



# Oregon

John A. Kitzhaber, M.D., Governor

**Department of Land Conservation and Development**

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[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



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

Date: May 01, 2015  
Jurisdiction: City of Hillsboro  
Local file no.: CDCA-001-14  
DLCD file no.: 005-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 04/28/2015. 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](mailto:plan.amendments@state.or.us)



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

**FOR DLCD USE**  
File No.: 005-14 {22297}  
Received: 4/28/2015

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: Hillsboro

Local file no.: **CDCA-001-14**

Date of adoption: 04/21/2015 Date sent: 4/28/2015

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): 01/10/2015  
 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:

**Language** reformatted; use not permitted in the Neighborhood Commercial or Downtown Commercial zones; 1000-foot buffer from residential zones replaced with equivalent buffer from active use parks & plazas; buffer between dispensaries increased to 2000 feet; time, place & manner regulations added.

Local contact (name and title): Debbie Raber, Planning Project Manager

Phone: 503-681-6155 E-mail: [debbie.raber@hillsboro-oregon.gov](mailto:debbie.raber@hillsboro-oregon.gov)

Street address: 150 E Main St. City: Hillsboro Zip: 97123-

## 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:

Amendments: Section 12.01.500 Definitions; 12.23.230 Uses [C-G Commercial-General zone]; 12.23.430 Uses [SCC-SC Station Community Commercial zone]; 12.23.530 Uses [SCC-MM Station Community Commercial Multi-Modal zone]; 12.25.130 Uses [I-G Industrial - General zone]. New Section: 12.40.194 Special Use Standards - Medical Marijuana Dispensaries.

**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:

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

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

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.

# NOTICE OF ADOPTED CHANGE – SUBMITTAL INSTRUCTIONS

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1. A Notice of Adopted Change must be received by DLCD no later than 20 days after the ordinance(s) implementing the change has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) as provided in [ORS 197.615](#) and [OAR 660-018-0040](#).

2. A Notice of Adopted Change must be submitted by a local government (city, county, or metropolitan service district). DLCD will not accept a Notice of Adopted Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of Adopted Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 2 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

Attention: Plan Amendment Specialist  
Dept. of Land Conservation and Development  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540

This form is available here:

<http://www.oregon.gov/LCD/forms.shtml>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us) with the subject line “Notice of Adopted Amendment.”

Submittals may also be uploaded to DLCD’s FTP site at [http://www.oregon.gov/LCD/Pages/papa\\_submittal.aspx](http://www.oregon.gov/LCD/Pages/papa_submittal.aspx).

E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 2 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of Adopted Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

6. **Content:** An administrative rule lists required content of a submittal of an adopted change ([OAR 660-018-0040\(3\)](#)). By completing this form and including the materials listed in the checklist below, the notice will include the required contents.

Where the amendments or new land use regulations, including supplementary materials, exceed 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

7. Remember to notify persons who participated in the local proceedings and requested notice of the final decision. ([ORS 197.615](#))

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**If you have any questions** or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0017 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

## **Notice checklist. Include all that apply:**

- Completed Form 2
- A copy of the final decision (including the signed ordinance(s)). This must include city *and* county decisions for UGB and urban reserve adoptions
- The findings and the text of the change to the comprehensive plan or land use regulation
- If a comprehensive plan map or zoning map is created or altered by the proposed change:
  - A map showing the area changed and applicable designations, and
  - Electronic files containing geospatial data showing the area changed, as specified in [OAR 660-018-0040\(5\)](#), if applicable
- Any supplemental information that may be useful to inform DLCD or members of the public of the effect of the actual change



April 28, 2015

TO: Plan Amendment Specialist  
State of Oregon Department of Land Conservation and Development

FROM: Dawn Duray, Senior Planning Technician

RE: Transmittal of DLCD Form 2 Notice of Adoption  
Hillsboro Case File No. Community Development Code Amendment (CDCA) 001-14

I, Dawn Duray, submitted on this date, April 28, 2015, the DLCD Form 2 and attached decision and exhibits via email for the above referenced Case File No., which was adopted by the Hillsboro City Council on April 21, 2015.

If you have any questions regarding this transmittal, please contact me at 503-681-6154. Should you have any questions in regards to the amendments, please contact Debbie Raber at 503-681-6155.

Sincerely,

CITY OF HILLSBORO PLANNING DEPARTMENT

A handwritten signature in black ink that reads 'Dawn Duray' in a cursive script.

