



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: 11/03/2014
Jurisdiction: City of Beaverton
Local file no.: TA-2014-0001
DLCD file no.: 004-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 01/01/0001. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 35 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 004-14
{ 22347 }
Received: 10/31/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Beaverton

Local file no.: **TA 2014-0001**

Date of adoption: 10-29-14

Date sent: 10/31/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): July 2, 2014

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

The proposed 1,000 foot exclusion buffer from public parks was not approved. The list of zones in which the use will be allowed was expanded by one commercial zone. Permitted hours of operation are 7:00 AM to 10:00 PM. The use is known as Marijuana Dispensaries, the word "medical" was removed.

Local contact (name and title): Steven A. Sparks, AICP - Principal Planner

Phone: 503-526-2429

E-mail: ssparks@beavertonoregon.gov

Street address: 12725 SW Millikan Way

City: Beaverton

Zip: 97005-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- | | | | |
|-------------|----|--------|--|
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

Development Code Section 20.10.20, uses allowed in commercial zones. 20.10.25, use restrictions for uses in commercial zones. Section 20.15.20, uses allowed in employment zones. 20.20.20, uses allowed in multiple use zones

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

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

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

**AN ORDINANCE AMENDING ORDINANCE NO. 2050,
THE DEVELOPMENT CODE, TA 2014-0001,
MARIJUANA DISPENSARIES TEXT AMENDMENT**

WHEREAS, the 2014 Oregon Legislature passed and Governor Kitzhaber signed Senate Bill 1531 allowing medicinal marijuana dispensaries to be located in Oregon; and

WHEREAS, SB 1531 also allows local jurisdictions to place additional "reasonable" regulations on the medicinal marijuana dispensary use, provided that the regulations are solely based on time, place, and manner; and

WHEREAS, on April 22, 2014, the Beaverton City Council adopted Ordinance No. 4638, which placed a time-limited moratorium on the establishment of medicinal marijuana dispensaries in Beaverton for the purpose of allowing staff to draft appropriate local zoning regulations for the use; and

WHEREAS, on August 6, 2014, and September 10, 2014, the Planning Commission conducted public hearings to consider a City-initiated application to modify the text of Chapter 20 (Land Uses) of the Development Code to allow Medical Marijuana Dispensaries as a Permitted Use and to consider adding additional local regulations consistent with the provisions of SB 1531; and

WHEREAS, the Planning Commission received and considered the submitted staff report, exhibits, and public testimony on this text amendment; and

WHEREAS, the Planning Commission voted to recommend approval of the text amendment to the Beaverton City Council on September 10, 2014; and

WHEREAS, the Beaverton City Council considered a staff presentation on the Planning Commission recommended text amendment on October 14, 2014, after which time the Council directed staff to schedule a public hearing before the City Council to consider revisions to the Planning Commission recommended text amendment; and

WHEREAS, the Beaverton City Council conducted a public hearing on October 21, 2014, to consider revisions to the Planning Commission recommended text amendment; and

WHEREAS, the Beaverton City Council voted to approve the revisions to the Planning Commission recommended text amendment at the conclusion of the Council's public hearing on October 21, 2014; and

WHEREAS, the Council adopts as to criteria applicable to this request and findings thereon the Planning Division Staff Report dated July 30, 2014, September 3, 2014, Planning Commission Land Use Order No. 2367, and the Planning Division staff report to the City Council dated October 15, 2014; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 2050, the Development Code, is amended to read as set out in Exhibit "A" to this Ordinance attached to and incorporated herein by this reference.

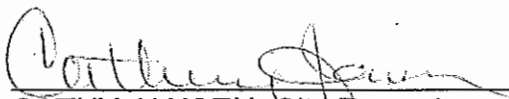
First reading this 21st day of October, 2014.

Second reading and passage this 28th day of October, 2014.

Approved by the Mayor this 29th day of October, 2014.

