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Chapter 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.

(Ord. 86-851, § 3)

16.38.020 Medical Marijuana Dispensary

A. Characteristics

1. A medical marijuana dispensary is defined in Section 16.10.020.
2. Registration and Compliance with Oregon Health Authority and Oregon Liquor Control Commission Rules. A medical marijuana dispensary must have a current valid registration with the Oregon Health Authority under ORS 475B.858 or a current valid designation as an exclusively medical license holder by the Oregon Liquor Control Commission under ORS 475B.131. Failure to comply with Oregon Health Authority and Oregon Liquor Control Commission regulations, as applicable, is a violation of this Code.

B. Approval Process

Where permitted, a medical marijuana dispensary is subject to approval under Section 16.72.010.A.2, the Type II land use process. A medical marijuana dispensary which has already obtained such approval and which is converting from Oregon Health Authority registration to Oregon Liquor Control Commission licensure with an exclusively medical designation, or vice versa, is not required to obtain additional land use approval from the City under this section solely as a result of such license conversion.

C. Standards

1. Hours of Operation. A medical marijuana dispensary may not be open to the public before 10:00 a.m. and not later than 8:00 p.m. 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

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- 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 marijuana is inhaled or consumed
4. Mobile and Delivery Businesses Prohibited
 - a. A dispensary may not operate as a mobile business as defined in Section 16.10.020.
 - b. A dispensary may not operate to deliver 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.

(Ord. No. 2018-008, § 2, 10-2-2018; Ord. No. 2015-005, § 2, 5-5-2015)

16.38.030 Recreational Marijuana Facilities

- A. Characteristics
 1. Five types of recreational marijuana facilities are defined in Section 16.010.20.
 2. Recreational marijuana facilities must be licensed by the Oregon Liquor Control Commission. A facility not licensed by the Oregon Liquor Control Commission is not permitted in any zone.
- B. Approval Process. Where permitted, recreational marijuana facilities are subject to approval under 16.72.010.A2, the Type II process in addition to any other required land use review process required by this Code. Applications for approval shall include detailed responses to the applicable standards listed in this section.
 1. An existing Medical Marijuana Dispensary in compliance with Section 16.38.020 (Medical Marijuana Dispensary) which completes a conversion to a recreational marijuana licensee under regulation by the Oregon Liquor License Commission pursuant O.R.S. 475B et seq. shall be exempted from the requirement to complete a Type II process and shall only be required to complete a Type I process under 16.72.010.A1.
- C. General Standards for Recreational Marijuana Facilities
 1. All new construction of recreational marijuana facilities shall comply with 16.90 Site Planning.
 - a. A medical marijuana dispensary which is in compliance with Section 16.38.020 (Medical Marijuana Dispensary) on or before April 1, 2020, and which maintains such compliance until completion of a conversion to a recreational marijuana licensee under regulation by the Oregon Liquor License Commission pursuant to O.R.S. 475B et seq. shall be exempted from 16.90 Site Planning for any new or modified recreational marijuana facilities.

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2. In the case of production facilities, views from the exterior of the building into the production area are prohibited. Views of interior lighting in the production area from the exterior of the building are also prohibited.
 3. Only indoor recreational marijuana production is allowed. Exterior growing is prohibited for commercial distribution.
 4. Public Access Prohibited. Access to any production, processing, testing laboratory and wholesale facility shall be limited to employees, personnel, and guests over the age of 21, authorized by the facility operator.
 5. Security Measures Required
 - a. Landscaping shall be continuously maintained to provide clear lines of sight from public rights-of-way to all building entrances.
 - b. Exterior lighting shall be provided and continuously maintained.
 - c. Any security bars installed on doors or windows visible from the public right-of-way shall be installed interior to the door or window, in a manner that they are not visible from the public right-of-way.
 - d. No outdoor storage of marijuana is allowed at any recreational marijuana facilities.
 6. Odor Mitigation Measures Required. Production and processing facilities shall install and maintain enhanced ventilation systems designed to prevent detection of marijuana odor from adjacent properties or the public right-of-way. Such systems shall include the following features:
 - a. Installation of activated carbon filters on all exhaust outlets to the building exterior;
 - b. Location of exhaust outlets a minimum of 10 feet from the property line and 10 feet above finished grade; and
 - c. Maintenance of negative air pressure within the facility; or
 - d. An alternative odor control system approved by the Building Official based on a report by a mechanical engineer licensed in the State of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.
 7. Proximity Restrictions. A recreational marijuana production, processing, testing laboratory or wholesale sales facility shall not be located within 1000 feet of any single-family residential or multi-family residential zone. For purposes of this paragraph, the distance specified is measured from the closest points between property lines of the affected properties.
 8. No recreational marijuana facility may be located within the Old Town Overlay District.
 9. Recreational Marijuana Facilities (Retailer, Processor, Wholesaler, Producer, or Laboratory) licensed by the Oregon Liquor Control Commission shall only be permitted in zones classified as General Industrial.
 - a. Exception. Any existing medical marijuana dispensary located in an area zoned Light Industrial which is in compliance with Section 16.38.020 (Medical Marijuana Dispensary) on or before April 1, 2020, will be an approved situs for a licensed recreational marijuana facility. This section expressly authorizes the operation of a licensed recreational marijuana facility in the following location zoned Light Industrial:

