

**ORDINANCE NO. 2015-02**

**ORDINANCE OF THE CITY OF FOREST GROVE  
ADOPTION OF AMENDMENTS TO DEVELOPMENT CODE, ARTICLES  
3, 8 AND 12, TO ESTABLISH PLACEMENT AND REQUIREMENTS FOR  
MEDICAL MARIJUANA DISPENSARIES, FILE NO. ZA-15-00267**

**WHEREAS**, the Oregon Legislature enacted House Bill 3460 (2013), which requires the Oregon Health Authority to develop and implement a process to register medical marijuana facilities;

**WHEREAS**, Section 2 of House Bill 3460 (2013) that established the medical marijuana registration system has been codified as ORS 475.314;

**WHEREAS**, House Bill 3460 (2013) directed that persons who operate or are employed by a registered medical marijuana facility would enjoy immunity from state prosecution for delivery, possession and production of marijuana, and that immunity provision was later codified as ORS 475.309 (1)(b),

**WHEREAS**, the Oregon Legislature enacted Senate Bill 1531 (2014) which affirmatively afforded Oregon cities the ability to impose a moratorium on medical marijuana dispensaries to locate within their boundaries until May 1, 2015;

**WHEREAS**, the City Council adopted Ordinance Number 2014-04 on April 28, 2014, to establish a moratorium for marijuana dispensaries until May 1, 2015;

**WHEREAS**, the City has prepared proposed amendments to the Development Code pertaining to the placement and requirements for medical marijuana dispensaries; and

**WHEREAS**, the Planning Commission held Public Hearing on the proposed amendments to the Development Code on March 23, 2015; and

**WHEREAS**, the Planning Commission adopted Planning Commission Decision Number 15-01 recommending approval of the proposed amendments with one change to prohibit medical marijuana dispensaries in the Institutional zone district since it is not authorized by state law; and

**WHEREAS**, the City Council held a duly-noticed Public Hearing on the proposed ordinance on April 13 and continued the hearing on April 27, 2015.

**NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:**

**Section 1.** The City Council of the City of Forest Grove hereby adopts text amendments to the Development Code, Articles 3, 8 and 12, as shown on Exhibit A.

**Section 2.** The City Council hereby adopts the Planning Commission's staff report dated March 16, 2015.

**Section 3.** The City Council hereby finds that the proposed amendments are consistent with and meet the provisions of Development Code Section 10.2.630 *Review Criteria* pertaining to Zoning Text amendments:

A. The text amendment is consistent with relevant goals and policies of the Forest Grove Comprehensive Plan; and

Finding: Applicable Comprehensive Plan Goals and Policies is Health Services Goal 1, which states:

“Provide opportunities through City land use and development policy to ensure the health service needs of the entire community are met locally.”

The proposed amendment would establish land use and development requirements to allow medical marijuana facilities in the community. There are specific locations within the Community Commercial zone district where such uses may be established. The proposed development requirements establish reasonable requirements given the nature of medical marijuana dispensaries handling a controlled substance and assure the applicable City design standards are maintained. Thus, health service needs related to medical marijuana would be allowed to be provided locally by this amendment and is consistent with the Comprehensive Plan Health Services Goal 1.

B. The text amendment is consistent with relevant statewide and regional planning goals, programs and rules.

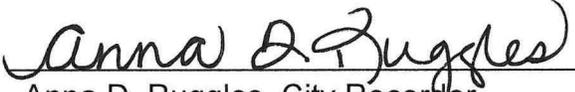
Finding: Statewide and regional planning goals, programs and rules do not specifically address dispensaries. They are therefore not applicable to this text amendment.

However, the proposed amendment is consistent with and relies on State laws and regulations for medical marijuana facilities. The proposed amendments references and uses the locational requirements established by state law by limiting their location within the Community Commercial District. Consistent with the City's industrial provisions, these facilities are not allowed in the industrial zoned lands. In addition, they are not allowed in the Town Center districts because their impact is unknown at this time and may impact the redevelopment of the Town Center area. Further, the proposed amendment: prevents the use of drive-through service which is consistent with State directives, requires well viewed entrances to enhance security and allows security bars and grates if they are integrated in design to maintain the visual integrity of commercial districts while providing security.