Dawn Duray  
Senior Planning Technician



April 23, 2015

**TO: Interested Parties**

**FROM: Planning Department**

**RE: NOTICE OF DECISION – Community Development Code Text Amendments  
Case File No.: Community Development Code Amendment 001-14: Medical  
Marijuana Dispensaries**

At their regular meeting on April 21, 2015, the Hillsboro City Council adopted Ordinance No. 6116, approving text amendments to the Community Development Code, to establish land use regulations for medical marijuana dispensaries.

A copy of Ordinance No. 6116 with exhibits is enclosed for your information. This Ordinance shall be effective on April 30, 2015 and affirms the action of the Planning Commission, Order No. 8144, adopted on March 11, 2015.

Pursuant to ORS 197.620, persons who participated either orally or in writing in the Planning Commission or City Council proceedings on this amendment to the City's Community Development Code may appeal the decision by filing a notice of intent to appeal the City Council's approval of this Ordinance with the State Land Use Board of Appeals within 21 days of the mailing of this Decision, which is May 14, 2015, and by complying with all other applicable provisions in ORS 197.830 to 197.845.

If you have any questions regarding this matter please contact me at (503) 681-6230 or Debbie Raber at (503) 681-6155.

Sincerely,

CITY OF HILLSBORO PLANNING DEPARTMENT

A handwritten signature in green ink that reads 'Colin Cooper'.

Colin Cooper  
Planning Director

Attachment: Ordinance No. 6116

cc: File

**ORDINANCE NO. 6116**

**COMMUNITY DEVELOPMENT CODE AMENDMENT 001-14:  
MEDICAL MARIJUANA DISPENSARIES**

AN ORDINANCE AMENDING SEVERAL SECTIONS OF COMMUNITY DEVELOPMENT CODE, ORDINANCE NO. 6094, AS AMENDED, TO ESTABLISH LAND USE REGULATIONS FOR MEDICAL MARIJUANA DISPENSARIES, AND DECLARING AN EMERGENCY.

WHEREAS, the Oregon Legislature approved House Bill 3460 in the 2013 Special Session, which created a medical marijuana registration system and allows for medical marijuana dispensaries (also called facilities) to be located in areas zoned for commercial, industrial, or mixed use, and

WHEREAS, House Bill 3460 also included further specific restrictions on the location of medical marijuana facilities related to proximity to schools attended by minors and to other medical marijuana dispensaries, and

WHEREAS, this use and these restrictions are not currently included in Hillsboro Community Development Code Ordinance No. 6094 as amended, and

WHEREAS, the City has received inquiries regarding siting of medical marijuana dispensaries in commercial and industrial zones within the City, and

WHEREAS, Community Development Code Section 12.80.140 authorizes the Planning Commission to initiate text amendments, and

WHEREAS, the Planning Commission did initiate amendments regarding land use regulations for medical marijuana dispensaries through approval of Order No. 8105 on January 22, 2014, and

WHEREAS, the Planning Commission held a public hearing on the proposed amendments on May 28, June 11, and July 9, 2014 and received testimony regarding the amendments, and

WHEREAS, on August 5, 2014 the City Council held a work session on the proposed amendments and after discussion granted a request from the Planning Commission to table further consideration of the amendments on medical marijuana dispensaries pending the outcome of the November state-wide election regarding recreational marijuana, and

WHEREAS, on November 4, 2014 Oregon voters approved Measure 91, legalizing marijuana use by adults and providing for regulation of a legal market by the Oregon Liquor Control Commission, and

WHEREAS, the Planning Commission subsequently removed the proposed amendments from the table on February 11, 2015 and reopened the public hearing on that date, received additional testimony, and continued the hearing to February 25, 2015, and

WHEREAS, after receiving testimony on February 25<sup>th</sup>, the Planning Commission closed the public hearing, and

WHEREAS, the Planning Commission subsequently found that the proposed amendments are "desirable, appropriate and proper" based on the supporting findings attached hereto as Exhibit B, and therefore adopted Order No. 8144 recommending City Council approval of the amendments, and

WHEREAS, the City Council received the Planning Commission's recommendation on this matter on March 3, 2015, and accepts the Planning Commission's recommendation; and

WHEREAS, the City Council further determines that it will adopt the Planning Commission's findings of fact for the proposed Community Development Code amendments.