Tax Lot 2S129A 000500 - Parcel R0547705
15025 SW Tualatin-Sherwood Rd, Sherwood, OR 97140

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- b. The sale of any property listed at 16.38.030(9) (a) shall not terminate this exception and such exception shall run with the land. A purchaser of the applicable real estate may, but shall not be required, to undertake a "Change of Ownership" review by the Oregon Liquor Control Commission. A subsequent purchaser of the applicable real estate may seek a new recreational marijuana license from the Oregon Liquor Control Commission unconnected with the license maintained by the prior owner(s).
10. One or more licensed Recreational Marijuana Facilities (Retailer, Processor, Wholesaler, Producer, or Laboratory) shall be permitted on the same tax lot, subject to the proximity restrictions under 16.38.030(D)(7).
- D. Specific Standards for Recreational Marijuana Retail Sales Facilities
1. All new construction of recreational marijuana retail facilities shall comply with 16.90 Site Planning, unless such facility is exempted from 16.90 Site Planning under 16.38.030(C)(1)(a).
 2. Public Access Prohibited. Access to a retail sales facility shall be limited to employees, personnel, and customers over the age of 21.
 - a. A OHA-registered medical marijuana patient or caregiver at least 18 years of age shall be permitted to enter a retail sales facility for the purposes of purchasing medical marijuana.
 3. Hours of Operation
 - a. Retail sales facilities shall operate only between the hours of 10:00 a.m. to 8:00 p.m. Sunday through Thursday.
 - b. Retail sales facilities shall operate only between the hours of 10:00 a.m. to 10:00 p.m. Friday and Saturday.
 - c. An individual facility may set hours within those specified, but may not be open outside those parameters.
 4. Security Measures Required
 - a. Landscaping shall be continuously maintained to provide clear lines of sight from public rights-of-way to all building entrances.
 - b. Exterior lighting shall be provided and continuously maintained consistent with Section 16.154.
 - c. Any security bars installed on doors or windows visible from the public right-of way shall be installed interior to the door or window, in a manner that they are not visible from the public right-of-way.
 5. Mobile or Temporary Businesses Prohibited. A retail sales facility may not operate as a mobile or temporary business as defined in Section 16.10.020.
 6. Drive-in or Drive-Through Facilities Only Permitted Where Authorized by OLCC. A retail sales facility may only operate a drive- in, or drive-through or "curbside delivery" retailer facility, as defined in Section 16.10.020. Nothing in this section shall prohibit a marijuana retailer from operating a delivery service which is compliant with state law and OLCC regulations concerning delivery by a recreational marijuana retailer.
 7. Proximity Restrictions. A retail marijuana facility shall not be located within the specified proximity of any of the uses listed below. For purposes of this paragraph, the distance specified is measured from the closest points between property lines of the affected properties.

