or these rules. The licensee has a right to a hearing under the procedures of ORS chapter 183; OAR chapter 137, division 003; and OAR chapter 845, division 003.
(2) A violation of this rule is a Category I violation and could result in license revocation.

RESEARCH CERTIFICATE

845-025-5300
Application for Marijuana Research Certificate

(1) The Commission shall issue Marijuana Research Certificates to qualifying public and private researchers who present research proposals that demonstrate:
(a) The proposed research would benefit the state's cannabis industry, medical research or public health and safety; and
(b) The proposed operation and methodology complies with all applicable laws and administrative rules governing marijuana licensees and licensee representatives.
(2) The process for applying for, receiving and renewing a certificate shall be the same as the process for applying for, receiving and renewing a marijuana license under OAR 845-025-1030 to 845-025-1115 except that an applicant for a Marijuana Research Certificate is not subject to the residency requirements in OAR 845-025-1045(2)(b).
(3) In addition to the application requirements in OAR-025-1030 the applicant must also provide: (a) A clear description of the research proposal;
(b) A description of the researchers' expertise in the scientific substance and methods of the proposed research;
(c) An explanation of the scientific merit of the research plan, including a clear statement of the overall benefit of the applicant's proposed research to Oregon's cannabis industry, medical research, or to public health and safety;
(d) Descriptions of key personnel, including clinicians, scientists, or epidemiologists and support personnel who would be involved in the research, demonstrating they are adequately trained to conduct this research;
(e) A clear statement of the applicant's access to funding and the estimated cost of the proposed research;
(f) A disclosure of any specific conflicts of interest that the researcher or other key personnel have regarding the research proposal;
(g) A description of the research methods demonstrating an unbiased approach to the proposed research; and
(h) If the applicant intends to research the use of pesticides, an experimental use permit issued by Oregon Department of Agriculture pursuant to OAR 603-057-0160.
(4) Research certificates will be granted for up to a three-year term.
(5) The Commission may request that the research certificate holder submit information and fingerprints required for a criminal background check at any time within the research certificate term.
(6) A certificate holder may, in writing, request that the Commission waive one or more of these rules. The request must include the following information:
(a) The specific rule and subsection of a rule that is requested to be waived;
(b) The reason for the waiver;
(c) A description of an alternative safeguard the licensee can put in place in lieu of the requirement that is the subject of the waiver, or why such a safeguard is not necessary; and
(d) An explanation of how and why the alternative safeguard or waiver of the rule protects public health and safety, prevents diversion of marijuana, and provides for accountability.
(7) The Commission may, in its discretion, and on a case-by-case basis, grant the waiver in whole or in part if it finds:

(a) The reason the certificate holder is requesting the waiver is because another state or local law prohibits compliance; or
(b) The certificate holder cannot comply with the particular rule, for reasons beyond the certificate holder's control or compliance with the rule is cost prohibitive; or
(c) Because of the nature of the research, the Commissions finds that compliance with a particular rule is not necessary and that even with the waiver public health and safety can be protected, there is no increased opportunity for diversion of marijuana, and the certificate holder remains accountable.
(8) The Commission must notify the certificate holder in writing whether the request has been approved. If the request is approved the notice must specifically describe any alternate safeguards that are required and, if the waiver is time limited, must state the time period the waiver is in effect.
(9) The Commission may withdraw approval of the waiver at any time upon a finding that the previously approved waiver is not protecting public health and safety or the research certificate holder has other issues with compliance. If the Commission withdraws its approval of the waiver the certificate holder will be given a reasonable period of time to come into compliance with the requirement that was waived.

845-025-5350
Marijuana Research Certificate Privileges and Prohibitions
(1) A certificate holder may receive marijuana items from a licensee or a registrant under ORS 475.300 to 475.346.
(2) A certificate holder may not sell or otherwise transfer marijuana items to any other person except when disposing of waste pursuant to OAR 845-025-7750, or transferring to another certificate holder.
(3) A certificate holder may not conduct any human subject research related to marijuana unless the certificate holder has received approval from an institutional review board that has adopted the Common Rule, 45 CFR Part 46.
(4) All administrative rules adopted by Commission for the purpose of administering and enforcing chapter 1, Oregon Laws 2015; chapter 614, Oregon Laws 2015; and any rules adopted thereunder with respect to licensees and licensee representatives apply to certificate holders except for those which are inconsistent with this rule.

The Newberg Municipal Code states the following regarding retail, wholesale and warehouse:

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:

"**Retail sales – general category**" means a category of uses under Chapter 15.303 NMC that sell or rent goods to the general public. Items are sold indoors, or, if outdoors, are limited to small items that do not require machinery to load to customers. Most items for sale are stored on or picked up from the site. Operators may be commercial or nonprofit entities.

"**Wholesale and industry sales category**" means a category of uses under Chapter 15.303 NMC that sell goods or merchandise to retailers, to industrial,

commercial, institutional, or other professional business users, or to other wholesalers and related subordinated services. Items are only occasionally sold directly to the general public.

"**Warehouse, storage and distribution category**" means a category of uses under Chapter 15.303 NMC that involve the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. It includes data centers that store and distribute electronic data. There is little on-site sales activity with the customer present.

Use Categories

15.303.421 Retail sales – General category.
A. Characteristics. General retail sales uses sell or rent goods to the general public. Items are sold indoors, or, if outdoors, are limited to small items that do not require machinery to load to customers. Most items for sale are stored on or picked up from the site. Operators may be commercial or nonprofit entities.

15.303.503 Wholesale and industry sales category.
A. Characteristics. Wholesale sales uses sell goods or merchandise to retailers, to industrial, commercial, institutional, or other professional business users, or to other wholesalers and related subordinated services. Items are only occasionally sold directly to the general public.

15.303.504 Warehouse, storage and distribution category.
A. Characteristics. Warehouse. Storage and distribution uses involve the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. It includes data centers that store and distribute electronic data. There is little on-site sales activity with the customer present.

	USES	**R-1**	**R-2**	**R-3**	**R-4**	**RP**	**C-1**	**C-2**	**C-3**	**C-4**	**M-1**	**M-2**	**M-3**	**M-4-I**	**M-4-C**	**CF**	**I**	**AR**	**AI**	**Notes and Special Use Standards**
400	COMMERCIAL USES																			
	Retail sales - General						P (20)	P	P (15) (21)	P		P (23)								
500	INDUSTRIAL USES																			

	USES	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
	Wholesale and industry sales							C (31)			P (31)	P	P	P					P(33)	
	Warehouse, storage and distribution										P (32)	P	P	P					P (33)	

Key:

P: Permitted use
S: Special use – Use requires a special use permit
C: Conditional use – Requires a conditional use permit
X: Prohibited use
(#): See notes for limitations

Notes.
(15) Facility over 40,000 square feet gross floor area requires a conditional use permit.
(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.
(23) Limited to secondhand stores.
(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.

TIME

HB 3400, Section 33 (ORS 475B.340) allows local governments to regulate the hours of operation (time) of marijuana retail operations. The law reads:

(Land Use)

SECTION 33. Section 59, chapter 1, Oregon Laws 2015, is amended to read:
Sec. 59. [*(1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.*]
[*(2) The authority granted to cities and counties by this section is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of this state.*]
(1) For purposes of this section, "reasonable regulations" includes:
(a) Reasonable conditions on the manner in which a marijuana producer licensed under section 19, chapter 1, Oregon Laws 2015, may produce marijuana;
(b) Reasonable conditions on the manner in which a marijuana processor licensed under section 20, chapter 1, Oregon Laws 2015, may process marijuana;
(c) Reasonable conditions on the manner in which a marijuana wholesaler licensed under section 21, chapter 1, Oregon Laws 2015, may sell marijuana at wholesale;
(d) Reasonable limitations on the hours during which a marijuana retailer licensed undersection 22, chapter 1, Oregon Laws 2015, may operate;
(e) Reasonable conditions on the manner in which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may sell marijuana items;

(f) Reasonable requirements related to the public's access to a premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015; and
(g) Reasonable limitations on where a premises for which a license may be issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, may be located.
(2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015, from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015.
(3) Regulations adopted under this section must be consistent with city and county comprehensive plans and zoning ordinances and applicable provisions of public health and safety laws.

Oregon Administrative Rule, Division 25 establishes hours of retail sales to consumers. The rule reads:

845-025-2820
Retailer Operational Requirements
(1) A retailer may:
(a) Only receive marijuana items from a producer, wholesaler, processor or laboratory;
(b) Only sell marijuana items to a consumer from the licensed premises, unless sale is made pursuant to a bona fide order as described in OAR 845-025-2880;
(c) Only sell up to the following amounts at any one time to a consumer within one day:
(A) One ounce of usable marijuana;
(B) 16 ounces of a cannabinoid product in solid form;
(C) 72 ounces of a cannabinoid product in liquid form;
(D) Five grams of cannabinoid extracts or concentrate, whether sold alone or contained in an inhalant delivery system;
(E) Four immature marijuana plants; and
(F) Ten marijuana seeds;
(d) Refuse to sell marijuana items to a consumer; and
(e) Only sell to consumers between the hours of 7:00 a.m. and 10 p.m. local time.
(2) A retailer may not:
(a) Provide free samples of a marijuana item to a consumer;
(b) Sell or give away pressurized containers of butane or other materials that could be used in the home production of marijuana extracts;
(c) Require a consumer to purchase other products or services as a condition of purchasing a marijuana item or receiving a discount on a marijuana item;
(d) Sell a marijuana item for less than the cost of acquisition;
(e) Provide coupons or offer discounts, except that uniform volume discounts are permitted;
(f) Permit consumers to be present on the licensed premises or sell to a consumer between the hours of 10:00 p.m. and 7:00 a.m. local time the following day; or

(g) Sell any product derived from industrial hemp, as that is defined in ORS 571.300, that is intended for human consumption, ingestion, or inhalation, unless it has been tested, labeled and packaged in accordance with these rules.
(3) A retailer's pricing on marijuana items must remain consistent during each day.
(4) Prior to completing the sale of a marijuana item to a consumer, a retailer must verify that the consumer has a valid, unexpired government-issued photo identification and must verify that the consumer is 21 years of age or older by viewing the consumer's:
(a) Passport;
(b) Driver license, whether issued in this state or by any other state, as long as the license has a picture of the person;
(c) Identification card issued under ORS 807.400;
(d) United States military identification card; or
(e) Any other identification card issued by a state that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.
(5) Marijuana items offered for sale by a retailer must be stored in such a manner that the items are only accessible to authorized representatives until such time as the final sale to the consumer is completed.
(6) For purposes of this rule, "coupon" means any coupon, ticket, certificate token or any other material that a person may use to obtain a price reduction or rebate in connection with the acquisition or purchase of a marijuana item.

There are no additional provisions in ORS or OAR's regarding hours of operation for wholesalers, laboratories or research certificates. For laboratories and research facilities if they were permitted in industrial districts they could be considered to be similar to an industrial operation. The Development Code does not limit hours of operation for industrial type uses. For Medical Marijuana Dispensaries Council adopted operational hours of 9 AM - 8 PM.

MANNER

HB 3400, Section 33 (ORS 475B.340) allows local governments to regulate the manner of recreational marijuana wholesale and retail uses. The law reads:

(Land Use)

SECTION 33. Section 59, chapter 1, Oregon Laws 2015, is amended to read:
Sec. 59. [*(1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.*]
[*(2) The authority granted to cities and counties by this section is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of this state.*]
(1) For purposes of this section, "reasonable regulations" includes:
(a) Reasonable conditions on the manner in which a marijuana producer licensed under section 19, chapter 1, Oregon Laws 2015, may produce marijuana;
(b) Reasonable conditions on the manner in which a marijuana processor licensed under section 20, chapter 1, Oregon Laws 2015, may process marijuana;
(c) Reasonable conditions on the manner in which a marijuana wholesaler licensed

under section 21, chapter 1, Oregon Laws 2015, may sell marijuana at wholesale;
(d) Reasonable limitations on the hours during which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may operate;
(e) Reasonable conditions on the manner in which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may sell marijuana items;
(f) Reasonable requirements related to the public's access to a premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015; and
(g) Reasonable limitations on where a premises for which a license may be issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, may be located.
(2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015, from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015.
(3) Regulations adopted under this section must be consistent with city and county comprehensive plans and zoning ordinances and applicable provisions of public health and safety laws.

HB 3400, Sections 19 and 20 (ORS 475B.215 and ORS 475B.218) establishes requirements for marijuana handlers in recreational marijuana retail operations. The law reads:

(Marijuana Handlers)

SECTION 19. (1) An individual who performs work for or on behalf of a person who holds a license under section 22, chapter 1, Oregon Laws 2015, must have a valid permit issued by the Oregon Liquor Control Commission under section 20 of this 2015 Act if the individual participates in:
(a) The possession, securing or selling of marijuana items at the premises for which the license has been issued;
(b) The recording of the possession, securing or selling of marijuana items at the premises for which the license has been issued; or
(c) The verification of any document described in section 16, chapter 1, Oregon Laws 2015.
(2) A person who holds a license under section 22, chapter 1, Oregon Laws 2015, must verify that an individual has a valid permit issued under section 20 of this 2015 Act before allowing the individual to perform any work described in subsection (1) of this section at the premises for which the license has been issued.

SECTION 20. (1) The Oregon Liquor Control Commission shall issue permits to qualified applicants to perform work described in section 19 of this 2015 Act. The commission shall adopt rules establishing:
(a) The qualifications for performing work described in section 19 of this 2015 Act;
(b) The term of a permit issued under this section;
(c) Procedures for applying for and renewing a permit issued under this section;

and
(d) Reasonable application, issuance and renewal fees for a permit issued under this section.
(2)(a) The commission may require an individual applying for a permit under this section to successfully complete a course, made available by or through the commission, through which the individual receives training on:
(A) Checking identification;
(B) Detecting intoxication;
(C) Handling marijuana items;
(D) The content of sections 3 to 70, chapter 1, Oregon Laws 2015, and rules adopted under sections 3 to 70, chapter 1, Oregon Laws 2015; and
(E) Any matter deemed necessary by the commission to protect the public health and safety.
(b) The commission or other provider of the course may charge a reasonable fee for the course.
(c) The commission may not require an individual to successfully complete the course more than once, except that:
(A) As part of a final order suspending a permit issued under this section, the commission may require a permit holder to successfully complete the course as a condition of lifting the suspension; and
(B) As part of a final order revoking a permit issued under this section, the commission shall require an individual to successfully complete the course prior to applying for a new permit.
(3) The commission shall conduct a criminal records check under ORS 181.534 on an individual applying for a permit under this section.
(4) Subject to the applicable provisions of ORS chapter 183, the commission may suspend, revoke or refuse to issue or renew a permit if the individual who is applying for or who holds the permit:
(a) Is convicted of a felony, except that the commission may not consider a conviction for the manufacture or delivery of marijuana if the date of the conviction is two or more years before the date of the application or renewal;
(b) Violates any provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or any rule adopted under sections 3 to 70, chapter 1, Oregon Laws 2015; or
(c) Makes a false statement to the commission.
(5) A permit issued under this section is a personal privilege and permits work described under section 19 of this 2015 Act only for the individual who holds the permit.

Oregon Administrative Rule, Division 25 establishes requirements for handlers in recreational marijuana retail operations. The rule reads:

MARIJUANA HANDLER PERMITS

845-025-5500
Marijuana Handler Permit and Retailer Requirements
(1) A marijuana handler permit is required for any individual who performs work for or on behalf of a marijuana retailer if the individual participates in:

(a) The possession, securing or selling of marijuana items at the premises for which the license has been issued;
(b) The recording of the possession, securing or selling of marijuana items at the premises for which the license has been issued;
(c) The verification of any document described in section 16, chapter 1, Oregon Laws 2015; or
(d) The direct supervision of a person described in subsections (a) to (c) of this section.
(2) An individual who is required by section (1) of this rule to hold a marijuana handler permit must carry that permit on his or her person at all times when performing work on behalf of a marijuana retailer.
(3) A person who holds a marijuana handler permit must notify the Commission in writing within 10 days of any conviction for a misdemeanor or felony. (4) A marijuana retailer must verify that an individual has a valid marijuana handler permit issued in accordance with OAR 845-025-5500 to 845-025-5590 before allowing the individual to perform any work at the licensed premises.

845-025-5520
Marijuana Handler Applications
(1) In order to obtain a marijuana handler permit an individual must submit an application on a form prescribed by the Commission. The application must contain the applicant's:
(a) Name;
(b) Mailing address;
(c) Date of birth;
(d) Signature; and
(e) Response to conviction history questions.
(2) In addition to the application an applicant must submit:
(a) A copy of a driver's license or identification card issued by one of the fifty states in the United States of America or a passport; (b) The applicable fee as specified in OAR 845-025-1060; and
(c) Proof of having completed a marijuana handler education course and passed the examination. (3) If an application does not contain all the information requested or if the information and fee required in section (2) of this rule is not provided to the Commission, the application will be returned to the individual as incomplete, along with the fee.
(4) If an application is returned as incomplete, the individual may reapply at any time.

845-025-5540
Marijuana Handler Permit Denial Criteria
(1) The Commission must deny an initial or renewal application if the applicant:
(a) Is not 21 years of age or older; or
(b) Has not completed the marijuana handler education course and passed the examination.
(2) The Commission may deny a marijuana handler permit application, unless the applicant shows good cause to overcome the denial criteria, if the applicant:
(a) Has been convicted of a felony, except for a felony described in section 20(4)(a), chapter 614, Oregon Laws 2015;
(b) Has violated a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules; or (c) Makes a false statement to the Commission.
(3) If the Commission denies an application under subsection (2)(b) or (c) of this rule the individual may not reapply within two years of the date the Commission received the

application. (4) A Notice of Denial must be issued by the Commission in accordance with ORS 183. Stat.

845-025-5560
Marijuana Handler Course Education and Examination Requirements
(1) An individual must, prior to applying for a marijuana handler permit, complete an approved marijuana handler education course, pass the required examination, and pay the fee specified in OAR 845-025-1060.
(2) An individual must score at least 70 percent on the marijuana handler course examination in order to pass.
(a) An individual who does not pass the examination may retake the examination up to two times within 90 days of the date the individual took the course. If the individual fails to pass both retake examinations the individual must retake the handler education course.
(3) An individual must take a marijuana handler education course at least every five years prior to applying for renewal of a marijuana handler permit.
(4) The Commission may require additional education or training for permit holders at any time, with adequate notice to permit holders.

845-025-5580
Marijuana Handler Renewal Requirements
(1) An individual must renew his or her marijuana handler permit every five years by submitting a renewal application, on a form prescribed by the Commission and the applicable fee specified in OAR 845-025-1060.
(2) Renewal applications will be reviewed in accordance with OAR 845-025-5520 and 845-025-5540.

845-025-5590
Suspension or Revocation
(1) The Commission may suspend or cancel the permit of any marijuana handler if the handler:
(a) Has been convicted of a felony, except for a felony described in section 20, chapter 614, Oregon Laws 2015(4)(a);
(b) Has violated a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules; or (c) Makes a material false statement to the Commission.
(2) If an individual's permit is canceled under sections (1)(b) or (c) of this rule the individual may not reapply within two years from the date a final order of revocation is issued.
(3) A notice of suspension or revocation must be issued by the Commission in accordance with ORS 183.

There are a variety of other operational requirements for recreational marijuana retail operations. These include Bonds and Liability Insurance (HB 3400, Sections 21 and 22); Tracking system for sales (HB 3400, Section 23 and OAR 845-025-7500 thru 845-025-7590); Identification requirements (HB 3400, Section 24); Protect Individuals Under the Age of 21 (HB 3400, Sections 25 - 28); Testing of Marijuana Products (HB 3400, Sections 91- 99 and OAR 845-025-5700 thru 845-025-5740); Labeling and Packaging (HB 3400, Sections 100 – 112 and 845-025-7000 thru 845-025-760); Delivery (OAR 845-025-7700); Advertising (OAR 845-025-8000 thru 845-025-8080); Security and Alarm System (OAR 845-025-1400 thru 845-025-1460); Prizes and Giveaways (HB 3400, Section 49).

Staff therefore proposes the following code amendments for Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers:

- Add Recreational Marijuana Laboratories as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.

- Add Recreational Marijuana Research Certificates as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.

- Add Recreational Marijuana Retailers as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC and SD/H with footnotes for a 1,000 foot buffer from parks and schools, 1,000 foot separation between marijuana retailers and marijuana retailers to marijuana dispensaries, and operating hours limited to the hours between 9 AM and 8 PM.

- Add Recreational Marijuana Wholesalers as a conditional use in C-2 with footnotes allowed indoors only and 1,000 foot buffer from parks and schools.

- Add Recreational Marijuana Wholesalers as a permitted use in M-1, M-2, M-3, M-4-I, M-1/SP, SD/E and II with footnote 1,000 foot buffer from parks and schools.

- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in the Stream Corridor Overlay.

- Prohibits Recreational Marijuana Wholesalers and Retailers in the Civic Corridor Overlay.

- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in the Bypass Interchange Overlay.

- Prohibits Recreational Marijuana Wholesalers, Laboratories and Research Certificates in the Interim Industrial Overlay.

- Prohibits Recreational Marijuana Retailers in the Interim Industrial Overlay.

Attachments 3 through 5 are maps depicting the 1,000 foot buffers from schools and parks recommended by the Subcommittee and Planning Commission.

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

Retail

a. Not allow retail as a permitted use in residential districts R-1, R-2, R-3, R- 4, AR, RP, and all residential subdistricts.

b. Allow retail as a permitted use in all commercial zones except Civic Corridor with a footnote regarding the 1,000 foot buffer from schools and parks as noted on the third map in the packet.

c. Not allow retail in industrial districts and subdistricts.

d. Not allow wholesale or retail in community facilities and institutional.

e. Change the hours of operation for retail to 9 am to 8 pm.

Wholesale

a. Allow wholesale as a permitted use in all residential categories including the subdistricts with no product allowed on the premises.

b. Allow wholesale as a conditional use in C-2 only with a footnote regarding indoor use only and new footnote regarding the 1,000 foot buffer from schools and parks.

c. Not allow wholesale or retail in community facilities and institutional.

d. Allow wholesale as a permitted use in all industrial districts and subdistricts, except Airport Industrial, with a footnote regarding the 1,000 foot buffer from schools and parks.

e. Not allow retail or wholesale in the other subdistricts.

Laboratories and Research Certificates

a. Allow laboratories and research in all commercial districts and sub-districts, institutional districts, and all industrial districts and sub-districts, except AI. They are not allowed in all other districts, such as residential, community facilities, and other.

G. PLANNING COMMISSION RECOMMENDATION: The Newberg Planning Commission held a public hearing on April 14, 2016, heard public testimony, and approved Resolution 2015-314, which recommends that the City Council:

- Add Recreational Marijuana Laboratories as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.

- Add Recreational Marijuana Research Certificates as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.

- Add Recreational Marijuana Retailers as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC and SD/H with footnotes for a 1,000 foot buffer from parks and schools, 1,000 foot separation between marijuana retailers and marijuana retailers to marijuana dispensaries, and operating hours limited to the hours between 9 AM and 8 PM.

- Add Recreational Marijuana Wholesalers as a conditional use in C-2 with footnotes allowed indoors only and 1,000 foot buffer from parks and schools.

- Add Recreational Marijuana Wholesalers as a permitted use in M-1, M-2, M-3, M-4-I, M-1/SP, SD/E and II with footnote 1,000 foot buffer from parks and schools.

- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers

in the Stream Corridor Overlay.

- Prohibits Recreational Marijuana Wholesalers and Retailers in the Civic Corridor Overlay.
- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in the Bypass Interchange Overlay.
- Prohibits Recreational Marijuana Wholesalers, Laboratories and Research Certificates in the Interim Industrial Overlay.
- Prohibits Recreational Marijuana Retailers in the Interim Industrial Overlay.

The Planning Commission modified the recommendation from the Subcommittee by removing wholesalers as a permitted use in residential districts and subdistricts based on the Oregon Liquor Control Commission definition of a premises and understanding that licenses will not be issued where it is a primary residence. They also added a requirement for a 1,000 separation between retail marijuana businesses and a 1,000 foot separation between retail marijuana businesses and medical marijuana dispensaries.

FISCAL IMPACT: The fiscal impact of allowing recreational marijuana wholesalers, laboratories, research certificates and retailers is unknown at this time, but it is anticipated the State would provide State shared revenue from taxes collected to the City.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS): Recreational Marijuana wholesalers, laboratories, research certificates and retailers are legal activities under state law, and the city wishes to allow businesses the opportunity to operate in the city. Zoning restrictions on the uses are appropriate to address potential adverse impacts on adjacent uses.

ATTACHMENTS:
Ordinance 2016-2801 with
Exhibit "A": Proposed Development Code Text Amendment
Exhibit "B": Findings
1. City Council Resolution 2015-3253
2. Public Comments
3. 1,000 foot Schools Buffer Map
4. 1,000 foot Parks Buffer Map
5. 1,000 foot Schools/Parks Buffer Map
6. Planning Commission Resolution No. 2016-314

ORDINANCE NO. 2016-2801

AN ORDINANCE AMENDING THE NEWBERG DEVELOPMENT CODE REGARDING RECREATIONAL MARIJUANA WHOLESALERS, LABORATORIES. RESEARCH CERTIFICATES PRODUCERS AND RETAILERS; AND DECLARING AN EMERGENCY

RECITALS:

1. Measure 91 was approved by Oregon voters in November 2014 and House Bill 3400 was enacted by the Oregon Legislature in 2015 related to recreational marijuana.

2. 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.

3. 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.

4. 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, under City Council Resolution 2015-3253.

5. The Marijuana Subcommittee met on February 4, 2016 and developed recommendations to the Planning Commission on recreational marijuana wholesalers, laboratories, research certificates and retailers.

6. After proper notice, the Newberg Planning Commission held a hearing on April 14, 2016 to consider the amendment for recreational marijuana wholesalers, laboratories, research certificates and retailers. The Commission considered testimony, deliberated, and found that adding regulations for recreational marijuana wholesalers, laboratories, research certificates and retailers would be in the best interests of the city. The Planning Commission approved Resolution 2016-314, which recommends that the City Council adopt the proposed amendments to the Newberg Development Code.

7. After proper notice, the Newberg City Council held a hearing on May 16, 2016 to consider the proposed amendment. The Council considered testimony and deliberated.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The Council finds that adding regulations for recreational marijuana wholesalers, laboratories, research certificates and retailers would be in the best interests of the city. The Council adopts

the amendments to the Newberg Development Code as shown in Exhibit "A". Exhibit "A" is hereby adopted and by this reference incorporated.

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

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

- **EFFECTIVE DATE** of this ordinance is of this ordinance is May 17, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of May, 2016, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

_____
Sue Ryan, City Recorder

ATTEST by the Mayor this 19th day of May, 2016.

_____
Bob Andrews, Mayor

Exhibit "A" to Ordinance 2016-2801
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

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.

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**.

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.

Exhibit "B" to Ordinance 2016-2801
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 considered the recommendation of the Planning Commission at a public hearing on May 16, 2016 and decided 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 considered the recommendation of the Planning Commission at a public hearing on May 16, 2016 and decided 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.

