



# Oregon

John A. Kitzhaber, M.D., Governor

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## **NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION**

Date: March 27, 2015  
Jurisdiction: City of Fairview  
Local file no.: 2014-43  
DLCD file no.: 002-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 03/23/2015. 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 54 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**  
File No.: 002-14 {22576}  
Received: 3/23/2015

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: City of Fairview

Local file no.: **2014-43 ZC Marijuana Facilities**

Date of adoption: 3-19-2015

Date sent: 3/23/2015

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): 12/04/14

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:

Local contact (name and title): Erika Palmer

Phone: 503-674-6242

E-mail: palmere@ci.fairview.or.us

Street address: 1300 NE Village Street

City: Fairview

Zip: 97024-

## 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:

N/A

### 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:

Fairview Mucipal Code Title 19: Development Code  
FMC 19.80: Light Industrial District (LI)

**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: N/A

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**  
**(01-2015)**

**AN ORDINANCE AMENDING CHAPTER 19.80 OF THE FAIRVIEW MUNICIPAL CODE BY ALLOWING MEDICAL MARIJUANA FACILITIES AND MARIJUANA RETAIL PREMISES AS A CONDITIONAL USE IN LIGHT INDUSTRIAL ZONE**

**WHEREAS**, Section 19.80.020 under Table 19.80.020 A of the Fairview Municipal Code (FMC) specifies those uses requiring Conditional Use Permit review prior to approval in the City's Light Industrial (LI) Zoning District; and

**WHEREAS**, Ordinance 05-2014 adopted by City Council on February 5, 2014, effectively prohibits medical marijuana dispensaries and recreational marijuana retail establishments in the City; and

**WHEREAS**, the addition of medical marijuana dispensaries and recreational marijuana retail establishments as a conditional use in certain areas of the LI zone will only apply if the Fairview City Council repeals Ordinance 05-2014; and

**WHEREAS**, The City of Fairview recognizes secondary effects associated with the cultivation and distribution of medical and recreational marijuana that may adversely impact the health, safety, and welfare of its residents and businesses. Problems associated with cultivation include offensive odors, trespassing, theft, and violent encounters between growers and persons attempting to steal plants, and fire hazards. Problems associated with medical marijuana dispensaries include increased crime in and about the dispensary/retail establishment, robberies of customers, negative impacts on nearby businesses, nuisance problems, and increased DUI incidents (See "White Paper on Marijuana Dispensaries," California Police Chiefs Association's Task Force on Marijuana Dispensaries, April 2009). Therefore, the City believes requiring a dispensary to locate in the LI zone will minimize these adverse effects to the greatest extent practicable; and

**WHEREAS**, there is also documentation of the negative effects marijuana use has on children and teenagers including evidence that the use of marijuana during critical developmental periods in the still maturing brain may induce persistent alterations in brain structure and brain function ("Long-term consequences of Adolescent Cannabis Exposure on the Development of Cognition, Brain Structure and Function: An Overview of Animal and Human Research," Current Drug Abuse Review, June 1, 2008); increased vulnerability for psychosis in early adolescence ("Cannabis Use and Vulnerability for Psychosis in Early Adolescence," Addiction, January 3, 2013); and increased potential for addiction. As a result, the City recognizes a need to restrict locations to areas that are not immediately accessible by school-aged individuals; and

**WHEREAS**, there is a need to adopt health, safety, and welfare regulations to avoid adverse impacts on the community which may arise from the cultivation and distribution of medical marijuana; and recreational marijuana; and

**WHEREAS**, if the Council repeals Ordinance 05-2014 in the future, the City desires to regulate the location of medical marijuana dispensaries and recreational marijuana retail establishments (licensed and authorized under state law) by allowing them in certain areas of the LI Zoning District as a conditional use.

**NOW, THEREFORE, THE CITY OF FAIRVIEW ORDAINS AS FOLLOWS:**

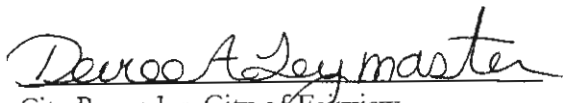
- Section 1** The findings as set forth above in the recitals are hereby incorporated as if fully set forth herein, and shall be used for the purposes of interpreting this Ordinance.
- Section 2** Section 19.80.020 of the Fairview Municipal Code shall be amended as set forth in the attached Exhibit A.
- Section 3** A medical marijuana dispensary and/or recreational marijuana retail establishment will only exist as a conditional use in the Light Industrial zoning district and no other zoning district if the Fairview City Council repeals Ordinance 05-2014. Therefore, the amendments in Section 1 of this ordinance will only be effective if Ordinance 05-2014 is repealed and the amendments will not be codified until that time.
- Section 4** This ordinance is effective upon and from 30 days after its enactment by the Council.

Ordinance adopted by the City Council of the City of Fairview, this 18th day of March, 2015.