ATTEST:

APPROVED:


CATHY JANSEN, City Recorder


DENNY DOYLE, Mayor

Section 1: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.10.20, LAND USES, will be amended to read as follows:

20.10. COMMERCIAL LAND USE DISTRICTS

20.10.20 Land Uses

The following Land Uses are Permitted (P), allowed with a Conditional Use (C) approval, or Prohibited (N) as identified in the following table for the Commercial Zoning Districts. All superscript notations refer to applicable Use Restrictions Section 20.10.25.

Category and Specific Use Superscript Refers to Use Restrictions		NS	CS	CC	GC
		P: Permitted		C: Conditional	
		N: Prohibited			
Residential					
1. Care	A. Care Facilities	P	P	P	P
2. Dwellings	B. Accessory Dwelling Units	P	P	P	P
	C. Attached	C ¹	P	P	P
	D. Detached	C ¹	P	P	P
	E. Home Occupation	P	P	P	P
	F. Manufactured and Mobile Homes	N	N	N	N
	G. Manufactured / Mobile Homes Parks and Subdivisions	N	N	N	N
	H. Planned Unit Development	C	C	C	C
Commercial					
3. Animal	A. Animal Care, Major	C	C	C	C
	B. Animal Care, Minor	P	P	P	P
4. Care	A. Hospitals	C	C	C	C
	B. Medical Clinics	C	C	C	C
	C. Child Care Facilities	C	P	P	P
	D. Residential Care Facilities	C	C	C	C
5. Eating and Drinking Establishment	P	P	P	P	
6. Financial Institutions	P	P	P	P	
7. Live / Work Uses	P	P	P	P	
8. Office	P ²	P	P	P	
9. Parking as the Principal Use	N	N	C	P	
10. Retail Trade ³	P	P	P	P	

Category and Specific Use Superscript Refers to Use Restrictions		NS	CS	CC	GC
		P: Permitted N: Prohibited		C: Conditional	
11. Marijuana Dispensary¹³		N	P	P	P
12. Service Business / Professional Services		P	P	P	P
13. Storage	A. Self Storage Facilities	N	N	C	P
	B. Storage Yards	N	N	C	P
14. Temporary Living Quarters		N	C ⁴	P	P
15. Vehicles	A. Automotive Service, Major	C	C	N	C
	B. Automotive Service, Minor	C	P	C	P
	C. Bulk Fuel Dealerships	C	P	C	P
	D. Sales or Lease	N	N	N	P
	E. Rental	N	C	C	P
Civic					
16. Cemetery		N	N	N	N
17. Education	A. Commercial Schools	C	P	P	P
	B. Educational Institutions	P	P	P	P
18. Places of Worship		C	P C ⁷	P	P
19. Public Buildings, Services and Uses		C	C	C	C
20. Recreation	A. Public Parks, Parkways, Playgrounds, and Related Facilities	P	P	P	P
	B. Recreational Facilities	P	P	P	P
21. Social Organizations		C	P C ⁷	P	P
22. Transit Centers		N	C	C	N
23. Utilities	A. Utility Substations and Related Facilities other than Transmission Lines	C	C	C	C
	B. Transmission Lines	P	P	P	P
Hours of Operation					
24. Uses Operating between 10:00 p.m. and 7:00 a.m. ^{5 13}		P C ⁶	P C ^{6 7}	P	P C ⁸

Section 2: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.10.25, USE RESTRICTIONS, will be amended to read as follows:

20.10.25 USE RESTRICTIONS

The following Use Restrictions refer to superscripts found in Section 20.10.20.

1. Detached or Attached Dwellings; only 50% of the contiguous area within any NS zone may be developed residentially.
2. No freestanding office structure or group of office structures shall exceed a combined total of 15,000 square feet.
3. No sales or outdoor storage of animals or livestock are allowed with this use.
4. Limited to Hotels and Extended Stay Hotels located on a lot or parcel adjoining U.S. Highway 26, Canyon Road, Tualatin Valley Highway or Oregon State Highway 217, subject to the following:
 - a. It shall be located on the portion of the lot immediately adjoining the highway.
 - b. Signage is allowed as per Section 60.40.35.3. of this code. However, only one freestanding sign, up to 32 square feet per face, 64 square feet for all four faces combined or one wall sign up to 64 square feet may orient toward an abutting Arterial or regional traffic route.
 - c. Signage shall not be allowed for auxiliary uses such as restaurants, meeting rooms, etc.
 - d. Auxiliary uses such as restaurants and meeting rooms shall be designed to meet the needs of the guests of the facility and not the general public.
5. Applicable to all uses, **excluding marijuana dispensaries.**
6. Office uses do not require a Conditional Use for extended hours of operation.
7. If property is greater than 500 feet from an existing Residential use in a Residential zone the use is Permitted. If property is within 500 feet from an existing Residential use in a Residential zone the use requires Conditional Use approval.
8. Conditional Use required when abutting a Residential Zone.
9. On a location containing an existing tower supporting one carrier and shall be consistent with other approvals.