Exhibit A, Attachment 1

Chapter
15.305
ZONING
USE

15.305.020 Zoning use table - Use Districts.

Newberg Development Code – Zoning Use Table

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special UseStandards
100	AGRICULTURALUSES																			
Def.	Horticulture	P	P	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	
Def.	Livestock and poultry farming	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Def.	Home gardening	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Home livestock and poultry raising	S	S															S		NMC Title 6
200	RESIDENTIAL USES																			
Def.	Dwelling, single-family detached	P(2)	P	P(3)		P		C(4)	C(5)								P	P(6)		Subject to density limits of NMC15.405.010(B)
Def.	Dwelling, single-family attached	S(2)	S	S(3)		S		C(4)	C(5)								P	P(6)		NMC15.415.050; subject to density limits of NMC15.405.010(B)
Def.	Manufactured homeon individual lot	S(2)	S	S(3)	P(7)	S												P(6)		NMC15.445.050 –15.445.070; subject to density limits of NMC15.405.010(B)
Def.	Manufactured dwelling park		S	S	S															NMC15.445.075 –15.445.160
Def.	Mobile home park		S	S	S															NMC15.445.075 –15.445.160
Def.	Manufactured home subdivision		S		S															NMC15.445.075 –15.445.160
Def.	Dwelling, two-family (duplex)	P(2)	P	P	C	P		C(4)	P(8)/C(5)								P			Subject to density limits of NMC15.405.010(B)
Def.	Dwelling, multifamily	C	P	P	C	P		C(4)	P(8)/C(5)								P			Subject to density limits of NMC15.405.010(B)
Def.	Dwelling, accessory	C	S	S		S											S			Chapter15.445 NMC, Article V
Def.	Dwelling, mixed use						P(9)	P(10)	P(8)/C(5)	P(11)	C	C								
Def.	Dwelling, caretaker										P	P	P	C					P(12)	Limited to one per lot, and allowed whenever theuse requires the on-site residence of such person.
Def.	Dormitory		C	P		P											P			
Def.	Home occupation(no more than one outside paid employee)	S	S	S(13)	S	S	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S	S	S(13)	NMC15.415.060
Def.	Home occupation(more than one outside paid employee)	C	C	C(13)	C	C	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C	C	C(13)	NMC15.415.060
300	INSTITUTIONAL AND PUBLIC USES																			
310	**INSTITUTIONAL CARE AND HOUSING**																			
Def.	Family child care home	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)							P	P(13)		Chapter 657AORS
312	Day care	P	P	P	C	P	P	P	P		C	C	C	C	P		P		P(14)	Chapter 657AORS
Def.	Residential care home (5 or fewer people)	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)							P	P(13)		ORS 197.665
Def.	Residential care facility (6 – 15 people)	C	P	P	C	P		C	C								P			ORS 197.665
315	Group care facility(16+ people)	C	C	C		C		C									P			
316	Hospital	C	C	C		C		P	P								P			
Def.	Prison										C	C	C	C						
320	**ASSEMBLY**																			
321	Religious institution, place of worship	P	P	P	P	P	P	P	P	P		P(29)				C	P			
322	Private club, lodge, meeting hall			C	C			P	P	C							P			
330	**SCHOOLS**																			

330	School, primary or secondary	P	P	P		P										C				
331	College	P	P	P		P	P	P	P(15)							C	P			
332	Commercial educational services	C	C	C		C	P	P	P								C			
340	**PARKS AND OPEN SPACES**																			
341	Open space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
342	Park	P	P	P	P	P	P	P	P	P				P(16)		P(17)	P			
Def.	Golf course	P	P	P												P(17)				
350	**PUBLIC SERVICES**																			
351	Community services	C	C	C	C	P		P	P	P						C	P			
352	Emergency services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Pound, dog or cat							C	C		C	P	P	C	C					
Def.	Cemetery	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Chapter 97.46ORS
360	**TRANSPORTATION**																			
Def.	Transportation facilities and improvements	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Transit center							P	P	P	P	P	P							
Def.	Parking facility			P		C	C	P	P(18)	C	P	P	P		P		P			
Def.	**Airport**, **landing field**											C	C						P	
Def.	**Heliport**, **helipad**	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	
Def.	Marina									C										
	Pilings, piers, docks, and similar in-waterstructures									C										
370	UTILITIES																			
Def.	Basic utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Utility distribution plant or yard											P	P	P						
Def.	Wastewater treatment plant											C	P	C						
Def.	Telecommunication facility incorporated into existing structure/utility pole and no taller than 18 feet above existing structure/utility pole	C	C	C	C	C	S	S	S	S	S	S	S	S	S		S			Chapter15.445 NMC, Article IV
Def.	**Telecommunication facility**, including**radio** towers and transmitters, which are 100 feet or less in height, except those incorporated into an existing**structure** no taller than 18 feet above that **structure**.						C	C	C		C	S(19)	S(19)	P	C		C			Chapter15.445 NMC, Article IV
Def.	**Telecommunication facility**, including**radio** towers and transmitters, which are over 100 feet						C	C	C		C	C	C	C	C		C			Chapter15.445 NMC, Article IV
400	COMMERCIAL USES																			
410	**COMMERCIAL OFFICES**																			
411	Medical office			C		P	P(20)	P	P(21)								P			
412	Local business office					P(22)	P(20)	P	P(21)											
420	**COMMERCIAL SALES AND RENTALS**																			
421	Retail sales – General						P(20)	P	P(15) (21)	P		P(23)								
422	Retail sales – Bulk outdoor							P	C			P								
423	Retail sales – Convenience						P(20)	P	P(21)	P		P(24)			P(25)					
Def.	Temporary merchant							S	S(21)											NMC5.15.050 et seq.
	Medical marijuana dispensary							P(35)	P(35)											
425	Retail food and beverage production							S	S											Chapter15.445 NMC, Article VIII
430	**EATING AND DRINKING ESTABLISHMENTS**																			
430	Eating and drinking – Alcohol-related							P	P(21)	P										Requires liquor license
430	Eating and drinking – Non-alcohol-related						P(20)	P	P(21)	P	P	P							C(26)	
440	COMMERCIAL SERVICES																			
441	Personal services					P	P(20)	P	P(21)	P										
442	Commercial services						P(20)	P	P(21)											
443	Commercial vehicle service							P	C		P(27)	P			P(28)					
Def.	Kennel, commercial							C	C		C	P	P	C	C					
450	**COMMERCIAL RECREATION**																			

451	Commercial recreation – Indoors							P	P(15)		P(29)	P(29)								
452	Commercial recreation – Outdoors							P				C								
453	Commercial recreation – Motor-vehicle-related											C							C(33)	
460	**COMMERCIAL LODGING**																			
Def.	Vacation rental home	C	C	S	S	S	S(13)	S(13)	S(13)	S(13)										Chapter15.445 NMC, Article VII
Def.	Bed and breakfast(2 or fewer rooms)	C	S	S		S	S	S	S	S										NMC15.445.010
Def.	Bed and breakfast(3 or more rooms)	C	C	C		C	C	S	S	S										NMC15.445.010
Def.	**Hotel** or **motel**							P	P(15)	P									C(26)	
Def.	Recreational vehicle park							C		C	C	C	C							NMC15.445.170
500	INDUSTRIAL USES																			
501	Traded sector industry office					P(30)	P(30)	P	P		P	P		P					P(33)	
502	Industrial services							C				P	P	P					P(33)	
503	Wholesale and industry sales							C(31)			P(31)	P	P	P					P(33)	
504	Warehouse, storage, and distribution										P(32)	P	P	P					P(33)	
505	Self-service storage							P			P	P	P	P						
506	Light manufacturing										P	P	P	P					P(33)	
507	Heavy manufacturing											P(34)	P	C						
508	Waste-related												C	C						
600	MISCELLANEOUS USES																			
Def.	**Accessory building**and **use** incidental to other permitted **uses**in the zone	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to permitted **uses** in the zone and not defined or categorized	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to conditional **uses** in the zone and not defined or categorized	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
	Medical Marijuana Processor										P	P	P	P						
	Medical Marijuana Grow Site	P(36)	P(36)	P(36)	C	C	C	C	C	C	C	C	C	C	C	C	C	C		
	Recreational Marijuana Processor	X	X	X	X	X	X	C(38)	X	X	P(37)	P(37)	P(37)	P(37)	X	X	X	X	X	
	Recreational Marijuana Producer (Indoor)	X	X	X	X	X	X	X	X	X	P	P	P	P	X	X	X	X	X	
	Recreational Marijuana Producer (Outdoor)	X	X	X	X	X	X	X	X	X	C	C	C	C	X	X	X	X	X	
	Recreational Marijuana Retailer	**X**	**X**	**X**	**X**	**X**	**P(38)/(39)/(40)**	**P(38)/(39)/(40)**	**P(38)/(39)/(40)**	**P(38)/(39)/(40)**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	
	Recreational Marijuana Wholesaler	**X**	**X**	**X**	**X**	**X**	**X**	**C(31)/(38)**	**X**	**X**	**P(38)**	**P(38)**	**P(38)**	**P(38)**	**X**	**X**	**X**	**P(38)**	**X**	
	Recreational Marijuana Laboratories	**X**	**X**	**X**	**X**	**X**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**X**	**P**	**X**	**X**	
	Recreational Marijuana Research Certificate	**X**	**X**	**X**	**X**	**X**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**X**	**P**	**X**	**X**	

Key:

P: Permitted use

S: Special **use** – **Use** requires a special **use permit**

C: Conditional **use** – Requires a **conditional use permit**

X: Prohibited use

(#): See notes for limitations

Notes.

(1) Limited to sites with preexisting agricultural uses, including at time of annexation.

(2) Limited to one per **lot** as a permitted **use**. More than one per **lot** allowed only through a **conditional use permit** or planned unit development, subject to density limits of NMC 15.405.010(B).

(3) Permitted on individual **lots** created prior to November 17, 1992. Homes on individual **lots** created on or after November 17, 1992, will only be permitted through the planned unit development process.

(4) The permitted density shall be stated on the conditional use permit.

(5) The **dwelling units** must front onto Hancock or Second **Street**. No more than 30 percent of a single **street** frontage of a **block** may be occupied by residential **uses**. Contiguous residential **street** frontage must be less than 60 lineal feet. Density and parking standards for allowable **dwelling units** must be met.

(6) One residence per **lot** with the addition of a tie-down or **hangar** for an airplane. At a minimum, a paved tie-down or **hangar** shall be provided on the property, or the property shall include permanent rights to a private **hangar** within the **subdivision**. See Chapter 15.336 NMC.

(7) The homes are not subject to the development standards set forth in NMC 15.445.050 through 15.445.070.

(8) The units must be located on the same **lots** as another **use** permitted or conditionally permitted in the C-3 zone and may not occupy the first floor storefront area (the portion of the **building** closest to the primary **street**). There shall be no density limitation. **Private parking areas** or garages are not required for **dwelling units** located within **buildings** in existence prior to and including June 30, 1999. Parking shall be provided for all new **dwelling units** within any **building** constructed after June 30, 1999, in **private parking areas** or garages on the basis of one **parking space** for each **dwelling unit**.

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

Exhibit A, Attachment 2

15.305.030 Zoning use table - Use Subdistricts.

600	MISCELLANEOUS USES	R-1/PD	R-1/0.1	R-1/0.4	R-1/6.6	R-1/SP	R-2/PD	R-2/SP	SD/LDR	SD/MMR	R-3/PD	RP/SP	RP/LU	AO	ARO	C-1/SP	C-2/LU	C-2/PD	C-2/SP	C-3/LU	SD/V	SD/NC	SD/H	CC	CF/RF	RF	IO	M-1/SP	SD/E	FHO	II	AIO	H	SC	BI
	Medical Marijuana Processor																											P	P						
	Medical Marijuana Grow Site	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
	Recreational Marijuana Processor	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X
	Recreational Marijuana Producer (Indoor)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	X	P	X	X	X	X
	Recreational Marijuana Producer (Outdoor)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	C	C	X	C	X	X	X	X
	Recreational Marijuana Retailer	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	P(1)/(2)/(3)	X	X	X	X	X	X	X	X	X	X	X	X
	Recreational Marijuana Wholesaler	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P(1)	P(1)	X	P(1)	X	X	X	X
	Recreational Marijuana Laboratories	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	X	X	P	P	X	P	P	X	X	X
	Recreational Marijuana Research Certificate	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	X	P	P	P	X	P	P	X	X	X

Key:

P: Permitted use

S: Special **use** – **Use** requires a special **use permit**

C: Conditional **use** – Requires a **conditional use permit**

X: Prohibited use

(#): See notes for limitations

(1) 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 retailer or wholesaler.

(2) 1,000 foot separation between retailer to retailer premises and 1,000 foot separation between retailer to dispensary premises.

(3) Operating hours limited to the hours between 9:00 a.m. and 8:00 p.m.

Attachment 1

RESOLUTION No. 2016-3253

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

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 3rd 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 1st day of February, 2016.

Sue Ryan, City Recorder

ATTEST by the Mayor this 1st day of February, 2016.

Boif Andrewi, Mayor

Attachment 2

Doug Rux

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> wrote:

> Do you want me to forward this to Council ?
> Sue
>
> Sue Ryan
> City Recorder
> City of Newberg
> cityrecorder@newbergoreRon.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

Canna Bros. Dispensary

2316 E Portland Rd Unit C-2 • Newberg, OR 97132 • Phone: (503)487-6184
E-Mail: oregoncannnabros@gmail.com

Date: 04.14.2016

Dear Members of the Newberg Planning Commission,

I would like to bring to your attention the strong reasoning to follow the direction of many Oregon cities in opting to require a 1000' buffer between medical marijuana dispensaries and recreation marijuana stores locations. For example tire City of Portland is requiring such a 1000' buffer, and giving existing dispensaries a grandfathered in right for priority over new recreational stores, since the vast majority will all become OLCC stores by 2017.

The reason pot friendly Portland has created additional regulations comes down to the continuing influx of investors from across the country, wishing to profit on the "green rush." Portland has allowed dispensaries for some time now, going from 68 locations in late 2014 to an incredible 164 locations currently, according to the OHA online directory. The result is many of Portland's commercial corridors are now "green" light distracts. Without die extra limiting factor of a 1000' buffer between OLCC stores, Portland neighborhoods would become even more inundated with this over-saturated abundance of marijuana businesses serving the 21 & over adult market. This would displace family friendly businesses (cafes, bookstores, restaurants, etc) to the point where it has a negative impact on the livability and quality, of neighborhoods. With Portland requiring a 1000' buffer, locations are becoming scarce, prospective storeowners are looking elsewhere. It is fair to say without additional limiting factors like Portland, the 3-miles of 99 W through Newberg could be a strip of green crosses and pot leafs. As a comparison, the 3-mile stretch of Barbur Blvd coming in SW Portland has 6 marijuana dispensaries. This has occurred with a 1000' buffer, imagine without a buffer!

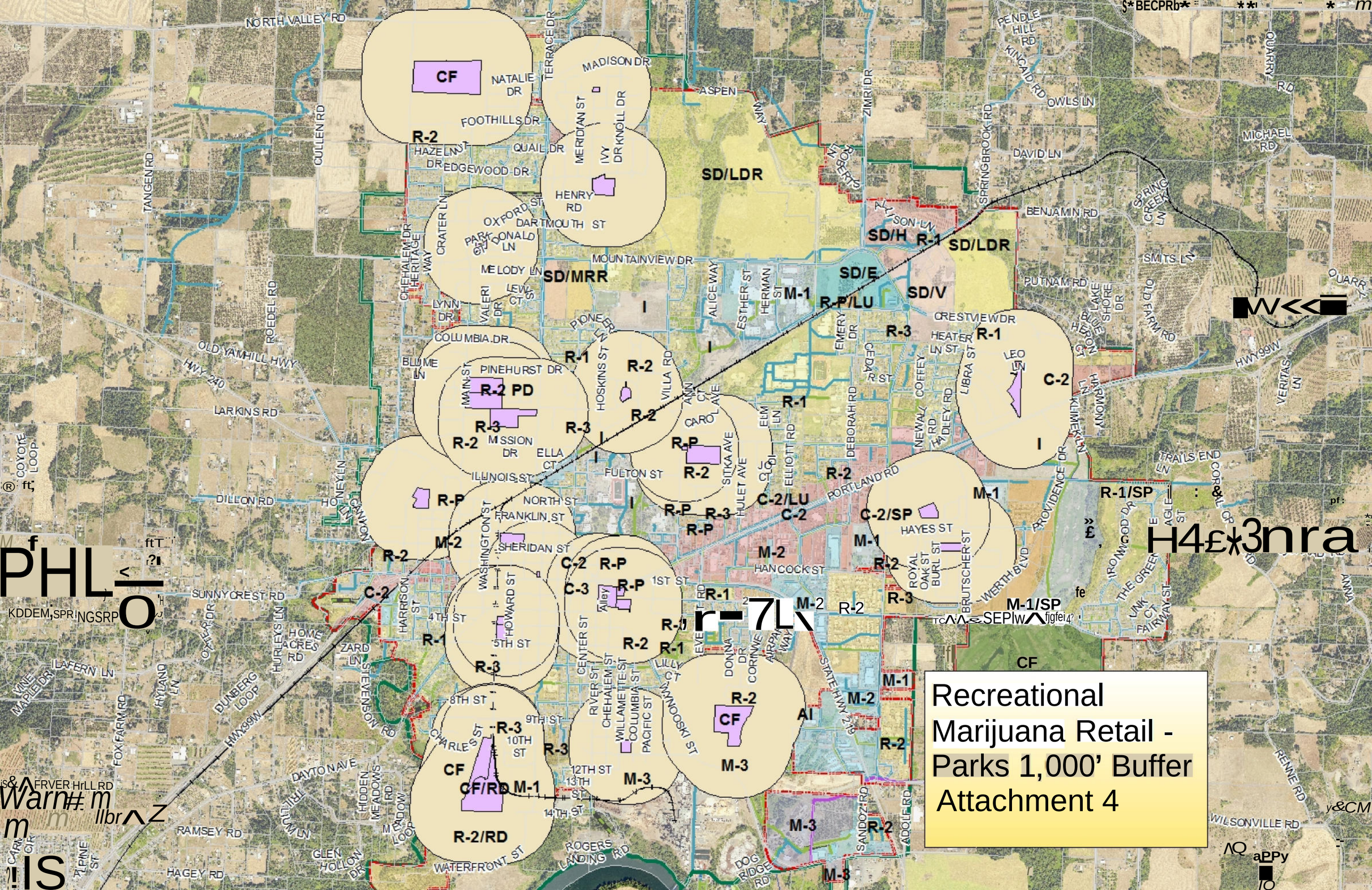
How many marijuana dispensaries and marijuana stores do the citizens of Newberg really need or want? Access should be fair and legal for marijuana, similar to liquor, lotto, etc. However, this must be balanced with the over all needs of the community. Thus Newberg should error on the side of caution and enact a 1000' buffer between retail locations, so the citizens are not bombarded by marijuana for sale on every block and the number of marijuana stores isn't a blight on the city. It would be easier to relax the rules in the future if necessary then to retroactively reduce the number of marijuana retailers. As an analogy, I appreciate there being a liquor store in the city for the convenience, but I would not want to live with my family in a city that allowed a liquor store on every corner.

Sincerely,

Lester Brock
Owner

Recreational Marijuana Retail - Schools 1,000' Buffer

Attachment 3


CF
R-2
SD/LDR
SD/MRR
SD/H
SD/E
SD/V
R-P/LU
M-1
R-1
R-2 PD
R-3
R-P
C-2
C-3
C-2/LU
C-2/SP
M-1/SP
R-1/SP
M-2
M-3
I
AI
C-2
R-2/RD
CF/RD
NORTH VALLEY RD
NATALIE DR
FOOTHILLS DR
HAZELNUT DR
EDGEWOOD DR
QUAIL DR
MADISON DR
TERRACE DR
MERIDIAN ST
IVY DR
KNOLL DR
HENRY RD
ASPEN WAY
ZIMRI DR
ROBERTS LN
CULLEN RD
TANGEN RD
CRATER LN
OXFORD ST
DARTMOUTH ST
PARK DONALD LN
MELODY LN
MOUNTAINVIEW DR
CHEHALEM DR
HERITAGE WAY
VALERI DR
LEWIS CT
LYNN DR
ROEDEL RD
OLD YAMHILL HWY
HWY 240
LARKINS RD
COLUMBIA DR
PINEHURST DR
BLUME LN
PIONEER LN
MAIN ST
HOSKINS ST
VILLA RD
ALICE WAY
ESTHER ST
HERMAN ST
EMERY DR
CEDAR ST
ANN CT
CAROL AVE
ELM LN
ELLIOTT RD
DEBORAH RD
COFFEY LN
NEWALL RD
HADLEY RD
LIBRA ST
LEO LN
CRESTVIEW DR
HEATER ST
PENDLE HILL RD
KINCAID RD
OWLS LN
SPRINGBROOK RD
DAVID LN
MICHAEL RD
QUARRY RD
BENJAMIN RD
ALLISON LN
SPRING CREEK LN
SMITS LN
PUTNAM RD
LAKE SHORE DR
BLUE HERON CT
OLD FARM RD
HWY 99W
YERITAS LN
HARMONY LN
KLIMEK LN
TRAILS END LN
PORTLAND RD
PROVIDENCE DR
HAYES ST
ROYAL OAK ST
BURL ST
BRUTSCHER ST
WERTH BLVD
IRONWOOD DR
THE GREEN LINK CT
FAIRWAY ST
ILLINOIS ST
FULTON ST
NORTH ST
FRANKLIN ST
SHERIDAN ST
WASHINGTON ST
HONEYMAN LN
DILLON RD
SUNNYCREST RD
HARRISON ST
4TH ST
5TH ST
HOWARD ST
HOME ACRES RD
HURLEYS LN
OXFORD DR
ZARD LN
LAFERN LN
VINE MAPLE DR
HYLAND LN
FOX FARM RD
DUNBERG LOOP
STEVENSON RD
HWY 99W
8TH ST
9TH ST
10TH ST
12TH ST
13TH ST
14TH ST
CHARLES ST
DAYTON AVE
TRILLIUM LN
HIDDEN MEADOWS RD
MEADOW LOOP
RAMSEY RD
GLEN HOLLOW DR
HAGEY RD
WATERFRONT ST
ROGERS LANDING RD
DOG RIDGE RD
SANDOZ RD
ADOLF RD
RENNE RD
WILSONVILLE RD
CENTER ST
RIVER ST
CHEHALEM ST
WILLAMETTE ST
COLUMBIA ST
PACIFIC ST
WASHOOSKI ST
LILLY CT
DONNA DR
CORINNE DR
AIRPARK WAY
STATE HWY 219
ALBANY
Recreational Marijuana Retail - Parks 1,000' Buffer
Attachment 4

Attachment 5

Attachment 6

PLANNING COMMISSION RESOLUTION 2016-314

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

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.

Adopted by the NewJfrerg Planning Commission this 14th day of April, 2016.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

List of Exhibits:

Exliibit "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 numoses 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

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(10), 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 HI 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.

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. Carwashes.

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. 27M § 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. hi addition, the following are pennitted:

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**.

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.

Exhibit "B" to Planning Commission Resolution 2016-314

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.

I. 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.

Exhibit A, Attachment 1

Chapter
15.305
ZONING
USE

15.305.020 Zoning use table - Use Districts.

Newberg Development Code – Zoning Use Table

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special UseStandards
100	AGRICULTURALUSES																			
Def.	Horticulture	P	P	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	
Def.	Livestock and poultry farming	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Def.	Home gardening	P	P	P	P	P	P	p	p	p	p	p	p	p	p	p	p	p	p	
Def.	Home livestock and poultry raising	S	S															S		NMC Title 6
200	RESIDENTIAL USES																			
Def.	Dwelling, single-family detached	P(2)	P	P(3)		P		C(4)	C(5)								P	P(6)		Subject to density limits of NMC15.405.010(B)
Def.	Dwelling, single-family attached	S(2)	S	S(3)		S		C(4)	C(5)								P	P(6)		NMC15.415.050; subject to density limits of NMC15.405.010(B)
Def.	Manufactured homeon individual lot	S(2)	S	S(3)	P(7)	S												P(6)		NMC15.445.050 –15.445.070; subject to density limits of NMC15.405.010(B)
Def.	Manufactured dwelling park		S	S	S															NMC15.445.075 –15.445.160
Def.	Mobile home park		S	S	S															NMC15.445.075 –15.445.160
Def.	Manufactured home subdivision		S		S															NMC15.445.075 –15.445,160
Def.	Dwelling, two-family (duplex)	P(2)	P	P	C	P		C(4)	P(8)/C(5)								P			Subject to density limits of NMC15.405.010(B)
Def.	Dwelling, multifamily	C	P	P	C	P		C(4)	P(8)/C(5)								P			Subject to density limits of NMC15.405.010(B)
Def.	Dwelling, accessory	C	S	S		S											S			Chapterl5.445 NMC, Article V
Def.	Dwelling, mixed use						P(9)	P(10)	P(8)/C(5)	P(11)	C	C								
Def.	Dwelling, caretaker										P	P	P	C					P(12)	Limited to one per lot, and allowed whenever theuse requires the on-site residence of such person.
Def.	Dormitory		C	P		P											P			
Def.	Home occupation(no more than one outside paid employee)	S	S	S(13)	S	S	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S	S	S(13)	NMC15.415.060
Def.	Home occupation(more than one outside paid employee)	C	C	C(13)	C	C	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C	C	C(13)	NMC15.415.060
300	INSTITUTIONAL AND PUBLIC USES																			
310	INSTITUTIONAL CARE AND HOUSING																			
Def.	Family child care home	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)							P	P(13)		Chapter 657AORS
312	Day care	P	P	P	C	P	P	P	P		C	C	C	C	P		P		P(14)	Chapter 657AORS
Def.	Residential care home (5 or fewer people)	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)							P	P(13)		ORS 197.665
Def.	Residential care facility (6 – 15 people)	C	P	P	C	P		C	C								P			ORS 197.665
315	Group care facility(16+ people)	C	C	C		C		C									P			
316	Hospital	C	C	C		C		P	P								P			
Def.	Prison										C	C	C	C						
320	ASSEMBLY																			
321	Religious institution, place of worship	P	P	P	P	P	P	P	P	P		P(29)				C	P			
322	Private club, lodge, meeting hall			C	C			P	P	C							P			
330	SCHOOLS																			

330	School, primary or secondary	P	P	P		P										C				
331	College	P	P	P		P	P	P	P(15)							C	P			
332	Commercial educational services	C	C	C		C	P	P	P								C			
340	PARKS AND OPEN SPACES																			
341	Open space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
342	Park	P	P	P	P	P	P	P	P	P				P(16)		P(17)	P			
Def.	Golf course	P	P	P												P(17)				
350	**PUBLIC SERVICES**																			
351	Community services	C	C	C	C	P		P	P	P						C	p			
352	Emergency services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Pound, dog or cat							C	C		C	P	P	C	C					
Def.	Cemetery	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Chapter 97.46QRS
360	**TRANSPORTATION**																			
Def.	Transportation facilities and improvements	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Transit center							P	P	P	P	P	P							
Def.	Parking facility			P		C	C	p	P(18)	C	P	P	P		P		P			
Def.	Airport, landing field											C	C						P	
Def.	Heliport, helipad	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	p	
Def.	Marina									C										
	Pilings, piers, docks, and similar in-waterstructures									C										
370	UTILITIES																			
Def.	Basic utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Utility distribution plant or yard											P	P	P						
Def.	Wastewater treatment plant											C	P	C						
Def.	Telecommunication facility incorporated into existing structure/utility pole and no taller than 18 feet above existing structure/utility pole	C	C	C	C	C	S	S	S	S	S	S	S	S	S		S			Chapterl5.445 NMC, Article IV
Def.	Telecommunication facility, includingradio towers and Iransmilters, which are 100 feet or less in height, except those incorporated into an existingstructure no taller than 18 feet above that structure.						C	C	C		C	S(19)	S(19)	P	C		C			Chapterl5.445 NMC, Article IV
Def.	Telecommunication facility, includingradio towers and transmitters, which are over 100 feet						C	C	C		C	C	C	C	C		C			Chapterl5.445 NMC, Article IV
400	COMMERCIAL USES																			
410	**COMMERCIAL OFFICES**																			
411	Medical office			C		P	P(20)	P	P(21)								P			
412	Local business office					P(22)	P(20)	P	P(21)											
420	**COMMERCIAL SALES AND RENTALS**																			
421	Retail sales – General						P(20)	P	P(15) (21)	P		P(23)								
422	Retail sales – Bulk outdoor							P	C			P								
423	Retail sales – Convenience						P(20)	P	P(21)	P		P(24)			P(25)					
Def.	Temporary merchant							S	S(21)											NMC5.15.050 et sea.
	Medical marijuana dispensary							P(35)	P(35)											
425	Retail food and beverage production							S	S											Chapterl5.445 NMC, Article VIII
430	**EATING AND DRINKING ESTABLISHMENTS**																			
430	Eating and drinking – Alcohol-related							P	P(21)	P										Requires liquor license
430	Eating and drinking – Non-alcohol-related						P(20)	P	P(21)	P	P	P							C(26)	
440	COMMERCIAL SERVICES																			
441	Personal services					P	P(20)	P	P(21)	P										
442	Commercial services						P(20)	P	P(21)											
443	commercial vehicle service							P	C		P(27)	P			P(28)					
Def.	Kennel, commercial							C	C		C	P	P	C	C					
450	**COMMERCIAL RECREATION**																			

451	Commercial recreation – Indoors							P	P(15)		P(29)	P(29)								
452	Commercial recreation – Outdoors							P				C								
453	Commercial recreation – Motor-vehicle-related											C							C(33)	
460	COMMERCIAL LODGING																			
Def.	Vacation rental home	C	C	S	S	S	S(13)	S(13)	S(13)	S(13)										Chapter15.445 NMC, Article VII
Def.	Bed and breakfast(2 or fewer rooms)	C	S	S		S	S	S	S	S										NMC15.445.010
Def.	Bed and breakfast(3 or more rooms)	C	C	C		C	C	S	S	S										NMC15.445.010
Def.	Hotel or motel							P	P(15)	P									C(26)	
Def.	Recreational vehicle park							C		C	C	C	C							NMC15.445.170
500	INDUSTRIAL USES																			
501	Traded sector industry office					P(30)	P(30)	P	P		P	P		P					P(33)	
502	Industrial services							C				P	P	P					P(33)	
503	Wholesale and industry sales							C(31)			P(31)	P	P	P					P(33)	
504	Warehouse, storage, and distribution										P(32)	P	P	P					P(33)	
505	Self-service storage							P			P	P	P	P						
506	Light manufacturing										P	P	P	P					P(33)	
507	Heavy manufacturing											P(34)	P	C						
508	Waste-related												C	C						
600	MISCELLANEOUS USES																			
Def.	Accessory buildingand use incidental to other permitted usesin the zone	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to permitted uses in the zone and not defined or categorized	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to conditional uses in the zone and not defined or categorized	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
	Medical Marijuana Processor										P	P	P	P						
	Medical Marijuana Grow Site	P(36)	P(36)	P(36)	C	C	C	C	C	C	C	C	C	C	C	C	C	C		
	Recreational Marijuana Processor	X	X	X	X	X	X	C(38)	X	X	P(37)	P(37)	P(37)	P(37)	X	X	X	X	X	
	Recreational Marijuana Producer (Indoor)	X	X	X	X	X	X	X	X	X	p	p	p	p	X	X	X	X	X	
	Recreational Marijuana Producer (Outdoor)	X	X	X	X	X	X	X	X	X	C	C	C	C	X	X	X	X	X	
	S&cteg\aaalJfetjlyaQa, Retailer	X	X	X	X	X	P(38l/ mi (40)	P(38l/ mi (401	P(38l /09)/ (40)	Em im £401	X	X	X	X	X	X	X	X	X	
	Recreational Marijuana Wholesaler	X	X	X	X	X	X	muz (381	X	X	Em	P(38l	P(38)	Earn	X	X	X	EOS)	X	
	Recreational Marijuana Laboratories	X	X	X	X	X	£	P	£	£	£	£	£	£	£	X	£	X	X	
	Recreational Marijuana Reseanch Cejliiicate	X	X	X	X	X	£	£	£	£	£	£	£	£	£	X	£	X	X	

Key:

P: Permitted use

S: Special use – Use requires a special use permit

C: Conditional use – Requires a conditional use permit

X: Prohibited use

(#): See notes for limitations

Notes.

