



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: March 31, 2015
Jurisdiction: City of Brownsville
Local file no.: None
DLCD file no.: 001-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 03/26/2015. 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 less than 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.: 001-15 {22642}
Received: 3/26/2015

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 Brownsville, Oregon

Local file no.:

Date of adoption: 03.24.2015

Date sent: 1/23/2015

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): See Above

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:

Council added language regarding miniparks in Section 2, paragraph C. in order for there to be an actual place of business that could accommodate such a business in the future.

Local contact (name and title): S. Scott McDowell & Elizabeth Coleman

Phone: 541.466.5880

E-mail: admin@ci.brownsville.or.us

Street address: 255 N. Main Street

City: Brownsville

Zip: 97327-

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:

Title 15.75.030; III. Definitions - Council added a definition for deer fencing. Council also allowed chain link fencing in front yards with no limitations.

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: City of Brownsville, Oregon.

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.



ORDINANCE NO. 751

AN ORDINANCE AMENDING TITLE 15 OF THE BROWNSVILLE MUNICIPAL CODE TO ADD A NEW CHAPTER 15.111 ESTABLISHING LAND USE REGULATIONS FOR MARIJUANA FACILITIES IN THE CITY OF BROWNSVILLE

WHEREAS, during the 2013 Special Legislative Session, the Oregon Legislature passed HB 3460, which allows for the establishment and registration of Medical Marijuana Facilities; and

WHEREAS, at the November 2014 General Election, the voters of the State of Oregon approved Ballot Measure 91, which will legalize the use and sale of recreational marijuana in Oregon; and

WHEREAS, marijuana is classified as a Schedule I Controlled Substance under the Federal Controlled Substances Act, the use, possession, and sale of which is currently illegal under Federal law; and

WHEREAS, pursuant to Article IX, Section 2 of the Oregon Constitution and the Brownsville Charter, the City of Brownsville is a home rule municipality with all the powers that the constitutions, statutes, and common law of the United States and the State of Oregon expressly or impliedly grant or allow the City; and

WHEREAS, the 2014 Oregon Legislature approved Senate Bill 1531, which explicitly allows cities in Oregon to adopt reasonable regulations on the operation of Medical Marijuana Facilities, including: 1) limitations on the hours during which a Medical Marijuana Facility may be operated, 2) limitations on where a Medical Marijuana Facility may be located within an agricultural, industrial, commercial, or mixed use zone, and 3) conditions on the manner in which a Medical Marijuana Facility may dispense medical marijuana; and

WHEREAS, Ballot Measure 91 does not restrict cities from adopting reasonable time, place, and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the City makes specific findings that the establishment would cause adverse effects to occur; and

WHEREAS, Ballot Measure 91 recognizes that any authority to regulate marijuana uses granted by Measure 91 is in addition to and not in lieu of the City's authority to regulate pursuant to the Brownsville Charter, Oregon statutes and the Oregon Constitution; and

WHEREAS, the City Council finds that location of Medical Marijuana Uses in the Low Density Residential Zone (LDR), Medium Density Residential Zone (MDR), High Density Residential Zone (HDR) and Old Town Commercial Zone (OTC) would adversely affect other property owners' ability to peacefully enjoy property located in those zones; and

O 751: Amending Title 15 of the Brownsville Municipal Code



ORDINANCE NO. 751

WHEREAS, in the interest of the health, safety, and well-being of the citizens of Brownsville, the City Council has determined that Marijuana Uses should be allowed only within certain zones and those uses should be subject to reasonable regulations; and

WHEREAS, the City Council hereby adopts the Findings of Fact attached to this Resolution as Exhibit 1.

NOW, THEREFORE, the City of Brownsville ordains as follows:

Section I. Title 15 of the Brownsville Municipal Code is amended to add the following Chapter 15.111:

Chapter 15.111

Marijuana Uses

15.111.010 Definitions.

15.111.020 Zoning

15.111.030 Conditional Use Requirements

15.111.010 Definitions.

“Marijuana Extract” means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than vegetable glycerin, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

“Marijuana Items” means marijuana, marijuana products, and marijuana extracts.