NOW, THEREFORE, THE CITY OF HILLSBORO ORDAINS AS FOLLOWS:

Section 1. Community Development Code Ordinance No. 6094 as amended, is further amended with the changes shown in Exhibit A attached to this Ordinance.

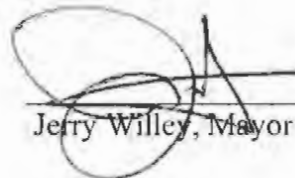
Section 2. The Commission's recommendation to the Council includes the findings attached as Exhibit B.

Section 3. Notwithstanding any provisions of Community Development Code (Ordinance No. 6094 as amended) Section 12.70.130 that could be interpreted otherwise, this Ordinance is necessary for the immediate preservation of the public peace, health, and safety, and pursuant to Section 17 of the Hillsboro City Charter an emergency is declared to exist, and this ordinance shall take effect on April 30, 2015.


First approval of the Council on this 7<sup>th</sup> day of April 2015.

Second approval and adoption by the Council on this 21<sup>st</sup> day of April 2015.

Approved by the Mayor this 21<sup>st</sup> day of April 2015.

  
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Jerry Willey, Mayor

ATTEST:

  
for Amber Ames, City Recorder



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**EXHIBIT A**

COMMUNITY DEVELOPMENT CODE AMENDMENT 001-14:  
MEDICAL MARIJUANA DISPENSARIES

Language proposed to be added shown in *bold italic* typeface;  
Language proposed to be deleted shown in ~~everstrike~~ typeface.  
Unchanged language omitted for brevity except where necessary for context  
Explanatory notations shown in *italic gray highlight*

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**Section 12.01.500 Definitions**

*Medical Marijuana Dispensary (also known as medical marijuana facility). A retail facility, registered by the Oregon Health Authority, that is allowed to receive marijuana, immature marijuana plants, or usable marijuana products (such as edible products, ointments, concentrates or tinctures) and to transfer that marijuana, immature plants, or usable products to a person with a valid Oregon Medical Marijuana Program card (a patient or the patient's caregiver). A medical marijuana dispensary is categorized as a Retail Products and Services Use.*

**12.23.230** **Uses.** *[in the C-G Commercial-General zone]* Table 12.23.230-1 lists uses Permitted, Conditionally Permitted, Limited or Not Permitted in the C-G zone.

**TABLE 12.23.230-1:  
USE CATEGORIES IN THE C-G ZONE**

Use	Status	Clarifications
<b>Commercial Use Categories – Only categories listed below permitted</b>		
Retail Products and Services	P/L/C	Major retail uses (60,000+ sq. ft. NLA) limited in certain locations: see Section 12.23.250. <i>Medical marijuana dispensaries permitted, subject to additional regulations in Section 12.40.194.</i> Child care facilities permitted with Conditional Use approval. Minor Assembly Facilities permitted with Conditional Use approval if maximum IBC occupancy in primary assembly area < 250 persons; subject to additional regulations in Section 12.40.210.

(P) Permitted (C) Conditional (L) Limited (N) Not Permitted

1 **12.23.430** Uses. [in the SCC-SC Station Community Commercial – Station Commercial  
 2 zone] Table 12.23.430-1 lists uses Permitted, Conditionally Permitted, Limited or Not Permitted  
 3 in the SCC-SC zone. Within each Use category, certain Uses may be restricted pursuant to  
 4 Section 12.30.900.

5 **TABLE 12.23.430-1:**  
 6 **USE CATEGORIES IN THE SCC-SC ZONE**

Use	Status	Clarifications
<b>Commercial Use Categories</b>		
Retail Products and Services	P/C L/N	Minor Assembly Facilities permitted with Conditional Use approval if maximum primary floor areas < 3000 sq. ft., or maximum IBC occupancy in primary assembly area < 250 persons; subject to additional regulations in Section 12.40.210. <i>Medical marijuana dispensaries permitted, subject to additional regulations in Section 12.40.194.</i> Animal service facilities and drive-through facilities subject to additional limitations in Section 12.23.450. Expansions of certain existing Uses Not Permitted: see Section 12.30.900.

7 (P) Permitted (C) Conditional (L) Limited (N) Not Permitted

8 **12.23.530** Uses. [in the SCC-MM Station Community Commercial – Multi-Modal zone]  
 9 Table 12.23.530-1 lists uses Permitted, Conditionally Permitted, Limited or Not Permitted in the  
 10 SCC-MM zone. Within each use category, certain Uses may be restricted pursuant to Section  
 11 12.30.900.