(1) Limited to sites with preexisting agricultural uses, including at time of annexation.

(2) Limited to one per lot as a permitted use. More than one per lot allowed only through a conditional use permit or planned unit development, subject to density limits of NMC 15.405.010(B).

(3) Permitted on individual lots created prior to November 17, 1992. Homes on individual lots created on or after November 17, 1992, will only be permitted through the planned unit development process.

(4) The permitted density shall be stated on the conditional use permit.

(5) The dwelling units must front onto Hancock or Second Street. No more than 30 percent of a single street frontage of a block may be occupied by residential uses. Contiguous residential street frontage must be less than 60 lineal feet. Density and parking standards for allowable dwelling units must be met.

(6) One residence per lot with the addition of a tie-down or hangar for an airplane. At a minimum, a paved tie-down or hangar shall be provided on the property, or the property shall include permanent rights to a private hangar within the subdivision. See Chapter 15.336 NMC.

(7) The homes are not subject to the development standards set forth in NMC 15.445.050 through 15.445.070.

(8) The units must be located on the same lots as another use permitted or conditionally permitted in the C-3 zone and may not occupy the first floor storefront area (the portion of the building closest to the primary street). There shall be no density limitation. Private parking areas or garages are not required for dwelling units located within buildings in existence prior to and including June 30, 1999. Parking shall be provided for all new dwelling units within any building constructed after June 30, 1999, in private parking areas or garages on the basis of one parking space for each dwelling unit.

(9) Permitted on the ground floor, one per lot in conjunction with any other use permitted or conditional use in the C-1 zone. On upper floors, dwelling units are unlimited and one parking space per dwelling unit is required.
(10) Permitted above any permitted use in the C-2 zone. There shall be no density limitation. Parking shall be provided in private parking areas or garages on the basis of one parking space for each dwelling unit.
(11) Must be located above ground floor commercial uses.
(12) One residence of area not more than 40 percent of the area of the hangar floor, up to a maximum of 1,500 square feet, for an airport caretaker or security officer on each separate parcel.
(13) Permitted in existing dwelling units only. New dwelling units may not be created for this use unless the dwelling unit would otherwise be allowed.
(14) Allowed exclusively for employers or employees of businesses located within this district.
(15) Facility over 40,000 square feet gross floor area requires a conditional use permit.
(16) Allowed in areas designated in industrial area plans.
(17) Limited to facilities owned or operated by a public agency.
(18) Parking garages are a conditional use, and must have first floor street frontage of 40 feet or less for ingress or egress. First floor development must be commercial.
(19) A conditional use permit is required if the facility is less than 2,000 feet from the nearest telecommunication facility.
(20) Businesses in the C-1 zone that have hours of operation between 10:00 p.m. and 7:00 a.m. require a conditional use permit.
(21) Drive-up service windows accessory to an existing business on the site with walk-in customer service, such as a drive-up bank window, are allowed only with a conditional use permit. Otherwise, drive-up service windows, except those in service on April 1, 2002, are prohibited. Changes in use will not be allowed.
(22) Retail sales of goods on site not allowed.
(23) Limited to secondhand stores.
(24) Store size is limited to 2,000 square feet gross floor area.
(25) Store size is limited to 5,000 square feet gross floor area.
(26) Use must demonstrate that it is compatible with airport operations.
(27) Limited to service stations.
(28) Limited to card lock fueling only. Retail services are limited to self-vending services.
(29) Permitted provided the structure is designed for easy conversion to industrial use, including not having fixed seating.
(30) Limited to 10,000 square feet maximum floor area.
(31) Allowed indoors only.
(32) Allowed Indoors only. Outdoor use requires a conditional use permit.
(33) Must be aviation-related. See Chapter 15.332 NMC.
(34) Limited to expansion or change of existing heavy manufacturing uses.

(35) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a). 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.

Exhibit A, Attachment 2

15.305.030 Zoning use table - Use Subdistricts.

600	MISCELLANEOUS USES	R-1/PD	R-1/0.1	R-1/0.4	R-1/6.6	R-1/SP	R-2/PD	R-2/SP	SD/LDR	SD/MMR	R-3/PD	RP/SP	RP/LU	AO	ARO	C-1/SP	C-2/LU	C-2/PD	C-2/SP	C-3/LU	SD/V	SD/NC	SD/H	CC	CF/RF	RF	IO	M-1/SP	SD/E	FHO	II	AIO	H	SC	BI
	Medical Marijuana Processor																											P	P						
	Medical Marijuana Grow Site	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
	Recreational Marijuana Processor	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X
	Recreational Marijuana Producer (Indoor)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	X	P	X	X	X	X
	Recreational Marijuana Producer (Outdoor)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	C	C	X	C	X	X	X	X
	Recreational Marijuana **Retailer**	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P(1)/(2)/(3)	pm/(2)/(3)	PMW2)/(31	P(1)/(2)/(3)	PMV(2)/(3)	pm/(2)/(3)	PMm2)/12)	PC\)U2)/(31	X	X	X	X	X	X	X	X	X	X	X	X	X
	Recreational Marijuana Wholesaler	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	pm	pm	X	pm	X	X	X	X
	Recreational Marijuana **Laboratories**	X	X	X	X	X	X	X	X	X	X	X	X	X	X	E	E	E	E	E	E	E	E	E	X	X	X	E	E	X	E	E	X	X	X
	Recreational Marijuana Research Certificate	X	X	X	X	X	X	X	X	X	X	X	X	X	X	E	E	E	E	E	E	E	E	E	X	X	E	E	E	X	E	E	X	X	X

Key:

P: Permitted use

S: Special use – Use requires a special use permit

C: Conditional use – Requires a conditional use permit

X: Prohibited use

(#): See notes for limitations

(1) 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 retailer or wholesaler.

(2) 1,000 foot separation between retailer to retailer premises and 1,000 foot separation between retailer to dispensary premises.

(3) Operating hours limited to the hours between 9:00 a.m. and 8:00 p.m.

Attachment 1

RESOLUTIONNO. 2016-3253

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

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 3rd 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 1st day of February, 2016.

Sue Ryan, City Recorder

ATTEST by the Mayor this 2nd day of February, 2016.

/y
Bob Andrews, Mayor

Attachment 2

Doug Rux

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

Please advise
sue

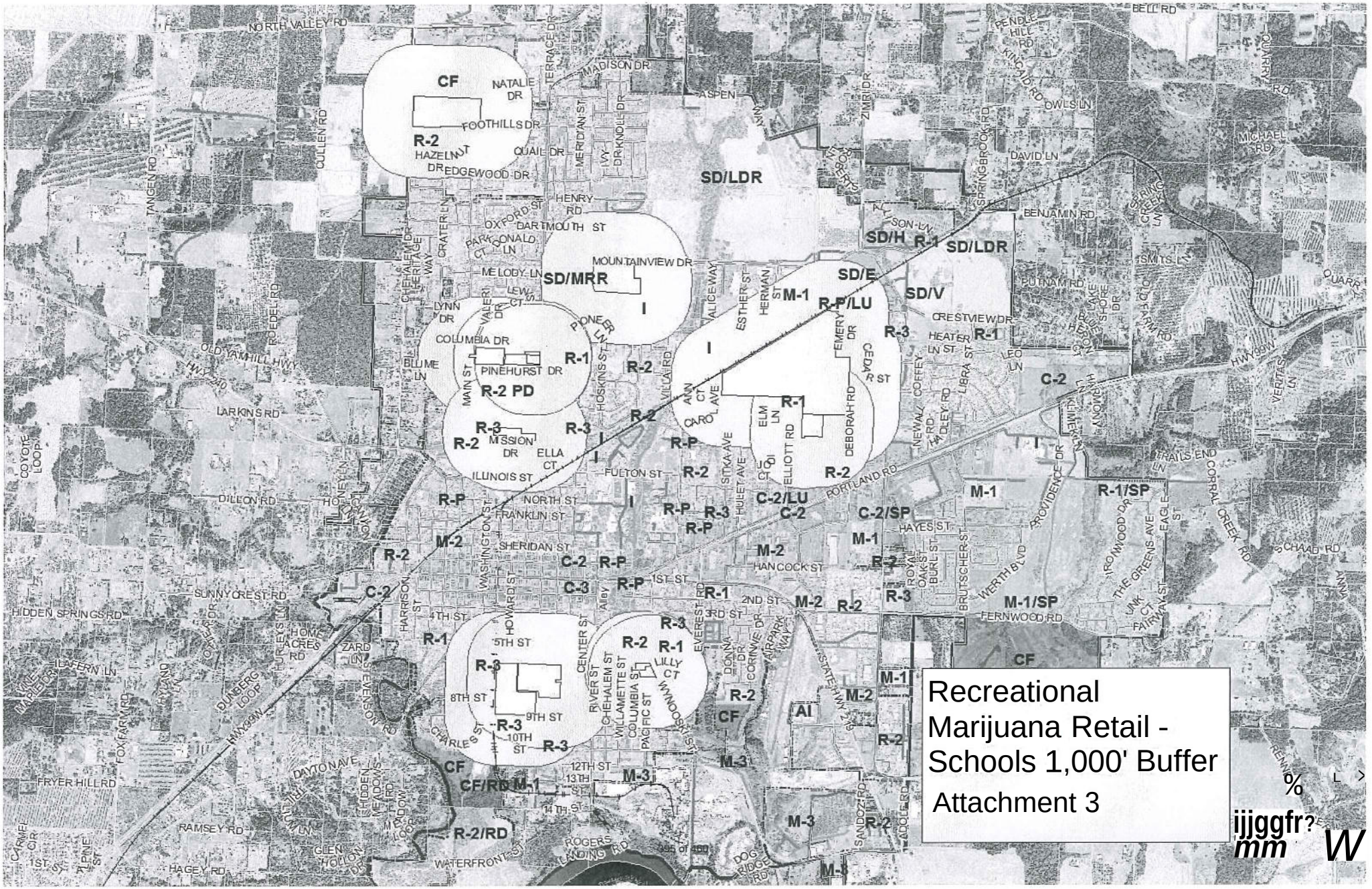
From: Steve Rhodes
Sent: Tuesday, January 19, 2016 11:29 AM
To: Sue Ryan
Subject: Re: Recreational sales

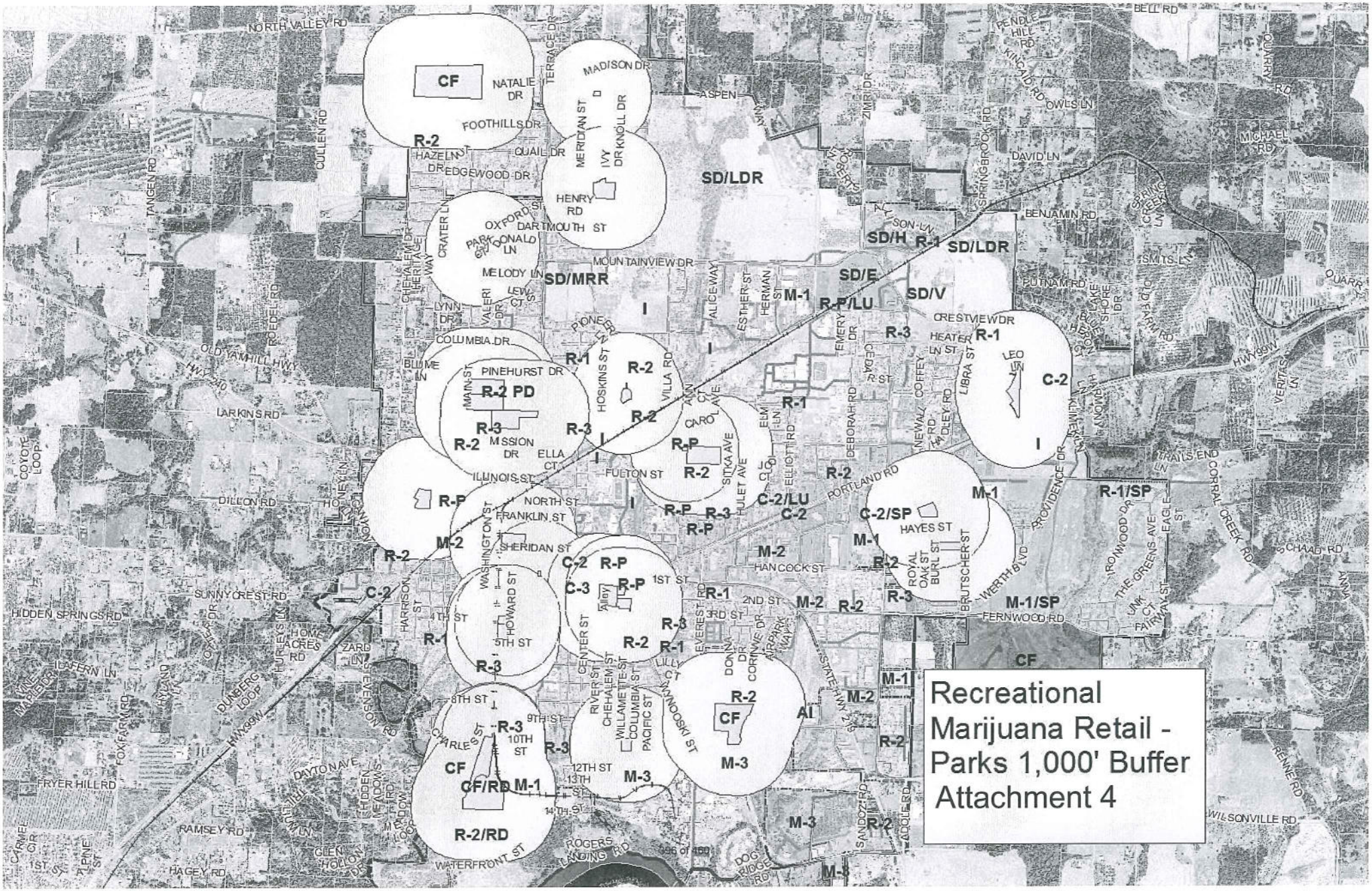
Check with Doug.

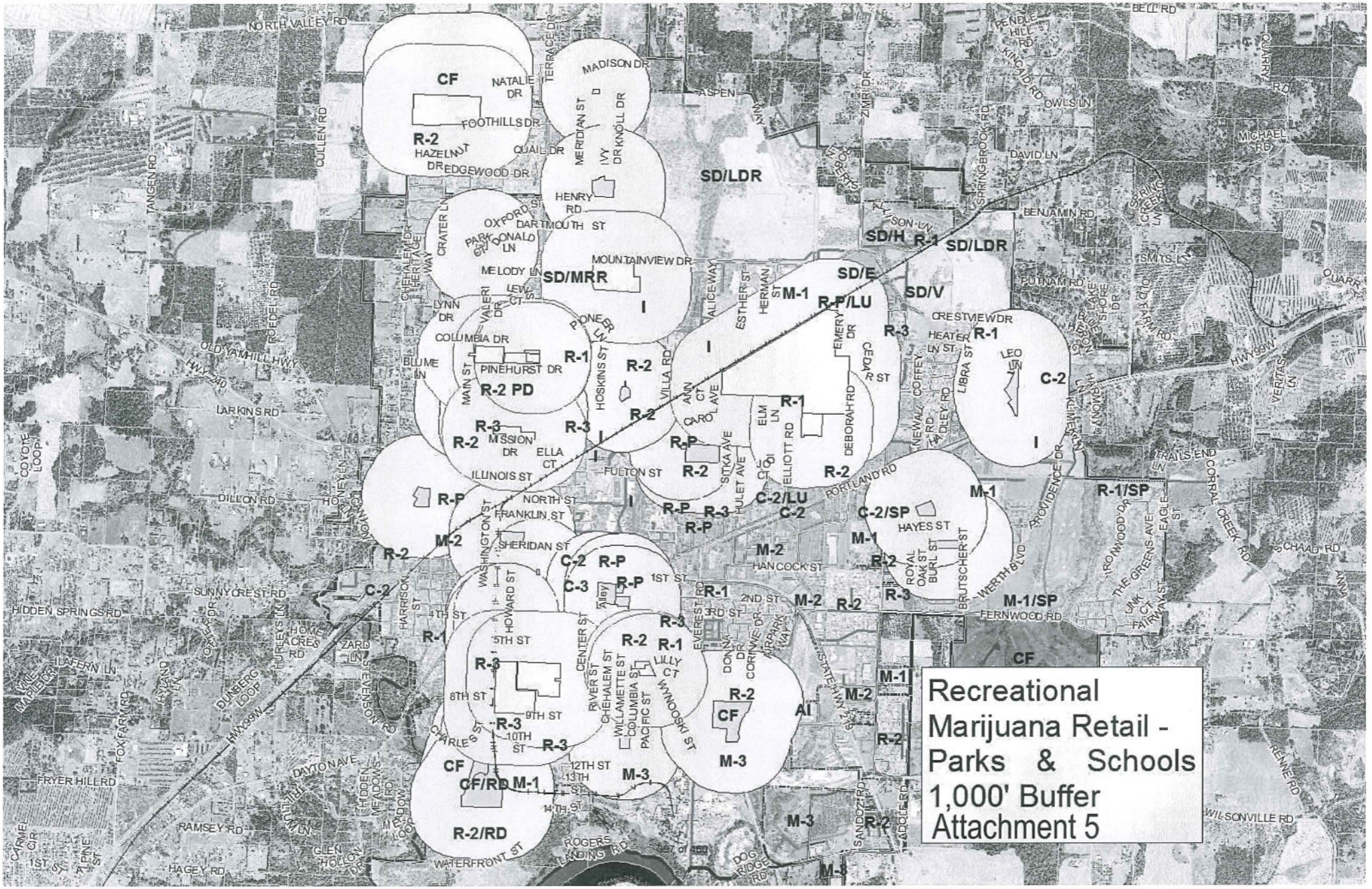
Sent from my iPad

On Jan 19, 2016, at 10:38 AM, Sue Ryan <Sue.Ryan@newbergoregon.gov> wrote:

> Do you want me to forward this to Council ?
> Sue
>
> Sue Ryan
> City Recorder
> City of Newberg
> citvrecorder@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 tunes 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 tune,
> Leif


Recreational
Marijuana Retail -
Schools 1,000' Buffer
Attachment 3


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


Recreational
Marijuana Retail -
Parks & Schools
1,000' Buffer
Attachment 5

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016				
Order No. ___	**Ordinance No.** ___	**Resolution No. 2016-3279** XX	**Motion** ___	**Information** ___
SUBJECT: Appointment of Joe Hannan as city manager, effective June 6, 2016.			**Contact Person (Preparer) for this Resolution: Truman Stone Dept.: City Attorney's Office File No.:**	

RECOMMENDATION:

Adopt Resolution No. 2016-3279 appointing Joe Hannan as city manager effective June 6, 2016.

EXECUTIVE SUMMARY:

The Charter of the city provides in Chapter VIII, Appointive Officers, Section 34, city manager as follows:

> The office of city manager is established as the administrative head of the city government. The city manager is responsible to the mayor and councilors for the proper administration of all city business. The city manager will assist the mayor and councilors in the development of city policies, and carry out policies established by ordinances, resolutions, and orders.

On January 19, 2016 the council passed Resolution 2016-3251, adopting procedures for the recruitment and selection of a city manager. To date, the city has followed these adopted procedures. The final step in the process is to vote in an open council meeting regarding approval of the finalist and approval of a contract.

The city has conducted an extensive, nationwide hiring process using the services of Bob Murray & Associates. After final review, the council selected Joe Hannan as its first choice for city manager. Mr. Hannan has indicated that he desires to serve as city manager and will accept appointment. By this Resolution No. 2016-3279, the city appoints Mr. Hannan as the city manager of Newberg and ratifies the contract that city staff and Mr. Hannan have negotiated. The appointment will be effective on June 6 and he will be sworn in that evening at the council meeting.

FISCAL IMPACT: The city manager will receive an annual salary of $140,000.00. The salary and benefits are reasonable and comparable with city managers working in comparable cities. This position is budgeted in both the FY 15-16 and 16-17 budgets.

STRATEGIC ASSESSMENT: The city manager is the chief executive officer of Newberg. The city manager is a Charter officer of the city of Newberg. The city manager is responsible for implementing policy of the council, directing city administration, and achieves the goals that the council set forth.

RESOLUTION NO. 2016-3279

A RESOLUTION APPOINTING JOE HANNAN TO THE POSITION OF CITY MANAGER OF NEWBERG EFFECTIVE JUNE 6, 2016

RECITALS:

1. The Charter of the city provides in Chapter VIII, Appointive Officers, Section 34, city manager as follows:

   The office of city manager is established as the administrative head of the city government. The city manager is responsible to the mayor and councilors for the proper administration of all city business. The city manager will assist the mayor and councilors in the development of city policies, and carry out policies established by ordinances, resolutions, and orders.

2. On January 19, 2016 the council passed Resolution 2016-3251, adopting procedures for the recruitment and selection of a city manager. To date, the city has followed these adopted procedures.

3. The city has conducted an extensive, nationwide search using the services of Bob Murray & Associates.

4. The council conducted multiple interviews of candidates, selected three finalists, and received input from city employees and community members on the three finalists. The council then conducted final interviews in executive session.

5. After deliberation, the council has selected Joe Hannan as city manager of the city of Newberg, who the council determined to be the best candidate to fill this position.

6. The council directed Bob Murray to extend an offer of employment to the finalist, and staff to negotiate the contract.

7. The final step in the adopted process is to vote in an open council meeting regarding approval of the finalist and to approve the contract.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The city council appoints Joe Hannan as city manager for the city of Newberg, Oregon, effective June 6, 2016.

2. Pursuant to council direction, staff negotiated a contract with Mr. Hannan. This contract is attached as Exhibit A and by this reference incorporated. The council ratifies the contract with Mr. Hannan and authorized the Mayor to execute the contract on behalf of the city.

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3. The city council welcomes Joe Hannan as city manager for the city of Newberg.

- **EFFECTIVE DATE** of this resolution is: June 6, 2016.

ADOPTED by the city council of the city of Newberg, Oregon, this 16th day of May, 2016.

_____
Sue Ryan, City Recorder

ATTEST by the Mayor this 17th day of May, 2016.

_____
Bob Andrews, Mayor

EMPLOYMENT AGREEMENT

CITY OF NEWBERG

and

Joe Hannan

Effective June 6, 2016

EMPLOYMENT AGREEMENT
between
CITY OF NEWBERG
and
JOE HANNAN

R E C I T A L S

This Agreement is entered into this 6th day of June 2016, by and between the City of Newberg, Oregon, a Municipal Corporation, hereinafter referred to as "City," and Joe Hannan, hereinafter referred to as "City Manager," both of whom understand as follows:

1. The Charter of the City of Newberg provides in Chapter VIII, Appointive Officers, Section 34, City Manager as follows:

   "(a) The office of city manager is established as the administrative head of the city government. The city manager is responsible to the mayor and city councilors for the proper administration of all city business. The city manager will assist the mayor and city councilors in the development of city policies, and carry out policies established by ordinances, resolutions, and orders."

2. The Council has directed staff to enter into discussions with Joe Hannan concerning his possible appointment as City Manager.

3. Joe Hannan has indicated that he desires to serve and would accept the appointment of City Manager.

4. By entering into this Agreement, Joe Hannan accepts the appointment to the position of City Manager.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the City and Joe Hannan hereby agree as follows:

1. APPOINTMENT. The City appoints and Joe Hannan hereby accepts the position as the Manager of the City with the title of City Manager of the City of Newberg. This appointment is effective the 6th day of June, 2016 at which time Joe Hannan accepts the duties and responsibilities of the position. This appointment is in accordance with the Newberg City Charter, VIII, Appointive Officers, Section 34, City Manager.

2. DUTIES.

A. The City hereby employs the City Manager to perform the functions and duties specified in the City Charter and to perform such other legally permissible and proper duties the City Council shall from time to time assign. Attached is the job description which is attached as Exhibit "A", and by this reference incorporated.

B. The City Manager shall devote full time to the performance of his duties and shall not perform any additional services without the approval of the City Council, as provided herein. In the event the City Manager desires to teach, consult or provide services to another party or person, he shall first provide written notice of such intent to the Mayor and each member of the City Council. If after ten (10) days from sending notice, the Mayor or any member of the City Council does not inform the City Manager of an objection, the City Manager may perform the requested teaching, consulting, or outside service. In the event the Mayor or any member of the City Council, within ten (10) days of sending notice, informs the City Manager of an objection, the City Manager shall not perform the requested teaching, consulting, or outside services, without first obtaining formal approval by a majority of the City Council. In no event shall the City Manager perform teaching, consulting or outside services that would create a conflict with his position of City Manager or conflict with the best interest of the City. Any objection by the Mayor or a member of the City Council shall be based upon the best interests of the City. In performing any teaching, consulting or outside service, the City Manager may use accrued administrative and/or vacation leave.

C. It is recognized that the City Manager must devote a great deal of time outside the normal office hours on business for the City, and to that end the City Manager shall be allowed to establish an appropriate work schedule.

3. TERM.

A. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Mayor, with the consent of the City Council, in accordance with the City Charter, from terminating the services of the City Manager, and otherwise dismissing him from employment, at any time, without the showing of any cause, subject only to the provisions set forth in Section 11, Severance Pay, except that Section 11, Severance Pay, shall not be applicable to a termination and dismissal occasioned for the reasons set forth in Section 4, below.

B. This Agreement is for an initial term of approximately three years, commencing on the date entered into as above-stated and continuing until June 30, 2019.

C. This Agreement may be extended by mutual agreement of parties. The parties shall discuss extension of the contract on or before six (6) months prior to the end of the initial term.

4. CAUSE FOR TERMINATION & DISCIPLINE. The City shall have no obligation to pay the aggregate severance sum designated in the Section 11 entitled "Severance Pay" in the event the City Manager is terminated under this Agreement for the following reasons:

A. The City Manager is convicted of a misdemeanor involving moral turpitude, convicted of a felony, or indicted for a crime(s). In the event the City Manager is not convicted of said crime(s) or does not plead guilty to other crime(s) in settlement of charges for which he was indicted, he shall receive the severance pay in accordance with Section 11. However, he will not be entitled to pay for time following termination for indictment until severance pay is paid.

B. His termination for just cause as provided in the City's personnel rules. Examples of terminations for just cause include, but are not limited to: failure to be truthful during internal investigation, falsifying official reports, and other action that may reasonably prevent him from carrying out his duties as City Manager. The City Manager shall be given fair notice of the cause that could lead to his termination and reasonable opportunity to respond prior to termination. The City expects the City Manager to adhere to the highest professional standards, including the ICMA Code of Ethics as currently adopted or hereafter amended. His actions shall always comply with those standards.

C. It is recognized that the City Manager works without close supervision and it may be necessary to investigate any allegations being brought against the City Manager. In the event the Council has reasonable grounds to conduct such an investigation, the City Manager may be placed on administrative leave without pay for a maximum of two (2) weeks, while such an investigation occurs. If the investigation does not result in termination or discipline of the City Manager, the City Manager shall be compensated for the two (2) weeks leave.

D. The City is not obligated to conduct any type of progressive discipline with the City Manager. It is recognized that any type of discipline necessary will have an impact on his ability to perform the duties of the City Manager. However, in the event the City Council takes disciplinary action, which is less than termination, the City may suspend the City Manager without pay for a period not-to-exceed two (2) weeks. Suspension beyond that time shall be considered termination.