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- a. Schools. Within one thousand (1,000) feet of a public or private elementary or secondary school attended primarily by children under 19 years of age.
 - b. Other Retail Facilities. Within one thousand (1,000) feet of another retail recreational marijuana facility or any medical marijuana dispensary.
 - c. Public Plazas and Active Use Parks. Within one thousand (1,000) feet of a public plaza or active use park. As used in this paragraph, an active use park includes a public park which includes features such as playground equipment, athletic courts or fields, active use water features, or skating or skateboard features.
8. No recreational marijuana retail facility shall exceed an area of three thousand (3,000) square feet of publicly accessible areas associated with the retail sale of recreational marijuana. No additional size limitations on recreational retail marijuana facilities shall be imposed except as required by state law.

16.38.040 Psilocybin Service Centers & Manufacturing of Psilocybin Products

A. Characteristics

- 1. A Psilocybin Service Center is defined in Section 16.10.020.**
- 2. Manufacturing of Psilocybin Products is defined in Section 16.10.020**
- 3. Registration and Compliance with Oregon Health Authority. A Psilocybin Service Center and manufacturing facility must have a current valid registration with the Oregon Health Authority under ORS 475A. Failure to comply with Oregon Health Authority, as applicable, is a violation of this Code.**

B. Approval Process

- 1. Where permitted, a Psilocybin Service Center and the manufacturing of psilocybin products is subject to approval under Section 16.72.010.A.2, the Type II land use process, in addition to any other land use review process required by this Code.**

C. General Standards for Psilocybin Service Centers and Manufacturing of Psilocybin Products

- 1. All new construction of Psilocybin Service Centers and sites manufacturing psilocybin products comply with 16.90 Site Planning.**
- 2. In the case of production facilities, views from the exterior of the building into the production area are prohibited. Views of interior lighting in the production area from the exterior of the building are also prohibited.**
- 3. Only indoor manufacturing of psilocybin production is allowed. Exterior growing is prohibited.**
- 4. Public Access Prohibited. Access to sites manufacturing psilocybin products shall be limited to employees, personnel, and guests over the age of 21, authorized by the facility operator.**
- 5. 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.**

d. All storage shall be located within a permanent building and may not be located within a trailer, tent or motor vehicle. Outdoor storage of any material associated with psilocybin service centers and the manufacturing of psilocybin products is prohibited.

6. Odor Mitigation Measures Required. Production and processing facilities shall install and maintain

enhanced ventilation systems designed to prevent detection of marijuana odor from adjacent properties or the public right-of-way. Such systems shall include the following features:

a. Installation of activated carbon filters on all exhaust outlets to the building exterior;

b. Location of exhaust outlets a minimum of ten feet from the property line and ten feet above

finished grade; and

c. Maintenance of negative air pressure within the facility; or

d. An alternative odor control system approved by the Building Official based on a report by a mechanical engineer licensed in the State of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.

7. Co-location Prohibited

a. A Psilocybin Service Center and businesses engaged in the manufacturing of psilocybin products shall not be located at the same address.

8. Proximity Restrictions

A Psilocybin Service Center or manufacturing facility may not be located within 1,000 feet of any of the uses listed below. For the purposes of paragraph, the distance specified is measured from the closet points between property lines of the affected properties.

a. Residential Zones. Any single-family residential or multi-family residential zone.

b. Schools. A public or private elementary or secondary school attended primarily by children under 19 years of age.

c. Public Plazas and Active Use Parks. A public plaza or active use park. As used in this paragraph, an active use park includes a public park which includes features such as playground equipment, athletic courts or fields, active use water features, or skating or skateboard features.

d. A Major Commercial Plaza: Any lot, or combination of lots legally bound together by a deed restriction, restrictive covenant or other recorded document, having fifteen (15) or more legallypermitted businesses on the site.

9. Psilocybin Service Centers and the manufacturing of psilocybin products shall only be permitted in zones classified as General Industrial.

10. No Psilocybin Service Center or the manufacturing of psilocybin products may be located within the Old Town Overlay District.

11. No Psilocybin Service Center or the manufacturing of psilocybin products shall exceed an area of three thousand square feet.

D. Specific Standards for Psilocybin Service Centers and Manufacturing Facilities

1. Mobile and Delivery Businesses Prohibited

2. Drive-Through and Walk-Up Services. A Psilocybin Service Center and manufacturing facility may not engage in business services outside the facility or building through a walk-up window or drive-through access.