



ORDINANCE 2015-005

AMENDING MULTIPLE SECTIONS OF THE ZONING AND COMMUNITY DEVELOPMENT CODE INCLUDING DIVISIONS I, II, and III AS IT RELATES TO THE REGULATION OF MEDICAL MARIJUANA DISPENSARIES AND DECLARING AN EMERGENCY

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

WHEREAS, House Bill 3460 (2013) authorized certain restrictions on the location of medical marijuana dispensaries related to proximity to schools attended by minors and to other medical marijuana dispensaries; and

WHEREAS, Senate Bill 1531 (2014) authorized local jurisdictions to regulate medical marijuana dispensaries by imposing time, place and manner restrictions on their operations and included provisions allowing local jurisdictions to adopt a moratorium on dispensaries effective through May 1, 2015; and

WHEREAS, the City Council adopted a moratorium on the siting of medical marijuana facilities within the City of Sherwood that expires on May 1, 2015; and

WHEREAS, the City Council believes it is in the best interest of the health, safety and welfare of the citizens of Sherwood to establish time, place and manner regulations concerning medical marijuana dispensaries; and

WHEREAS, the Planning Commission conducted a public hearing on April 14, 2015, and voted to forward a recommendation of approval to the City Council for the proposed Zoning and Community Development Code amendments that regulates medical marijuana dispensaries; and

WHEREAS, the analysis and findings to support the Planning Commission recommendation are identified in Attachment 1 of the City Council Staff Report; and

WHEREAS, the attached Exhibit A to this ordinance reflects the code amendments; and

WHEREAS, the City Council held public hearings on April 28, 2015 and May 5, 2015 and determined that the proposed changes to the Development Code met the applicable Comprehensive Plan criteria and continued to be consistent with regional and state standards.

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

Section 1. Findings. After full and due consideration of the application, the Planning Commission recommendation, the record, findings, and evidence presented at the public hearing, the Council adopts

the findings of fact contained in the Planning Commission recommendation finding that the text of the Sherwood Zoning and Community Development Code shall be amended as documented in Exhibit A.

Section 2. Approval. The proposed amendments for Plan Amendment (PA) 15-02 identified in Exhibit A are hereby **APPROVED**.

Section 3 - Manager Authorized. The Planning Department is hereby directed to take such action as may be necessary to document this amendment, including notice of adoption to DLCD and necessary updates to Chapter 16 of the Municipal Code in accordance with City ordinances and regulations.

Section 4 - Applicability. The amendments to the City of Sherwood Zoning and Community Development Code approved by this Ordinance apply to all land use applications submitted after the effective date of this Ordinance.


Section 5 - Effective Date. In order to maintain the health, peace and welfare of the City of Sherwood, an **emergency is declared** and this ordinance takes effect immediately upon passage and approval by the Mayor.

Section 6 - Ordinance 2014-008, establishing a moratorium on medical marijuana dispensaries is repealed.

Duly passed by the City Council this 5th day of May 2015.


Krisanna Clark, Mayor

Attest:


Sylvia Murphy, MMC, City Recorder

	<u>AYE</u>	<u>NAY</u>
Cooke	<u>Recuse</u>	_____
Harris	<u>✓</u>	_____
Kuiper	<u>✓</u>	_____
King	<u>✓</u>	_____
Henderson	<u>✓</u>	_____
Robinson	<u>✓</u>	_____
Clark	<u>✓</u>	_____

Exhibit A. Planning Commission Recommended Draft Code Language

Medical Marijuana Dispensary Plan Amendment –

April 15, 2015

DRAFT CODE LANGUAGE

Additions are in BLUE

Add to Section 16.10 - DEFINITIONS

MEDICAL MARIJUANA DISPENSARY: 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 project to a person with a valid Oregon Medical Marijuana Program card (a patient or the patient's caregiver). A dispensary includes all premises, buildings, curtilage or other structures used to accomplish the storage, distribution and dissemination of marijuana.

MOBILE VENDOR: A service establishment operated from a licensed and moveable vehicle that vends or sells food and/or drink or other retail items.

PUBLIC PLAZA: a square in a city or town; an open area usually located near urban buildings and often featuring walkways, trees and shrubs, places to sit, and sometimes shops which is under the control, operation or management of the City or other government agency.

EXISTING Definitions (for reference purposes)

Public Park: A park, playground, swimming pool, reservoir, athletic field, or other recreational facility which is under the control, operation or management of the City or other government agency.

Educational Institution: Any bona-fide place of education or instruction, including customary accessory buildings, uses, and activities, that is administered by a legally-organized school district; church or religious organization; the State of Oregon; or any agency, college, and university operated as an educational institution under charter or license from the State of Oregon. An educational institution is not a commercial trade school as defined by Section 16.10.020.

Add to Land uses tables of Chapter 16.31 tables with footnotes to see Special Uses

CHAPTER 16.31 INDUSTRIAL LAND USES

16.31.020 - Uses

A. The table below identifies the land uses that are permitted outright (P), permitted conditionally (C) and not permitted (N) in the industrial zoning districts. The specific land use categories are described and defined in Chapter 16.88.