**Section 4.** This ordinance is effective 30 days following its enactment by the City Council.

**PRESENTED AND PASSED** the first reading this 13<sup>th</sup> day of April, 2015.

**PASSED** the second reading this 27<sup>th</sup> day of April, 2015.

  
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Anna D. Ruggles, City Recorder

**APPROVED** by the Mayor this 27<sup>th</sup> day of April, 2015.

  
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Peter B. Truax, Mayor

**Ordinance No. 2015-02**  
**Exhibit A**

**Proposed Amendments to the Development Code  
for Medical Marijuana Dispensaries**

**Article 3 Proposed Amendments:**

- 1. Amend Table 3-8 to add new footnote to Medical Centers that allows medical marijuana dispensaries at certain locations consistent with state statutes and references proposed requirements in Article 8 for those facilities.**

**TABLE 3-8**  
**Institution Zone: Use Table**

<b>USE CATEGORY</b>	<b>INST</b>
<b><u>RESIDENTIAL</u></b>	
Household Living	N
Group Living	N
Transitional Housing	C
Home Occupation	N
Bed and Breakfast	N
<b><u>CIVIC / INSTITUTIONAL</u></b>	
Basic Utilities	P
Major Utility Transmission Facilities	C
Colleges	C
Community Recreation	P/C <sup>[1]</sup>
Cultural Institutions	C
Day Care	C
Emergency Services	C
Postal Services	C
Religious Institutions	C
Schools	C
Social/ Fraternal Clubs / Lodges	N
Government Offices	P
<b><u>COMMERCIAL</u></b>	
Commercial Lodging	L <sup>[2]</sup>
Eating and Drinking Establishments	N <sup>[3]</sup>
Entertainment – Oriented:	
- Major Event Entertainment	N
- Outdoor Entertainment	N
- Indoor Entertainment	N
General Retail:	
- Sales – Orientated	N
- Personal Services	N
- Repair – Oriented	N
- Bulk Sales	N

- Outdoor Sales	N
- Animal – Related	N

Medical Centers	C <sup>[4]</sup>
Motor Vehicle Related:	
- Motor Vehicles Sale / Rental	N
- Motor Vehicle Servicing / Repair	N
- Motor Vehicle Fuel Sales	N
Non-Accessory Parking	N
Office	C
Self-Service Storage	N

<u>INDUSTRIAL</u>	
Industrial Services	N
Manufacturing and Production:	
- Light Industrial	N
- General Industrial	N
Call Centers	N
Railroad Yards	N
Research and Development	C
Warehouse / Freight Movement	N
Waste – Related	C
Wholesale Sales	N
Water Treatment Plants and Government Corporation Yards	C
<u>OTHER</u>	
Agriculture / Horticulture	C
Cemeteries	C
Detention Facilities	C
Mining	N
Wireless Communication Facilities	L <sup>[4, 5]</sup>
Information	N

P=Permitted      L=Limited      C=Conditional Use      N=Not Permitted

Footnotes:

- [1] Community recreation facilities including trails, parks, playgrounds and open space are permitted uses and require a Type II process. Recreation centers and other facilities used by organized team sports require a Conditional Use Permit.
- [2] Limited to Recreational Vehicle Parks subject to obtaining a conditional use permit and compliance with the requirements of Section 10.5.500 et. seq.
- [3] All uses listed as *N = Not Permitted* may be allowed if it is demonstrated by the applicant that these are traditionally permitted as part of the institution and are incidental and accessory to the primary use.
- [4] ~~Medical marijuana dispensaries must be located consistent with the requirements of ORS 475.314 and comply with the provisions of Section 10.8.1100 of this code. Medical marijuana dispensaries are prohibited.~~

[45] Wireless communication facilities are regulated by the standards in Article 7.

## COMMERCIAL ZONES

2. Amend Table 3-10 to add new footnote to Medical Centers in the Community Commercial District that allows medical marijuana dispensaries at certain locations consistent with state statutes and references proposed requirements in Article 8 for those facilities.