E. In the event the City Manager is terminated for just cause and, in resulting litigation, a court of competent jurisdiction rules that there was not just cause to terminate the City Manager, the only remedy available to the City Manager is payment of severance pay set out in Section 11. The City shall have no obligation to re-instate the City Manager.

5. RESIGNATION. In the event the City Manager wishes to voluntarily resign his position during the term of this Agreement, he shall be required to give the City one (1) month written notice of such intention. The City Manager will cooperate in every way with the smooth and normal transfer to a newly appointed manager. A voluntary resignation does not invoke Section 11, Severance Pay.

6. COMPENSATION. The City agrees to pay the City Manager the following compensation for the above-mentioned services as City Manager:

A. Base Salary: An annual base salary of $140,000.00 commencing upon employment, and payable in installments at the place and time as other City employees are paid. The base salary may be adjusted by the City Council from time to time. The budget process may increase compensation as other employees receive increases such as cost of living adjustments. Beginning July 1, 2017, the City Manager shall be entitled to cost of living adjustments as other non-represented employees receive.

B. Retirement: The City Manager shall be placed in the Public Employee Retirement System. The City shall pay the employees' portion to PERS. This is in accordance with other managerial employees of the City.

C. Fringe benefits: The City Manager is entitled to fringe benefits equal to that of other employees employed in the administrative capacity, which includes health benefits (currently at 90% paid premium), except the City shall pay the amount of a premium due for term life insurance in the amount of three (3) times the City Manager's annual salary, including all increase and base salaries of the life of this agreement. The City Manager shall name the beneficiary of the life insurance policy.

D. The City hereby agrees to pay the expenses of the City Manager's necessary travel lodging and meal expenses (consistent with City policies) to represent the City at the annual League of Oregon Cities' Conference, and conferences or meetings of state committees or commissions upon which the City Manager serves as a member, and for such other official meetings or travel as are reasonably necessary for the professional advancement of the City Manager as approved by the City Council. said Membership on state commissions or committees is subject to the approval of the City Council. Expenditures are subject to the budgetary process of the City.

E. The City hereby agrees to pay the normal business expenses of the City Manager such as travel expenses, mileage, and other normal out of pocket business expenses at the rate designated by the personnel manual and subject to the budgetary process of the City.

F. The City shall support the City Manager with equipment and other electronic means such as cellular telephone reimbursement in accordance with the practices of other managerial personnel of the City, which shall be a minimum reimbursement of $80.00 per month. Since the City Manager is a Charter appointed position, similar to the City Attorney, it is anticipated the City Manager will receive the same level of support, expenses, and equipment as the City Attorney. Such expenses are subject to the budgetary process of the City.

7. SICK LEAVE AND VACATION.

A. Sick Leave. Upon commencing employment, the City Manager shall be credited with 40 hours of sick leave. City Manager shall then accrue sick leave at the highest rate currently provided to the City of Newberg's employees.

B. Vacation. City Manager shall accrue vacation leave on an annual basis at the City of Newberg's current benefit equivalent to an employee that has been employed 5 years but less than 10 years (15 vacation days per year (120 hours)). The City Manager is entitled to accrue all unused vacation and sick leave subject to the same limitations as other employees of the City of Newberg, and in the event City Manager's employment is terminated, either voluntarily or involuntarily, City Manager shall be compensated for all accrued vacation time, paid holidays, and unused administrative leave to the date of termination.

8. ADMINISTRATIVE LEAVE. The City Manager shall be credited with fifteen (15) days of administrative leave on July 1, 2016, and shall annually be credited with an additional fifteen (15) days. Unused administrative leave does not accumulative or carry over from one fiscal year to the next.

9. ATTENDANCE AT NATIONAL CONFERENCES. The City Manager is allowed to attend national conferences as the budget of the City allows.

10. EVALUATION. The City Council shall evaluate the work performance of the City Manager annually. The City Council may choose to perform an evaluation on or around the six-month anniversary of the City Manager's commencement of work under this contract as an interim evaluation. The City Council shall communicate its evaluation to the City Manager in Executive Session. The failure of the City Council to conduct an annual evaluation shall not operate as a defense to any action by the City with respect to this Agreement or the employment of the City Manager. Consideration shall be given on an annual basis to adjust compensation at or about the time of the evaluation.

11. SEVERANCE PAY. In the event of any involuntary termination of the City Manager during the term of this Agreement, he shall be entitled to severance pay in the manner as follows:

A. City shall provide a minimum severance payment equal to six (6) months salary at the current rate of pay on the date of termination, including the cost of health insurance. This severance shall be paid as a lump sum unless otherwise agreed to by City and City Manager. The sum shall be paid within 30 days of termination.

B. City Manager shall be compensated for accrued time as provided in Section 7.

C. Termination by the City, as used in this paragraph, means the City Manager's discharge or dismissal by the Mayor with consent of the City Council or the City Manager's resignation following a salary reduction greater in percentage than an across-the-board reduction for all employees or failure to receive a salary increase equal to the increase received by all employees (commonly known as cost of living increase), or the City Manager's resignation following a formal request to him by the City Council that he resign. This provision does not apply to a voluntary resignation by City Manager.

D. Despite any contrary provision of Section 4, Cause for Termination, this Section, or any other part of this Agreement, all severance pay under this Section shall be paid only on or after the date the City Manager has a separation from service with the employer.

12. BONDING. The City shall bear the full cost of any fidelity or other bonds required of Employee under any law or ordinance.

13. INDEMNIFICATION. The City agrees that it shall defend, hold harmless, and indemnify the City Manager from all demands, claims, suits, actions, errors, or other omissions in legal proceedings brought against the City Manager in his individual capacity or in his official capacity, or in his official capacity as agent or employee of the City, provided the incident arose while the City Manager was acting within the scope of his employment. If in the good faith opinion of the City Manager, a conflict exists as regards to the defense of any such claim between the legal position of the City and the City Manager, the City Manager may engage counsel, in which event, the City shall indemnify the City Manager for the cost of legal counsel.

14. APPLICABLE LAW. This Agreement is construed under the laws of the State of Oregon and the Charter of the City of Newberg.

15. ATTORNEY'S FEES. In the event of any suit or action herein, the prevailing party in such suit or action shall be entitled to reasonable attorney's fees to be fixed by the trial court, and if an appeal is taken from the decision of the trial court, such further sum as may be fixed by the appellate court as reasonable attorney's fees in the appellate court, together with prevailing party costs and disbursements incurred therein.

16. OTHER TERMS AND CONDITIONS OF EMPLOYMENT. The City shall, by amendments to this Agreement, fix such other terms and conditions of employment, from time to time, as it may determine, relating to the performance by the City Manager with the agreement of said City Manager, provided such terms and conditions are not inconsistent or in conflict with the provisions of this Agreement.

17. SEVERABILITY. It is understood and agreed that if any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with the laws of the State of Oregon, the validity of the remaining portion of the Agreement shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision.

[*continued on the next page*]

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate and affixed their signatures.

CITY OF NEWBERG **CITY MANAGER**

_____ _____

Bob Andrews, Mayor Date Joe Hannan Date

By Authority of a Resolution 2016-3279
May 16, 2016

This Agreement prepared by the City Attorney
and APPROVED AS TO FORM & CONTENT:

_____

Truman A. Stone, City Attorney Date

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016

Order No.	Ordinance No.	Resolution No. 2016-3288	Motion	Information
___	___	XX	___	___

SUBJECT: A Resolution approving a new design and replacement of the existing downtown banners with new banners celebrating George Fox University's 125th anniversary	**Contact Person (Preparer) for this Motion: Jessica Pelz, AICP** **Dept.: Community Development** **File No.: G-16-006**

RECOMMENDATION: Adopt Resolution No. 2016-3288 approving a new design and replacement of the existing downtown banners with new banners celebrating George Fox University's 125th anniversary.

EXECUTIVE SUMMARY: On January 5, 2005, the Newberg City Council adopted Resolution No. 2005-2553, which created the downtown street banner program by approving the initial spring and fall banner designs and adopted an official Newberg slogan of "Newberg – Home of George Fox University". Subsequent Resolutions (2005-2579, 2005-2607) approved summer and winter banner designs. In 2010, the Newberg City Council adopted Resolution No. 2010-2903, approving a new design for the fall banners, which were designed and paid for by George Fox University.

The University is now requesting City Council approval to replace the existing banners with a new banner design celebrating the University's 125th anniversary. The proposed 125th anniversary banners would be hung in August and would remain for an entire year, barring other events that necessitate the banners be taken down, such as for the Special Olympics and holiday decorations.

FISCAL IMPACT: The Newberg Public Works Department currently handles all banner changes, and would be in charge of hanging the new banner as well. George Fox University would pay for the design and fabrication of the new banners. Therefore, there is not a fiscal impact to the city.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS): Approval of the Resolution supports City Council goal #4: "Foster and encourage economic development in the community" by supporting one of our major community partners.

RESOLUTION NO. 2016-3288

A RESOLUTION APPROVING A NEW DESIGN AND REPLACEMENT OF THE EXISTING DOWNTOWN BANNERS WITH NEW BANNERS CELEBRATING GEORGE FOX UNIVERSITY'S 125TH ANNIVERSARY

RECITALS:

1. The Newberg City Council approved the downtown street banner program in 2005 through adoption of Resolutions No. 2005-2553, 2005-2579, and 2005-2607. The program is a collaboration between the City of Newberg and George Fox University, and the city adopted the slogan of "Newberg – Home of George Fox University" in order to support the banner program and to allow George Fox University's name and/or logo to be included on the banners. The Resolutions approved four designs, one for each season, with the banners to be changed out quarterly.

2. In 2010, the City Council approved Resolution No. 2010-2903, approving a new design for the fall banners, which were designed and paid for by George Fox University.

3. George Fox University is now requesting City Council approval to replace the existing banners with a new banner design celebrating the University's 125th anniversary. The proposed 125th anniversary banners would be hung in August and would remain for an entire year, barring other events that necessitate the banners be taken down, such as for the Special Olympics and holiday decorations. George Fox University would pay for the design and fabrication of the new banners.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The George Fox University 125th anniversary banners are approved to replace the existing street banners in the downtown area, with the design as shown in Exhibit "A". The anniversary banners are approved to remain in place for a one-year period, from August 2016 to August 2017.

2. Exhibit "A" is hereby attached and by this reference approved.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: May 17, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of May, 2016.

_____
Sue Ryan, City Recorder

ATTEST by the Mayor this 19th day of May, 2016.

_____
Bob Andrews, Mayor


GEORGE FOX
UNIVERSITY
EST. 1891
125
YEARS

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016				
Order ___ No.	**Ordinance ___ No.**	**Resolution __ No.**	**Motion ___**	**Information XX**
SUBJECT: Resolution 2016-3292			**Contact Person (Preparer) for this Item: Nancy McDonald Dept.: Human Resources File No.:**	

EXECUTIVE SUMMARY:

Interim Human Resources Director Nancy McDonald is preparing Resolution 2016-3292, an update on PERS for the City Council meeting on May 16, 2016. The RCA for this Resolution will be sent out on Friday, May 13.

May 16, 2016 Newberg City Council

Supplemental Packet – Electronic:

Resolution 3303 – Insert after Page 49

Resolution 3292 – Insert after Page 124

Ordinance 2016-2801: Staff presentation for Monday night & Public Testimony received on May 12, 2016

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016				
Order No. ___	**Ordinance No.** ___	**Resolution No. 2016-3303** XX	**Motion** ___	**Information** ___
SUBJECT: A Resolution approving a lease of city owned property located at 305 W. Illinois Street.			**Contact Person (Preparer) for this Motion: Jay Harris** **Dept.: Public Works** **File No.:**	

HEARING TYPE: **ADMINISTRATIVE**

RECOMMENDATION:

Adopt Resolution No. 2016-3303.

EXECUTIVE SUMMARY:

The City of Newberg owns a single family residence on 0.24 acres of property located at 305 W. Illinois Street, shown as Tax Lot 1601 on Yamhill County Assessors Map 3S-2W-18CA, commonly known as the highway 240 lift station and house. The site is located on the north side of W. Illinois street (Hwy 240) near the intersection of N. Morton Street.

The city purchased a 0.45 acre single family home site in March of 2009 by Council Resolution #2008-2822 for the construction of the Highway 240 wastewater lift station. The lift station and force main improvements were completed in February of 2011. In 2012, Partition Plat #2012-21 recorded, which completed the division of the 0.45 acre property into two parcels.

Parcel 1, the existing house parcel, was listed for sale last winter with Coldwell Banker, but due to a property line dispute with the adjacent property located at 301 W. Illinois Street, the sale has been temporarily suspended. An agreement is being reached with the adjacent property owner by the dedication of several easements, which will be presented to Council under a separate resolution.

The incoming Newberg City Manager is Joe Hannan, who starts on June 6, 2016. Manager Hannan is relocating from out of state and needs temporary housing until a permanent residence is acquired. The availability of rental housing in Newberg is currently very limited. The existing city owned residence 305 W. Illinois Street is vacant, in good repair, and ready for occupancy. Manager Hannan has agreed to temporarily lease the aforementioned property and a draft copy of the lease agreement is attached as Exhibit A.

FISCAL IMPACT:

Chehalem Property Management managed the lease of 305 W. Illinois Street until the property was listed for sale last year, and is very familiar with the Newberg rental market. Chehalem Property Management was contacted last week for an opinion of lease value for the residence and indicated that the property would lease for approximately $1,700 per month, not including landscape maintenance services.

The proposed property lease to Manager Hannan is for $2,000 per month, including landscape maintenance. The proceeds from the property lease will be deposited in the wastewater fund, account number 06-0000-343000, Illinois Street rental.

STRATEGIC ASSESSMENT:

The temporary lease of the 305 W. Illinois Street property will enable the new City Manager to obtain short term housing while searching for a permanent residence. The city will receive monthly payments during the lease period and relist the property for sale upon the completion of the temporary lease.

RESOLUTION NO. 2016-3303

A RESOLUTION APPROVING THE LEASE OF CITY OWNED PROPERTY LOCATED AT 305 W. ILLINOIS STREET.

RECITALS:

1. The City of Newberg owns approximately 0.45 acres of property at 305 W. Illinois Street, shown as Tax Lots 1601 and 1602 on Yamhill County Assessors Map 3S-2W-18CA, commonly known as the highway 240 lift station and house. The site is located on the north side of W. Illinois street (Hwy 240) near the intersection of N. Morton Street.

2. The 2007 City of Newberg Sewerage Master Plan identified a priority project to reduce the winter wastewater overflows into Chehalem Creek at the Dayton Avenue pump station. The city purchased the 0.45 acre property single family home site located at 305 W. Illinois Street for $282,000 in March of 2009 by Council Resolution #2008-2822 for the construction of the Highway 240 pump station.

3. The lift station and force main improvements were completed in February of 2011, which began bypassing flows away from the Dayton Avenue pump station. In 2012, Partition Plat #2012-21 recorded, which completed the division of the property into two parcels. Parcel 1, the existing house parcel, was listed for sale last winter with Coldwell Banker.

4. Due to a property line dispute with the adjacent property located at 301 W. Illinois Street, the sale of 305 W. Illinois Street has been temporarily suspended. An agreement is being reached with the adjacent property owner by the dedication of several easements, which will be presented to Council under a separate resolution.

5. The incoming Newberg City Manager is Joe Hannan, who starts on June 6, 2016. Manager Hannan is relocating from out of state and needs temporary housing until a permanent residence is acquired. The availability of rental housing in Newberg is currently very limited. The existing city owned residence 305 W. Illinois Street is vacant, in good repair, and ready for occupancy. Manager Hannan has agreed to temporarily lease the aforementioned property and a draft copy of the lease agreement is attached and hereby incorporated as Exhibit A.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council approves a temporary lease of the city owned property at 305 W, Illinois Street, Newberg Oregon, to Mr. Joe Hannan.

2. The City Council delegates, authorizes, and directs the Mayor, to perform all necessary acts to create, modify, and execute all necessary documents, and carry out any other necessary matters in order to complete the lease agreement. All documents and agreements shall be approved as to form and content by the City Attorney.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: May 17, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of May, 2016.

_____
Sue Ryan, City Recorder

ATTEST by the Mayor this 19th day of May, 2016.

_____
Bob Andrews, Mayor

FORM No. P8i8A
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Portland, OR www.stevensness.com BSA

RENTAL AGREEMENT (Page 1)

Dwelling Unit Only – Month-to-Month Tenancy or Lease for Term

THIS AGREEMENT, dated i-Em^--L, 2016, between Crty of Newberg, landlord or agent ("landlord"), and Jo^ Qnn! ^Ae/)le4 Hannan, tenant;

WITNESSETH: That in consideration of the payment of the rents and the performance of the terms of tenant's covenants herein contained, landlord hereby rents to tenant, and tenant rents from landlord, for use as a residence, the premises located at 305 W. JTjUvWs Erwee-h Newberg Oregon, 97132.

TENANCY – This Agreement creates a (check one):

☒ month-to-month tenancy beginning yPV/jflZ.Oj(p

☐ lease term of _____ commencing _____, and ending _____

at a rental of $2,000- per month, payable monthly in advance on the 1st day of each and every month. Rents are payable at the following address: ±5--11Qf-S-to, £14-JET-IVRRL Street Newberg Oregon 97132.

If rent is not received by the fourth day of the period for which it is due, tenant shall pay a late charge of (check one): ☒ $75-, as a flat amount; ☐ $_____, charged on a per day basis beginning on the fifth day of the period; or ☐ 5% of the amount of the payment for each 5-day period, or portion thereof the payment is late.[1] Any dishonored check shall be treated as unpaid rent and be subject to the same late charge, plus a $--3DT-- special handling fee and must be made good by cash, money order or certified check within 24 hours of notification. In case two or more rent payments are late, landlord reserves the right to require tenant to pay rent by cash or money order only, upon reasonable notice to tenant of such requirement. Furthermore, if rent is not paid when due and tenant fails for any reason to pay rent within 7 days after its due date, landlord may terminate this Agreement in the manner provided by ORS 90.394 and take possession of the premises in the manner provided by ORS 105.105 to 105.168.

RENT

	AMOUNT	DUE
First Month's Rent (due on or before 06/06/2016)	$ 2,0.00	$ 2,000
Prorated Second Month's Rent, if applicable	$ —	

DEPOSITS – Landlord charges the following deposits for the premises at this time (check all that apply):

	AMOUNT	DUE
☐ Security Deposit	$ —	$ —
☐ Last Month's Rent Deposit	$ —	$ —
☐ Pet Deposit (Note: No pet deposit may be charged for a service or companion animal that a tenant with a disability requires as a reasonable accommodation)	$ —	$ —
Total Deposits Due on or Before	—	$ —

Landlord may claim all or any part of the security deposit only in the amount reasonably necessary: (1) to remedy tenant's defaults in the performance of this Agreement including, but not limited to, unpaid rent; and (2) to repair damages to the premises caused by tenant, not including ordinary wear and tear; however, landlord may deduct the cost of carpet cleaning regardless of whether tenant cleans the carpet before tenant delivers possession to landlord at the end of the tenancy. To claim all or part of a deposit, landlord shall give tenant, within 31 days after termination of the tenancy and delivery of possession of the premises to landlord: (1) a written accounting (S-N Form No. 579, Landlord's Final Accounting) which states specifically the basis or bases of the claim; and (2) any unclaimed portion of the deposit. Landlord may recover damages in excess of the security deposit to which landlord may be entitled. Landlord may not change this Agreement to require the payment of a new or increased security deposit during the first year of the tenancy, except that an additional deposit may be required if landlord and tenant agree to modify the terms and conditions of this Agreement to permit a pet or for other cause and the additional rent related to that modification.

FEES – Landlord charges the following fees for violations of this Agreement or residency rules at this time (check all that apply):

☒ Late rent payment (per occurrence), as set forth above	$ 9S ~
Dishonored check (per occurrence), as set forth above	$ 30 ·
Removal or tampering with a properly functioning smoke alarm, smoke detector or carbon monoxide alarm[2]	$ «?5D -
☐ Violation of a written pet agreement	$ —
☐ Abandonment or relinquishment of the premises during a fixed-term tenancy (may not exceed *Wi* months' rent; other restrictions apply under ORS 90.302(2)(e))	$ —
☐ Repeat violation of written rules or policies after written warning[3] (check all that apply):	
☐ Late payment of a utility or service charge paid to landlord	$ —
☐ Failure to clean up pet waste outside dwelling unit	$ —
☐ Failure to clean up the waste from a service or companion animal outside dwelling unit	$ —
☐ Failure to clean up garbage, rubbish or other waste outside the dwelling unit	$ —
☐ Parking violations	$ —
☐ Improper use of vehicles on the premises	$ —
☐ Smoking in a clearly designated nonsmoking unit or area of the premises[4]	$ —
☐ Keeping on the premises an unauthorized pet capable of causing damage to persons or property, as described in ORS 90.4055	$ —

Fees for landlord's anticipated expenses may not be charged at the beginning of the tenancy. Landlord cannot demand payment of fees except as provided by law. Fees cannot be deducted from rent payments. Landlord may terminate the tenancy for violations instead of assessing fees, but cannot charge a fee and terminate this Agreement for the same noncompliance. This statement of fees does not apply to charges for improvements or other actions that are requested by tenant and are not required of landlord by agreement or by law, including but not limited to the cost to replace a key lost by tenant or to charges that are permitted under ORS 90.302(7).

Tenant Initials _____ (continued on page 2)

[1] **Charge no more than permitted by ORS 90.260.**

[2] **Landlord may charge a fee up to $250 unless the Fire Marshal assesses the tenant a penalty under applicable rules. ORS 90.302(2)(c).**

[3] **Fee can be assessed only if repeat violation occurs within one year of receiving written notice of the same violation. Fee for second violation within a year may not exceed $50; fee for third or subsequent violation(s) within a year may not exceed $50 plus 5% of the rent payment. ORS 90.302(3)(a).**

[4] **Maximum fee of $250. Landlord cannot assess fee for second or subsequent noncompliance until 24 hours after serving written notice of original noncompliance.**

[5] **Maximum fee of $250. Landlord cannot assess fee for second or subsequent noncompliance until 48 hours after serving written notice of original noncompliance.**

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.

IT IS FURTHER MUTUALLY AGREED between the parties as follows:

1. Occupancy. The premises shall be occupied by no more than ____ children and 2 adults, namely Sheje and Shejje. HfivmfiLvx.
No additional or other adult tenants may occupy the premises without landlord's written consent.

2. Use of Premises. The premises shall be used for dwelling purposes only and not for business without landlord's prior written consent.

3. Tenant Compliance. Tenant shall not violate any city or county ordinance or state or federal law in or about the premises. Tenant shall comply with the terms of this Agreement, and with any rules and regulations that may be published by landlord in conformance with law or ordinance.

4. No Assignment. Tenant shall not sublet the premises, or any part thereof, or assign this Agreement without landlord's written consent.

5. Landlord's Right of Termination. If tenant fails to pay rent or other charges promptly when due, or to comply with any other term or condition hereof, landlord, at landlord's option and after proper written notice, may terminate this tenancy.

6. Tenant to Keep Premises Clean. Tenant shall maintain the premises in a clean and sanitary condition at all times, and upon the termination of the tenancy shall surrender the premises to landlord in as good condition as when received, ordinary wear and tear and damage by the elements excepted.

7. Mold. Because mold spores are ever-present in the air, the potential for mold exists in any living space. The key to reducing the risk of a mold problem is keeping the premises clean and dry, particularly in winter months. Tenant shall minimize mold by: keeping the premises ventilated; keeping hard surfaces clean and dry (walls, doors, windows, windowsills, countertops, etc.); placing furniture at least an inch from exterior walls; opening window coverings every day (curtains, blinds, shades, etc.); running bathroom fans for an hour after bathing (or opening the bathroom window slightly if there is no fan). Additional information is available from the EPA at www.epa.gov/mold/moldresources.html. Tenant shall report excessive mold development to landlord immediately.

8. Landlord's Right of Entry. Tenant shall permit landlord at any and all reasonable times, upon 24 hours' notice to tenant, to enter and go upon the premises for the purpose of examining its condition, or to make such repairs and alterations as landlord shall deem necessary or to show the premises to prospective purchasers, mortgagees, tenants, workers or contractors, provided always that in case of emergency landlord may enter the premises without notice.*

9. Locks and Keys. There shall be working locks on all outside doors, and landlord shall provide tenant with keys to the premises at the beginning of the tenancy. Tenant must return keys at termination of the tenancy.

10. Responsibility to Maintain Grounds. ☐ Tenant ☒ Landlord (indicate which) shall properly cultivate, care for and adequately water the lawn and landscaped grounds.

11. Landlord's Obligations. Landlord shall supply electric wiring, plumbing facilities which produce hot and cold running, safe drinking water and adequate heating facilities.

12. Utilities. Tenant shall pay for all natural gas, electricity, telephone, television and internet service, subject to disclosures and limitations as set forth herein. All other services will be paid for by landlord or tenant as follows:

	Water	Sewer	Garbage Service**	_____	_____
Tenant	W	H	ET	☐	☐
Landlord	☐	☐	☐	☐	☐

☐ (Check if applicable.) Tenant shall pay for a utility or service that directly benefits landlord or other tenants. That service is described as follows: _____. That service is delivered to the following area other than tenant's dwelling unit: _____.

☐ (Check if applicable.) Landlord is directly billed by the service provider for the following service or services provided to a common area available to tenant as part of the tenancy: -_____. Landlord allocates the provider's charges between tenants by assigning a reasonable percentage of such charges to each tenant. Tenant's share of such charges shall be ____%, and is based on _____.

☐ (Check if applicable.) Landlord is billed directly by the provider of (check all that apply) ☐ cable television ☐ direct satellite ☐ other video subscription services ☐ internet access or usage, which landlord then bills to tenants by assigning to each tenant a reasonable percentage of such charges. Tenant's share of such charges shall be ____%, and is based on _____. Landlord may charge tenant an additional amount of not more than 10% of the utility or service charge billed to tenant, provided that the total of the utility or service charge billed to tenant, plus the additional amount, is less than the typical periodic cost tenant would incur if tenant contracted directly with the provider for the subject services. Billings or notices for such services from landlord to tenant shall list the additional amount separately from tenant's prorated share of the provider's utility or service charges.

13. Smoke and Carbon Monoxide Alarms. The premises is equipped with one or more M battery-operated ☐ hard-wired ☐ hard-wired with battery backup (indicate which) smoke alarm(s), and one or more ☒ battery-operated ☐ hard-wired with battery backup ☐ plug-in with battery backup (indicate which) carbon monoxide alarm(s) ***if the*** premises contains (a) a carbon monoxide source; or (b) is within a structure that contains a carbon monoxide source and is connected to the room in which the carbon monoxide source is located by a door, ductwork or a ventilation shaft. If the smoke alarm is battery-operated, the battery is a 10-year battery. Landlord tested the alarms prior to this tenancy and determined that they are working properly, and the batteries have power, as of (date) March 15, 2016. Tenant is responsible for testing the alarms no less than every six months. To test alarm(s): Push test button.
_____
_____.
Tenant is responsible for replacing dead batteries, and must use only 10-year batteries in the smoke alarm(s).

14. Tenant Damage. Tenant agrees to assume all liability for, and to hold landlord harmless from, all damages and all costs and fees in the defense thereof, caused by the negligence or willful act of tenant or tenant's invitees or guests, in or upon any part of the premises, and to be responsible for any damage or breakage to tenant's equipment, fixtures or appliances therein or thereon, not caused by landlord's misconduct or willful neglect.

Tenant Initials _____ **(continued on page 3)**

*** Thereafter, comply with ORS 90.322.**
**** See ORS 90.320; however, some municipalities (e.g., the City of Portland) require landlords to subscribe to and pay for garbage service.**

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.

15. Renter's Liability Insurance. (Check one): ☐ Landlord does not require tenant to obtain renter's liability insurance. ☒ Landlord requires tenant to obtain and maintain renter's liability insurance in the amount of $ 100,000* and (check one) ☐ hereby acknowledges receipt of documentation of such insurance JS expects tenant to obtain such insurance and provide documentation thereof.

16. Landlord's 24-Hour Notice**.** Landlord, after at least 24 hours' written notice specifying the acts and omissions constituting the cause and specifying the date and time of termination, may terminate this Agreement and take possession in the manner provided by ORS 105.105 to 105.168, if (a) tenant, someone in tenant's control or tenant's pet seriously threatens to inflict substantial personal injury, or inflicts any substantial personal injury, upon a person on the premises other than tenant; (b) tenant or someone in tenant's control recklessly endangers a person on the premises other than tenant by creating a serious risk of substantial personal injury; (c) tenant, someone in tenant's control or tenant's pet inflicts any substantial personal injury upon a neighbor living in the immediate vicinity of the premises; (d) tenant or someone in tenant's control intentionally inflicts any substantial damage to the premises or tenant's pet inflicts substantial damage to the premises on more than one occasion; (e) tenant intentionally provided substantial false information on the application for the tenancy within the past year; the false information was with regard to a criminal conviction of tenant that would have been material to landlord's acceptance of the application; and landlord terminates the rental agreement within 30 days after discovering the falsity of the information; or (1) tenant or someone in tenant's control or tenant's pet commits any act that is outrageous in the extreme, on the premises or in the immediate vicinity of the premises.