10. Provided the buildings or structures are not exclusively used for single-family or multi-family residential purposes.
11. Not permitted on single family dwellings.
12. W3 when located on streetlights, or traffic signal lights, or high voltage power utility poles in the right-of-way of designated Collector, Neighborhood Route, or Local Streets; W2 in the right-of-way of designated Freeways and Arterial Streets.
13. Marijuana dispensary shall:
 - a. be subject to the provisions of ORS 475.314; and
 - b. be allowed to operate only between the hours of 7:00 AM and 10:00 PM. Hours of operation may not be extended through the Conditional Use process as identified in this Code.

Section 3: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.15.20, LAND USES, will be amended to read as follows:

20.15. EMPLOYMENT / INDUSTRIAL LAND USE DISTRICTS

20.15.20 LAND USES

The following Land Uses are Permitted (P), allowed with a Conditional Use (C) approval, or Prohibited (N) as identified in the following table for the Employment and Industrial Zoning Districts. All superscript notations refer to applicable Use Restrictions Section 20.15.25. [ORD 4584; June 2012]

Category and Specific Use Superscript Numbers Refer to Footnote		OI	IND
		P: Permitted	C: Conditional N: Prohibited
Commercial			
1. Animal ¹	A. Animal Care, Major	N	C
	B. Animal Care, Minor	P	P
2. Care ¹	A. Hospitals	P	C
	B. Medical Clinics	P	C
	C. Child Care Facilities	P	P
3. Parking as the Principal Use	A. Structures	P	C
	B. Surface	N	C

Category and Specific Use Superscript Numbers Refer to Footnote		OI P: Permitted C: Conditional N: Prohibited	IND C: Conditional N: Prohibited
4. Retail and Service Business	A. Bulk Retail	C ³	N
	B. Eating and Drinking Establishments	P ²	C ²
	C. Equipment and Supply Sales ⁴	P	P ⁵
	D. Equipment Rental Agencies ⁶	C	C
	E. Freestanding Retail or Service Business up to and Including 5,000 sq ft ⁷	P	N
	F. Freestanding or Combination of Retail or Service Business of More than 5,000 but Less than 30,000 sq ft ⁷	C	N
	G. Professional Services	P	C
	H. Wholesale or Retail Lumber, Building, and or Landscaping Materials Yard	N	P
	I. Marijuana Dispensaries	N	N
5. Storage ¹	A. Cold Storage Plants	N	P
	B. Self Storage Facilities	N	C
	C. Storage or Sale Yard ⁸	N	P
	D. Storage Yard for Building Materials	N	P
6. Temporary Living Quarters	C ⁹	N	
7. Vehicles ¹	A. Auto, Truck and Trailer Rental	N	C
	B. Automotive Service, Major	N	P ¹⁰
	C. Automotive Service, Minor	N	P
	D. Bulk Fuel Dealerships	N	P
	E. Heavy Equipment Sales ¹¹	N	P
	F. Trailer, Recreational Vehicle or Boat Storage	N	P
	G. Trailer Sales or Repair	N	C
	H. Vehicle Storage Yards	N	C
Industrial			
8. Concrete Mixing and Asphalt Batch Plants	N	C	
9. Fuel Oil Distributors	N	P	
10. Heliport	C	C	
11. Mail Order Houses, Wholesale or Retail, Exclusive of On-Site Sales to the Public ¹	P	P	
12. Manufacturing, Fabricating, Assembly, Processing, Packing, and Storage ¹	P ¹² 13	P ¹³	
13. Motor Freight Terminal	N	C	
14. Operation Centers ¹⁴	N	P	
15. Printing, Publishing and Book Binding ¹	N	P	
16. Laboratory ¹	C	P	
17. Salvage Yards, Recycling Centers and Solid Waste Transfer Stations ¹	N	C	

