



# 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: May 13, 2015  
Jurisdiction: City of Sherwood  
Local file no.: PA 15-2  
DLCD file no.: 002-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 05/06/2015. 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**  
002-15 {23679}  
File No.:  
Received: 5/6/2015

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: Sherwood

Local file no.: **PA 15-02**

Date of adoption: May 5, 2015      Date sent: May 6, 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): x March 11, 20  
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:

**no change**

Local contact (name and title): Michelle Miller, AICP Senior Planner

Phone: 503-625-4242

E-mail: millerm@sherwoodoregon.gov

Street address: 22560 SW Pine Street

City: Sherwood

Zip: 97140-

## 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:

Added a special use category for medical marijuana dispensaries, permitting them only in the light and general industrial zone. Chapter 16.10 (Definititons), Chapter 16.31, Chapter 16.72( Procedures) Chapter 16.38(Special Uses)

**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):

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

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 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 5<sup>th</sup> 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
<b>COMMERCIAL</b>			
General Retail - sales oriented			
<ul style="list-style-type: none"> <li>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.<sup>7</sup></li> </ul>	C	C	P
<ul style="list-style-type: none"> <li><a href="#">Medical Marijuana Dispensary, not exceeding 3,000 square feet of gross square footage</a></li> </ul>	P <sup>8</sup>	P <sup>8</sup>	N
<ul style="list-style-type: none"> <li>Tool and Equipment Rental and Sales, Including Truck Rental.<sup>6</sup></li> </ul>	P	P	P
<ul style="list-style-type: none"> <li>Retail plant nurseries and garden supply stores (excluding wholesale plant nurseries)</li> </ul>	P	P	N
<ul style="list-style-type: none"> <li>Wholesale building material sales and service</li> </ul>	C	P	N
<ul style="list-style-type: none"> <li>Retail building material sales and lumberyards<sup>7</sup></li> </ul>	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.