12 **TABLE 12.23.530-1:**  
 13 **USE CATEGORIES IN THE SCC-MM ZONE**

Use	Status	Clarifications
<b>Commercial Use Categories</b>		
Retail Products and Services	P/L	<i>Medical marijuana dispensaries permitted, subject to additional regulations in Section 12.40.194.</i> Some <i>other</i> uses restricted: see Section 12.23.550 and Section 12.30.900.

14 (P) Permitted (C) Conditional (L) Limited (N) Not Permitted

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1 **12.25.130** Uses. *[in the I-G Industrial-General zone]* Table 12.25.130-1 lists Uses  
 2 Permitted, Conditionally Permitted, Limited or Not Permitted in the I-G zone. Within each use  
 3 category, specific uses may be restricted pursuant to Subchapter 12.40.

4 **TABLE 12.25.130-1:**  
 5 **USE CATEGORIES IN THE I-G ZONE**

Use	Status	Clarifications
<b>Commercial Use Categories</b>		
Retail Products and Services	P/C/L	<i>Medical marijuana dispensaries subject to additional regulations in Section 12.40.194; See Section 12.25.150 regarding limitations on other uses.</i>

6 (P) Permitted (C) Conditional (L) Limited (N) Not Permitted  
 7

8 **SUBCHAPTER 12.40**  
 9 **SPECIAL USE STANDARDS**

- 10 **12.40.010 Purpose**
- 11 **12.40.020 Applicability**
- 12 **12.40.030 Organization**
- 13 **12.40.100 Accessory Structures and Equipment**
- 14 **12.40.110 Animal Service Facilities**
- 15 **12.40.120 Automobile Service Station**
- 16 **12.40.130 Bed and Breakfast Inns**
- 17 **12.40.140 Cemeteries**
- 18 **12.40.150 Day Care Facilities**
- 19 **12.40.160 Flag Lot Development**
- 20 **12.40.170 Home Occupations**
- 21 **12.40.180 Manufactured Dwelling Parks**
- 22 **12.40.190 Manufactured Dwellings Placed Outside Parks**
- 23 **12.40.194 *Medical Marijuana Dispensaries***
- 24 **12.40.200 Model Home as Project Sales Office**
- 25 **12.40.210 Public Assembly Facilities**
- 26 **12.40.220 Recreational Vehicle and Boat Storage**
- 27 **12.40.230 Secondary Dwelling Units**
- 28 **12.40.240 Telecommunication Facilities**
- 29 **12.40.250 Temporary Commercial Activities at Stadiums**
- 30 **12.40.260 Utility Facilities**
- 31 **12.40.270 Vehicle Wrecking Yards**
- 32 **12.40.194 *Medical Marijuana Dispensaries.***

- 1       A. Characteristics. *Medical marijuana dispensaries are defined in Section 12.01.500.*  
2       *For purposes of this Code, medical marijuana dispensaries must be registered by the*  
3       *Oregon Health Authority. A dispensary or facility not registered by the Oregon Health*  
4       *Authority is not permitted in any zone.*
- 5       B. Approval Process. *Where permitted, medical marijuana dispensaries are subject to*  
6       *approval under Section 12.80.040 Development Review.*
- 7       C. Standards.
- 8           1. Hours of operation: *Dispensaries shall operate only between the hours of 10:00*  
9           *a.m. to 8:00 p.m. Monday through Thursday; and 10:00 a.m. to 10:00 p.m. Friday,*  
10           *Saturday and Sunday. An individual dispensary may set hours within those*  
11           *specified, but may not be open outside those parameters.*
- 12           2. Security Measures Required.
- 13           a. *Landscaping shall be continuously maintained to provide clear lines of sight*  
14           *from public rights-of-way to all building entrances.*
- 15           b. *Exterior lighting shall be provided and continuously maintained consistent with*  
16           *Subsection 12.50.240 C.*
- 17           c. *Any security bars installed on doors or windows visible from the public right-of-*  
18           *way shall be installed interior to the door or window, in a manner that they are*  
19           *not visible from the public right of way.*
- 20           3. Co-location Prohibited. *A dispensary shall not be located at the same address as a*  
21           *marijuana manufacturing facility, including a grow operation. A dispensary shall*  
22           *also not be located at the same address with any facility or business at which*  
23           *medical marijuana is consumed by cardholders.*
- 24           4. Mobile or Temporary Businesses Prohibited. *A dispensary may not operate as a*  
25           *mobile or temporary business as defined in the Municipal Code.*
- 26           5. Proximity Restrictions. *A dispensary shall not be located within the specified*  
27           *proximity of any of the uses listed below. For purposes of this paragraph, the*  
28           *distance specified is measured from the closest points between property lines of the*  
29           *affected properties:*
- 30           a. Schools: *Within 1,000 feet of a public or private elementary, middle, or high*  
31           *school or other school attending primarily by children under 18 years of age.*
- 32           b. Other dispensaries: *Within 2,000 feet of another medical marijuana*  
33           *dispensary.*
- 34           c. Public plazas and active use parks: *Within 1000 feet of a public plaza or active*  
35           *use park. As used in this paragraph, an active use park includes a public park*  
36           *which includes features such as playground equipment, athletic courts or fields,*  
37           *active use water features, or skating or skateboard features.*
- 38           6. Exceptions to Proximity Restrictions. *A dispensary that exists at the time any use*  
39           *listed in Subsection 4 above is located within 1000 feet of the dispensary may*  
40           *remain at that location.*