17. Unauthorized Person. If an unauthorized person is in possession of the premises, after at least 24 hours' written notice specifying the cause and the date and time by which the person must vacate, landlord may take possession as provided in ORS 105.105 to 105.168 if tenant has vacated the premises, the rental agreement prohibits subleasing or allowing another person to occupy the premises without landlord's written consent, and landlord has not knowingly accepted rent from the person in possession of the premises.

18. Parking. ☐ (Check if applicable.) Parking is provided on the rented premises. If the premises is larger than a duplex, a Parking Addendum (S-N Form No. 542) is provided herewith and made a part hereof.

19**. Undriveable Vehicles and Car Repair.** Tenant shall not allow any undriveable vehicle to remain on the premises for more than 24 hours**.** No car repairs are to be made on the premises, including minor maintenance such as an oil change.

20**. Tenant's Extended Absence.** Tenant agrees to notify landlord of tenant's anticipated extended absence from the premises in excess of 7 days, no later than the first day of the extended absence.

21**. Addresses for Service. The** owner (or **agent** for service) is City of Newberg, c/o City Attorney
Address 414 E. 1st Street, Newberg OR 97132 Phone 503.SfjSriL1206
The manager is City of Newberg, jpRyf'c Works Director
Address 414 E. 1st Street, Newberg OR 97132 Phone 503.537.1234

22. Written Notices. Written notices may be served persbnally, by first class mail, or by mailing and posting as set forth herein.

23. Service of Notice on Tenant by Mail and Attachment. If landlord chooses to serve a written notice on tenant by mail and attachment, such service is deemed served on the day that it is both mailed by first class mail to tenant at the premises and also attached securely to the main entrance of that portion of the premises of which tenant has possession and/or has leased hereby.

24**. Service of Notice on Landlord.** A written notice from tenant to landlord is deemed served on the day it is both mailed by first class mail to the above owner/agent (see paragraph 2) and also attached securely to the following location - Newberg City Hall, 414 E. 1st Street, Newberg OR 97132 **

25. Termination of Month-to-Month Tenancy. If this is a month-to-month tenancy, tenant may terminate at any time by giving landlord 30 days' written notice prior to the date designated in the termination notice, whereupon the tenancy shall terminate on the date designated. During the first year of the tenancy, landlord may terminate at any time by giving tenant 30 days' written notice prior to the date designated in the termination notice; thereafter, landlord may terminate without cause by giving tenant 60 days' written notice prior to the date designated in the termination notice, as outlined in ORS 90.427.

26. Holding Over. Any holding over by tenant after the expiration of this Agreement or any extension thereof, when neither party has issued a written termination notice, shall result in a continuation of this Agreement as to all of its terms, except that the period of the tenancy shall be the same period as that of the rental payment.

27**. Abandoned Personal Property.** Upon termination of this Agreement or the surrender or abandonment of the premises, and it reasonably appearing to landlord that tenant has left property upon the premises with no intention of asserting further claim to such property or the premises, or if tenant has been continuously absent for 7 days after termination of the tenancy by an unexecuted court order, or if landlord elects to remove such property, landlord may give tenant notice in accordance with ORS 90.425 (S-N Form No. 539, Abandoned Property Notice) that the property is considered abandoned and unless the property is removed from the premises or place of safekeeping by a date specified in the notice, the property will be sold or otherwise disposed of and the proceeds of sale, if any, applied as provided by law.

28**. Pets.** If pets are allowed, a Pet or Aid Animal Addendum (S-N Form No. 535) is provided herewith and made a part hereof.

29**. Smoking** Policy. "Smoking" is defined as carrying, inhaling, exhaling, burning or handling of any kind of lighted pipe, cigar, cigarette, or any other lighted smoking equipment containing any burning substance or product, including tobacco, that is intended for human consumption by means of inhaling the smoke therefrom. Infant and all persons on the premises with the consent of tenant or under tenant's control shall comply with this smoking policy (check one): JS Smoking is prohibited anywhere on the entire premises; ☐ Smoking is permitted on the entire premises; ☐ Smoking is permitted in limited areas on the premises (check one): ☐ outside each dwelling unit, more than 25 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area, so as to ensure that smoke does not enter the area through entrances, exits, open windows, or other means ☐ in the place designated by landlord, described as: _____

☐ (Check if applicable.) Landlord is "phasing in" a no-smoking policy for this entire premises. Tenant's dwelling unit is non-smoking, but other rented units on the premises may permit smoking until such time as landlord's no-smoking policy has been completely phased in. Neither tenant nor landlord shall be liable to the other for damage as a result of smoking by other tenants in or about rented dwelling units other than the subject unit, except that no smoking is permitted within 25 feet of any nonsmoking dwelling unit on this entire premises.

Tenant Initials _____ (continued on page 4)

*** May not exceed $100,000 or the customary amount required by landlords for similar properties with similar rents in the same rental market, whichever is greater. Landlord must comply with written notice requirements to tenant, and cannot require renter's liability insurance in a variety of circumstances. See ORS 90.222 for restrictions on and requirements for requiring renter's liability insurance.**

**** See ORS 90.155.**

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.

30. **Marijuana.** Tenant ☐ may ☒ may not (indicate which) grow medical and/or recreational marijuana on the premises. If allowed, tenant must obtain landlord's prior written consent before installing any equipment or otherwise modifying the premises, which consent may be withheld at landlord's discretion. Tenant shall be solely responsible for any and all damage to the premises resulting from growing or using marijuana, including but not limited to damage related to equipment, moisture or smoke. Tenant shall fully comply with the Smoking Policy disclosed herein and must strictly comply with any applicable state laws governing marijuana.

31. **Flood Plain Disclosure.** The premises ☐ is ☒ is not (indicate which) located in a 100-year flood plain.

32. **Lead-Based Paint Disclosure.** ☐ (Check if applicable, and complete the following.) The premises was built prior to 1978.*

LEAD WARNING STATEMENT – Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, landlords must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Tenants must also receive a federally approved pamphlet on lead poisoning prevention.

LANDLORD'S DISCLOSURE – Presence of lead-based paint and/or lead-based paint hazards (check one):

☐ Known lead-based paint and/or lead based paint hazards are present in the housing. (Explain) _____

_____

☐ Landlord has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

Records and reports available to landlord (check one):

☐ Landlord has provided tenant with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing. (List documents) _____

_____

☐ Landlord has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

TENANT'S ACKNOWLEDGMENT (initial)

Tenant(s) _____ Tenant has received copies of all information listed above.

Tenant(s) _____ Tenant has received the pamphlet *Protect Your Family from Lead in Your Home* (S-N Pub. No. 2008).

AGENT'S ACKNOWLEDGMENT (initial, if applicable)

Agent _____ Agent has informed landlord of landlord's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

33. **Personal Property.** The following personal property is included and to be left upon the premises when tenancy is terminated: _____

_____

_____

34. **Waiver of Rights.** Nothing herein shall be construed as waiving any of the rights provided by law of either party hereto.

35. **Attorney Fees and Court Costs.** In the event any suit or action is brought to collect rents or to enforce any provision of this Agreement or to repossess the premises, reasonable attorney fees, costs and disbursements may be awarded to the prevailing party in both trial and appellate courts.

36. **Failure to Require Performance.** Failure by landlord at any time to require performance by tenant of any provision hereof shall in no way affect landlord's right hereunder to enforce the same, nor shall any waiver by landlord of any breach of any provision hereof be held to be a waiver of any succeeding breach of any provision, or as a waiver of the provision itself.

37. **Time/Essence.** Time is of the essence of this Agreement.

38. **Singular/Plural.** The words *landlord* and *tenant* shall include the plural as well as the singular.

39. **Purchase Option.** ☐ (Check if applicable.) Landlord and tenant have entered into an Option for Purchase of Real Estate (S-N Form No. 14). Until the exercise of such option, this Agreement remains the effective contract between the parties, and tenant shall not make alterations or repairs to any portion of the premises except as may be permitted or required by this Agreement, or by additional written agreement between the parties.

40. **Additional Provisions.** IHSiv\r\oty\.rl.S /TEWy have £:/3‹£ jptLt dog.

_____

_____

_____

_____

_____

☐ (Check if applicable.) If additional space is required, an Addendum to Rental Agreement (S-N Form No. 581) is provided herewith and made a part hereof.

ACKNOWLEDGMENTS AND CERTIFICATIONS

If the premises was built before 1978, the parties have reviewed the information in paragraph 32 above, and certify, to the best of their knowledge, that the information they have provided is true and accurate, and tenant acknowledges receipt of such information.

Tenant further acknowledges that tenant understands tenant's rights and obligations hereunder, and has read this Agreement, including any attachments, in its entirety, and that landlord has made no promises to tenant except as set forth in this Agreement; that tenant shall comply with all of tenant's obligations imposed pursuant to Oregon statute; and that tenant has personally inspected the premises and finds it satisfactory at the time of execution of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date stated above. Tenant acknowledges receipt of a copy of this Agreement.

_____ LANDLORD OR AGENT

_____ TENANT

_____ TENANT

* If premises was built prior to 1978, landlord must retain this rental agreement for at least three years after the commencement of the rental term.

PUBLISHER'S NOTE: Certain additional forms may be required. If landlord charges a deposit to secure execution of the Rental Agreement, *S-N Form No. 578 – Receipt for Deposit to Secure Execution of Rental Agreement and Schedule of Rent, Deposits and Fees* must be provided to applicant at the time the deposit is collected. If landlord screens tenant credit and history, *S-N Form Nos. 533 – Screening Charge Disclosure and Receipt* and *540 – Notice of Action on Application for Tenancy* must be provided to tenant. In certain circumstances, *S-N Form Nos. 542 – Parking Addendum* and *2008 – Protect Your Family from Lead in your Home* are required. Also, *S-N Form Nos. 14 – Option for Purchase of Real Estate, 526 – Dwelling Unit Condition Checklist, 535 – Pet or Aid Animal Addendum, 581 – Addendum to Rental Agreement, 582 – Personal Guaranty (Co-Signer Agreement) and 1167 – Tenant's Rental Application* may be useful. For other forms pertaining to landlord and tenant relationships, see the Stevens-Ness Legal Forms and Products Catalog or visit the website at www.stevensness.com.

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016

Order No.	Ordinance No.	Resolution No. 2016-3292	Motion	Information
___	___	XX	___	___

SUBJECT: Resolution authorizing the City Manager Pro Tem to initiate the process of participation in the Public Employees Retirement System (PERS) for all eligible Non-Represented Employees Hired on or After August 1, 2016	**Contact Person (Preparer) for this Motion: Nancy McDonald, Interim Human Resources Director** **Dept.: Administration** **File No.:**

RECOMMENDATION:

Adopt **Resolution No. 2016-3292** Authorizing the City Manager Pro Tem to initiate the process of participation in the Public Employees Retirement System (PERS) for all eligible Non-Represented Employees hired on or after August 1, 2016.

EXECUTIVE SUMMARY:

On May 11, the City Council Sub-Committee on Pensions met and discussed the growing fiduciary responsibilities and projected significant cost increases placed on the City because of the organization's participation in the Newberg Employee Retirement Plan (NERPS) with the Principal Finance Group. The Sub-Committee agreed that a change is warranted in the provider of retirement benefits for eligible Non-Represented and AFSCME-Represented Public Works employees.

Currently, all Public Safety employees, Executive, Mid-Level Management and Technical employees are already in the Public Employees Retirement System (PERS.) The Sub-Committee voted to recommend to the City Council that eligible employees hired on or after August 1, 2016 should also become members of PERS. However, on May 12/13 at an AFSCME membership (and follow-up) meeting, the Public Works employees voted down the idea of entering into a different retirement system for new employees at this time and will revisit the topic during the next round of contract negotiations.

PERS includes three programs: the Chapter 238 pension program (Tier I and Tier II members hired prior to 8/29/2003), the Oregon Public Service Retirement Plan (OPSRP), and the Individual Account Program (IAP), in which all members participate.) Terms of participation will be set out in a coverage agreement effective August 1, 2016. The Finance Director will be the City contact with PERS in the crafting of the coverage agreement between the City of Newberg and PERS, which will include the provisions that the City provides the unused sick leave benefit for Chapter 238 members; and, that the City participates in the State and Local Government Rate Pool for Chapter 238 members.

Eligible Non-Represented employees entering the PERS system under this Council action will be responsible for their 6% employee contribution into the PERS system per ORS 238A.335 (2) (a). Public Safety, Executive, Mid-Level Management and Technical employees will continue to have their 6% employee contribution picked-up by the City per ORS 238A.335 (2) (b).

FISCAL IMPACT:

There are no up-front fees for joining PERS. There are required employer and employee contributions each pay period, based on percentages of salary. Contributions for employees who are already Chapter 238 or OPSRP members will begin with the City's first payroll on or after the effective date of the coverage agreement. Contributions for employees who are required to serve a six-month waiting period will begin as of the first of the seventh calendar month after the waiting period begins.

For OPSRP, the current employer contribution rate is 7.11% of general-service employee payroll. For Chapter 238 employees the current employer contribution rate is 15.09%. Employer contribution rates are subject to change based on periodic actuarial valuations of the system with new rates effective July 1 of each odd-numbered year.

Funding for contributions into the existing NERPS retirement plan for Non-Represented employees is included in the adopted FY 2015-2016 at 24.5% and the proposed FY 2016-2017 budget at 29.32% under the appropriate benefit line.

STRATEGIC ASSESSMENT:

Freezing current membership in the NERPS plan by enrolling eligible Non-Represented new hires, as of August 1, 2016, in PERS is the most fiscally responsible decision that can be made to mitigate the double-digit percentage increases in the City's contribution rate. While the City's contribution rate to PERS will also be increasing in FY 2017-2018 the current rate through June 30, 2017 is a lower rate than that of the current and projected rate of NERPS.

The state and most local government bodies are members of the Public Employees Retirement System, therefore trying to recruit experienced candidates for position vacancies which are covered by the NERPS plan limits the City's candidate pool because established PERS member candidates most likely will not apply.

RESOLUTION NO. 2016-3292

A RESOLUTION AUTHORIZING THE CITY MANAGER PRO TEM TO INITIATE THE PROCESS FOR PARTICIPATION IN THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS) FOR ALL ELIGIBLE NON-REPRESENTED EMPLOYEES HIRED ON OR AFTER AUGUST 1, 2016

RECITALS:

1. The City Manager Pro Tem shall initiate the process of participation in the Public Employees Retirement System (PERS) for all eligible Non-Represented employees.

2. The Finance Director will be the contact person authorized to work with PERS to develop a coverage agreement.

3. All eligible Non-Represented employees hired on, or after August 1, 2016 will participate in PERS.

4. The City provides the unused sick leave benefit for Chapter 238 members.

5. The City participates in the State and Local Government Rate Pool for Chapter 238 members.

6. Eligible Non-Represented employees entering the PERS system under this Council action will be responsible for their 6% employee contribution into the PERS system per ORS 238A.335 (2) (a). Public Safety, Executive, Mid-Level Management and Technical employees will continue to have their 6% employee contribution picked-up by the City per ORS 238A.335 (2) (b).

7. Funding: Funding for contributions into the existing NERPS retirement plan for Non-Represented employees is included in the adopted FY 2015-2016 at 24.5% and the proposed FY 2016-2017 budget at 29.32% under the appropriate benefit line. PERS contributions will be covered by these appropriations.

8. The City Council Sub-Committee on Pensions has approved this change and recommends Council approval.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

The City Council approves the initiation of the process of participation in the Public Employees Retirement System (PERS) for all eligible Non-Represented employees hired on or after August 1, 2016.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: May 17, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of May, 2016.

_____
Sue Ryan, City Recorder

ATTESTED by Mayor this _____ day of May, 2016.

_____

Bob Andrews, Mayor

Development Code Amendment: Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers

Newberg City Council

May 16, 2016

File # DCA-16-001

Proposal: Amend the Newberg Development Code to address Recreational Marijuana Wholesalers, Labs, Research Certificates & Retailers

- Adds Recreational Marijuana Laboratories as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.

- Adds Recreational Marijuana Research Certificates as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.

- Adds Recreational Marijuana Retailers as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC and SD/H with footnotes for a 1,000 foot buffer from parks and schools, 1,000 foot separation between marijuana retailers and marijuana retailers to dispensaries, and operating hours limited to the hours between 9 AM and 8 PM.

Proposal (cont.)

- Adds Recreational Marijuana Wholesalers as a conditional use in C-2 with footnotes allowed indoors only and 1,000 foot buffer from parks and schools.

- Adds Recreational Marijuana Wholesalers as a permitted use in M-1, M-2, M-3, M-4-I, M-1/SP, SD/E and II with footnote 1,000 foot buffer from parks and schools.

- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in the Stream Corridor Overlay.

Proposal (cont.)

- Prohibits Recreational Marijuana Wholesalers and Retailers in the Civic Corridor Overlay.

- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in in the Bypass Interchange Overlay.

- Prohibits Recreational Marijuana Wholesalers, Laboratories and Research Certificates in the Interim Industrial Overlay.

- Prohibits Recreational Marijuana Retailers in the Interim Industrial Overlay.

Proposal (cont.)

- **Definitions**: Recreational Marijuana Laboratory, Marijuana Retailer, Marijuana Wholesaler.

The proposal is…

- A set of requirements for recreational marijuana wholesalers, laboratories, research certificates and retailers Measure 91, HB 3400 and OAR Division 25 and ORS 475B.

The proposal is not…

- A discussion about whether marijuana should be legal.
- Addressing medical marijuana.

Background

- Measure 91, HB 3400 and OAR Division 25, ORS 475B allows recreational marijuana wholesalers, labs, research & retailers.
- City Council Work Session September 8, 2015 established the Marijuana Subcommittee.
- OLCC adopted Temporary OAR's in November 2015.
- City Council initiated the Development Code amendment, February 1, 2016 (Res No. 2016-3253).
- The Marijuana Subcommittee developed recommendations to the Planning Commission, February 4, 2016.

Background (cont.)

- The Planning Commission held a public hearing on April 14, 2016.

- OLCC anticipates issuing licenses for wholesalers, labs, and research certificates beginning in April 2016 (none issued in Newberg at this time) and retailers in July 2016.

Public comments

Two public comments have been received from Leif Patterson and Canna Bros.. The comments focus on allowing retail operations and requesting a 1,000 separation between Retail operations.

Analysis

- City can regulate Place, Time and Manner (Measure 91, HB 3400, OAR Division 25, ORS 475B).

- OLCC LUCS. If LUCS indicates use is not allowed OLCC will not issue a license.

- OLCC License not issued for operations on federal property, at same location or address as medical marijuana grow site or medical marijuana processing site, medical marijuana dispensary, same location or address as liquor licensee, producers not allowed on public land or same tax lot/parcel as another producer.

Analysis (cont.)

- OLCC Licenses not issued for a primary residence.
- Wholesaler – not in area zoned exclusively for residential use.
- Retailer - not in area zoned exclusively for residential use.
- Retailer – 1,000 feet from schools (primary/secondary/public/private/parochial).
- Retailers can be required to have a separation of not more than 1,000 feet.
- Retail hours limited to 7 am to 10 pm.

Analysis (cont.)

- Research – OLCC license is good for 3 years.
- Marijuana products must be tested by a laboratory (accredited by OHA) and licensed by OLCC.
- Manner limits in Oregon Laws, ORS or OAR's – many.
- Handler Permits.
- Laws have changed again with 2016 Legislative Session.

Subcommittee Recommendation

Retail:

- Not allow retail as a permitted use in residential districts R-1, R-2, R-3, R- 4, AR, RP, and all residential sub-districts.
- Allow retail as a permitted use in all commercial zones except Civic Corridor with a footnote regarding the 1,000 foot buffer from schools and parks as noted on the third map in the packet.
- Not allow retail in industrial districts and sub-districts.
- Not allow wholesale or retail in community facilities and institutional.
- Change the hours of operation for retail to 9 am to 8 pm.

Subcommittee Recommendation

Wholesale:

- Allow wholesale as a permitted use in all residential categories including the sub-districts with no product allowed on the premises.
- Allow wholesale as a conditional use in C-2 only with a footnote regarding indoor use only and new footnote regarding the 1,000 foot buffer from schools and parks.
- Not allow wholesale or retail in community facilities and institutional.
- Allow wholesale as a permitted use in all industrial districts and sub-districts, except Airport Industrial, with a footnote regarding the 1,000 foot buffer from schools and parks.
- Not allow retail or wholesale in the other sub-districts.

Subcommittee Recommendation

Laboratories and Research Certificates:

- Allow laboratories and research in all commercial districts and sub-districts, institutional districts, and all industrial districts and sub-districts, except AI. They are not allowed in all other districts, such as residential, community facilities, and other.

Planning Commission Recommendation

- Adds Recreational Marijuana Laboratories as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.
- Adds Recreational Marijuana Research Certificates as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.
- Adds Recreational Marijuana Retailers as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC and SD/H with footnotes for a 1,000 foot buffer from parks and schools, 1,000 foot separation between marijuana retailers and marijuana retailers to marijuana dispensaries, and operating hours limited to the hours between 9 AM and 8 PM.

Planning Commission Recommendation (cont.)

- Adds Recreational Marijuana Wholesalers as a conditional use in C-2 with footnotes allowed indoors only and 1,000 foot buffer from parks and schools.

- Adds Recreational Marijuana Wholesalers as a permitted use in M-1, M-2, M-3, M-4-I, M-1/SP, SD/E and II with footnote 1,000 foot buffer from parks and schools.

- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in the Stream Corridor Overlay.

- Prohibits Recreational Marijuana Wholesalers and Retailers in the Civic Corridor Overlay.

Planning Commission Recommendation (cont.)

- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in the Bypass Interchange Overlay.

- Prohibits Recreational Marijuana Wholesalers, Laboratories and Research Certificates in the Interim Industrial Overlay.

- Prohibits Recreational Marijuana Retailers in the Interim Industrial Overlay.

- Definitions: Recreational Marijuana Laboratory, Marijuana Retailer, Marijuana Wholesaler.

Proposed Development Code Amendment

15.05.030 Definitions

- "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.

Proposed Development Code Amendment

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

15.305.020 Zoning use table

See Exhibit A, Attachment 1 (after page 109) for Table

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

15.305.030 Zoning use table

See Exhibit A, Attachment 1 (after page 109) for Table

Proposed Development Code Amendment

Sections 4 – 8. See Pages 104 - 107.

Findings

- Citizen involvement/public process goals: Code adoption requires at least 2 public hearings, newspaper notice. Also have a webpage on city website. Approval would be consistent with this goal.

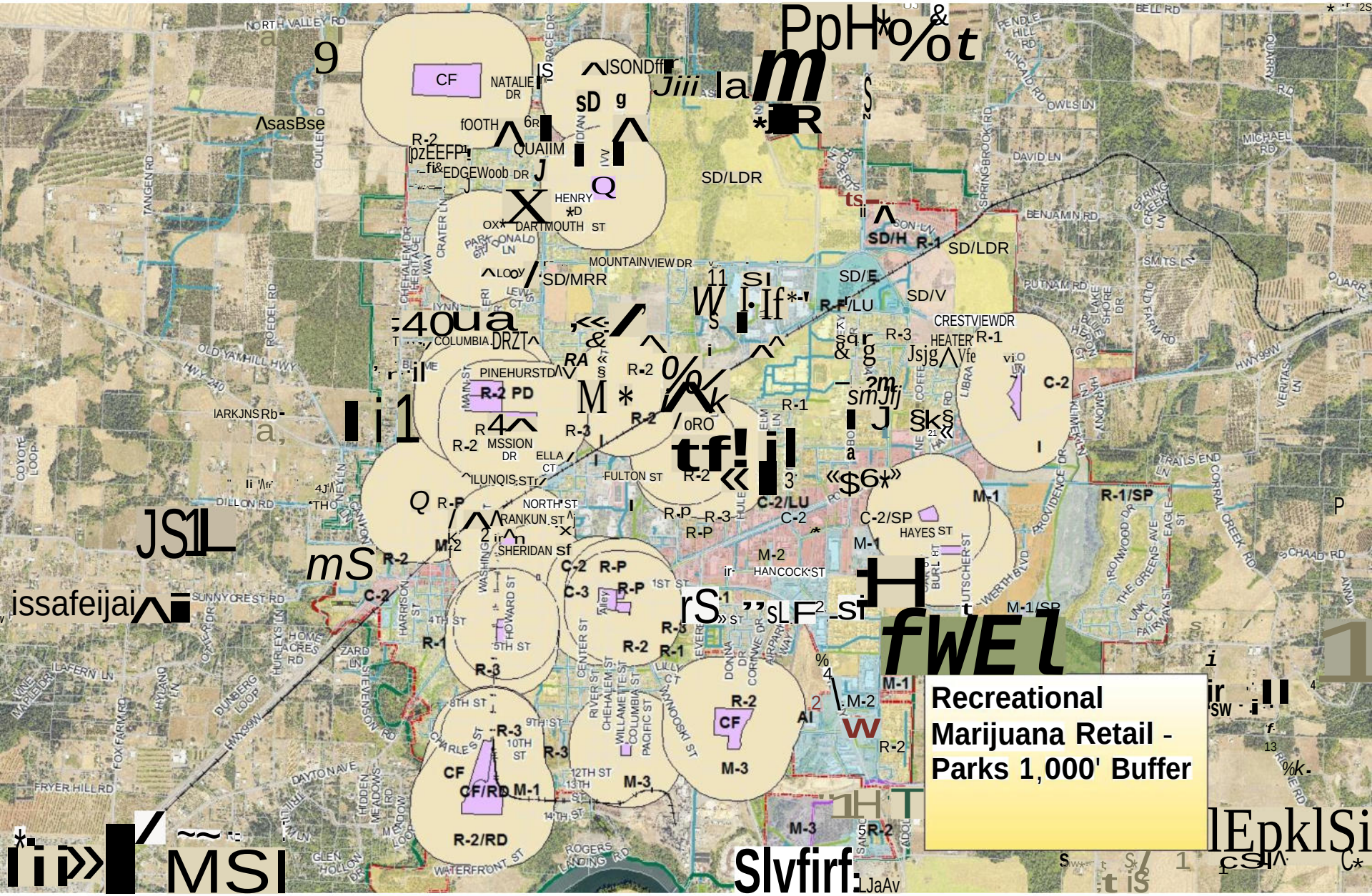
- Economy goal – encourage new and diverse businesses: Provides opportunity for a new type of legal business, for which there is some local demand. Allows the use in some districts and subdistricts as permitted or prohibits the activities in other districts and subdistricts.

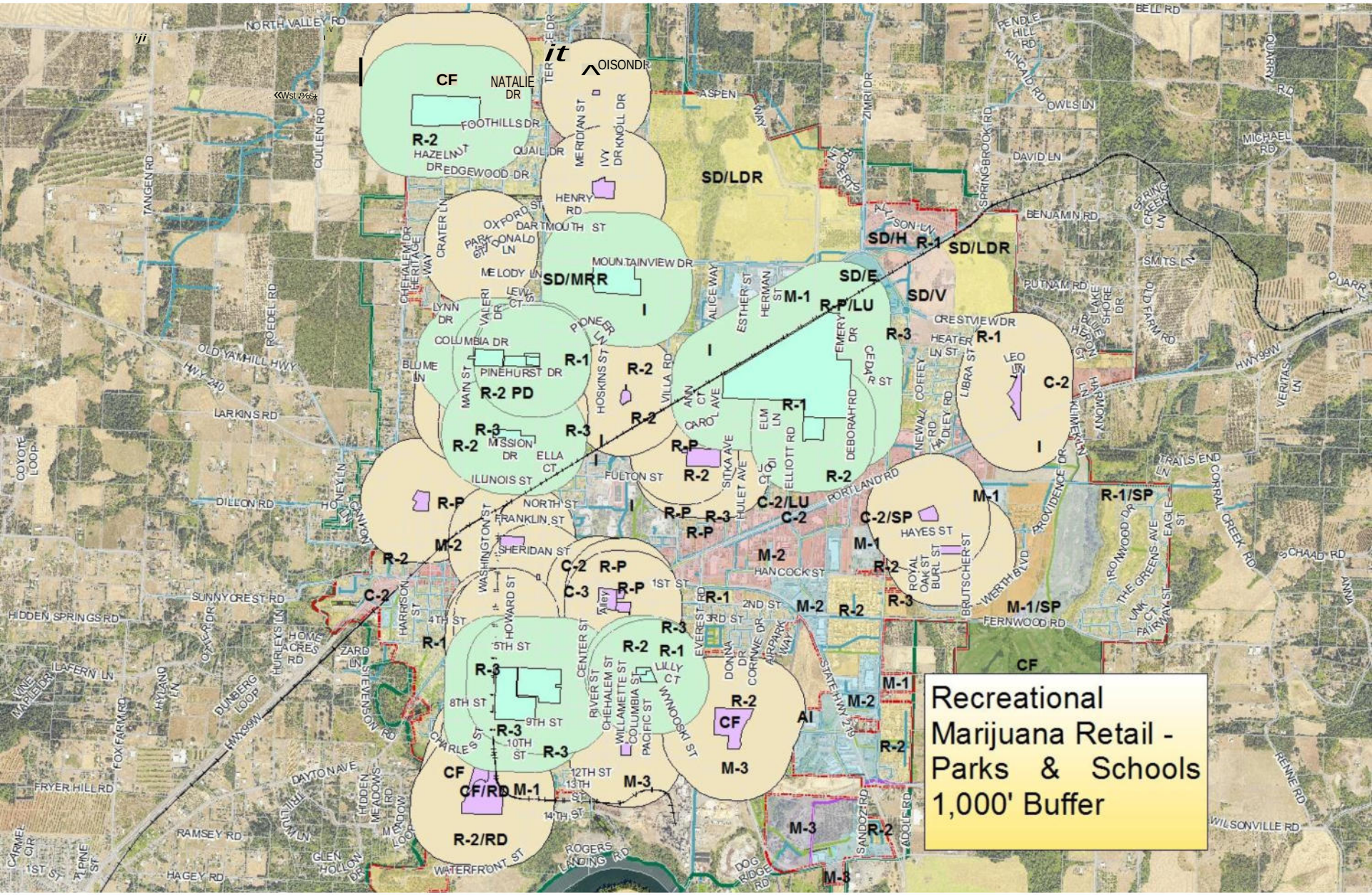
Staff Recommendation

The staff recommendation is made in the absence of public testimony and may be modified prior to the close of the hearing. At this time, staff recommends:

- **Adopt Ordinance No. 2016-2801**, amending the Newberg Development Code for recreational marijuana wholesalers, laboratories, research certificates & retailers.