**TABLE 3-10 Commercial Zones Use Table**

USE CATEGORY	NC	CC
<u>RESIDENTIAL</u>		
Household Living	L <sup>[1]</sup>	L <sup>[2]</sup>
Group Living	N	P
Transitional Housing	N	C
Home Occupation	L <sup>[3]</sup>	L <sup>[3]</sup>
Bed and Breakfast	L <sup>[4]</sup>	P
<u>CIVIC / INSTITUTIONAL</u>		
Basic Utilities	P	P
Major Utility Transmission Facilities	C	C
Colleges	N	C
Community Recreation	N	P
Cultural Institutions	P	P
Day Care	P	P
Emergency Services	C	C
Postal Services	C	P
Religious Institutions	C	P
Schools	C	C
Social/ Fraternal Clubs / Lodges	C	P
<u>COMMERCIAL</u>		
Commercial Lodging	N	L <sup>[5]</sup>
Eating and Drinking Establishments	L <sup>[6]</sup>	P
Entertainment – Oriented:		
- Major Event Entertainment	N	N
- Outdoor Entertainment	N	N
- Indoor Entertainment	N	P
General Retail:		
- Sales – Oriented	P	P
- Personal Services	P	P
- Repair – Oriented	P	P
- Bulk Sales	N	P
- Outdoor Sales	L <sup>[7]</sup>	L <sup>[7]</sup>
- Animal – Related	N	P
Medical Centers	N	<del>P</del> L <sup>[8]</sup>
Motor Vehicle Related:	N	L <sup>[8]</sup>

- Motor Vehicles Sale / Rental		
<b>COMMERCIAL (continued)</b>	<b>NC</b>	<b>CC</b>
- Motor Vehicle Servicing / Repair	N	P
- Motor Vehicle Fuel Sales	P <sup>[9 10]</sup>	P
Non-Accessory Parking	N	P
Office	P	P
Self-Service Storage	N	C
<b><u>INDUSTRIAL</u></b>		
Industrial Services	N	N
Manufacturing and Production:		
- Light Industrial	N	C <sup>[10 11]</sup>
- General Industrial	N	N
Railroad Yards	N	N
Research and Development	N	N
Warehouse / Freight Movement	N	N
Waste – Related	N	N
Wholesale Sales	N	N
<b><u>OTHER</u></b>		
Agriculture / Horticulture	L <sup>[12 13]</sup>	L <sup>[12 13]</sup>
Cemeteries	N	N
Detention Facilities	N	N
Mining	N	N
Wireless Communication Facilities	L <sup>[14 12]</sup>	L <sup>[14 12]</sup>

P=Permitted      L=Limited      C=Conditional Use      N=Not Permitted

Footnotes:

- [1] Residential units are permitted in conjunction with a mixed-use development in the NC zone, at a minimum density of 3.48 and a maximum density of 4.35 dwelling units/net acre.
- [2] Residential units are permitted as a stand-alone use or as part of a mixed-use development in the CC zone, at a minimum density of 16.22 units/net acre and a maximum density of 20.28 units/net acre. Stand-alone residential projects shall have a minimum density of 16.22 units/net acre. There is no minimum density requirement when residential units are constructed over first floor commercial uses.
- [3] Home occupations permitted as an accessory use to residential development, subject to compliance with the home occupation standards in Article 7.
- [4] Bed & breakfast inn limited to three (3) guest rooms in the NC zone, subject to compliance with the bed & breakfast inn standards in Article 7.
- [5] Recreational Vehicle Parks require obtaining a conditional use permit and compliance with the requirements of Section 10.5.500 et. seq. All other commercial lodging uses are permitted.
- [6] Restaurants are permitted in the NC zone (drive-through service is prohibited).
- [7] Outdoor sales in the NC zone are limited to plants and produce. Outdoor sales areas in the CC zone must be set back at least ten (10) feet from street lot lines and lot lines abutting residential zones and the setback area must be landscaped.