**EXHIBIT B**  
*(Findings)*

**Process:**

The proposed amendments were initiated through approval of Planning Commission Order No. 8105 on January 22, 2014. This followed City Council's adoption (on January 21, 2014) of a temporary moratorium prohibiting siting of medical marijuana dispensaries within the city limits pending adoption of zoning regulations.

The public hearings on the amendments were scheduled to begin on March 12, 2014, but were postponed indefinitely pending City Council consideration of the recently approved Senate Bill 1531, which allowed the City to place a longer moratoriums on medical marijuana dispensaries pending adoption of local regulations.

The public hearing on the proposed amendments were reconvened on May 28, 2014, and subsequently continued to June 11<sup>th</sup> and July 9<sup>th</sup>. Testimony was received from several parties: most support application of the state requirements only. On August 5<sup>th</sup>, City Council holds a work session on the proposed amendments, which is attended by three Planning Commissioners. Upon request from the Planning Commission president, the Council authorizes the Commission to table further consideration of the amendments on medical marijuana dispensaries pending the November 2014 election.

On November 4, 2014, Oregon voters approve Measure 91, legalizing marijuana use by adults and providing for regulation of a legal market by the Oregon Liquor Control Commission. On January 14, 2015, at the request of Planning staff, the Planning Commission agrees to take the Code amendments from the table and schedules a public hearing for February 11<sup>th</sup>.

The Planning Commission formally takes this matter from the table and reopens the public hearing on February 11<sup>th</sup>. The staff report proposes the regulations reviewed by the City Council in August 2104. The majority of public testimony again opposes imposition of regulations beyond those required by the State. After receipt of testimony, the Commissioners agree on several components of the regulations, but the issue of proximity buffers remain unresolved, and the hearing is continued to February 25<sup>th</sup>.

On February 25<sup>th</sup>, Planning staff presents an additional option for the Commissioners' consideration. After receipt of testimony consistent with previous hearings, the public hearing is closed. The Commissioners deliberate and vote to recommend City Council approval of the amendments, including the previously agreed upon regulations and the fourth option for the proximity buffers presented by staff. The Commissioners also strongly supported a reconsideration of this matter at a future date.

**Public Involvement:**

Notice of the proposed amendments was published in the May 16, 2014 issues of the *Hillsboro Tribune* and the *Forest Grove News-Times* as required by Section 12.70.060.G. On February 28 and March 5, 2014, Planning staff hosted two evening public open houses on the proposed amendments at Ronler Acres Fire Station and at the Civic Center. In addition, Planning Department developed and maintained an electronic interested parties list who were notified of public meetings during the process.

**Language of Proposed Amendments:**

The language of the proposed amendments is included in Exhibit A to Planning Commission Order 8143.

**Incorporation of Additional Documents:**

The following documents are hereby included in these findings and incorporated by reference:

- Planning Department staff reports to the Planning Commission from March 5, 2014 to February 25, 2015, with their respective attachments
- All items of written testimony received by the Planning Commission during the public hearings

**Compliance with Applicable Criteria (CDC Section 12.80.140.D):**

1. The CDCA addresses an issue or issues of concern on a variety of properties or conditions, and is not intended to resolve a property-specific or condition-specific situation.