Recreational Marijuana Retail - Schools 1,000' Buffer


Recreational
Marijuana Retail -
Parks 1,000' Buffer


Recreational Marijuana Retail - Parks & Schools 1,000' Buffer

Recreational Marijuana rule Petition

Sarah Lowe

503-544-3801

RECEIVED
MAY 12 2018
BY

City Council Mooting
Date: 5/16/18
Re: Recreational Marijuana Sales
Topic: 2018-2801

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

A. Must be located on a lot or parcel with frontage along Portland Rd. (Oregon Route 99).

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The requested changes are also intended to help make sure our residential neighborhoods continue to be safe and livable. Tigard has included similar rules.

Business name NAPS INC D.B.A. NAPS THRIFTWAY

Signed Richard D. Peterson

Address (optional) 112 e 1st

Date 5/11/16

RECEIVED
MAY 12 2016
BY: SR

City Council Mteettog
Date: 5/17/16
Re: ORD 2016-2801
Topic: kVcA ONiJix UaZ

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

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Business name QUICKSTOP market

Signed Rahma

Address (optional) 116 rJ RACtÀft 5T Alsnberg

Date 5-8-16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: DM Ahlo AKD
TopicrKee, YftoJil juana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business tfame L Jac's Deli

Signed

Address (optional) _____

Date 5/9/16

RECEIVED
MAY 12 2016
BY:

City Council Meetfng
Date: 05/25/16
Re: 2nd 2016-280
Topic: Kelly Lane

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

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Business name Jcs h o T(< (jfAr^ LUL

Signed

Address (optional) _____

Date 5 . f - 1 W

RECEIVED
MAY 12 2016
BY: SR

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Csate: 5
Re: Ord 2016-2801
Topic: tt Pr ITU

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name LYDA FINANCIAL, INC.

Signed _____

Address (optional) _____

Date 5-9-16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2881
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Redhills Salon + Spa

Signed [signature]

Address (optional) 209 E. First St. Newby

Date 5-10-16

RECEIVED
MAY 12 2016
BY: AA

City Council Meeting
Sate: 5/16/16
HQ: JM3
Topic: ORD 2016-2801
Re: Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Chapters

Signed [illegible]

Address (optional) [illegible]

Date 5.10.16

[illegible] GOWEE D
MAY 11 2018
BY: SR

5jag;
Re: [illegible]
Topic: [illegible]

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name kj&yi t Dauch feo (JtLwQjp rf

Signed 90drvumy

Address (optional) 707 E 1st htkwb&jp DR

Date 5-10-lfe

RECESVEp
ft MAY 12 28!6
BY: SR

City Course!! Meeting
Date: 5/ifJife
Re: MAI 2016-2801
Topic: Rec. iiWu juana

FOR THE RECREATIONAL SALES OF MARIJUANA

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1

Business name Portuguese Embroidery

Signed Cheryl Fletcher

Address (optional) HA 8 Edwards St

Date 5/10/16

RECEIVED
MAY 12 2018
& D
LSY: JD

City Council Mooting
Date: ShUhCo
fierjM Mlc 2881
Topic: Hpt FrhA; i A2 yp-va

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Yelow

Signed [signature]

Address (optional) 716 E. Lit

Date 5/10/2016

RECEIVED
MAY 11 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2801
Topic: Wr r/ic LA Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

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Business name James' Mm

Signed James K Schroeder

Address (optional) 616 E 1st St.

Date 5/10/16

RECEIVER

MAY 12 2016

BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2801
To Prohibit Marijuana

503-544-3801

Sarah L OIAiR

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

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Business name T's Arrkz crp

Signed

Address (optional) _____

Date 5.10.16

RECEIVED
MAY 12 2018
BY: SR

City C AnciygMtln§
Da
Re 5 Ad 'aMfo- AXbi
Toplrr Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Cusick Picture Frame

Signed Phil Cusick

Address (optional) _____

Date Tuesday 10th, 2016

RECEIVED
MAY 12 2016
BY: SR

SMr iihg
Re: fM '2016-280T
Toole: Arr, rVhA;' AJO

FOR THE RECREATIONAL SALES OF MARIJUANA

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Businessname Art Elements Gallery

Signed Sarah Is

Address (optional) _____

Date 5-10-16

RECEIVED
MAT i 2 2018
BY: SR

City Council JMtefIng
Date: 5/16/16
Re: Met ftbtie -2807
Topic: Recreational Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name TVA V.iC:r vfK Kapitos

Signed bf/Apal. Sa%abrieA

Address (optional) _____

Date mlin/A

RECEIVER

n MAY 12 20® y

BY: SR

City Council Mating

Date: Bfi(cf/ (o

Re: hdti 'nCblip -280 T

Topic: Recrea fhrrXjj) IIU ijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Pitter-Patter

Signed: [signature]

Address (optional) 308 E 1st St.

Date 5/10/15

RECEIVED
MAY 12 2015
BY: SR

City Council Mooting
Date: 5/26/15
Re: Ord 2780
Topic: Recreational Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

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Business name Spe XMMBI Glass

Signed _____

Addressteptihhal) _____

Date 5/12/16

jczsvrj

MAY 12 20»

BY: SR

City Cou/tcii Medifngj

Date: 5fUo/(p

Re: Ord. 2016-2801

Topic: Rec Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

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Business name Λ*"5 PdV&vCez

Signed^

Address (optional) 2C& hJ ftA/AJ. S-P

Date 5/8/16

fjECOVE
1 MAY !1 2815
BY: SR

City Council Meeting
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FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Cliff Creek

Signed Sallee Pelt

Address (optional) as ** F^e4 St. Newberg, CV ?713z

Date 5/9/16

RECEIVED
11 NAY 12 2018
BY: SR &

City Council Mealing
Date: &/ifaith
Rs: {VAM &6/b -280I
TopicT^Jr/Ttt UMAO ne

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

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Business name Papa Murphies

Signed [signature]

Address (optional) _____

Date 5/8/16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ummy of Tle - 2881
Topte: Ao77/Ajjuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Thomas L Dermes

Signed

Address (optional) \\M £ 2nA

Date -S-VUt

RECEIVED
MAY 12 2018
BY:

City Council Meeting
Date: 5/16/16
Re: Ord 2016-280 I
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Crush 2 Cellar

Signed

Address (optional) P. f Λ UJ ; ■ Λ tAC oe K— Sh

Date fi/ / WHg

RECEIVED
Mr 12 2015
BY: SR

City Council Meeting
Date: &UP flop
Re: DAot 0176 -2081
Topic: /CJ77 Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Λhlvl vi Cεuf\ Ojjtss / £3Λ jVirf Rods

Signed Λv1 Dusie K Smith

Address (optional) TS6) U3. I St Srh

Date 5b|)U

RECEIVED
MAY 12 2018
BY: SR U

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2801
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Chehalem Cigar

Signed Dennis Dunaby

Address (optional) _____

Date 5-09-18

RECEIVED
MAY 12 2018
BY: SR

City Council Meeting
Date: 5/14/18
R&JD&CK 2016-2 Ref f
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name: ULnSm^-f'loorl an 1w

Signed: Inae Faud

Address (optional) 50 cL fz & yst St. Newberer 0

pa[redacted] 9, 2016

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: hM muo ~db<bJ
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Pulp & Circumstance

Signed [signature]

Address (optional) _____

Date 5/9/16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2801
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Critter Cabana

Signed _____

Address (optional) _____

Date 5/4/16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2801
Topic: Rec Marijuana

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Business name nlfCl Grason Furniture

Signed

Address (optional)

Date ST 5/16

City Council Meeting
Date: 07/L/16
Re: Ordinance 2016-2801
Topic: Rec. Marijuana

RECEIVED
MAY 12 2018
BY: SR

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Business name Pine View Natural Resources

Signed

Address (optional) 8550 NE Dogwood Ln, Dundee, OR 97115

Date 4-24-16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-288
Topic: Rec Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name fr&cu Bentley

Signed Tracy Bentley

Address (optional) _____

Date 5-10-16

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MAY 17 20!S

BYT. SR

City Council MmVng

Re: Rul 15 rt (a - A&C 1

Topic: fip r. IVIBLAXJLuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name BRUCE BISHOP

Signed [signature]

Address (optional) _____

Date 5/10/16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2801
Topic: Recreational Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name Monica Ashley

Signed

Address (optional) _____

Date 5-10-16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2bjc-280 J
Topic: fcpr. marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name Laura Umfleet

Signed Laura Umfleet

Address (optional) _____

Date 5-10-16

pecesvEf
MAY 12 2G16
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 1201b-2881
Topic: Rec. Vh Ma...

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name Meg Alv fyajl

Signed

Address (optional)

Date

Dipan

RECEIVED
MAY 12
BY: SR

Crty Council Meeting
Date 7/10/16
Re: Ord 2016-2801
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name Clint Cardwell

Signed Clint Cardwell

Address (optional) _____

Date 5/8/16

City Council Meeting
Date: 5/16/16
Re: Ordinance 2016-280
Topic: Rec. Marijuana

7

RECEIVED
MAR 12 2018
BY: SR

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

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Name Sally Smith

Signed Sally Smith

Address (optional) 215 S. Main St. Newberg, OR 97132

Date May 8, imip

RECEIVED
MAY 12 2016
BY: SR

City Council M#«ting
Date: 5/16/16
FV: Ord 2016-2881
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name Amy Swem

Signed Amy Swem

Address (optional) 510 Dayton Ave P.O. Box Dundee OR 97132

Date 5-8-18

RECEIVED
MAY 12 2018
BY: SR

SMg

Re: McMinnville 2058

Topic: dPC of Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

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Name James Reichenbach

Signed

Address (optional) 201 CSS 2nd ST Newberg OR

Date 5/PP ST**/*

RECEIVED
MAY 12 2016
BY: SR

City Cornell fWSiwrtifii
Pat
Re: Myi Pjpi
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name Diane Reichenbach

Signed Diane Reichenbach

Address (optional) 0ff O1 U). jZruel Newberg

Date 5-8-16

City Council Meeting
Date: 5/16/16
Re: n1/A QM (p – 9M?) 1
Topic: Rer, A4M \ jxCCZa

RECEIVED
MAY 12 2016
BY: SR

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name Wade Cannon

Signed Wade Cannon

Address (optional) _____

Date 5-8-18

RECEIVED
MAY 12 2018
BY: SR

City Council Meeting
Date: 5/15/18
Re: Ord 2018-280 T
Topic: Recreational Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name Brian Woodaugh

Signed

Address (optional) ID & [illegible] & Sf Newberg

Date 5/5/2016

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2801
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

A. Must be located on a lot or parcel with frontage along Portland Rd. (Oregon Route 99).

B. Shall not be located within 300' of a residential zone. The distance specified is measured from the closest points between property lines of the affected properties.
(300 feet is approximately 1 city block)

The requested rule changes are intended to affect only recreational sales of marijuana not medical sales. Available parking in the downtown are is limited with no easy options for increases. We would seek to prevent the parking problems that will come from a recreational store on the west side of the downtown area. Chalice (a medical marijuana store in Dundee, that also sells recreational marijuana) has an average daily traffic of over 150 customers. Local medical marijuana stores average less that 15 customers per day. In the downtown area there is no easy way to increase the available parking, a recreational store would negatively effect those downtown businesses that depend on the street parking. We would also like to keep parking of customers and employees off of the residential side streets.

The requested changes are also intended to help make sure our residential neighborhoods continue to be safe and livable. Tigard has included similar rules.

Name [signature]

Signed [signature]

Address (optional) [illegible] Dog Ridge Rd.

Date 4/25/16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-281
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

A. Must be located on a lot or parcel with frontage along Portland Rd. (Oregon Route 99).

B. Shall not be located within 300' of a residential zone. The distance specified is measured from the closest points between property lines of the affected properties. (300 feet is approximately 1 city block)

The requested rule changes are intended to affect only recreational sales of marijuana not medical sales. Available parking in the downtown area is limited with no easy options for increases. We would seek to prevent the parking problems that will come from a recreational store on the west side of the downtown area. Chalice (a medical marijuana store in Dundee that also sells recreational marijuana) has an average daily traffic of over 150 customers. Local medical marijuana stores average less than 15 customers per day. In the downtown area there is no easy way to increase the available parking, a recreational store would negatively affect those downtown businesses that depend on the street parking. We would also like to keep parking of customers and employees off of the residential side streets.

The requested changes are also intended to help make sure our residential neighborhoods continue to be safe and livable. Tigard has included similar rules.

Name Myrka Guzman

Signed Myrka Guzman

Address (optional) _____

Date 5/10/16

City Council Meeting
Date: 5/16/16
Re: [illegible]
Topic: [illegible]

RECEIVED
MAY 12 2016
BY: SR

Please accept the following as written testimony for Resolution 2016-3279 (City Manager appointment).

City Council Meeting
Date: 5/16/16
Re: Res 3279
Topic: City Manager contract

5/16/2016

To the Council:

I would like to make a few points for your consideration with regard to the proposed contract for the new City Manager.

My first point is that nothing here should be taken as any sort of comment specifically about Mr. Hannan. My comments are about the contract itself and I would be making the same comments regardless of who is taking this position.

My second point is that I believe there is a significant error in the proposed contract on Page 116. I'm referring specifically to the second sentence in 4(A) which reads: "In the event the City Manager is not convicted of said crime(s) or does not plead guilty to other crime(s) in settlement of charges for which he was indicted, he shall receive the severance pay in accordance with Section 11".

This is a pretty straightforward example of an "if A or B then C" logical statement. The rules of logic are very clear that if either A or B (or both) are true, then C is true. I don't believe that this is what is intended here.

Specifically, if the City Manager were to be convicted of a crime (the "A" in the logical statement would then be false) but does not plead guilty to that crime (the "B" in the logical statement would be true), then he would be entitled to severance pay. I'm presuming that this is NOT the intent of the Council.

This can be easily rectified in either of these ways:

(change "or" to "and") "In the event the City Manager is not convicted of said crime(s) and does not plead guilty to other crime(s) in settlement of charges for which he was indicted, he shall receive the severance pay in accordance with Section 11"

(delete "not" in the first two instances, add it after "shall") "In the event the City Manager is convicted of said crime(s) or pleads guilty to other crime(s) in settlement of charges for which he was indicted, he shall not receive the severance pay in accordance with Section 11"

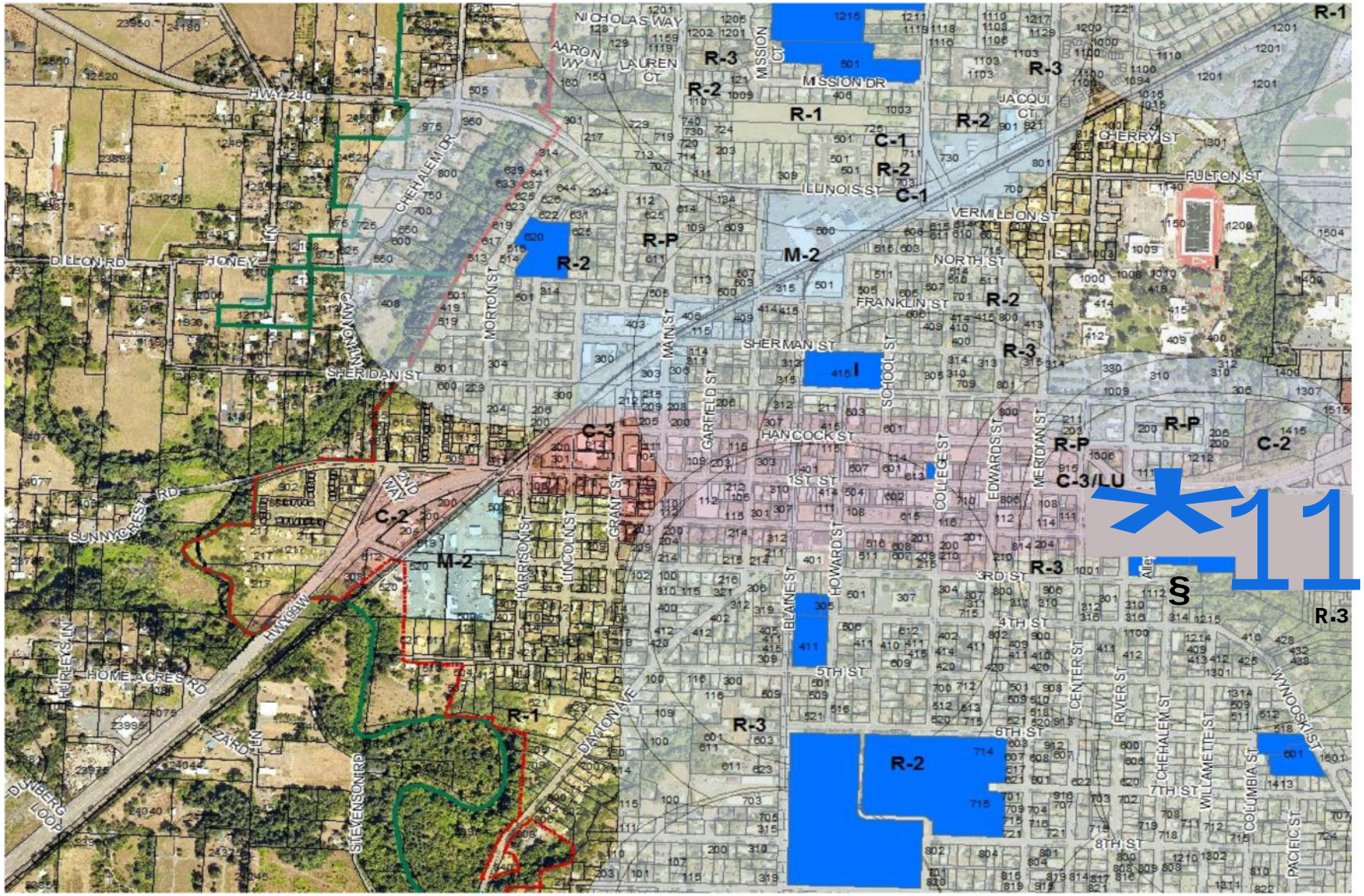
My third issue is a minor grammatical one. In the second sentence of 4(B) I believe that "other action" should be "other actions".

My last point is a historical one, again with no specific reference to Mr Hannan. Newberg has had an unfortunate history with the past two City Managers. In both cases, the Council chose a

significant financial payment as a solution. Is the Council confident that the language of the proposed contract would have made such a payout significantly less likely had it been in place before?

Thank you for your consideration of this testimony.

Robert Soppe


R-1
R-3
R-2
C-1
R-P
M-2
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HWY 240
HWY 99W
NICHOLAS WAY
AARON WY
LAUREN CT
MISSION CT
MISSION DR
JACQUI CT
CHERRY ST
FULTON ST
ILLINOIS ST
VERMILLION ST
NORTH ST
FRANKLIN ST
SHERMAN ST
HANCOCK ST
1ST ST
3RD ST
4TH ST
5TH ST
6TH ST
7TH ST
8TH ST
CHEHALEM DR
DILLON RD
HONEY LN
MORTON ST
MAIN ST
GARFIELD ST
SCHOOL ST
COLLEGE ST
EDWARDS ST
MERIDIAN ST
HARRISON ST
LINCOLN ST
GRANT ST
HOWARD ST
BLAINE ST
CENTER ST
RIVER ST
WILLAMETTE ST
COLUMBIA ST
PACIFIC ST
SUNNYCREST RD
HOME ACRES RD
ZAKO LN
DUNBERG LOOP
STEVENSON RD
DAYTON AVE
SHERIDAN ST
11
§

Stephen A. Rhodes
City Manager Pro Tern
503-537-1207

Email:
steve.rhodes@newbergoregon.gov

City of Newberg

414 E. First Street · P.O. Box 970 · Newberg, OR 97132

May 13, 2016

Mayor Bob Andrews
City of Newberg

Dear Bob:

As we discussed I would like to request an amendment to my contract with the City. At the time we entered into the contract I was obligated under a nine month lease for my housing and the contract included a provision in Section 9 that guaranteed that the City would cover the lease cost of $2,045 per month for up to three months if I was employed for less than nine months.

By the time I leave employment with the City I will have fulfilled the nine month obligation on the lease and City does not have any financial obligation under that term of my contract. In place of that obligation I would request that the City agree to reimburse me for half of my relocation costs. Those costs will be $3,200 and the City's share would be $1,600.

I appreciate your consideration of my request.

Sincerely,

Stephen A. Rhodes
City Manager Pro Tern

City Council Meeting
Date: May 16, 2016
Fa: UYPV Rhodes
Topic: Contract Amendment

May 16, 2016 Newberg City Council

Supplemental Packet – Electronic:

Resolution 3303 – Insert after Page 49

Resolution 3292 – Insert after Page 124

Ordinance 2016-2801: Staff presentation for Monday night & Public Testimony received on May 12, 2016

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016				
Order No. ___	**Ordinance No.** ___	**Resolution No. 2016-3303** XX	**Motion** ___	**Information** ___
SUBJECT: A Resolution approving a lease of city owned property located at 305 W. Illinois Street.			**Contact Person (Preparer) for this Motion: Jay Harris** **Dept.: Public Works** **File No.:**	

HEARING TYPE: **ADMINISTRATIVE**

RECOMMENDATION:

Adopt Resolution No. 2016-3303.

EXECUTIVE SUMMARY:

The City of Newberg owns a single family residence on 0.24 acres of property located at 305 W. Illinois Street, shown as Tax Lot 1601 on Yamhill County Assessors Map 3S-2W-18CA, commonly known as the highway 240 lift station and house. The site is located on the north side of W. Illinois street (Hwy 240) near the intersection of N. Morton Street.

The city purchased a 0.45 acre single family home site in March of 2009 by Council Resolution #2008-2822 for the construction of the Highway 240 wastewater lift station. The lift station and force main improvements were completed in February of 2011. In 2012, Partition Plat #2012-21 recorded, which completed the division of the 0.45 acre property into two parcels.

Parcel 1, the existing house parcel, was listed for sale last winter with Coldwell Banker, but due to a property line dispute with the adjacent property located at 301 W. Illinois Street, the sale has been temporarily suspended. An agreement is being reached with the adjacent property owner by the dedication of several easements, which will be presented to Council under a separate resolution.

The incoming Newberg City Manager is Joe Hannan, who starts on June 6, 2016. Manager Hannan is relocating from out of state and needs temporary housing until a permanent residence is acquired. The availability of rental housing in Newberg is currently very limited. The existing city owned residence 305 W. Illinois Street is vacant, in good repair, and ready for occupancy. Manager Hannan has agreed to temporarily lease the aforementioned property and a draft copy of the lease agreement is attached as Exhibit A.

FISCAL IMPACT:

Chehalem Property Management managed the lease of 305 W. Illinois Street until the property was listed for sale last year, and is very familiar with the Newberg rental market. Chehalem Property Management was contacted last week for an opinion of lease value for the residence and indicated that the property would lease for approximately $1,700 per month, not including landscape maintenance services.

The proposed property lease to Manager Hannan is for $2,000 per month, including landscape maintenance. The proceeds from the property lease will be deposited in the wastewater fund, account number 06-0000-343000, Illinois Street rental.

STRATEGIC ASSESSMENT:

The temporary lease of the 305 W. Illinois Street property will enable the new City Manager to obtain short term housing while searching for a permanent residence. The city will receive monthly payments during the lease period and relist the property for sale upon the completion of the temporary lease.

RESOLUTION NO. 2016-3303

A RESOLUTION APPROVING THE LEASE OF CITY OWNED PROPERTY LOCATED AT 305 W. ILLINOIS STREET.

RECITALS:

1. The City of Newberg owns approximately 0.45 acres of property at 305 W. Illinois Street, shown as Tax Lots 1601 and 1602 on Yamhill County Assessors Map 3S-2W-18CA, commonly known as the highway 240 lift station and house. The site is located on the north side of W. Illinois street (Hwy 240) near the intersection of N. Morton Street.

2. The 2007 City of Newberg Sewerage Master Plan identified a priority project to reduce the winter wastewater overflows into Chehalem Creek at the Dayton Avenue pump station. The city purchased the 0.45 acre property single family home site located at 305 W. Illinois Street for $282,000 in March of 2009 by Council Resolution #2008-2822 for the construction of the Highway 240 pump station.

3. The lift station and force main improvements were completed in February of 2011, which began bypassing flows away from the Dayton Avenue pump station. In 2012, Partition Plat #2012-21 recorded, which completed the division of the property into two parcels. Parcel 1, the existing house parcel, was listed for sale last winter with Coldwell Banker.

4. Due to a property line dispute with the adjacent property located at 301 W. Illinois Street, the sale of 305 W. Illinois Street has been temporarily suspended. An agreement is being reached with the adjacent property owner by the dedication of several easements, which will be presented to Council under a separate resolution.

5. The incoming Newberg City Manager is Joe Hannan, who starts on June 6, 2016. Manager Hannan is relocating from out of state and needs temporary housing until a permanent residence is acquired. The availability of rental housing in Newberg is currently very limited. The existing city owned residence 305 W. Illinois Street is vacant, in good repair, and ready for occupancy. Manager Hannan has agreed to temporarily lease the aforementioned property and a draft copy of the lease agreement is attached and hereby incorporated as Exhibit A.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council approves a temporary lease of the city owned property at 305 W, Illinois Street, Newberg Oregon, to Mr. Joe Hannan.

2. The City Council delegates, authorizes, and directs the Mayor, to perform all necessary acts to create, modify, and execute all necessary documents, and carry out any other necessary matters in order to complete the lease agreement. All documents and agreements shall be approved as to form and content by the City Attorney.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: May 17, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of May, 2016.

_____
Sue Ryan, City Recorder

ATTEST by the Mayor this 19th day of May, 2016.

_____
Bob Andrews, Mayor

FORM No. P8i8A
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Portland, OR www.stevensness.com BSA

RENTAL AGREEMENT (Page 1)

Dwelling Unit Only – Month-to-Month Tenancy or Lease for Term

THIS AGREEMENT, dated i-Em^--L, 2016, between Crty of Newberg, landlord or agent ("landlord"), and Jo^ Qnn! ^Ae/)le4 Hannan, tenant;

WITNESSETH: That in consideration of the payment of the rents and the performance of the terms of tenant's covenants herein contained, landlord hereby rents to tenant, and tenant rents from landlord, for use as a residence, the premises located at 305 W. JTjUvWs Erwee-h Newberg Oregon, 97132.

TENANCY – This Agreement creates a (check one):

☒ month-to-month tenancy beginning yPV/jflZ.Oj(p

☐ lease term of _____ commencing _____, and ending _____

at a rental of $2,000- per month, payable monthly in advance on the 1st day of each and every month. Rents are payable at the following address: ±5--11Qf-S-to, £14-JET-IVRRL Street Newberg Oregon 97132.

If rent is not received by the fourth day of the period for which it is due, tenant shall pay a late charge of (check one): ☒ $75-, as a flat amount; ☐ $_____, charged on a per day basis beginning on the fifth day of the period; or ☐ 5% of the amount of the payment for each 5-day period, or portion thereof the payment is late.[1] Any dishonored check shall be treated as unpaid rent and be subject to the same late charge, plus a $--3DT-- special handling fee and must be made good by cash, money order or certified check within 24 hours of notification. In case two or more rent payments are late, landlord reserves the right to require tenant to pay rent by cash or money order only, upon reasonable notice to tenant of such requirement. Furthermore, if rent is not paid when due and tenant fails for any reason to pay rent within 7 days after its due date, landlord may terminate this Agreement in the manner provided by ORS 90.394 and take possession of the premises in the manner provided by ORS 105.105 to 105.168.