“Marijuana Processor” means an individual or entity licensed by the Oregon Liquor Control Commission to process, compound, or convert marijuana into marijuana extracts or into products that contain marijuana or marijuana extracts.

“Marijuana Producer” means an individual or entity licensed by the Oregon Liquor Control Commission to manufacture, plant, cultivate, grow, or harvest marijuana. For purposes of this Title 15, marijuana production does not constitute an agricultural, green house, or nursery use.

“Marijuana Products” means products that contain marijuana or marijuana extracts and are intended for human consumption.

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“Marijuana Retailer” means an individual or entity licensed by the Oregon Liquor Control Commission to sell marijuana items to consumers.

“Marijuana Wholesaler” means an individual or entity licensed by the Oregon Liquor Control Commission to purchase marijuana items for resale to someone other than a consumer.

“Marijuana Use” means a marijuana processor, marijuana producer, marijuana retailer, marijuana wholesaler or medical marijuana facility. A Marijuana Use is not an authorized home occupation.

“Medical Marijuana Facility” means a facility registered by the Oregon Health Authority pursuant to ORS 475.314.

15.111.020 Zoning and Conditions of Approval.

A. The following Marijuana Uses are permitted as conditional use in the following zones, subject to the provisions of Chapter 15.125 BMC. Marijuana Uses not listed as conditionally permitted in this section are prohibited.

1. Marijuana Processor: Conditionally permitted in the LI and HI zones.
2. Marijuana Retailer: Conditionally permitted in the VC and LI zones.
3. Marijuana Wholesaler: Conditionally permitted in the LI and HI zones.
4. Medical Marijuana Facility: Conditionally permitted in the VC and LI zones.

B. In addition to the provisions of Chapter 15.125 BMC, Marijuana Uses must also comply with the following conditions:

1. At the time a conditional use application for a Marijuana Use is filed, the Marijuana Use may not be located:
 - a. Within 1000 feet of public or private elementary, secondary, or career school; or
 - b. Within 1000 feet of a public library; or
 - c. Within 1000 feet of a public park, playground, recreational facility, or athletic field; or
 - d. Within 1000 feet of another Marijuana Use; or



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- e. Within 100 feet of real property zoned LDR, MDR, HDR or OTC.
2. For purposes of this Chapter the following definitions apply:
- a. "Career School" 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.
 - b. "Elementary School" means a learning institution containing any combination of grades Kindergarten through 8 or age level equivalent.
 - c. "Public Park, Playground, Recreational Facility, or Athletic Field" means a park, playground, recreational facility, or athletic field that is owned or operated by a government entity or nonprofit organization and that is open to the general public excluding mini parks or pocket parks as defined in the City's Parks Master Plan.
 - d. "Public Library" means a library open to the general public and owned or operated by a government entity or nonprofit organization and that is open to the general public.
 - e. "Secondary School" means a learning institution containing any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.
 - f. "Within 1000 feet" means a straight line measurement in a radius extending for 1000 feet or less in every direction between any point on the boundary line of the real property on which the Marijuana Use is located and the real property on which a use identified in subsection (1)(a) or (b) is located.
 - g. "Within 100 feet" means a straight line measurement in a radius extending for 100 feet or less in every direction between any point on the boundary line of the real property on which the Marijuana Use is located and real property zoned LDR, MDR, HDR or OTC.



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PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR
this 24th day of March 2015.

Attest:

A handwritten signature in blue ink, appearing to be 'SM', is written above a horizontal line.

City Administrator S. Scott McDowell

A handwritten signature in black ink, appearing to be 'DW', is written above a horizontal line that ends in an arrow pointing to the right.

Mayor Don Ware