*The proposed regulations for medical marijuana dispensaries will affect multiple zones and locations throughout the city. The regulations concern the time, place and manner under which dispensaries can operate and address a variety of concerns raised by the Planning Commission and interested parties. This criterion is met.*

2. The CDCA is consistent with relevant goals and policies of the Hillsboro Comprehensive Plan, any applicable Community Plans, and with the provisions of this Code.

*These amendments are specific to a certain use: Community Plans do not descend to that level of specificity. This portion of the criterion is therefore not applicable. .*

*As described in the process and public involvement sections of these findings, the proposed amendments were initiated by the Planning Commission; notice was provided to DLCD and to the public, and public hearings were held to receive testimony. The procedural requirements of Section 12.70.060 have therefore been met.*

The proposed amendments are consistent with the following policies of the Comprehensive Plan:

Economy Policies (A) (5) and (6):

- (5) Commercial land shall be designated in a manner which locates high volume trade activities near major roads, groups a variety of medical facilities and services near hospitals, and groups professional and governmental facilities near the downtown area and major commercial locations.

- (6) A sufficient number of locations should be made available for shopping centers and other commercial activities as the urban area population increases.

*As recommended by the Planning Commission, medical marijuana dispensaries could be located along Tualatin Valley Highway, on Oak and Walnut Streets southwest of the downtown, on Cornelius Pass Road, and in the Tanasbourne area on Cornell Road, all of which are high traffic areas. In addition, the Planning Commission's recommendation provides more locations than would have been provided under the Planning Staff's original recommendation. The recommended regulations therefore implement these Plan policies.*

3. The CDCA is consistent with relevant provisions of the Metro Urban Growth Management (UGM) Functional Plan (*Metro Code Chapter 3.07*).

*Title 4 of the UGM Functional Plan calls for the protection of industrial areas by limiting the size and location of new retail uses. The new regulations identify medical marijuana dispensaries as a retail use, and allow them only in one industrial zone: the I-G Industrial - General zone, in which other retail uses are allowed. The regulations are therefore consistent with Title 4.*

4. The CDCA is consistent with relevant provisions of the Statewide Planning Goals, the Oregon Administrative Rules (OAR), and Oregon Revised Statutes (ORS):

*Statewide Goal 9 Recreational Needs reads as follows: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens. By providing a variety of locations for medical marijuana dispensaries in high vehicle traffic areas as described above, the proposed amendments are consistent with this Goal.*

*ORS 475.300-475.346 the Oregon Medical Marijuana Act: The proposed regulations are consistent with ORS 475.314 (3) which prohibits location of dispensaries within 1000 feet of a school attended primarily by minors, or within 1000 feet of another dispensary. The proposed regulations also define "medical marijuana dispensary" as a facility registered with the Oregon Health Authority, thereby ensuring that the facility is subject to the state regulations as well.*

*OAR 333-008-1110: Again, the proposed regulations are consistent with this section, which concerns the locations of dispensaries. This section also prohibits location of dispensaries within 1000 feet of a school attended primarily by minors, or within 1000 feet of another dispensary. The OAR also adds that the dispensary cannot be located at the same address as a grow site, which includes "production" as defined in ORS 475.005. The proposed regulations also define "medical marijuana dispensary" as a facility registered with the Oregon Health Authority, thereby ensuring that the facility is subject to the state regulations as well. The proposed Hillsboro regulations contain these same provisions, and therefore implement the OAR.*

5. The CDCA is deemed by the Review Authority to be desirable, appropriate, and proper.

*The Planning Commission deems the proposed amendments desirable. Testimony received during the public hearing demonstrates that there is a need for dispensaries (as administered under the Oregon Medical Marijuana Act) due to the lack of these*

facilities in Hillsboro at present. Medical marijuana cardholders are inconvenienced by the necessity of travelling to dispensaries in Aloha, Beaverton, or Portland, and not all cardholders (or their caregivers) are able and willing to grow their own marijuana for medical purposes. Allowing medical marijuana dispensaries in Hillsboro under the proposed regulations will alleviate the need for Hillsboro residents to travel out of town to obtain this commodity, and will provide local retail employment for dispensary employees.