Category and Specific Use Superscript Numbers Refer to Footnote		OI P: Permitted	IND C: Conditional N: Prohibited
18. Warehousing, Wholesale and Distributive Activities ¹		P ¹²	P
Civic			
19. Education ¹	A. Commercial Schools	C	N
	B. Educational Institutions	C	C
	C. Job Training and Vocational Rehabilitation Services	P	P
20. Public Buildings and Uses ¹⁵		P	C
21. Railroad Tracks and Facilities	A. Freight ¹⁶	P	P
	B. Passenger	P	P
22. Recreation ¹	A. Public Parks and Recreational Facilities	P	P
	B. Private Recreation Facilities ¹⁷	P	P
23. Transit Centers ¹⁸		P	C
24. Utilities	A. Facilities Related to Utility Distribution, such as Substations, Water Towers, Pump Stations, other than Transmission Lines or Power Plants	C	C
Office			
25. Office ¹		P	P ¹⁹
26. Financial Institutions ¹		P	C
Other			
29. Planned Unit Development		C	C

Section 4: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.20.20, LAND USES, will be amended to read as follows:

20.20 MULTIPLE USE LAND USE DISTRICTS

20.20.20. LAND USES

The following Land Uses are Permitted (P), allowed with a Conditional Use (C) approval, or Prohibited (N) as identified in the following table for the Multiple Use zoning districts. All superscript notations refer to applicable Use Restrictions Section 20.20.25. [ORD 4576; January 2012] [ORD 4578; March 2012]

Category and Specific Use		RC-TO	RC-OT	RC-E	OI-WS	C-WS	TC-MU	TC-HDR	SC-MU	SC-HDR	SC-S	SC-E1	SC-E3
Superscript Refers to Use Restrictions					P: Permitted			C: Conditional			N: Prohibited		
Residential													
1. Dwellings	A. Attached	P ¹	P	P ¹	P ²	P ³	P	P	P ⁴	P ⁴	P ⁶⁶	N	N
	B. Detached	P ^{5,6}	P ⁶	P ⁶	N	N	P ⁶	P ⁶	P ⁶	P ⁶	N	N ⁵	N ⁵
	C. Home Occupation	P	P	P	P	P	P	P	P	P	P	N	N
	D. Planned Unit Development	C	C	C	C	C	C	C	C	C	C	C ⁶⁶	C
Commercial													
2. Animal	A. Animal Care, Major	N	N	N	N	N	N	N	N	N	N	N	N
	B. Animal Care, Minor	P	P	P	P	P	P	P	P	P	P	P	P
3. Care	A. Hospitals	C	P	P	P	C	C	N	P	C	P	N	N
	B. Medical Clinics	C	P	P	P	P	P ⁷	P ⁸	P	P ⁸	P	P ^{9 10}	P ^{9 10}
	C. Child Care Facilities	P	P	P	P	P	P	P	P	P	P	P ⁹	P ⁹
	D. Residential Care Facilities	P	P	P	P	P	P	P	P	P	P	N	N
4. Commercial Amusement	P ¹¹	P ¹¹	P ¹¹	N	P C ¹²	C	C	C	C ¹³	C ¹³	P	N	N
5. Drive-Up Window Facilities ¹⁴	N C ¹⁵	C	C	N P ¹⁶	P	C	C	C	N ¹⁰	N ¹⁰	NP ^{17 18}	N ¹⁰	N ¹⁰

