

RECREATIONAL MARIJUANA REGULATIONS

ISSUE PAPER

BACKGROUND

Oregon voters passed Measure 91 in 2014 legalizing recreational marijuana. Over the past year, the Oregon legislature and the Oregon Liquor Control Commission (OLCC) have developed statewide regulations and processes in order to implement this measure. As of January 4, 2016, the OLCC has begun to accept all types of recreational marijuana license applications. The breakdown of applications is attached to this memo. (Attachment 1, Marijuana License Application Statistics as of January 15, 2016). According to the OLCC “FAQ page” there is no specific time frame regarding how long it may take to get a license. The OLCC intends to license producers and laboratories first, before all other license types may operate. This will then be followed by processors, research certificates and then retailers. It is expected to have the producers/labs licensed by Spring 2016 and for the retailers to be licensed by Fall 2016.

The Oregon Legislature made significant changes to Measure 91 during the 2015 session in HB 3400 and HB 2041. One of the provisions included the ability of local jurisdictions to “opt out” or ban all types of recreational marijuana licenses within a particular jurisdiction. The Sherwood City Council may decide to place the issue on the ballot and let Sherwood voters decide whether to ban all or one of the recreational marijuana license types. The City Council will make the decision on January 19, 2016. If the issue is placed on the ballot, there will be a moratorium in place, restricting all marijuana related businesses or facilities from locating in Sherwood until the issue is resolved by the Sherwood voters with the November 2016 election. If Council elects not to place the issue on the ballot or if voters ultimately reject the ban in November, the community will need to determine whether to further restrict marijuana-related facility locations or implement other restrictions. Additionally, it will be important to clearly confirm the permitted locations for each particular facility types. These restrictions would need to be adopted through a plan amendment to the Sherwood Zoning and Development Code.

The OLCC has begun accepting online applications for licenses to operate recreational marijuana-related facilities in Oregon. Various types of recreational marijuana businesses may be allowed in certain zones and may not be allowed in other zones. The OLCC requires an applicant to seek out verification from the local jurisdiction indicating that the proposed use is permitted within the land use zone where the facility is to be located. The required form to be completed by a local jurisdiction is called a “land use compatibility statement,” commonly known as a LUCS. The OLCC will only issue licenses for those land uses found to be compatible with local zoning and part of that approval is getting a signed LUCS from the local jurisdiction.

OLCC RECREATIONAL MARIJUANA LICENSE TYPES

There are five different types of recreational marijuana licenses that the OLCC will administer as defined below:

Producer: ability to plant cultivate, grow, harvest and dry marijuana

Processor: ability to process, compound, or convert marijuana into cannabinoid products, concentrates and/or extracts

Wholesaler: can purchase large quantities of marijuana from other licensed facilities and sell the products to licensed retailers, processors, producers, other wholesalers, or research certificate holders.

Retailer: can sell or deliver marijuana items directly to consumers

Laboratory or Research: A use that tests marijuana licensed by the OLCC.

OLCC LAND USE PLANNING & ZONING SITING REQUIREMENTS

Depending on the license type, different zoning restrictions may apply. The following are the general restrictions OLCC developed this past year.

Recreational marijuana licensed facility may not be located:

- on federal property
- at the same physical location or address as a liquor licensee
- at the same physical location or address as a medical marijuana processing site registered with the Oregon Health Authority (OHA)
- at the same physical location or address as a medical marijuana dispensary registered with the OHA
- With the exception of the producer license, in an area that is zoned exclusively for residential use.¹

Producers may not be located at the same physical location or address as a medical marijuana grow site registered with the OHA unless the site is also licensed by the OLCC.

Retailers may not be located within 1,000 ft. of a public elementary or secondary school or a private or parochial elementary or secondary school.

A NOTE ON MEDICAL MARIJUANA DISPENSARIES IN SHERWOOD

Last year, the Planning Commission and City Council imposed additional regulations beyond the Oregon Health Authority (OHA) regulations for operating medical marijuana dispensaries in Sherwood.

The Planning Commission held several public meetings about regulating medical marijuana dispensaries. Community members shared thoughts, ideas and concerns about medical marijuana dispensaries. An online Medical Marijuana Dispensary Community Survey was also conducted from March 6-31, 2015.