RENT

	AMOUNT	DUE
First Month's Rent (due on or before 06/06/2016)	$ 2,0.00	$ 2,000
Prorated Second Month's Rent, if applicable	$ —	

DEPOSITS – Landlord charges the following deposits for the premises at this time (check all that apply):

	AMOUNT	DUE
☐ Security Deposit	$ —	$ —
☐ Last Month's Rent Deposit	$ —	$ —
☐ Pet Deposit (Note: No pet deposit may be charged for a service or companion animal that a tenant with a disability requires as a reasonable accommodation)	$ —	$ —
Total Deposits Due on or Before	—	$ —

Landlord may claim all or any part of the security deposit only in the amount reasonably necessary: (1) to remedy tenant's defaults in the performance of this Agreement including, but not limited to, unpaid rent; and (2) to repair damages to the premises caused by tenant, not including ordinary wear and tear; however, landlord may deduct the cost of carpet cleaning regardless of whether tenant cleans the carpet before tenant delivers possession to landlord at the end of the tenancy. To claim all or part of a deposit, landlord shall give tenant, within 31 days after termination of the tenancy and delivery of possession of the premises to landlord: (1) a written accounting (S-N Form No. 579, Landlord's Final Accounting) which states specifically the basis or bases of the claim; and (2) any unclaimed portion of the deposit. Landlord may recover damages in excess of the security deposit to which landlord may be entitled. Landlord may not change this Agreement to require the payment of a new or increased security deposit during the first year of the tenancy, except that an additional deposit may be required if landlord and tenant agree to modify the terms and conditions of this Agreement to permit a pet or for other cause and the additional rent related to that modification.

FEES – Landlord charges the following fees for violations of this Agreement or residency rules at this time (check all that apply):

☒ Late rent payment (per occurrence), as set forth above	$ 9S ~
Dishonored check (per occurrence), as set forth above	$ 30 ·
Removal or tampering with a properly functioning smoke alarm, smoke detector or carbon monoxide alarm[2]	$ «?5D -
☐ Violation of a written pet agreement	$ —
☐ Abandonment or relinquishment of the premises during a fixed-term tenancy (may not exceed *Wi* months' rent; other restrictions apply under ORS 90.302(2)(e))	$ —
☐ Repeat violation of written rules or policies after written warning[3] (check all that apply):	
☐ Late payment of a utility or service charge paid to landlord	$ —
☐ Failure to clean up pet waste outside dwelling unit	$ —
☐ Failure to clean up the waste from a service or companion animal outside dwelling unit	$ —
☐ Failure to clean up garbage, rubbish or other waste outside the dwelling unit	$ —
☐ Parking violations	$ —
☐ Improper use of vehicles on the premises	$ —
☐ Smoking in a clearly designated nonsmoking unit or area of the premises[4]	$ —
☐ Keeping on the premises an unauthorized pet capable of causing damage to persons or property, as described in ORS 90.4055	$ —

Fees for landlord's anticipated expenses may not be charged at the beginning of the tenancy. Landlord cannot demand payment of fees except as provided by law. Fees cannot be deducted from rent payments. Landlord may terminate the tenancy for violations instead of assessing fees, but cannot charge a fee and terminate this Agreement for the same noncompliance. This statement of fees does not apply to charges for improvements or other actions that are requested by tenant and are not required of landlord by agreement or by law, including but not limited to the cost to replace a key lost by tenant or to charges that are permitted under ORS 90.302(7).

Tenant Initials _____ (continued on page 2)

[1] **Charge no more than permitted by ORS 90.260.**

[2] **Landlord may charge a fee up to $250 unless the Fire Marshal assesses the tenant a penalty under applicable rules. ORS 90.302(2)(c).**

[3] **Fee can be assessed only if repeat violation occurs within one year of receiving written notice of the same violation. Fee for second violation within a year may not exceed $50; fee for third or subsequent violation(s) within a year may not exceed $50 plus 5% of the rent payment. ORS 90.302(3)(a).**

[4] **Maximum fee of $250. Landlord cannot assess fee for second or subsequent noncompliance until 24 hours after serving written notice of original noncompliance.**

[5] **Maximum fee of $250. Landlord cannot assess fee for second or subsequent noncompliance until 48 hours after serving written notice of original noncompliance.**

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.

IT IS FURTHER MUTUALLY AGREED between the parties as follows:

1. Occupancy. The premises shall be occupied by no more than ____ children and 2 adults, namely Sheje and Shejje. HfivmfiLvx.
No additional or other adult tenants may occupy the premises without landlord's written consent.

2. Use of Premises. The premises shall be used for dwelling purposes only and not for business without landlord's prior written consent.

3. Tenant Compliance. Tenant shall not violate any city or county ordinance or state or federal law in or about the premises. Tenant shall comply with the terms of this Agreement, and with any rules and regulations that may be published by landlord in conformance with law or ordinance.

4. No Assignment. Tenant shall not sublet the premises, or any part thereof, or assign this Agreement without landlord's written consent.

5. Landlord's Right of Termination. If tenant fails to pay rent or other charges promptly when due, or to comply with any other term or condition hereof, landlord, at landlord's option and after proper written notice, may terminate this tenancy.

6. Tenant to Keep Premises Clean. Tenant shall maintain the premises in a clean and sanitary condition at all times, and upon the termination of the tenancy shall surrender the premises to landlord in as good condition as when received, ordinary wear and tear and damage by the elements excepted.

7. Mold. Because mold spores are ever-present in the air, the potential for mold exists in any living space. The key to reducing the risk of a mold problem is keeping the premises clean and dry, particularly in winter months. Tenant shall minimize mold by: keeping the premises ventilated; keeping hard surfaces clean and dry (walls, doors, windows, windowsills, countertops, etc.); placing furniture at least an inch from exterior walls; opening window coverings every day (curtains, blinds, shades, etc.); running bathroom fans for an hour after bathing (or opening the bathroom window slightly if there is no fan). Additional information is available from the EPA at www.epa.gov/mold/moldresources.html. Tenant shall report excessive mold development to landlord immediately.

8. Landlord's Right of Entry. Tenant shall permit landlord at any and all reasonable times, upon 24 hours' notice to tenant, to enter and go upon the premises for the purpose of examining its condition, or to make such repairs and alterations as landlord shall deem necessary or to show the premises to prospective purchasers, mortgagees, tenants, workers or contractors, provided always that in case of emergency landlord may enter the premises without notice.*

9. Locks and Keys. There shall be working locks on all outside doors, and landlord shall provide tenant with keys to the premises at the beginning of the tenancy. Tenant must return keys at termination of the tenancy.

10. Responsibility to Maintain Grounds. ☐ Tenant ☒ Landlord (indicate which) shall properly cultivate, care for and adequately water the lawn and landscaped grounds.

11. Landlord's Obligations. Landlord shall supply electric wiring, plumbing facilities which produce hot and cold running, safe drinking water and adequate heating facilities.

12. Utilities. Tenant shall pay for all natural gas, electricity, telephone, television and internet service, subject to disclosures and limitations as set forth herein. All other services will be paid for by landlord or tenant as follows:

	Water	Sewer	Garbage Service**	_____	_____
Tenant	W	H	ET	☐	☐
Landlord	☐	☐	☐	☐	☐

☐ (Check if applicable.) Tenant shall pay for a utility or service that directly benefits landlord or other tenants. That service is described as follows: _____. That service is delivered to the following area other than tenant's dwelling unit: _____.

☐ (Check if applicable.) Landlord is directly billed by the service provider for the following service or services provided to a common area available to tenant as part of the tenancy: -_____. Landlord allocates the provider's charges between tenants by assigning a reasonable percentage of such charges to each tenant. Tenant's share of such charges shall be ____%, and is based on _____.

☐ (Check if applicable.) Landlord is billed directly by the provider of (check all that apply) ☐ cable television ☐ direct satellite ☐ other video subscription services ☐ internet access or usage, which landlord then bills to tenants by assigning to each tenant a reasonable percentage of such charges. Tenant's share of such charges shall be ____%, and is based on _____. Landlord may charge tenant an additional amount of not more than 10% of the utility or service charge billed to tenant, provided that the total of the utility or service charge billed to tenant, plus the additional amount, is less than the typical periodic cost tenant would incur if tenant contracted directly with the provider for the subject services. Billings or notices for such services from landlord to tenant shall list the additional amount separately from tenant's prorated share of the provider's utility or service charges.

13. Smoke and Carbon Monoxide Alarms. The premises is equipped with one or more M battery-operated ☐ hard-wired ☐ hard-wired with battery backup (indicate which) smoke alarm(s), and one or more ☒ battery-operated ☐ hard-wired with battery backup ☐ plug-in with battery backup (indicate which) carbon monoxide alarm(s) ***if the*** premises contains (a) a carbon monoxide source; or (b) is within a structure that contains a carbon monoxide source and is connected to the room in which the carbon monoxide source is located by a door, ductwork or a ventilation shaft. If the smoke alarm is battery-operated, the battery is a 10-year battery. Landlord tested the alarms prior to this tenancy and determined that they are working properly, and the batteries have power, as of (date) March 15, 2016. Tenant is responsible for testing the alarms no less than every six months. To test alarm(s): Push test button.
_____
_____.
Tenant is responsible for replacing dead batteries, and must use only 10-year batteries in the smoke alarm(s).

14. Tenant Damage. Tenant agrees to assume all liability for, and to hold landlord harmless from, all damages and all costs and fees in the defense thereof, caused by the negligence or willful act of tenant or tenant's invitees or guests, in or upon any part of the premises, and to be responsible for any damage or breakage to tenant's equipment, fixtures or appliances therein or thereon, not caused by landlord's misconduct or willful neglect.

Tenant Initials _____ **(continued on page 3)**

*** Thereafter, comply with ORS 90.322.**
**** See ORS 90.320; however, some municipalities (e.g., the City of Portland) require landlords to subscribe to and pay for garbage service.**

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.

15. Renter's Liability Insurance. (Check one): ☐ Landlord does not require tenant to obtain renter's liability insurance. ☒ Landlord requires tenant to obtain and maintain renter's liability insurance in the amount of $ 100,000* and (check one) ☐ hereby acknowledges receipt of documentation of such insurance JS expects tenant to obtain such insurance and provide documentation thereof.

16. Landlord's 24-Hour Notice**.** Landlord, after at least 24 hours' written notice specifying the acts and omissions constituting the cause and specifying the date and time of termination, may terminate this Agreement and take possession in the manner provided by ORS 105.105 to 105.168, if (a) tenant, someone in tenant's control or tenant's pet seriously threatens to inflict substantial personal injury, or inflicts any substantial personal injury, upon a person on the premises other than tenant; (b) tenant or someone in tenant's control recklessly endangers a person on the premises other than tenant by creating a serious risk of substantial personal injury; (c) tenant, someone in tenant's control or tenant's pet inflicts any substantial personal injury upon a neighbor living in the immediate vicinity of the premises; (d) tenant or someone in tenant's control intentionally inflicts any substantial damage to the premises or tenant's pet inflicts substantial damage to the premises on more than one occasion; (e) tenant intentionally provided substantial false information on the application for the tenancy within the past year; the false information was with regard to a criminal conviction of tenant that would have been material to landlord's acceptance of the application; and landlord terminates the rental agreement within 30 days after discovering the falsity of the information; or (1) tenant or someone in tenant's control or tenant's pet commits any act that is outrageous in the extreme, on the premises or in the immediate vicinity of the premises.

17. Unauthorized Person. If an unauthorized person is in possession of the premises, after at least 24 hours' written notice specifying the cause and the date and time by which the person must vacate, landlord may take possession as provided in ORS 105.105 to 105.168 if tenant has vacated the premises, the rental agreement prohibits subleasing or allowing another person to occupy the premises without landlord's written consent, and landlord has not knowingly accepted rent from the person in possession of the premises.

18. Parking. ☐ (Check if applicable.) Parking is provided on the rented premises. If the premises is larger than a duplex, a Parking Addendum (S-N Form No. 542) is provided herewith and made a part hereof.

19**. Undriveable Vehicles and Car Repair.** Tenant shall not allow any undriveable vehicle to remain on the premises for more than 24 hours**.** No car repairs are to be made on the premises, including minor maintenance such as an oil change.

20**. Tenant's Extended Absence.** Tenant agrees to notify landlord of tenant's anticipated extended absence from the premises in excess of 7 days, no later than the first day of the extended absence.

21**. Addresses for Service. The** owner (or **agent** for service) is City of Newberg, c/o City Attorney
Address 414 E. 1st Street, Newberg OR 97132 Phone 503.SfjSriL1206
The manager is City of Newberg, jpRyf'c Works Director
Address 414 E. 1st Street, Newberg OR 97132 Phone 503.537.1234

22. Written Notices. Written notices may be served persbnally, by first class mail, or by mailing and posting as set forth herein.

23. Service of Notice on Tenant by Mail and Attachment. If landlord chooses to serve a written notice on tenant by mail and attachment, such service is deemed served on the day that it is both mailed by first class mail to tenant at the premises and also attached securely to the main entrance of that portion of the premises of which tenant has possession and/or has leased hereby.

24**. Service of Notice on Landlord.** A written notice from tenant to landlord is deemed served on the day it is both mailed by first class mail to the above owner/agent (see paragraph 2) and also attached securely to the following location - Newberg City Hall, 414 E. 1st Street, Newberg OR 97132 **

25. Termination of Month-to-Month Tenancy. If this is a month-to-month tenancy, tenant may terminate at any time by giving landlord 30 days' written notice prior to the date designated in the termination notice, whereupon the tenancy shall terminate on the date designated. During the first year of the tenancy, landlord may terminate at any time by giving tenant 30 days' written notice prior to the date designated in the termination notice; thereafter, landlord may terminate without cause by giving tenant 60 days' written notice prior to the date designated in the termination notice, as outlined in ORS 90.427.

26. Holding Over. Any holding over by tenant after the expiration of this Agreement or any extension thereof, when neither party has issued a written termination notice, shall result in a continuation of this Agreement as to all of its terms, except that the period of the tenancy shall be the same period as that of the rental payment.

27**. Abandoned Personal Property.** Upon termination of this Agreement or the surrender or abandonment of the premises, and it reasonably appearing to landlord that tenant has left property upon the premises with no intention of asserting further claim to such property or the premises, or if tenant has been continuously absent for 7 days after termination of the tenancy by an unexecuted court order, or if landlord elects to remove such property, landlord may give tenant notice in accordance with ORS 90.425 (S-N Form No. 539, Abandoned Property Notice) that the property is considered abandoned and unless the property is removed from the premises or place of safekeeping by a date specified in the notice, the property will be sold or otherwise disposed of and the proceeds of sale, if any, applied as provided by law.

28**. Pets.** If pets are allowed, a Pet or Aid Animal Addendum (S-N Form No. 535) is provided herewith and made a part hereof.

29**. Smoking** Policy. "Smoking" is defined as carrying, inhaling, exhaling, burning or handling of any kind of lighted pipe, cigar, cigarette, or any other lighted smoking equipment containing any burning substance or product, including tobacco, that is intended for human consumption by means of inhaling the smoke therefrom. Infant and all persons on the premises with the consent of tenant or under tenant's control shall comply with this smoking policy (check one): JS Smoking is prohibited anywhere on the entire premises; ☐ Smoking is permitted on the entire premises; ☐ Smoking is permitted in limited areas on the premises (check one): ☐ outside each dwelling unit, more than 25 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area, so as to ensure that smoke does not enter the area through entrances, exits, open windows, or other means ☐ in the place designated by landlord, described as: _____

☐ (Check if applicable.) Landlord is "phasing in" a no-smoking policy for this entire premises. Tenant's dwelling unit is non-smoking, but other rented units on the premises may permit smoking until such time as landlord's no-smoking policy has been completely phased in. Neither tenant nor landlord shall be liable to the other for damage as a result of smoking by other tenants in or about rented dwelling units other than the subject unit, except that no smoking is permitted within 25 feet of any nonsmoking dwelling unit on this entire premises.

Tenant Initials _____ (continued on page 4)

*** May not exceed $100,000 or the customary amount required by landlords for similar properties with similar rents in the same rental market, whichever is greater. Landlord must comply with written notice requirements to tenant, and cannot require renter's liability insurance in a variety of circumstances. See ORS 90.222 for restrictions on and requirements for requiring renter's liability insurance.**

**** See ORS 90.155.**

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.

30. **Marijuana.** Tenant ☐ may ☒ may not (indicate which) grow medical and/or recreational marijuana on the premises. If allowed, tenant must obtain landlord's prior written consent before installing any equipment or otherwise modifying the premises, which consent may be withheld at landlord's discretion. Tenant shall be solely responsible for any and all damage to the premises resulting from growing or using marijuana, including but not limited to damage related to equipment, moisture or smoke. Tenant shall fully comply with the Smoking Policy disclosed herein and must strictly comply with any applicable state laws governing marijuana.

31. **Flood Plain Disclosure.** The premises ☐ is ☒ is not (indicate which) located in a 100-year flood plain.

32. **Lead-Based Paint Disclosure.** ☐ (Check if applicable, and complete the following.) The premises was built prior to 1978.*

LEAD WARNING STATEMENT – Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, landlords must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Tenants must also receive a federally approved pamphlet on lead poisoning prevention.

LANDLORD'S DISCLOSURE – Presence of lead-based paint and/or lead-based paint hazards (check one):

☐ Known lead-based paint and/or lead based paint hazards are present in the housing. (Explain) _____

_____

☐ Landlord has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

Records and reports available to landlord (check one):

☐ Landlord has provided tenant with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing. (List documents) _____

_____

☐ Landlord has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

TENANT'S ACKNOWLEDGMENT (initial)

Tenant(s) _____ Tenant has received copies of all information listed above.

Tenant(s) _____ Tenant has received the pamphlet *Protect Your Family from Lead in Your Home* (S-N Pub. No. 2008).

AGENT'S ACKNOWLEDGMENT (initial, if applicable)

Agent _____ Agent has informed landlord of landlord's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

33. **Personal Property.** The following personal property is included and to be left upon the premises when tenancy is terminated: _____

_____

_____

34. **Waiver of Rights.** Nothing herein shall be construed as waiving any of the rights provided by law of either party hereto.

35. **Attorney Fees and Court Costs.** In the event any suit or action is brought to collect rents or to enforce any provision of this Agreement or to repossess the premises, reasonable attorney fees, costs and disbursements may be awarded to the prevailing party in both trial and appellate courts.

36. **Failure to Require Performance.** Failure by landlord at any time to require performance by tenant of any provision hereof shall in no way affect landlord's right hereunder to enforce the same, nor shall any waiver by landlord of any breach of any provision hereof be held to be a waiver of any succeeding breach of any provision, or as a waiver of the provision itself.

37. **Time/Essence.** Time is of the essence of this Agreement.

38. **Singular/Plural.** The words *landlord* and *tenant* shall include the plural as well as the singular.

39. **Purchase Option.** ☐ (Check if applicable.) Landlord and tenant have entered into an Option for Purchase of Real Estate (S-N Form No. 14). Until the exercise of such option, this Agreement remains the effective contract between the parties, and tenant shall not make alterations or repairs to any portion of the premises except as may be permitted or required by this Agreement, or by additional written agreement between the parties.

40. **Additional Provisions.** IHSiv\r\oty\.rl.S /TEWy have £:/3‹£ jptLt dog.

_____

_____

_____

_____

_____

☐ (Check if applicable.) If additional space is required, an Addendum to Rental Agreement (S-N Form No. 581) is provided herewith and made a part hereof.

ACKNOWLEDGMENTS AND CERTIFICATIONS

If the premises was built before 1978, the parties have reviewed the information in paragraph 32 above, and certify, to the best of their knowledge, that the information they have provided is true and accurate, and tenant acknowledges receipt of such information.

Tenant further acknowledges that tenant understands tenant's rights and obligations hereunder, and has read this Agreement, including any attachments, in its entirety, and that landlord has made no promises to tenant except as set forth in this Agreement; that tenant shall comply with all of tenant's obligations imposed pursuant to Oregon statute; and that tenant has personally inspected the premises and finds it satisfactory at the time of execution of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date stated above. Tenant acknowledges receipt of a copy of this Agreement.

_____ LANDLORD OR AGENT

_____ TENANT

_____ TENANT

* If premises was built prior to 1978, landlord must retain this rental agreement for at least three years after the commencement of the rental term.

PUBLISHER'S NOTE: Certain additional forms may be required. If landlord charges a deposit to secure execution of the Rental Agreement, *S-N Form No. 578 – Receipt for Deposit to Secure Execution of Rental Agreement and Schedule of Rent, Deposits and Fees* must be provided to applicant at the time the deposit is collected. If landlord screens tenant credit and history, *S-N Form Nos. 533 – Screening Charge Disclosure and Receipt* and *540 – Notice of Action on Application for Tenancy* must be provided to tenant. In certain circumstances, *S-N Form Nos. 542 – Parking Addendum* and *2008 – Protect Your Family from Lead in your Home* are required. Also, *S-N Form Nos. 14 – Option for Purchase of Real Estate, 526 – Dwelling Unit Condition Checklist, 535 – Pet or Aid Animal Addendum, 581 – Addendum to Rental Agreement, 582 – Personal Guaranty (Co-Signer Agreement) and 1167 – Tenant's Rental Application* may be useful. For other forms pertaining to landlord and tenant relationships, see the Stevens-Ness Legal Forms and Products Catalog or visit the website at www.stevensness.com.

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 16, 2016

Order No.	Ordinance No.	Resolution No. 2016-3292	Motion	Information
___	___	XX	___	___

SUBJECT: Resolution authorizing the City Manager Pro Tem to initiate the process of participation in the Public Employees Retirement System (PERS) for all eligible Non-Represented Employees Hired on or After August 1, 2016	**Contact Person (Preparer) for this Motion: Nancy McDonald, Interim Human Resources Director** **Dept.: Administration** **File No.:**

RECOMMENDATION:

Adopt **Resolution No. 2016-3292** Authorizing the City Manager Pro Tem to initiate the process of participation in the Public Employees Retirement System (PERS) for all eligible Non-Represented Employees hired on or after August 1, 2016.

EXECUTIVE SUMMARY:

On May 11, the City Council Sub-Committee on Pensions met and discussed the growing fiduciary responsibilities and projected significant cost increases placed on the City because of the organization's participation in the Newberg Employee Retirement Plan (NERPS) with the Principal Finance Group. The Sub-Committee agreed that a change is warranted in the provider of retirement benefits for eligible Non-Represented and AFSCME-Represented Public Works employees.

Currently, all Public Safety employees, Executive, Mid-Level Management and Technical employees are already in the Public Employees Retirement System (PERS.) The Sub-Committee voted to recommend to the City Council that eligible employees hired on or after August 1, 2016 should also become members of PERS. However, on May 12/13 at an AFSCME membership (and follow-up) meeting, the Public Works employees voted down the idea of entering into a different retirement system for new employees at this time and will revisit the topic during the next round of contract negotiations.

PERS includes three programs: the Chapter 238 pension program (Tier I and Tier II members hired prior to 8/29/2003), the Oregon Public Service Retirement Plan (OPSRP), and the Individual Account Program (IAP), in which all members participate.) Terms of participation will be set out in a coverage agreement effective August 1, 2016. The Finance Director will be the City contact with PERS in the crafting of the coverage agreement between the City of Newberg and PERS, which will include the provisions that the City provides the unused sick leave benefit for Chapter 238 members; and, that the City participates in the State and Local Government Rate Pool for Chapter 238 members.

Eligible Non-Represented employees entering the PERS system under this Council action will be responsible for their 6% employee contribution into the PERS system per ORS 238A.335 (2) (a). Public Safety, Executive, Mid-Level Management and Technical employees will continue to have their 6% employee contribution picked-up by the City per ORS 238A.335 (2) (b).

FISCAL IMPACT:

There are no up-front fees for joining PERS. There are required employer and employee contributions each pay period, based on percentages of salary. Contributions for employees who are already Chapter 238 or OPSRP members will begin with the City's first payroll on or after the effective date of the coverage agreement. Contributions for employees who are required to serve a six-month waiting period will begin as of the first of the seventh calendar month after the waiting period begins.

For OPSRP, the current employer contribution rate is 7.11% of general-service employee payroll. For Chapter 238 employees the current employer contribution rate is 15.09%. Employer contribution rates are subject to change based on periodic actuarial valuations of the system with new rates effective July 1 of each odd-numbered year.

Funding for contributions into the existing NERPS retirement plan for Non-Represented employees is included in the adopted FY 2015-2016 at 24.5% and the proposed FY 2016-2017 budget at 29.32% under the appropriate benefit line.

STRATEGIC ASSESSMENT:

Freezing current membership in the NERPS plan by enrolling eligible Non-Represented new hires, as of August 1, 2016, in PERS is the most fiscally responsible decision that can be made to mitigate the double-digit percentage increases in the City's contribution rate. While the City's contribution rate to PERS will also be increasing in FY 2017-2018 the current rate through June 30, 2017 is a lower rate than that of the current and projected rate of NERPS.

The state and most local government bodies are members of the Public Employees Retirement System, therefore trying to recruit experienced candidates for position vacancies which are covered by the NERPS plan limits the City's candidate pool because established PERS member candidates most likely will not apply.

RESOLUTION NO. 2016-3292

A RESOLUTION AUTHORIZING THE CITY MANAGER PRO TEM TO INITIATE THE PROCESS FOR PARTICIPATION IN THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS) FOR ALL ELIGIBLE NON-REPRESENTED EMPLOYEES HIRED ON OR AFTER AUGUST 1, 2016

RECITALS:

1. The City Manager Pro Tem shall initiate the process of participation in the Public Employees Retirement System (PERS) for all eligible Non-Represented employees.

2. The Finance Director will be the contact person authorized to work with PERS to develop a coverage agreement.

3. All eligible Non-Represented employees hired on, or after August 1, 2016 will participate in PERS.

4. The City provides the unused sick leave benefit for Chapter 238 members.

5. The City participates in the State and Local Government Rate Pool for Chapter 238 members.

6. Eligible Non-Represented employees entering the PERS system under this Council action will be responsible for their 6% employee contribution into the PERS system per ORS 238A.335 (2) (a). Public Safety, Executive, Mid-Level Management and Technical employees will continue to have their 6% employee contribution picked-up by the City per ORS 238A.335 (2) (b).

7. Funding: Funding for contributions into the existing NERPS retirement plan for Non-Represented employees is included in the adopted FY 2015-2016 at 24.5% and the proposed FY 2016-2017 budget at 29.32% under the appropriate benefit line. PERS contributions will be covered by these appropriations.

8. The City Council Sub-Committee on Pensions has approved this change and recommends Council approval.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

The City Council approves the initiation of the process of participation in the Public Employees Retirement System (PERS) for all eligible Non-Represented employees hired on or after August 1, 2016.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: May 17, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of May, 2016.

_____
Sue Ryan, City Recorder

ATTESTED by Mayor this _____ day of May, 2016.

_____

Bob Andrews, Mayor

Development Code Amendment: Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers

Newberg City Council

May 16, 2016

File # DCA-16-001

Proposal: Amend the Newberg Development Code to address Recreational Marijuana Wholesalers, Labs, Research Certificates & Retailers

- Adds Recreational Marijuana Laboratories as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.

- Adds Recreational Marijuana Research Certificates as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.

- Adds Recreational Marijuana Retailers as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC and SD/H with footnotes for a 1,000 foot buffer from parks and schools, 1,000 foot separation between marijuana retailers and marijuana retailers to dispensaries, and operating hours limited to the hours between 9 AM and 8 PM.

Proposal (cont.)

- Adds Recreational Marijuana Wholesalers as a conditional use in C-2 with footnotes allowed indoors only and 1,000 foot buffer from parks and schools.

- Adds Recreational Marijuana Wholesalers as a permitted use in M-1, M-2, M-3, M-4-I, M-1/SP, SD/E and II with footnote 1,000 foot buffer from parks and schools.

- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in the Stream Corridor Overlay.

Proposal (cont.)

- Prohibits Recreational Marijuana Wholesalers and Retailers in the Civic Corridor Overlay.

- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in in the Bypass Interchange Overlay.

- Prohibits Recreational Marijuana Wholesalers, Laboratories and Research Certificates in the Interim Industrial Overlay.

- Prohibits Recreational Marijuana Retailers in the Interim Industrial Overlay.

Proposal (cont.)

- **Definitions**: Recreational Marijuana Laboratory, Marijuana Retailer, Marijuana Wholesaler.

The proposal is…

- A set of requirements for recreational marijuana wholesalers, laboratories, research certificates and retailers Measure 91, HB 3400 and OAR Division 25 and ORS 475B.