Category and Specific Use	RC-TO	RC-OT	RC-E	OI-WS	C-WS	TC-MU	TC-HDR	SC-MU	SC-HDR	SC-S	SC-E1	SC-E3
Superscript Refers to Use Restrictions	P: Permitted			C: Conditional			N: Prohibited					
6. Eating and Drinking Establishments	P	P	P	P ¹⁹	P	P	P ^{9 13}	P ⁹	P ^{10 13}	P	P ^{9 10}	P ^{9 10}
7. Financial Institutions	P	P	P	P ²⁰	P	P	P	P	P	P	P ^{9 10}	P ^{9 10}
8. Live / Work Uses	C	C	C	C	C	P	P	P	P	P	N	N
9. Meeting Facilities	C P ²¹	C P ²¹	C P ²¹	C P ²¹	C P ²¹	C P ²¹	N	C P ²¹	N	P	C P ²¹	C P ²¹
10. Office	P	P	P	P	P	P ²²	P ^{8 23}	P	P ⁸	P	P	P
11. Parking as the Principle Use	C	C	C	C	C	C ²⁴	C	C	C	C	C ²⁴	C ²⁴
12. Rental Business	P	P	P	P	P ²⁵	P ^{7 22 26}	P ^{26 27}	P ²⁷	P ²⁷	P ^{28 29}	P ²⁵	N
13. Rental of Equipment Only	N	N	N	P ⁶¹	N	N	N	N	N	N	N	N
14. Retail	A. Retail Trade	P ^{26 30 31}	P ^{26 30}	P ^{26 30 31}	P ³²	P ²⁵	N P ^{22 26 33}	P ^{13 26}	P ^{9 25 34}	P ^{13 25}	P ²⁵	P ^{9 28}
	B. Bulk Retail	N	N	N	N	N	N	N	N	N	N	N
15. Service Business / Professional Services	P ^{9 36}	P ^{9 36}	P ^{9 36}	P ³²	P ²⁵	N P ^{22 26 33}	P ^{13 26}	P ^{8 9}	P ⁹	P	P ^{9 10 28}	P ^{9 10 28}
16. Marijuana Dispensaries	N	N	N	N	N	N	N	N	N	N	N	N
17. Storage	A. Self Storage	N	N	N	N	P ³⁷	N	N	N	N	N	N
	B. Storage Yards	N	C ³⁸	C ³⁸	N	N	N	N	N	C ³⁹	N	P ⁴⁰
18. Temporary Living Quarters	P ⁴¹	C ⁴¹	C ⁴¹	N	P	C ⁴¹	C ⁴¹	P ⁴¹	C ⁴¹	C ⁴²	C ⁴²	C ⁴²
19. Vehicles	A. Automotive Service, Major	N	N	C ²⁵	N	N	C ⁴³	N	N	N	N	N
	B. Automotive Service, Minor	P ⁴⁴	P	P	N	C	C	C ²⁵	N P C ¹⁷	C ²⁵	N P C ¹⁷	N
	C. Bulk Fuel Dealerships	N	N	N	N	N	N	N	N	N	N	N
	D. Sales or Lease	C ⁴⁵	C ⁴⁵	C ⁴⁵	N	N	C ^{9 22 26}	N	P ^{9 28}	P ^{9 46}	P ^{28 47}	N
	E. Rental	C ⁴⁵	C ⁴⁵	C ⁴⁵	N	N	C ^{9 22 26}	N	P ^{9 28}	P ^{9 46}	P ²⁸	P