The Planning Commission deems the proposed amendments appropriate. The purpose of these land use regulations is not to reduce the black market in marijuana, to counter any private sector reticence or lack of acceptance, or to offset supplies of "home grown" product. The regulations are intended to reflect land use principles such as the following:

- a. Permitting this retail use in areas with other retail uses, and prohibiting it in areas where retail uses are restricted or prohibited;
- b. Reducing the risks of potentially negative, and as yet unknown, impacts on high-intensity pedestrian areas or areas frequented by minors, such as active use parks and plazas, the downtown area, and neighborhood commercial nodes; and
- c. Applying principles of Crime Prevention Through Environmental Design (CPTED) to reduce potential impacts on surrounding properties.

The Planning Commission also deems the proposed level of regulations to represent an appropriate compromise between earlier proposals made by staff and the minimum regulations required by the State. The earlier proposals, which included a 1000-foot buffer around single family and multi-family residential zones, effectively banned dispensaries from the city when applied. On the other hand, the regulations "floor" required by the State is inadequate to address the potential impacts of this land use, which is still in the "wild west" phase of its development. For these reasons, the Commission deems it appropriate to apply a conservative level of regulations at this time.

However, the Planning Commission also deems it appropriate to request future reports from the Planning Staff regarding the impacts of this use in Hillsboro and the experiences of other comparable jurisdictions. The intent of these future reports will be to monitor the medical marijuana dispensary market becomes established and determine whether the regulations can and should be modified or relaxed, based on community benefits and costs.

The Planning Commission deems the proposed amendments proper for the following reasons:

- a. The proposed regulations are consistent with the applicable Oregon Revised Statutes and Oregon Administrative Rules;
- b. The consistency of the regulations with those established in Washington County (which entirely surrounds the city of Hillsboro) will reduce the likelihood of inappropriate concentration or dispersal of this particular use;



- c. *The regulations have been developed during a process which allowed adequate time for public education, discussion and deliberation; and*
- d. *The proposed amendments are a prudent and proper "first step" in applying land use regulations to this new land use, the impacts of which are substantially unknown. The Planning Commission anticipates future refinement of these regulations as the medicinal marijuana market becomes established.*

**Additional Issue: Effective Date**

*Due to the impending expiration of the state-authorized moratorium on May 1, 2015, the City Council may opt to approve an ordinance adopting these regulations with an emergency clause making the regulations effectively immediately.*

*CDC Section 12.70.130 Effective Date of Decision, regarding the effective date of certain land use decisions, provides as follows:*

- A. Land use action and permit decisions shall become effective the day after the appeal period expires if no appeal is filed.
- B. If an appeal is filed on a decision, the decision shall become final and effective upon the date of the written decision of the final local appeal body.
- C. Each land use action or permit shall specify the approval granted or development authorized and shall be subject to the standards and conditions set forth in this Code, together with any conditions imposed by the Review Authority, excepting only those variances or exceptions authorized by the review authority.

*Section 17 of the City Charter includes slightly different provisions for the effective date of an ordinance:*

*Section 17. Effective Date of Ordinances. Ordinances normally take effect on the 30<sup>th</sup> day after adoption, or 30 days from re-adoption after demand for reconsideration from the mayor, or on a later day provided in the ordinance. Any ordinance adopted may take effect as soon as adopted, or other date less than 30 days after adoption if it contains an emergency clause.*

*In the event of a conflict between the CDC and the City Charter, the City Charter would prevail. However, in this case staff does not believe there is a conflict. The provisions of Section 12.70.130 are cumulative and must be read together. Section 12.70.130.A says that a "land use action" is final the day after "the appeal period" expires but does describe not what appeal period is intended. However, that ambiguity is clarified in Section 12.70.130.B which states that if an appeal is filed, the decision becomes final on the date of the "final local appeal. In this case, a final decision by the City Council can only be appealed to the Land Use Board of Appeals; there is no "local" appeal.*

*Moreover, the language of Section 12.70.130.C regarding the "land use action or permit" describes the decision in terms of the "approval" granted or "development" authorized, neither of which apply to a legislative recommendation such as here. Thus, while a decision by the City Council to adopt the proposed text amendment is a "land use*

*decision," it is not a "land use action" as that term is used on Section 12.70.130. (A "permit" is a defined term that does not include a legislative decision.)*

*For these reasons, the Planning Commission finds that this Type IV legislative decision is not "land use action or a permit" as those terms are used in Section 12.70.130. In addition, the Planning Commission finds that the effective date provisions of Section 12.70.130 only apply to decision for which a local appeal is available, which does not include a final decision by the City Council. Accordingly, the effective date provisions of Section 12.70.130 do not apply in the event that the City Council chooses to adopt an Ordinance including an emergency clause.*