- [8] Cleaning, sales and repair of motor vehicles and light equipment is permitted outright in the CC zone; sales and rental of heavy vehicles and farm equipment and/or storage of recreational vehicles and boats permitted with conditional use approval.
- [9] Automobile service station in the NC zone is limited to fuel sales and incidental repair service.
- [10] As a conditional use pursuant to Section 10.2.200 et. seq., light industrial uses limited within a building no larger than 5,000 square feet in size with no visible emissions or odor outside the building, and with the added criteria that such use does not detract from the commercial viability of the area.
- [11] Medical marijuana dispensaries must be located consistent with the requirements of ORS 475.314 and comply with the provisions of Section 10.8.1100 of this code.
- ~~[12]~~ Wireless communication facilities are regulated by the standards in Article 7.
- ~~[13]~~ Domesticated fowl are allowed in conjunction with existing single-family uses and primarily for personal use. Domesticated fowl are allowed subject to these conditions.
- a. Up to 4 adult fowl over 6 months of age may be kept on any lot with a minimum area of 5,000 square feet. One additional adult fowl shall be permitted for each 2,000 square feet of additional lot area, up to a maximum of 12 fowl.
  - b. No roosters shall be permitted.
  - c. Animal waste matter shall not be allowed to accumulate.
  - d. All animal food shall be stored in metal or other rodent-proof containers.
  - e. Fencing shall be designed and constructed to confine all animals to the owner's property.
  - f. All structures that house fowl shall be located at least 20 feet from all residences (except the animal owner's).
  - g. All structures that house fowl shall be located at least 5 feet from any side or rear property line.

## TOWN CENTER ZONES

3. Amend Table 3-12 to add new footnote to Medical Centers that allows medical marijuana dispensaries at certain locations consistent with state statutes and references proposed requirements in Article 8 for those facilities.

**TABLE 3-12**  
**Town Center Zones: Use Table**

USE CATEGORY	TC-Core	TC-Transition	TC-Support
<u>RESIDENTIAL</u>			
Household Living	L <sup>[1]</sup>	L <sup>[1]</sup>	L <sup>[1]</sup>
Group Living	P <sup>[1]</sup>	P	P
Transitional Housing	N	C	C
Home Occupation	L <sup>[2]</sup>	L <sup>[2]</sup>	L <sup>[2]</sup>
Bed and Breakfast	C <sup>[2]</sup>	P	P
<u>CIVIC / INSTITUTIONAL</u>			
Basic Utilities	P	P	P

Major Utility Transmission Facilities	C	C	C
Colleges	C	C	C
Community Recreation	N	P	P
Cultural Institutions	P	P	P
Day Care	P	P	P
Emergency Services	C	C	C
Postal Services	C	P	P
Religious Institutions	C	P	P
Schools	C	C	C
Social/ Fraternal Clubs / Lodges	C	P	P

<b>COMMERCIAL</b>			
Commercial Lodging	L <sup>[3]</sup>	L <sup>[3]</sup>	L <sup>[3]</sup>
Eating and Drinking Establishments	P <sup>[4]</sup>	P	P
Entertainment – Oriented:			
- Major Event Entertainment	N	N	C
- Outdoor Entertainment	N	N	N
- Indoor Entertainment	P	P	P
General Retail:			
- Sales – Oriented	P	P	P
- Personal Services	P	P	P
- Repair – Oriented	P	P	P
- Bulk Sales	L <sup>[5]</sup>	L <sup>[5]</sup>	L <sup>[5]</sup>
- Outdoor Sales	N	N	N
- Animal – Related	N	N	N
Medical Centers	N	C <sup>[6]</sup>	C <sup>[6]</sup>
Motor Vehicle Related:			
- Motor Vehicles Sale / Rental	N	N	N
- Motor Vehicle Servicing / Repair	N	N	N
- Motor Vehicle Fuel Sales	N	N	N
Non-Accessory Parking	N	C	C
Office	L <sup>[3]</sup>	P	P
Self-Service Storage	N	N	N

<b>INDUSTRIAL</b>			
Industrial Services	N	N	N
Manufacturing and Production:			
- Light Industrial	N	C	C
- General Industrial	N	N	N
Call Centers	L <sup>[6, 7][7, 8]</sup>	L <sup>[6, 7]</sup>	L <sup>[6, 7]</sup>
Railroad Yards	N	N	N
Research and Development	N	N	P
Warehouse / Freight Movement	N	N	N
Waste – Related	N	N	N
Wholesale Sales	N	N	N

<u>OTHER</u>			
Agriculture / Horticulture	N	N	N
Cemeteries	N	N	N
Detention Facilities	N	N	N
Mining	N	N	N
Wireless Communication Facilities	L <sup>[8 9]</sup>	L <sup>[8 9]</sup>	L <sup>[8 9]</sup>
Information	L <sup>[9 10][40 11]</sup>	L <sup>[9 10]</sup>	L <sup>[9 10]</sup>