Category and Specific Use		RC-TO	RC-OT	RC-E	OI-WS	C-WS	TC-MU	TC-HDR	SC-MU	SC-HDR	SC-S	SC-E1	SC-E3
Superscript Refers to Use Restrictions		P: Permitted C: Conditional N: Prohibited											
Civic													
20. Education	A. Commercial Schools	P	P	P	C	P	PC ^{N33 48}	P ¹³	P	P	P	P ⁹	C ⁹
	B. Educational Institutions	P	P	P	CP ⁶⁷	P	P	P	P	P	P	P ⁹	C ⁹
21. Places of Worship		PC ⁴⁸	PC ⁴⁸	PC ⁴⁸	N	PC ⁴⁸	PC ⁴⁸	PC ⁴⁸	PC ⁴⁸	PC ⁴⁸	PC ⁴⁸	P ⁹	N
22. Public Buildings, Services and Uses		C	C	C	P	C	C	C	C	C	C	CP ⁴⁹	CP ⁴⁹
23. Railroad Tracks and Facilities	A. Passenger	P ⁵⁰	P ⁵⁰	P ⁵⁰	P	P	P	P	P	P	P	P	P
	B. Freight	P	P	P	P ⁵¹	P	N	N	N	N	N	P ⁵¹	P ⁵¹
24. Recreation	A. Public Parks, Parkways, Playgrounds, and Related Facilities	C	C	C	P ⁵²	P	P	P	P	P	P	P ⁵³	P ⁵³
	B. Recreational Facilities	P ¹¹	P ¹¹	P ¹¹	P ¹³	P	C	C	C ⁵⁴	C ⁵⁴	P	N	N
25. Social Organizations		P ⁴⁸	P ⁴⁸	P ⁴⁸	N	PC ⁴⁸	PC ⁴⁸	PC ⁴⁸	PC ⁴⁸	PC ⁴⁸	P	C	C
26. Transit Centers		C	C	N	P	P	C	C	C	C	P	P	P
27. Utilities	A. Utility Substations and Related Facilities other than Transmission Lines.	C	C	C	C	C	C	N	C	C	C	C	C
	B. Transmission Lines	P	P	P	P	P	P	P	P	P	P	P	P

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Category and Specific Use Superscript Refers to Use Restrictions	RC-TO	RC-OT	RC-E	OI-WS	C-WS	TC-MU	TC-HDR	SC-MU	SC-HDR	SC-S	SC-E1	SC-E3
	P: Permitted			C: Conditional			N: Prohibited					
Industrial												
28. Manufacturing, Fabricating, Assembly, Processing, and Packing	P C ⁵⁵	P C ⁵⁵	P C ⁵⁵	P ^{56 57}	N	P ⁶⁰	N	P ²⁸	N	P ²⁸	P ^{56 57}	P ^{56 57}
29. Printing, Publishing, and Book Binding	N	N	N	P	N	N	N	N	N	P	P	N
30. Warehousing ⁵⁸	P	P	P	P	P	P	P	N	N	P	P ⁵⁹	P ⁵⁹

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**CITY OF BEAVERTON
STAFF REPORT**

TO: Mayor Doyle and City Council

STAFF REPORT DATE: Wednesday, October 15, 2014

STAFF: Steven A. Sparks, AICP, Principal Planner

SUBJECT: **TA2014-0001 (Marijuana Dispensaries Text Amendment)**

REQUEST: The City is proposing to amend the Beaverton Development Code Chapter 20 (Land Uses) to allow Marijuana Dispensaries as a permitted use in the Community Service (CS), General Commercial (GC), and Corridor Commercial (CC) zoning districts. The amendment is being proposed consistent with State of Oregon Senate Bill 1531.

APPLICANT: City of Beaverton - Planning Division

APPLICABLE CRITERIA: Development Code Section 40.85.15.1.C.1-7 (Text Amendment Approval Criteria)

HEARING DATE: Tuesday, October 21, 2014

RECOMMENDATION: Staff recommend the City Council open the public hearing, consider testimony, and conduct a first reading of the proposed ordinance.

1. Background

An extensive record has been established for the proposed amendment to the Development Code to allow medical marijuana dispensaries in the City of Beaverton. The record includes, and is not limited to, the staff reports to the Beaverton Planning Commission and City Council dated June 11, 2014, July 30, 2014, September 3, 2014, and October 2, 2014. The established record is included by reference to this report.

The Beaverton City Council listened to a staff presentation on the Planning Commission recommended text amendment to allow medical marijuana dispensaries in three (3) different commercial zoning districts. The recommended text amendment consisted of the following:

- A. The use should be allowed in the GC (General Commercial), CS (Community Service), and CC (Corridor Commercial) zones.

- B. The use should be buffered from publicly owned recreational facilities operated by Tualatin Hills Park and Recreation District (THPRD).
- C. The use should be limited to a hours of operation of 7:00 AM to 10:00 PM without the possibility of extending those hours through a land use permitting process.

