

ORDINANCE NO. 3902

AN ORDINANCE AMENDING ORDINANCE NUMBER 3845, the UNIFIED DEVELOPMENT CODE, ADOPTING REGULATIONS FOR MEDICAL AND RECREATIONAL MARIJUANA BUSINESS ACTIVITIES; AND DECLARING AN EMERGENCY

WHEREAS, On November 8, 2016, the public shall vote to allow the sale of medical and recreational marijuana business activities, necessitating that local jurisdictions attain the ability to adopt regulations governing the operations of medical and recreational marijuana facilities; and,

WHEREAS, the City of Pendleton has limited local regulations governing the business activities of medical marijuana and no regulations governing the business activities of recreational marijuana products, which leaves both City staff and the general public without clear guidance should such a business be proposed; and,

WHEREAS, an amendment to the Unified Development Code is necessary to address issues with or to comply with recent State Legislation, to address citizen requests, and to address changing circumstances in the community; and,

WHEREAS, Staff and the City Council understands and intends that if any provision, or portion thereof, contained in this amendment is held unconstitutional, invalid or unenforceable, the remainder shall be deemed severable, shall not be affected, and shall remain in full force and affect; and,

WHEREAS, after proper public notice, the Planning Commission conducted a Public Hearing to review these amendments on October 27, 2016, and recommended that the proposed amendments be adopted by the City Council; and,

WHEREAS, the City Council considered the matter at its November 1, 2016 meeting and, after testimony and deliberation, agreed with the recommendation of the Planning Commission, and finds that the proposed amendments are in the best interests of the community declared an emergency justifying immediate action, and voted to approve the request.

Now, therefore, the following sections of the City of Pendleton Unified Development Code (Ordinance No. 3485) are hereby amended:

4.01 C-MU Central Mixed Use

4.01.2 Permitted Uses. The following uses and their accessory uses are permitted outright, provided the gross floor area of any proposed building is less than 25,000 square feet:

- A. Automobile and vehicle dealers, repairs, services, and service stations, except within the "Central Area Parking District;"
- B. General Business and Personal Services
- C. Commercial Amusement and Recreation
- D. Communication Facilities
- E. Residential uses and residential facilities subject to applicable City development standards. There is no maximum density, provided that: (1) one parking space per unit is provided within 250 feet of a public building entrance; and (2) for new construction, 10% of the site is reserved for accessible and usable open space.
- F. Eating and Drinking Establishments, Food Stores, **except the sale of medical and recreational marijuana edibles**
- G. General Offices
- H. General Retail, **except medical and recreational marijuana facilities.**
- I. Governmental, public or semi-public use or structure
- J. Health, Educational and Social Services
- K. Hotels, Boarding and Rooming Houses, except Camp/Trailer Parks

- L. Membership Organizations (business, religious, professional, labor, civic, etc.), **except medical and recreational marijuana clubs or organizations where consumption of marijuana is an activity**
- M. Parking Area and garage, public or private
- N. Printing and Publishing
- O. Transit Facilities (Bus, taxi, charter, etc.)
- P. Museums & Art Galleries
- Q. Leather work and fabrication of an artisanal nature, excluding tanning and finishing
- R. Breweries and wineries, with a production of less than 50,000 gallons per year, provided a restaurant or tasting room is open to the public on a regular basis
- S. Distilleries with a production volume of less than 12,000 gallons per year
- T. Animal Clinics, Kennels and Hospitals within fully enclosed facilities
- U. Light manufacturing and fabrication of goods that are marketed and sold on-site
- V. Transportation uses consistent with the adopted Transportation System Plan and OAR 660-012-0045, and not otherwise identified as conditional uses, pursuant to 4.01.2 (M)

4.01.3 Conditional Uses. Any permitted use with a gross floor area of more than 25,000 square feet and the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Article 11:

- A. Automobile and vehicle dealers, repairs, and services within the "Central Area Parking District;"
- B. Building Materials, retail
- C. City Park
- D. General building and special trade contractors
- E. Dwelling, caretaker or manager only
- F. Hospitals
- G. Zoos
- H. Animal clinics, kennels and hospitals utilizing outdoor areas for surgery, holding and/or boarding
- I. Transportation Services, warehousing and storage
- J. Breweries and wineries, with a production of more than 50,000 gallons per year, provided a restaurant or tasting room is open to the public on a regular basis
- K. Distilleries with a production volume of more than 12,000 gallons per year
- L. Within the Central Mixed Use Plan Designation, expansion of existing, lawfully established light industrial uses on the same or adjacent property
- M. The following uses:
 - (1) park-and-ride/rideshare facilities
 - (2) transit centers
 - (3) transportation warehousing