P=Permitted    L=Limited    C=Conditional Use    N=Not Permitted

Footnotes:

- [1] New dwellings in the TCC zone are only permitted on or above the 2<sup>nd</sup> floor. There are no minimum density requirements when housing is part of a mixed-use building. In the TCT and TCS zones new dwellings are permitted as “stand-alone” developments or as part of mixed-use developments, but must meet density requirements.
- [2] Home occupations are permitted as an accessory use to residential uses, subject to compliance with the home occupation standards in Article 7.
- [3] Offices only permitted as part of a ground-floor retail or personal service use or as a stand-alone use above the first floor in the TC-Core zone. Recreational vehicle parks are prohibited in all districts.
- [4] Drive through service is prohibited from restaurants in the TC-Core and TC-Transition zones.
- [5] Bulk sales stores with ground floor building footprint small than 10,000 square feet are permitted. All merchandise must be enclosed within a building. All other bulk sales are prohibited.
- [6] Medical marijuana dispensaries are prohibited.
- [6 7] Permitted where there are no off premise impacts and no product is transported from the site. Centers with any offsite impacts or transport products from the site are to be located in either Light or General Industrial districts.
- [7 8] Call Centers shall not be allowed on the ground floor in the TC-Core Zone District.
- [8 9] Wireless communication facilities are regulated by the standards in Article 7.
- [9 10] Permitted where there are no off premise impacts.
- [40 11] Information business is not allowed on the ground floor in the TC-Core Zone District.

## Article 8 Proposed Amendment:

4. Add new section 10.8.1100 to establish design standards and operational requirements for medical marijuana facilities.

### MEDICAL MARIJUANA DISPENSARIES

#### 10.8.1100 MEDICAL MARIJUANA DISPENSARIES

A medical marijuana dispensary shall comply with the following design standards and operational requirements in addition to all other applicable City requirements:

- A. The application shall demonstrate compliance with the locational requirements of State law and must maintain State certification at all times.
- B. A medical marijuana dispensary may not be open to the public between the hours of 10:00 p.m. and 8:00 a.m.
- C. Entrances and off-street parking areas for the medical marijuana facility shall be well-lit and not visually obscured from public view/right-of-way.
- D. The facility must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor storage of merchandise, raw materials, or other material associated with the facility is prohibited.
- E. Any modification to the site or the exterior of a building housing the facility must be consistent with the Design Standards of Section 10.8.700 et. seq. Security bars or grates on windows and doors are prohibited unless integrated into the design.
- F. The dispensary may not have facilities for drive-up use.
- G. The dispensary must provide for secure disposal or render impotent marijuana remnants or by-products, or items with marijuana residue of any kind.

## Article 12 Proposed Amendments:

5. Amend Section 10.12.130 E to add medical marijuana dispensaries to the Medical Center use category.

### USE CATEGORIES

#### 10.12.130 COMMERCIAL USE CATEGORY

The commercial use category includes uses involved in the distribution, sale and/or rental of goods and the provision of services other than those classified in the Civic Use Category.

- E. Medical Centers: Facilities providing inpatient, outpatient and emergency and related ancillary services to the sick and infirm. Usually developed in campus setting. Accessory

uses may include diagnostic and treatment facilities, laboratories, surgical suites, kitchen/food service facilities, laundry, housekeeping and maintenance facilities, administrative offices and parking. Medical centers may also include free-standing offices for hospital-based and/or private practice physicians and other allied health care professionals; these medical office buildings are regulated as Offices (see Section 10.12.025 H, Offices). A medical center also includes a marijuana dispensary, either as part of a medical center campus or as a stand-alone facility.

- 6. Add new subsection 10.12.210 M6 to establish definition for medical marijuana dispensaries.**

#### **10.12.210 MEANING OF SPECIFIC WORDS AND TERMS**

As used in this Code, the following words and phrases shall mean:

M6 Medical Marijuana Dispensary. A facility for selling marijuana and marijuana-related products to medical marijuana card holders and that is registered with the Oregon Health Authority under ORS 475.314.