These recommended use regulations are the local regulations that the Planning Commission recommended to be added to the State regulations. The State regulations are:

- A. The use may not be located in a residential zone.
- B. The use must be 1,000 feet from elementary, secondary, or career schools attended primarily by minors; and
- C. The use must be 1,000 feet from another medical marijuana facility.

At the conclusion of the staff presentation at the October 14, 2014 Council meeting, Council members discussed the Planning Commission recommendation and focused on two (2) issues. Those issues were, should the City establish a buffer from THPRD operated public recreation facilities and should the proposed use be “medical marijuana dispensaries” or “marijuana dispensaries”?

At the conclusion of the Council's discussion, the Council directed staff to conduct a public hearing to consider revisions to the Planning Commission recommended text amendment.

2. Proposed Revisions

THPRD Buffer

The Council questioned whether the City should have a 1,000 foot buffer from public recreation facilities operated by THPRD. The buffer was proposed to be a companion to the 1,000 foot buffer from school sites that are attended primarily by minors. The reason for this was the presumption that recreational facilities are frequently used by minors and programs at the facilities are targeted to minors. In evaluating the map which shows the 1,000 foot THPRD buffer, the buffer has a very limited impact in excluding potential sites for the marijuana dispensary use. The most significant impact is in the area of the SW Walker Road and SW 158th Avenue intersection. By removing the THPRD buffer regulation, approximately seven (7) parcels will be added to the potential locations at which the use may be located. Staff recommend that due to the very limited nature of the applicability of the THPRD buffer, removing the buffer will simplify and improve the application of the regulations for permitting the dispensary use.

Parks

Medical Marijuana

The Planning Commission debated the possibility of removing the word “Medical” from the proposed use “Medical Marijuana Dispensaries”. Staff had recommended not including the word “medical” in the proposed text amendment. The intent of the recommendation was to be responsive to the possibility of Ballot Measure (BM) 91 being passed by Oregon voters in the November 2014 election or in a subsequent election. If the voters pass BM 91 to allow recreational use of marijuana, a future text amendment may not be necessary to allow the use. This would save time and resources by addressing the issue with the current text amendment.

The Planning Commission did not agree with the staff recommendation and directed that the text amendment be limited to medical marijuana dispensaries. The Planning Commission concluded that there was enough uncertainty in how to address recreational marijuana that recommending an amendment at this time to permit the use would be unwise. The Commission found that if the BM passed, the State would be required to develop regulations for the use and at that time, review of potential local regulations would be appropriate.

The City Council discussed the possibility of removing the word “Medical” or “Medicinal” from the marijuana dispensary use. The Council discussed that the way BM 91 is worded, local regulation of marijuana dispensaries may not be allowed if BM 91 passes in November. However, if local regulation was in place prior to the potential passage of BM 91, local regulation may be allowed to continue. This understanding of the potential impact of BM 91 was cause enough to consider amending the Planning Commission recommended text amendment.

Staff recommend that proceeding with such an amendment to the Planning Commission recommended text will be acceptable. Regardless of BM 91 passing, State Statute currently only allows “medical marijuana dispensaries”. By having the use “marijuana dispensaries”, the City will not be allowing any type of marijuana sales. State Statute will still govern and those sales will continue to be solely for medical marijuana. Recreational sales of marijuana will only be allowed if BM 91 is passed by Oregon voters.

3. Facts and Findings

Section 40.85.15.1.C of the Development Code specifies that in order to approve a Text Amendment application, the decision-making authority shall make findings of fact, based on evidence provided by the applicant, that all of the criteria specified in Section 40.85.15.1.C.1-7 are satisfied. Staff recommend that the analysis contained in this report as well as the Planning Commission record support the local time, place, and manner regulations on medical marijuana dispensaries as authorized by Statute. The following are the findings of fact for TA 2014-0001 (Marijuana Dispensaries Text Amendment):

Development Code Approval Criteria

- 1. The proposal satisfies the threshold requirements for a Text Amendment application.***

Section 40.85.15.1.A specifies that an application for a text amendment shall be required when any change is proposed to the Development Code, excluding changes to the zoning map. TA 2014-0001 proposes to make changes to Chapter 20 of the Development Code. Therefore, staff find that approval criterion one has been met.