The proposal is not…

- A discussion about whether marijuana should be legal.
- Addressing medical marijuana.

Background

- Measure 91, HB 3400 and OAR Division 25, ORS 475B allows recreational marijuana wholesalers, labs, research & retailers.
- City Council Work Session September 8, 2015 established the Marijuana Subcommittee.
- OLCC adopted Temporary OAR's in November 2015.
- City Council initiated the Development Code amendment, February 1, 2016 (Res No. 2016-3253).
- The Marijuana Subcommittee developed recommendations to the Planning Commission, February 4, 2016.

Background (cont.)

- The Planning Commission held a public hearing on April 14, 2016.

- OLCC anticipates issuing licenses for wholesalers, labs, and research certificates beginning in April 2016 (none issued in Newberg at this time) and retailers in July 2016.

Public comments

Two public comments have been received from Leif Patterson and Canna Bros.. The comments focus on allowing retail operations and requesting a 1,000 separation between Retail operations.

Analysis

- City can regulate Place, Time and Manner (Measure 91, HB 3400, OAR Division 25, ORS 475B).

- OLCC LUCS. If LUCS indicates use is not allowed OLCC will not issue a license.

- OLCC License not issued for operations on federal property, at same location or address as medical marijuana grow site or medical marijuana processing site, medical marijuana dispensary, same location or address as liquor licensee, producers not allowed on public land or same tax lot/parcel as another producer.

Analysis (cont.)

- OLCC Licenses not issued for a primary residence.
- Wholesaler – not in area zoned exclusively for residential use.
- Retailer - not in area zoned exclusively for residential use.
- Retailer – 1,000 feet from schools (primary/secondary/public/private/parochial).
- Retailers can be required to have a separation of not more than 1,000 feet.
- Retail hours limited to 7 am to 10 pm.

Analysis (cont.)

- Research – OLCC license is good for 3 years.
- Marijuana products must be tested by a laboratory (accredited by OHA) and licensed by OLCC.
- Manner limits in Oregon Laws, ORS or OAR's – many.
- Handler Permits.
- Laws have changed again with 2016 Legislative Session.

Subcommittee Recommendation

Retail:

- Not allow retail as a permitted use in residential districts R-1, R-2, R-3, R- 4, AR, RP, and all residential sub-districts.
- Allow retail as a permitted use in all commercial zones except Civic Corridor with a footnote regarding the 1,000 foot buffer from schools and parks as noted on the third map in the packet.
- Not allow retail in industrial districts and sub-districts.
- Not allow wholesale or retail in community facilities and institutional.
- Change the hours of operation for retail to 9 am to 8 pm.

Subcommittee Recommendation

Wholesale:

- Allow wholesale as a permitted use in all residential categories including the sub-districts with no product allowed on the premises.
- Allow wholesale as a conditional use in C-2 only with a footnote regarding indoor use only and new footnote regarding the 1,000 foot buffer from schools and parks.
- Not allow wholesale or retail in community facilities and institutional.
- Allow wholesale as a permitted use in all industrial districts and sub-districts, except Airport Industrial, with a footnote regarding the 1,000 foot buffer from schools and parks.
- Not allow retail or wholesale in the other sub-districts.

Subcommittee Recommendation

Laboratories and Research Certificates:

- Allow laboratories and research in all commercial districts and sub-districts, institutional districts, and all industrial districts and sub-districts, except AI. They are not allowed in all other districts, such as residential, community facilities, and other.

Planning Commission Recommendation

- Adds Recreational Marijuana Laboratories as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.
- Adds Recreational Marijuana Research Certificates as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, M-1, M-2, M-3, M-4-I, M-4-C, SD/E, M-1/SP, II, AIO and CC.
- Adds Recreational Marijuana Retailers as a permitted use in C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC and SD/H with footnotes for a 1,000 foot buffer from parks and schools, 1,000 foot separation between marijuana retailers and marijuana retailers to marijuana dispensaries, and operating hours limited to the hours between 9 AM and 8 PM.

Planning Commission Recommendation (cont.)

- Adds Recreational Marijuana Wholesalers as a conditional use in C-2 with footnotes allowed indoors only and 1,000 foot buffer from parks and schools.

- Adds Recreational Marijuana Wholesalers as a permitted use in M-1, M-2, M-3, M-4-I, M-1/SP, SD/E and II with footnote 1,000 foot buffer from parks and schools.

- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in the Stream Corridor Overlay.

- Prohibits Recreational Marijuana Wholesalers and Retailers in the Civic Corridor Overlay.

Planning Commission Recommendation (cont.)

- Prohibits Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers in the Bypass Interchange Overlay.

- Prohibits Recreational Marijuana Wholesalers, Laboratories and Research Certificates in the Interim Industrial Overlay.

- Prohibits Recreational Marijuana Retailers in the Interim Industrial Overlay.

- Definitions: Recreational Marijuana Laboratory, Marijuana Retailer, Marijuana Wholesaler.

Proposed Development Code Amendment

15.05.030 Definitions

- "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.

Proposed Development Code Amendment

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

15.305.020 Zoning use table

See Exhibit A, Attachment 1 (after page 109) for Table

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

15.305.030 Zoning use table

See Exhibit A, Attachment 1 (after page 109) for Table

Proposed Development Code Amendment

Sections 4 – 8. See Pages 104 - 107.

Findings

- Citizen involvement/public process goals: Code adoption requires at least 2 public hearings, newspaper notice. Also have a webpage on city website. Approval would be consistent with this goal.

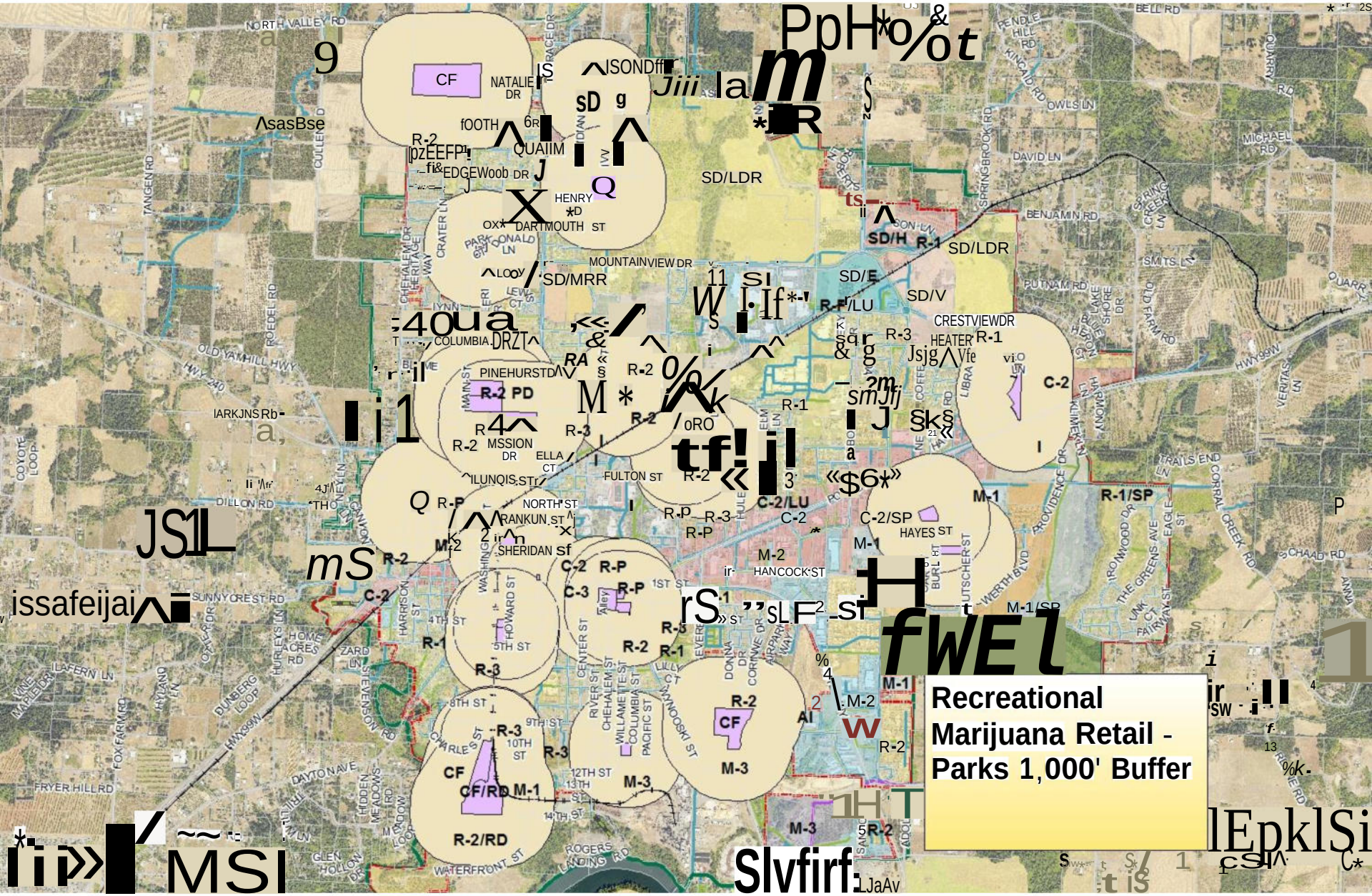
- Economy goal – encourage new and diverse businesses: Provides opportunity for a new type of legal business, for which there is some local demand. Allows the use in some districts and subdistricts as permitted or prohibits the activities in other districts and subdistricts.

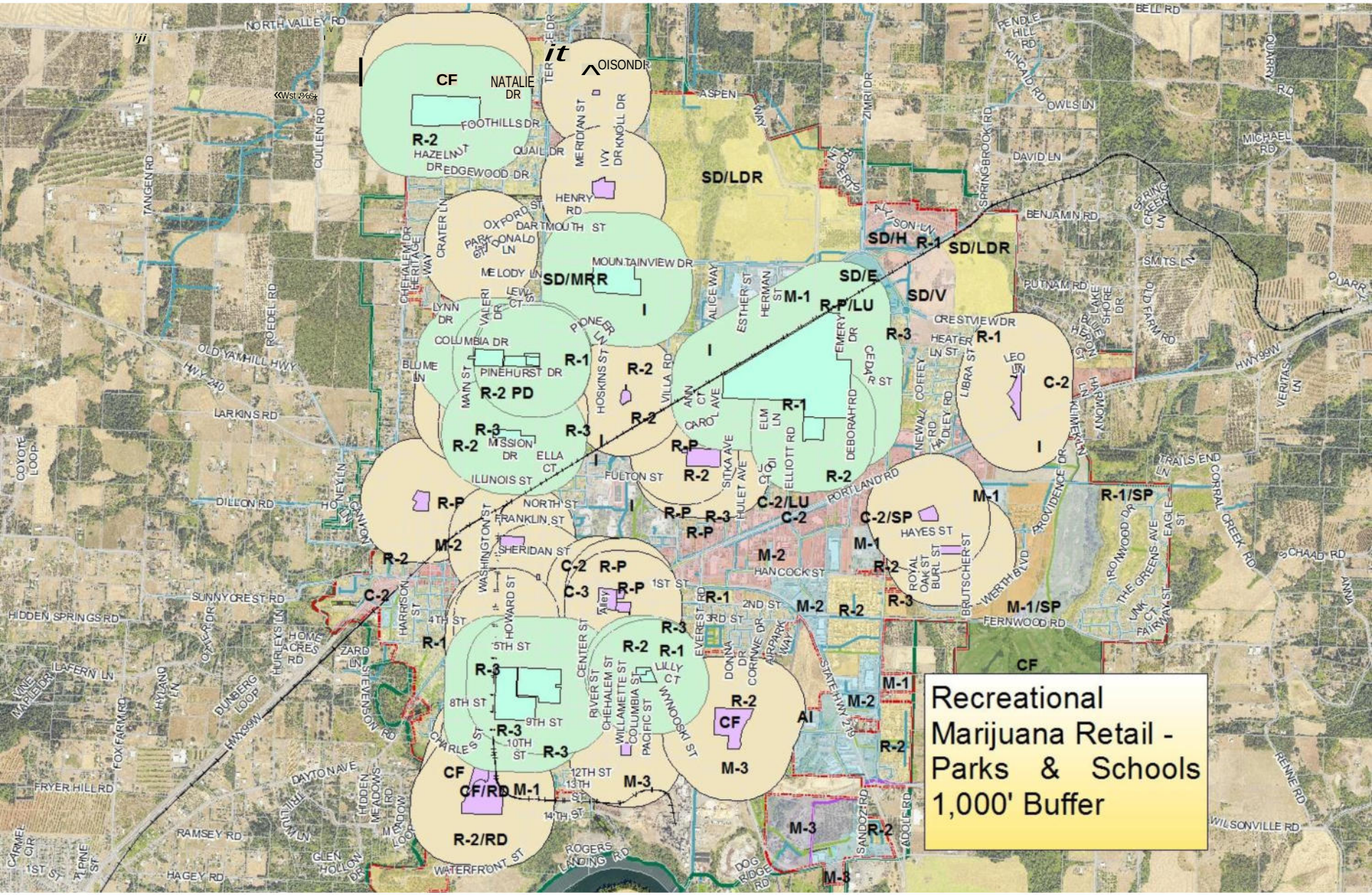
Staff Recommendation

The staff recommendation is made in the absence of public testimony and may be modified prior to the close of the hearing. At this time, staff recommends:

- **Adopt Ordinance No. 2016-2801**, amending the Newberg Development Code for recreational marijuana wholesalers, laboratories, research certificates & retailers.


Recreational Marijuana Retail - Schools 1,000' Buffer


Recreational
Marijuana Retail -
Parks 1,000' Buffer


Recreational Marijuana Retail - Parks & Schools 1,000' Buffer

Recreational Marijuana rule Petition

Sarah Lowe

503-544-3801

RECEIVED
MAY 12 2018
BY

City Council Mooting
Date: 5/16/18
Re: Recreational Marijuana Sales
Topic: 2018-2801

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

A. Must be located on a lot or parcel with frontage along Portland Rd. (Oregon Route 99).

B. Shall not be located within 300' of a residential zone. The distance specified is measured from the closest points between property lines of the affected properties. (300 feet is approximately 1 city block)

The requested rule changes are intended to affect only recreational sales of marijuana not medical sales. Available parking in the downtown area is limited with no easy options for increases. We would seek to prevent the parking problems that will come from a recreational store on the west side of the downtown area. Chalice (a medical marijuana store in Dundee that also sells recreational marijuana) has an average daily traffic of over 150 customers. Local medical marijuana stores average less than 15 customers per day. In the downtown area there is no easy way to increase the available parking, a recreational store would negatively affect those downtown businesses that depend on the street parking. We would also like to keep parking of customers and employees off of the residential side streets.

The requested changes are also intended to help make sure our residential neighborhoods continue to be safe and livable. Tigard has included similar rules.

Business name NAPS INC D.B.A. NAPS THRIFTWAY

Signed Richard D. Peterson

Address (optional) 112 e 1st

Date 5/11/16

RECEIVED
MAY 12 2016
BY: SR

City Council Mteettog
Date: 5/17/16
Re: ORD 2016-2801
Topic: kVcA ONiJix UaZ

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

A. Must be located on a lot or parcel with frontage along Portland Rd. (Oregon Route 99).

B. Shall not be located within 300' of a residential zone. The distance specified is measured from the closest points between property lines of the affected properties. (300 feet is approximately 1 city block)

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The requested changes are also intended to help make sure our residential neighborhoods continue to be safe and livable. Tigard has included similar rules.

Business name QUICKSTOP market

Signed Rahma

Address (optional) 116 rJ RACtÀft 5T Alsnberg

Date 5-8-16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: DM Ahlo AKD
TopicrKee, YftoJil juana

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

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The requested changes are also intended to help make sure our residential neighborhoods continue to be safe and livable. Tigard has included similar rules.

Business tfame L Jac's Deli

Signed

Address (optional) _____

Date 5/9/16

RECEIVED
MAY 12 2016
BY:

City Council Meetfng
Date: 05/25/16
Re: 2nd 2016-280
Topic: Kelly Lane

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

A. Must be located on a lot or parcel with frontage along Portland Rd. (Oregon Route 99).

B. Shall not be located within 300' of a residential zone. The distance specified is measured from the closest points between property lines of the affected properties. (300 feet is approximately 1 city block)

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Business name Jcs h o T(< (jfAr^ LUL

Signed

Address (optional) _____

Date 5 . f - 1 W

RECEIVED
MAY 12 2016
BY: SR

Cfly Co[illegible]
Csate: 5
Re: Ord 2016-2801
Topic: tt Pr ITU

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

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Business name LYDA FINANCIAL, INC.

Signed _____

Address (optional) _____

Date 5-9-16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2881
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Redhills Salon + Spa

Signed [signature]

Address (optional) 209 E. First St. Newby

Date 5-10-16

RECEIVED
MAY 12 2016
BY: AA

City Council Meeting
Sate: 5/16/16
HQ: JM3
Topic: ORD 2016-2801
Re: Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

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Business name Chapters

Signed [illegible]

Address (optional) [illegible]

Date 5.10.16

[illegible] GOWEE D
MAY 11 2018
BY: SR

5jag;
Re: [illegible]
Topic: [illegible]

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name kj&yi t Dauch feo (JtLwQjp rf

Signed 90drvumy

Address (optional) 707 E 1st htkwb&jp DR

Date 5-10-lfe

RECESVEp
ft MAY 12 28!6
BY: SR

City Course!! Meeting
Date: 5/ifJife
Re: MAI 2016-2801
Topic: Rec. iiWu juana

FOR THE RECREATIONAL SALES OF MARIJUANA

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1

Business name Portuguese Embroidery

Signed Cheryl Fletcher

Address (optional) HA 8 Edwards St

Date 5/10/16

RECEIVED
MAY 12 2018
& D
LSY: JD

City Council Mooting
Date: ShUhCo
fierjM Mlc 2881
Topic: Hpt FrhA; i A2 yp-va

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Yelow

Signed [signature]

Address (optional) 716 E. Lit

Date 5/10/2016

RECEIVED
MAY 11 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2801
Topic: Wr r/ic LA Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name James' Mm

Signed James K Schroeder

Address (optional) 616 E 1st St.

Date 5/10/16

RECEIVER

MAY 12 2016

BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2801
To Prohibit Marijuana

503-544-3801

Sarah L OIAiR

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

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Business name T's Arrkz crp

Signed

Address (optional) _____

Date 5.10.16

RECEIVED
MAY 12 2018
BY: SR

City C AnciygMtln§
Da
Re 5 Ad 'aMfo- AXbi
Toplrr Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Cusick Picture Frame

Signed Phil Cusick

Address (optional) _____

Date Tuesday 10th, 2016

RECEIVED
MAY 12 2016
BY: SR

SMr iihg
Re: fM '2016-280T
Toole: Arr, rVhA;' AJO

FOR THE RECREATIONAL SALES OF MARIJUANA

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Businessname Art Elements Gallery

Signed Sarah Is

Address (optional) _____

Date 5-10-16

RECEIVED
MAT i 2 2018
BY: SR

City Council JMtefIng
Date: 5/16/16
Re: Met ftbtie -2807
Topic: Recreational Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name TVA V.iC:r vfK Kapitos

Signed bf/Apal. Sa%abrieA

Address (optional) _____

Date mlin/A

RECEIVER

n MAY 12 20® y

BY: SR

City Council Mating

Date: Bfi(cf/ (o

Re: hdti 'nCblip -280 T

Topic: Recrea fhrrXjj) IIU ijuana

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Business name Pitter-Patter

Signed: [signature]

Address (optional) 308 E 1st St.

Date 5/10/15

RECEIVED
MAY 12 2015
BY: SR

City Council Mooting
Date: 5/26/15
Re: Ord 2780
Topic: Recreational Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Spe XMMBI Glass

Signed _____

Addressteptihhal) _____

Date 5/12/16

jczsvrj

MAY 12 20»

BY: SR

City Cou/tcii Medifngj

Date: 5fUo/(p

Re: Ord. 2016-2801

Topic: Rec Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Λ*"5 PdV&vCez

Signed^

Address (optional) 2C& hJ ftA/AJ. S-P

Date 5/8/16

fjECOVE
1 MAY !1 2815
BY: SR

City Council Meeting
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FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Cliff Creek

Signed Sallee Pelt

Address (optional) as ** F^e4 St. Newberg, CV ?713z

Date 5/9/16

RECEIVED
11 NAY 12 2018
BY: SR &

City Council Mealing
Date: &/ifaith
Rs: {VAM &6/b -280I
TopicT^Jr/Ttt UMAO ne

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Business name Papa Murphies

Signed [signature]

Address (optional) _____

Date 5/8/16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ummy of Tle - 2881
Topte: Ao77/Ajjuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Thomas L Dermes

Signed

Address (optional) \\M £ 2nA

Date -S-VUt

RECEIVED
MAY 12 2018
BY:

City Council Meeting
Date: 5/16/16
Re: Ord 2016-280 I
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Crush 2 Cellar

Signed

Address (optional) P. f Λ UJ ; ■ Λ tAC oe K— Sh

Date fi/ / WHg

RECEIVED
Mr 12 2015
BY: SR

City Council Meeting
Date: &UP flop
Re: DAot 0176 -2081
Topic: /CJ77 Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Λhlvl vi Cεuf\ Ojjtss / £3Λ jVirf Rods

Signed Λv1 Dusie K Smith

Address (optional) TS6) U3. I St Srh

Date 5b|)U

RECEIVED
MAY 12 2018
BY: SR U

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2801
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Chehalem Cigar

Signed Dennis Dunaby

Address (optional) _____

Date 5-09-18

RECEIVED
MAY 12 2018
BY: SR

City Council Meeting
Date: 5/14/18
R&JD&CK 2016-2 Ref f
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name: ULnSm^-f'loorl an 1w

Signed: Inae Faud

Address (optional) 50 cL fz & yst St. Newberer 0

pa[redacted] 9, 2016

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: hM muo ~db<bJ
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Business name Pulp & Circumstance

Signed [signature]

Address (optional) _____

Date 5/9/16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2801
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

(leaving medical sales of marijuana as currently written)

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Business name Critter Cabana

Signed _____

Address (optional) _____

Date 5/4/16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2801
Topic: Rec Marijuana

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Business name nlfCl Grason Furniture

Signed

Address (optional)

Date ST 5/16

City Council Meeting
Date: 07/L/16
Re: Ordinance 2016-2801
Topic: Rec. Marijuana

RECEIVED
MAY 12 2018
BY: SR

FOR THE RECREATIONAL SALES OF MARIJUANA

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The requested changes are also intended to help make sure our residential neighborhoods continue to be safe and livable. Tigard has included similar rules.

Business name Pine View Natural Resources

Signed

Address (optional) 8550 NE Dogwood Ln, Dundee, OR 97115

Date 4-24-16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2881
Topic: Rec Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name fr&cu Bentley

Signed Tracy Bentley

Address (optional) _____

Date 5-10-16

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MAY 17 20!S

BYT. SR

City Council MmVng

Re: Rul 15 rt (a - A&C 1

Topic: fip r. IVIBLAXJLuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name BRUCE BISHOP

Signed [signature]

Address (optional) _____

Date 5/10/16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2801
Topic: Recreational Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name Monica Ashley

Signed

Address (optional) _____

Date 5-10-16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2bjc-280 J
Topic: fcpr. marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name Laura Umfleet

Signed Laura Umfleet

Address (optional) _____

Date 5-10-16

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MAY 12 2G16
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 1201b-2881
Topic: Rec. Vh Ma...

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name Meg Alv fyajl

Signed W

Address (optional) _____

Date m lk

RECEIVED
MAY 12
BY: SR

Dipan

Crty Council Meeting
Date 7/Coll
Re: Ord 2016-2801
Topic: Rec. 17/QAJL

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name Clint Cardwell

Signed Clint Cardwell

Address (optional) _____

Date 5/8/16

City Council Meeting
Date: 5/16/16
Re: Ordinance 2016-280
Topic: Rec. Marijuana

7

RECEIVED
MAR 12 2018
BY: SR

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name Sally Smith

Signed Sally Smith

Address (optional) 215 S. Main St. Newberg, OR 97132

Date May 8, imip

RECEIVED
MAY 12 2016
BY: SR

City Council M#«ting
Date: 5/16/16
FV: Ord 2016-2881
Topic: Rec. Marijuana

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Name Amy Swem

Signed Amy Swem

Address (optional) 510 Dayton Ave P.O. Box Dundee OR 97132

Date 5-8-18

RECEIVED
MAY 12 2018
BY: SR

SMg

Re: McMinnville 2058

Topic: dPC of Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name James Reichenbach

Signed

Address (optional) 201 CSS 2nd ST Newberg OR

Date 5/PP ST**/*

RECEIVED
MAY 12 2016
BY: SR

City Cornell fWSiwrtifii
Pat
Re: Myi Pjpi
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name Diane Reichenbach

Signed Diane Reichenbach

Address (optional) 0ff O1 U). jZruel Newberg

Date 5-8-16

City Council Meeting
Date: 5/16/16
Re: n1/A QM (p – 9M?) 1
Topic: Rer, A4M \ jxCCZa

RECEIVED
MAY 12 2016
BY: SR

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Name Wade Cannon

Signed Wade Cannon

Address (optional) _____

Date 5-8-18

RECEIVED
MAY 12 2018
BY: SR

City Council Meeting
Date: 5/15/18
Re: Ord 2018-280 T
Topic: Recreational Marijuana

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Name Brian Woodaugh

Signed

Address (optional) ID & [illegible] & Sf Newberg

Date 5/5/2016

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-2801
Topic: Rec. Marijuana

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Name [signature]

Signed [signature]

Address (optional) [illegible] Dog Ridge Rd.

Date 4/25/16

RECEIVED
MAY 12 2016
BY: SR

City Council Meeting
Date: 5/16/16
Re: Ord 2016-281
Topic: Rec. Marijuana

FOR THE RECREATIONAL SALES OF MARIJUANA

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Name Myrka Guzman

Signed Myrka Guzman

Address (optional) _____

Date 5/10/16

City Council Meeting
Date: 5/16/16
Re: [illegible]
Topic: [illegible]

RECEIVED
MAY 12 2016
BY: SR

NEWBERG CITY COUNCIL MEETING INFORMATION

Meeting Date: May 16, 2016 **Prepared by: Sue Ryan**

Councilors	**Roll Call**	**Noelle Torres – Planning Commission Appt. 5/16/16 to 12/31/16**	**Consent:** **Minutes 4/18 & 4/23;** **Res 3276 – Rejection of bids Blaine St.** **Res 3300 – Easements – acceptance for Blaine St.** **ODOT Noise Variance** **Northside CC Fireworks Noise Variance** **Res 3280 TRAKiT permitting software** **Res 3303 Illinois St. House lease**	**Res 3287 –** **Two permanent easements at 305 W. Illinois Street**	**Res 3301** **Garbage Franchise increase for Waste Management**
ANDREWS, Bob, Mayor	X	Yes	Yes	Yes	Yes
BACON, Denise	X	Yes	Yes	Yes	Yes
COREY, Mike	A	Absent	Absent	Absent	Absent
ESSIN, Scott	X	Yes	Yes	Yes	Yes
JOHNSON, Patrick	A	Yes	Yes	Yes	Yes
McKINNEY, Stephen	X	Yes	Yes	Yes	Yes
WOODRUFF, Lesley	X	Yes	Yes	Yes	Yes
ROLL CALL VOTES		**YES: 6** **NO: 0** **Absent: 1 [Corey]**	**YES: 6** **NO: 0** **Absent: 1 [Corey]**	**YES: 6** **NO: 0** **Absent: 1 [Corey]**	**YES: 6** **NO: 0** **Absent: 1 [Corey]**
MOTION (1st/2nd):		Bacon/Essin	Johnson/Bacon	Woodruff/Essin	McKinney/Essin

Executive Session pursuant to ORS 192.660 (2) I Performance Evaluation of Public Officers
Start: 9:07 p.m.
Stop:10:28 p.m.
Staff present: City Attorney Truman Stone
Topic – City Attorney Evaluation

Meeting adjourned at 10:29 p.m.

Councilors	**Roll Call**	**Res 3279** **CM contract with Joe Hannan**	**Res 3288** **GFU Banners**	**Res 3292** **PERS**		
ANDREWS, Bob, Mayor	X	Yes	Yes	Yes		
BACON, Denise	X	Yes	Yes	Yes		
COREY, Mike	A	Absent	Absent	Absent		
ESSIN, Scott	X	Yes	Yes	Yes		
JOHNSON, Patrick	X	Yes	Yes	Yes		
McKINNEY, Stephen	X	Yes	Yes	Yes		
WOODRUFF, Lesley	X	Yes	Yes	Yes		
ROLL CALL VOTES		**YES: 6** **NO: 0** **Absent: 1 [Corey]**	**YES: 6** **NO: 0** **Absent: 1 [Corey]**	**YES: 6** **NO: 0** **Absent: 1 [Corey]**		
MOTION (1st/2nd):		Bacon/Essin	Johnson/ McKinney	Bacon/Woodruff		