The City Council approved the following restrictions for medical marijuana dispensaries.

- Dispensaries are limited to the light and general industrial zones only
- Dispensaries are limited to 3,000 square feet
- The hours of operation for dispensaries are limited to between 10 am - 8 pm
- Dispensaries are not allowed within 1,000 feet of a public park or plaza
- Requests for dispensaries are subject to Type II staff level land use process as a special use and requires notice to property owners within 1,000 feet of the proposed dispensary.

¹ Confirming with the Oregon Liquor Control Commission; based on OAR 845-025-2030

In September of 2015 the City Council adopted Ord. 2015-08 that prohibited the co-location of early retail and medical marijuana sales at the same location.

INTERIM SHERWOOD LAND USE ZONING BY LICENSE TYPES

Because Sherwood has not developed regulations concerning the appropriate location for marijuana facilities and the Development Code does not specifically identify recreational marijuana, planning staff in coordination with Josh Soper, City Attorney have identified locations where the various recreational licenses would likely be permitted within the City based on existing zoning regulations should the City receive a request for a LUCS signature by planning staff.

The following table shows the various OLCC recreational marijuana license categories and the corresponding commercial and industrial zones within Sherwood.

Sherwood General Land Use Categories and Zoning Designation

Category	NC	OC	RC	GC	LI	GI	EI	Description in SZDC
Producer	N	N	P	P	P	P	P	Farming and horticulture
Processor	C	C	C	C	P	P	P	COM: Any incidental business, service, processing, storage or display, not otherwise permitted that is essential to and customarily associated with a use permitted outright
Wholesaler	P	P	P	P	P	P	P	COM: Business and professional office only without product at same location IND: wholesaling outright in IND zones
Retailer	P	P	P	P	P w/limitations	P- with limits	P- with limits	Retail sales-incidental retail sales directly associated with permitted use and limited to a max of 10% of the total floor area in the industrial zones *otherwise permitted outright in all Commercial Zones
Lab or Research	N	N	N	N	P	P	P	Research and Development and associated manufacturing

KEY

NC = Neighborhood Commercial
OC = Office Commercial
RC = Retail Commercial
GC = General Commercial
LI = Light Industrial
GI =General Industrial

N= Not permitted
C= conditionally permitted
P= Permitted
COM= Commercial zones
IND = Industrial zones

REGULATING RECREATIONAL MARIJUANA FACILITIES IN SHERWOOD

Similar to the process and decisions developed for local medical marijuana dispensaries, the Planning Commission and Council have alternatives as they consider additional time, place and manner regulations for recreational marijuana facilities. Some alternatives include the following:

- 1. Limit the number recreational marijuana facilities**
 - Allow at least 1, but no more than x number of recreational marijuana facilities in the community. This may be a gray area. Staff recommends limitations based on proximity rather than straight numbers. It will be harder to rationalize the reason for a certain number of facilities rather than the proximity to residential or other facilities for example.

- 2. Limit the land use zone where the recreational marijuana facility can be located (Commercial/Industrial)**
 - Determine the most appropriate land use category for each facility type by amending the Development Code to prohibit, permit, or conditionally permit a certain type of facility in a particular zone. If the City voters do not approve a ban at the November election, then the City must allow at least each license type to be located in at least one zone within the City.

- 3. Require a conditional or special use permit**
 - Require a hearing with a Hearing Officer who can make special conditions on the use-hours of operation, signage, lighting or security measures.
 - Create a new category-Special Use that allows for the decision maker to make special provisions especially for that use relating to time, place or manner (i.e. what the exterior of the building looks like, potential signage restrictions.)

- 4. Limit the facility's location based on proximity to other types of uses, zones, or facilities**
 - Add a buffer that prohibits locating within a certain number of feet from a park, residential zone or anywhere children may congregate.

(For example, some jurisdictions have rules that a marijuana facility cannot be 500 ft. from a residential zone.)

- 5. No Action:**

City does not regulate beyond the State regulations. The Community Development Department would likely treat the particular facility as identified in the table shown earlier in this paper.