- 2. All City application fees related to the application under consideration by the decision-making authority have been submitted.***

Policy Number 470.001 of the City's Administrative Policies and Procedures manual states that fees for a City-initiated application are not required where the application fee would be paid from the City's General Fund. The Planning Division, which is a General Fund program, initiated the application. Therefore, the payment of an application fee is not required. Staff find that approval criterion two is not applicable.

- 3. The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan.***

Metro's Urban Growth Management Functional Plan (UGMFP) is the document that defines how local governments are to implement the Metro Regional Urban Growth Goals and Objectives. The UGMFP is comprised of the following titles:

- Title 1: Requirements for Housing and Employment Accommodations
- Title 2: Regional Parking Policy (Repealed and moved to Title 4 of the Regional Transportation Functional Plan (RTFP))
- Title 3: Water Quality and Flood Management
- Title 4: Industrial and Other Employment Areas
- Title 5: Neighbor Cities and Rural Reserves
- Title 6: Centers, Corridors, Station Communities and Main Streets
- Title 7: Housing Choice
- Title 8: Compliance Procedures
- Title 9: Performance Measures (Repealed)
- Title 10: Functional Plan Definitions
- Title 11: Planning for New Urban Areas
- Title 12: Protection of Residential Neighborhoods
- Title 13: Nature in Neighborhoods
- Title 14: Urban Growth Boundary

The City is required to have its land use regulations conform to the UGMFP. The Development Code has been amended to incorporate several policies of the UGMFP. This proposed text amendment does not conflict with the UGMFP. The UGMFP is silent on the issue of marijuana dispensaries.

As part of the City's standard noticing procedures, Metro was sent a copy of the DLCD notice, which contained reference to the draft text and summary of the changes to the Code. Metro staff did not provide any comment in response. Therefore, staff find that approval criterion three has been met.

4. *The proposed text amendment is consistent with the City's Comprehensive Plan.*

The proposed text amendment will add a new permitted use to the General Commercial, Community Service, and Corridor Commercial zoning districts. Staff have reviewed the Comprehensive Plan and have not identified any policies which are applicable to the proposed text amendment. Therefore, staff find that approval criterion four not applicable to the proposed amendment.

5. *The proposed text amendment is consistent with other provisions within the City's Development Code.*

Staff have not identified any known conflicts between the proposed text and the other provisions of the Development Code. The proposal will add a new permitted use which is not identified in any other section of the Development Code. Therefore, staff find that approval criterion five has been met.

6. *The proposed amendment is consistent with all applicable City ordinance requirements and regulations.*

Staff has not identified any other applicable City ordinance requirements and regulations that would be affected by the proposed text amendment. Possible conflict may exist with respect to the sale and use of a controlled substance. However, such regulations are federal and state regulations and not local regulations. Therefore, staff find that approval criterion six has been met.

7. *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.*

Staff have determined that there are no other applications and documents related to the request that will require further City approval. Therefore, staff find that approval criterion seven has been met.

Based on the facts and findings presented, staff conclude that the proposed amendment to the Development Code is consistent with all the text amendment approval criteria of Section 40.85.15.1.C.1-7.

Other applicable approval criteria

As a post-acknowledgement amendment to the City's Development Code, the proposed text amendment is subject to ORS 197.175(1), which requires that the City demonstrate that the proposed text amendment be consistent with the relevant Statewide Planning Goals. Staff have determined that Statewide Planning Goals 1 and 2 are applicable to the proposed amendment

Goal 1 Citizen Involvement To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Staff find that the City has provided adequate notice and opportunity for public involvement for the proposed text amendment and public hearing.

Goal 2 Land Use Planning To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.

Staff find that the proposed text amendment fits within the established process and framework. Furthermore, the findings contained within this report establish an adequate factual basis for the proposal.

Therefore, staff find that the proposed text amendment complies with all of the applicable State Planning Goals.