B. Uses listed in other sections of this code, but not within this specific table are prohibited.

C. Any use not otherwise listed that can be shown to be consistent or associated with the uses permitted outright or conditionally in the commercial zones or contribute to the achievement of the objectives of the commercial zones may be permitted outright or conditionally, utilizing the provisions of Chapter 16.88

D. Additional limitations for specific uses are identified in the footnotes of this table.

INDUSTRIAL USES	LI	GI	EI
COMMERCIAL			
General Retail - sales oriented			
<ul style="list-style-type: none"> Incidental retail sales or display/showroom directly associated with a permitted use and limited to a maximum of 10 % of the total floor area of the business.⁷ 	C	C	P
<ul style="list-style-type: none"> Medical Marijuana Dispensary, not exceeding 3,000 square feet of gross square footage 	P ⁸	P ⁸	N
<ul style="list-style-type: none"> Tool and Equipment Rental and Sales, Including Truck Rental.⁶ 	P	P	P
<ul style="list-style-type: none"> Retail plant nurseries and garden supply stores (excluding wholesale plant nurseries) 	P	P	N
<ul style="list-style-type: none"> Wholesale building material sales and service 	C	P	N
<ul style="list-style-type: none"> Retail building material sales and lumberyards⁷ 	C	P	N

[8. See Special Criteria for Medical Marijuana Dispensary under Chapter 16.38.020.](#)

Add Medical Marijuana Dispensary to Category Type II Land Use Procedures for Processing Development Permits.

CHAPTER 16.72 Procedures for Processing Developing Permits

16.72.010 - Generally

A. Classifications

Except for Final Development Plans for Planned Unit Developments, which are reviewed per Section 16.40.030, all quasi-judicial development permit applications and legislative land use actions shall be classified as one of the following:

2. Type II

The following quasi-judicial actions shall be subject to a Type II review process:

a. Land Partitions

b. Expedited Land Divisions - The Planning Director shall make a decision based on the information presented, and shall issue a development permit if the applicant has complied with all of the relevant requirements of the Zoning and Community Development Code. Conditions may be imposed by the Planning Director if necessary to fulfill the requirements of the adopted Comprehensive Plan, Transportation System Plan or the Zoning and Community Development Code.

c. "Fast-track" Site Plan review, defined as those site plan applications which propose less than 15,000 square feet of floor area, parking or seating capacity of public, institutional, commercial or industrial use permitted by the underlying zone, or up to a total of 20% increase in floor area, parking or seating capacity for a land use or structure subject to conditional use permit, except as follows: auditoriums, theaters, stadiums, and those applications subject to Section 16.72.010.4, below.

d. "Design Upgraded" Site Plan review, defined as those site plan applications which propose between 15,001 and 40,000 square feet of floor area, parking or seating capacity and which propose a minimum of eighty percent (80%) of the total possible points of design criteria in the "Commercial Design Review Matrix" found in Section 16.90.020.4.G.4.

e. Industrial "Design Upgraded" projects, defined as those site plan applications which propose between 15,001 and 60,000 square feet of floor area, parking or seating capacity and which meet all of the criteria in 16.90.020.4.H.1.

f. Homeowner's association street tree removal and replacement program extension.

g. Class B Variance

h. Street Design Modification

i. Subdivisions between 4—10 lots

[j. Medical Marijuana Dispensary permit](#)

16.38 SPECIAL USES

16.38.010 GENERAL PROVISIONS

Special uses included in this Section are uses which, due to their effect on surrounding properties, must be developed in accordance with special conditions and standards. These conditions and standards may differ from the development standards established for other uses in the same zoning district. When a dimensional standard for a special use differs from that of the underlying zoning district, the standard for the special use shall apply.

16.38.020 MEDICAL MARIJUANA DISPENSARY

A. CHARACTERISTICS:

1. A medical marijuana dispensary is defined in Section § 16.10.

2. Registration and Compliance with Oregon Health Authority Rules. A medical marijuana dispensary must have a current valid registration with the Oregon Health Authority under ORS 475.314. Failure to comply with Oregon Health Authority regulations is a violation of this Code.

B. APPROVAL PROCESS. Where permitted, a medical marijuana dispensary is subject to approval under § 16.72.010A.2a, the Type II land use process.

C. STANDARDS

1. Hours of Operation. A medical marijuana dispensary may not be open to the public before 10:00 AM and not later than 8:00 PM all days of the week.

2. Security Measures Required.

a. Landscaping must be continuously maintained to provide clear lines of sight from a public right of way to all building entrances.

b. Exterior lighting must be provided and continuously maintained.

c. Any security bars installed on doors or windows visible from a public right of way must be installed interior to the door or window, in a manner that they are not visible from the public right of way.

3. Co-location prohibited.

a. A medical marijuana dispensary may not be located at the same address as a marijuana manufacturing facility, including a grow operation.

b. A medical marijuana dispensary may not be located at the same address with any facility or business at which medical marijuana is inhaled or consumed by cardholders.

4. Mobile and Delivery Businesses Prohibited.

a. A dispensary may not operate as a mobile business as defined in Chapter 16.10.

b. A dispensary may not operate to deliver medical marijuana.

5. Drive-Through and Walk-Up. A medical marijuana dispensary may not engage in product sales outside of the facility or building through means of a walk-up window or drive-through access.

6. Proximity Restrictions.

A medical marijuana dispensary may not be located within 1,000 feet of any of the uses listed below. For purposes of this paragraph, the distance specified is measured from the closest points between the property lines of the affected properties:

a. An Educational Institution: public or private elementary, secondary, or career school that is attended primarily by children under 18 years of age.

b. Another medical marijuana dispensary.

c. A Public Park or Plaza.