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Mayor, City of Fairview  
Ted Tosterud

ATTEST

  
\_\_\_\_\_  
City Recorder, City of Fairview  
Devree Leymaster

3-19-2015  
\_\_\_\_\_  
Date



**EXHIBIT A**

(Deletions in ~~strike through~~ and additions in *italics*)

Table 19.80.020.A

Land Use Types Permitted in the Light Industrial District

<p>1. Industrial*</p> <p>a. Light manufacture (e.g., electronic equipment, printing, bindery, furniture, and similar goods)</p> <p>b. Laboratories</p> <p>c. Warehousing and distribution</p> <p>d. Mini-warehouse and storage</p> <p>e. Similar uses</p>	<p>f. Outdoor commercial uses (e.g., outdoor storage, sales and display) (CU)</p> <p>g. Personal and professional services (e.g., child care, catering/food services, restaurants, Laundromats and dry cleaners, barber shops and salons, banks and financial institutions, and similar uses) (CU)</p> <p>h. Repair services (CU)</p>	<p>3. <del>Civic</del> and Semi-Public Uses (CU)*</p> <p>a. <del>Government</del> facilities (e.g., public safety, utilities, school district bus facilities, public works yards, transit and transportation, and similar facilities)</p> <p>b. Utilities (e.g., natural gas, electricity, telephone, cable, and similar facilities)</p> <p>c. Special district facilities (e.g., irrigation district, and similar facilities)</p> <p>d. Trade or commercial schools</p> <p>e. Churches</p> <p>f. Uses similar to those listed above</p>
<p>2. Commercial*</p> <p>a. Automobile-oriented uses (vehicle repair, sales, rental, storage, service; drive-up, drive-in, and drive-through facilities; and similar uses) (CU)</p> <p>b. Delicatessen shop (CU)</p> <p>c. Entertainment (e.g., theaters, amusement uses) (CU)</p> <p>d. Hotels and motels (CU)</p> <p>e. Medical and dental clinics and laboratories (CU)</p>	<p>i. Retail trade and services, not exceeding 5,000 square feet of floor area per building</p> <p>j. Wholesale trade and services, not exceeding 5,000 square feet of floor area per building</p> <p>k. Professional, executive and administrative offices (CU)</p> <p>l. <del>Uses similar to those listed above (CU)</del> <i>Medical Marijuana Facilities as authorized and licensed by the Oregon Health Authority and Recreational Marijuana Establishments as authorized and licensed by the Oregon Liquor Control Commission including establishments or premises licensed for the production, processing, or wholesale/retail sale of marijuana (CU)</i></p> <p>m. <i>Uses similar to those listed above (CU)</i></p>	<p>4. Accessory Uses</p> <p>5. Wireless Communication Equipment (CU)*</p>

Land uses with an asterisk (\*) are subject to the standards in FMC 19.80.080.

Items with a CU require a conditional use permit subject to the procedure and standards in Chapter 19.440 FMC, Conditional Use Permits.

### **19.80.030 Development setbacks**

#### **D. Other Requirements.**

##### **1. Buffering.**

- a. A 20-foot minimum buffer zone shall be required between development and any adjacent residential district. The buffer zone shall provide landscaping to screen parking, service and delivery areas, and walls without windows or entries, as applicable. The buffer may contain pedestrian seating but shall not contain any trash receptacles or storage of equipment, materials, vehicles, etc. The landscaping standards in Chapter 19.163 FMC may require buffering other situations, as well.*
- b. A 1,000 ft. minimum buffer zone shall be required between real property comprising a public or private elementary, secondary or career school attended primarily by minors and Medical Marijuana Facilities and Recreational Marijuana Establishments licensed and authorized under state law. For purposes of this section "Medical Marijuana Facilities" are those authorized and licensed by the Oregon Health Authority and "Recreational Marijuana Establishments" are those authorized and licensed by the Oregon Liquor Control Commission to produce, process, or sell wholesale/retail marijuana. For purposes of determining the distance between a facility and a school, "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from any point on the boundary line of the real property comprising an existing public or private elementary, secondary or career school primarily attended by minors.*

### **19.80.080 Special standards for certain uses.**

- A. High Traffic-Generating Uses.** Uses which are likely to generate "significant" levels of vehicle traffic (e.g., due to shipping, receiving, and/or customer traffic) shall require a conditional use permit, in accordance with FMC 19.80.020(A). "Significant traffic" means that the average number of daily trips, or the average number of peak hour trips, on any existing street would increase by 10 percent or greater as a result of the development. The city may require a traffic impact analysis prepared by a qualified professional prior to deeming a land use application complete, and determining whether the proposed use requires conditional use approval. Applicants may be required to provide a traffic analysis for review by Oregon Department of Transportation (ODOT) for developments that increase traffic on state highways. The conditional use permit shall include appropriate transportation improvement requirements, as identified by the traffic analysis, in conformance with Chapter 19.165 FMC.

- B. **Wireless Communication Equipment.** Wireless communication equipment, including radio (i.e., cellular), television and similar types of transmission and receiving facilities are permitted, subject to the standards for wireless communication equipment in Chapter 19.245 FMC. Wireless communication equipment shall also comply with required setbacks, lot coverage and other applicable standards of the light industrial district.
  
- C. **Watchperson's Quarters.** To be occupied by no more than two people, not to exceed 1,000 square feet in size, and such permit shall be renewed annually by the planning commission. In addition, use of the watchperson's quarters, if approved, would be permitted only as long as the site need exists, with the assumption, rebuttable, that if the concerned area and use was no longer operational, the need would cease and be cause for revocation of permit. (Ord. 6-2001 § 1)
  
- D. *Medical Marijuana Facilities and Recreational Marijuana Establishments. Medical Marijuana Facilities as authorized and licensed by the Oregon Health Authority and Recreational Marijuana Establishments as authorized and licensed by the Oregon Liquor Control Commission including establishments or premises licensed for the production, processing, or wholesale/retail sale of marijuana may not sell or distribute marijuana at the same location.*