4.01.4 Conditional Uses Regardless of Gross Floor Area:

A. Medical Marijuana Dispensaries and Recreational Marijuana Retailers (see Section 4.05)

4.02 C-2 Tourist Commercial

4.02.1 Description and Purpose. To provide areas suitable for motels, restaurants, service stations, and other similar uses for the accommodation of tourists and travelers.

4.02.2 Permitted Uses. The following uses and their accessory uses are permitted outright, provided the gross floor area of any proposed building is less than 25,000 square feet:

- A. Dwelling, for caretaker or manager only;
- B. Eating and Drinking Establishments, **except the sale of medical and recreational marijuana edibles**
- C. Hotels, Motels, Camping and Trailer Parks, other lodging
- D. Service Station; Auto Repair, Services, and Garages
- E. Information Center.
- F. Transportation uses consistent with the adopted Transportation System Plan and OAR 660-012-0045, and not otherwise identified as conditional uses, pursuant to 4.02.3

4.03 C-3 Service Commercial zone

4.01.02 Permitted Uses. The following uses and their accessory uses are permitted outright, provided the gross floor area of any proposed building is less than 25,000 square feet:

- A. Auto Repair, Services, Garages and fueling
- B. General Business and Personal Services
- C. Commercial Amusement and Recreation
- D. General building and trade contractors
- E. Dwelling, multi-family, or residential facility, subject to City development standards. The maximum density shall be 80 dwelling units per net buildable acre provided that: (1) One parking space per unit is provided within 250 feet of a public building entrance; and (2) For new construction, 10% of the site is reserved for accessible and usable open space.
- F. Eating and Drinking Establishments, **except the sale of medical and recreational marijuana edibles**
- G. General Offices
- H. General Retail, **except medical and recreational marijuana facilities**
- I. Health Services
- J. Transit Facilities
- K. Communication Facilities
- L. Dwelling, caretaker or manager only;
- M. Educational Services
- N. Governmental, public or semi-public use or structures
- O. Hotels, Motels, Mobile Home Parks, other lodging
- P. Membership Organizations, **except medical and recreational marijuana clubs or organizations where consumption of marijuana is an activity**
- Q. Museums, Art Galleries, Zoos
- R. Printing and publishing
- S. Railroad Facilities
- T. Social Service Organizations
- U. Animal Clinics, Kennels and Hospitals within fully enclosed facilities
- V. Transportation uses consistent with the adopted Transportation System Plan and OAR 660-012-0045, and not otherwise identified as conditional uses, pursuant to 4.03.3 (D)

4.03.3 Conditional Uses. Any permitted use with a gross floor area of more than 25,000 square feet and the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Article 11:

- A. Warehousing, motor freight;
- B. Animal clinics, kennels and hospitals utilizing outdoor areas for surgery, holding and/or boarding;
- C. Within the Central Mixed Use Plan Designation, expansion of existing, lawfully any established light industrial use on the same or adjacent property.
- D. **Medical Marijuana Dispensaries and Recreational Marijuana Retailers (see Section 4.05)**
- E. The following uses:
 - (1) park-and-ride/rideshare facilities
 - (2) transit centers
 - (3) transportation warehousing

Section 4.05 is hereby amended to:

4.05 **Marijuana Dispensaries and Recreational Marijuana Retailers**

- 4.05.1 Purpose. This Section establishes regulations for the siting of **Medical Marijuana Dispensaries and Recreational Marijuana Retailers** as authorized by State Law. The purpose of this Section is to minimize adverse impacts on adjacent properties, schools and other places where children congregate, and other land uses potentially incompatible with such facilities.
- 4.05.2 General provisions.
- A. No **Medical Marijuana Dispensaries or Recreational Marijuana Retailers** may be located within the City unless the review authority finds that it satisfies all the requirements of this Code and State law.
 - B. **Medical Marijuana Dispensaries and Recreational Marijuana Retailers** may be allowed, subject to a Conditional Use Permit pursuant to Article XI of this Code, in the Central Mixed Use (C-MU) and **Service Commercial (C-3) Zones**.
 - C. **Medical Marijuana Dispensaries and Recreational Marijuana Retailers** legally established pursuant to this Code shall not be found in conflict with the provision of this Code in the event that a conflicting land use locates in the vicinity of a **Medical Marijuana Dispensaries or Recreational Retailers** subsequent to the **Medical Marijuana Dispensaries or Recreational Retailers** obtaining land use approval from the City. When such conflict is found to exist, the **Medical Marijuana Dispensaries and Recreational Retailers** shall be considered a legal nonconforming use and subject to provision set for in Article XI of this Code.
- 4.05.3 Definitions included by reference. For the purposes of this Section, the following definitions shall be used:
- Career School – any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training or preparing persons for any profession at a physical location attended primarily by minors.
 - Community Recreation Facility – a public building or public location that is open to the general public where meetings are held, sports are played, group activities conducted, and there are activities available for young for various purposes (i.e. recreation center, convention center).
 - Medical Marijuana Dispensary – transfers usable marijuana, immature marijuana plants, seed, and medical products, concentrates and extracts to patients and caregivers.
 - Marijuana Edibles – food items made with marijuana or infused with marijuana oils.
 - Medical Marijuana Facility – A facility or activity engaged in growing, processing, or dispensing medical marijuana products.
 - Minor – an individual under the age of 18.
 - Elementary school - a learning institution containing one or any combination of grades kindergarten through 8th grade or age level equivalent.
 - Recreational Marijuana Facilities – a – A facility or activity engaged in producing, processing, or wholesaling or selling recreational marijuana products.
 - Recreational Marijuana Retailer – is licensed by Oregon Liquor Control Commission to sell marijuana items to consumers.
 - Secondary School– a learning institution containing one or any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools, which include 9th grade (Middle/High School).
- 4.05.4 Limitations for **Medical Marijuana Dispensaries and Recreational Marijuana Retailers**.
- A. No **Medical Marijuana Dispensaries or Recreational Marijuana Retailers** shall be located:
 1. At the same address as a registered grow site.
 2. Within 1,000 feet of the real property comprising a public or private elementary, secondary schools or career schools attended primarily by minors.
 3. Within 1,000 feet of the real property comprising a Public park or community recreation facility attended primarily by minors; or,
 4. Within 1,000 feet of another **Medical Marijuana Dispensary or Recreational Marijuana Retailer**.

5.01 M-1 Light Industrial

5.01.1 Description and Purpose. Except as modified within applicable subdistricts, to provide, enhance and protect areas to accommodate a wide range of manufacturing and allied uses that need generally flat topography and easy access to arterials and intermodal shipping facilities, and to reserve industrial sites near the airport for specific employment uses identified in the Pendleton Economic Opportunities Analysis (EOA).

Within the Central Mixed Use Plan Designation, the M-1 zone may also provide opportunities for adaptive re-use of historic structures and for expansion of existing, lawfully-established commercial and residential uses.

Within designated Mixed Use Opportunity Areas, M-1 land with an approved Master Development Plan is suitable for land uses allowed in other zones within that Opportunity Area, where consistent with applicable Comprehensive Plan performance standards.

5.01.3 Conditional Uses. Except as modified within applicable subdistricts, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Article 11:

- A. Animal Clinic, Kennel, or Hospital
- B. Commercial Amusement and Recreation
- C. Eating and Drinking Establishments
- D. Fuel and Ice Dealers
- E. Hotels, motels, other lodging
- F. Junk yard, wrecking yard;
- G. Industrial and agricultural chemicals, paint
- H. Ordnance
- I. Petroleum pipeline facilities;
- J. Sanitary landfills, solid waste disposal or treatment facilities;
- K. Transportation Equipment (Air, land, water and space vehicles, equipment and accessories)
- L. Utilities
- M. Landscape and Horticultural Services
- N. Social Services
- O. Dwelling, Caretaker or Manager Only
- P. Medical Marijuana Growing Sites, Processing Sites, Laboratories and Wholesalers.**
- Q. Recreational Marijuana Producers, Processors, Wholesalers and Laboratories.**

This act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect on November 1, 2016.

This ordinance is effective immediately upon passage.

PASSED by the City Council and approved by the Mayor November 1, 2016

Approved as to form

APPROVED

Nancy Kerns, City Attorney

Phillip W. Houk, Mayor

ATTEST

Andrea Denton, City Recorder

