



## *ORDINANCE No. 2015-2780*

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**AN ORDINANCE AMENDING THE NEWBERG DEVELOPMENT CODE  
REGARDING MEDICAL MARIJUANA DISPENSARIES AND DECLARING AN  
EMERGENCY**

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### **RECITALS:**

1. On March 19, 2014, Senate Bill 1531 was signed into law. SB 1531 gives local governments the ability to impose certain regulations and restrictions on the operation of medical marijuana dispensaries, including the ability to impose a moratorium for a period of time up until May 1, 2015. Newberg enacted such a moratorium on April 7, 2014.
2. The Newberg City Council initiated a potential amendment to Newberg's Development Code regarding medical marijuana dispensaries on February 2, 2015, under City Council Resolution 2015-3177.
3. After proper notice, the Newberg Planning Commission held a hearing on March 12, 2015 to consider the amendment. The Commission considered testimony, deliberated, and found that adding regulations for medical marijuana dispensaries would be in the best interests of the city. They approved Resolution 2015-306, which recommends that the City Council adopt the proposed amendments to the Newberg Development Code. Staff recommends one change to the code amendment language, to make the buffer distance measurement match how the State measures buffer distances.
4. After proper notice, the Newberg City Council held a hearing on April 6, 2015 to consider the proposed amendment. The Council considered testimony and deliberated.

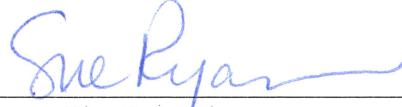
### **THE CITY OF NEWBERG ORDAINS AS FOLLOWS:**

1. The Council finds that adding regulations for medical marijuana dispensaries would be in the best interests of the city. The Council adopts the amendments to the Newberg Development Code as shown in Exhibit "A". Exhibit "A" is hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit "B" are hereby adopted. Exhibit "B" is by this reference incorporated.


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

➤ **EFFECTIVE DATE** of this ordinance is: April 7th, 2015.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 6<sup>th</sup> day of April, 2015, by the following votes: **AYE:** 4 **NAY:** 3 **ABSENT:** 0 **ABSTAIN:** 0

  
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Sue Ryan, City Recorder

**ATTEST** by the Mayor this 7th day of April, 2015.

  
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Bob Andrews, Mayor

List of Exhibits:

Exhibit "A": Development Code Text Amendments

Exhibit "B": Findings

**Exhibit “A” to Ordinance 2015-2780  
Development Code Amendments –File DCA-15-001  
Medical Marijuana Dispensaries**

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

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

**15.05.030 Definitions**

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

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

“Park category” means a category of uses under Chapter 15.303 NMC that provide areas for outdoor recreation, whether passive or active. Parks may be privately or publicly operated, but no admission fee is charged.

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

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

**15.303.342 Park category.**

A. Characteristics. Park uses provide areas for outdoor recreation, whether passive or active. Parks may be privately or publicly operated, but no admission fee is charged.

B. Accessory Uses. Accessory uses may include pavilions, club houses, maintenance facilities, concessions, caretaker’s quarters, and parking.

C. Examples. Playgrounds, community sports fields, public squares, picnic pavilions.

D. Exclusions. Commercial recreational uses are a separate category. Open spaces without access or with only trails or observation areas are classified as open space. Recreational facilities accessory to a school, church, or public community center use, regardless of whether admission is charged, are part of the primary use. Golf courses are a separate use.

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

**15.305.020 Zoning use table**

**15.305.010 Classification of uses.**

The zoning use table under NMC 15.305.020 identifies the land uses that are allowed in the various zoning districts. The specific land use categories are described in Chapter 15.303 NMC. The table identifies each use as one of the following:

- P Permitted Use. The use is a permitted use within the zone. Note that the use still may require design review, building permits, or other approval in order to operate.
- C Conditional Use. A conditional use permit is required for the use. See Chapter 15.225 NMC.
- S Special Use. The use is subject to specific standards as identified within this code. The applicable section is included in the last column of the table.
- (#) A note indicates specific limits on the use. These notes are listed at the bottom of the table.
- X Prohibited Use. The use is specifically prohibited.

If none of the codes above are indicated, then the use is not permitted within the zone. [Ord. 2763 § 1 (Exh. A § 6), 9-16-13.]

**15.305.020 Zoning use table.**

**Newberg Development Code – Zoning Use Table**

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards	
420	<b>COMMERCIAL SALES AND RENTALS</b>																				
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)												NMC 5.15.050 et seq.
	<u>Medical marijuana dispensary</u>							<u>P</u> (35)	<u>P</u> (35)												

**Notes.**

(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 or private primary, elementary, secondary or career school. Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public or private elementary, secondary or career school to the closest point of the premises of a dispensary. The premises consist of the dispensary building, or the portion of the building used for a dispensary. Shall not be located within 1,000 feet of another medical marijuana dispensary. Operating hours are limited to the hours between 9:00 AM and 8:00 PM.

**Exhibit “B” to Ordinance 2015-2780  
Findings –File DCA-15-001  
Medical Marijuana Dispensaries**

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

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

**Finding:** The City Council initiated the potential development code amendment at a public meeting on February 2, 2015. The Planning Commission, after proper notice, held a public hearing on March 12, 2015. The City Council, after proper notice, held a public hearing on April 6, 2015, deliberated, and decided to adopt the proposed code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

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

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

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

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

**Finding:** The City Council initiated the potential development code amendment at a public meeting on February 2, 2015. The Planning Commission, after proper notice, held a public hearing on March 12, 2015. The City Council, after proper notice, held a public hearing on April 6, 2015, deliberated, and decided to adopt the proposed code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

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

**Finding:** The Medical Marijuana Dispensary 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. State law authorizes the operation of medical marijuana facilities and provides those facilities with immunity from state criminal prosecution. City regulations on the time and place where these facilities operate are appropriate, and are consistent with this Comprehensive Plan goal.

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