



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 26, 2015
Jurisdiction: City of Reedsport
Local file no.: 15-003
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 05/20/2015. 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 40 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



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

FOR DLCD USE
File No.: 002-15 {23612}
Received: 5/20/2015

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: Reedsport, City of

Local file no.: **Planning Department File No. 15-003**

Date of adoption: May 4, 2015 Date sent: May 20, 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): 02/11/2015
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:

Only minor changes were made to the original drafted ordinance. Changes are identified in the signed Ordinance.

Local contact (name and title): Jessica Terra, Planning Assistant

Phone: 541-271-3603

E-mail: jterra@cityoffreedsport.org

Street address: 451 Winchester Avenue

City: Reedsport

Zip: 97467-

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:

Text amendment to the Reedsport Municipal Code, Title 10 Land Usage, Chapters 10.64, 10.72, and 10.76:

- Add definitions related to Medical Marijuana Facilities, as well as, definitions for drugstore & pharmacy;
- Add minimum standards for Medical Marijuana Dispensaries (MMDs);
- Authorize MMDs conditionally or with standards in the C1, C2, or CMU zones; and
- Allow Marijuana Grow Sites in the CMU, M1, and M2 zones, as conditional use permits.

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):

List affected state or federal agencies, local governments and special districts: DLCD, ODOT, DEQ, ODF&W, Douglas County, Reedsport Police & Fire Departments, Central Lincoln PUD, Chamber of Commerce, LIONS Club, Port of Umpqua, Lower Umpqua Hospital, School District 105, Coos Bay Railroad, Economic Dev. Forum.

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.

- 1) Ordinance 2015-1143
- 2) Decision and Findings of Fact of the Planning Commission

COPY

ORDINANCE 2015-1143

AN ORDINANCE TO AMEND THE REEDSPORT LAND USAGE ORDINANCE CHAPTERS 10.64, 10.72, & 10.76 IMPLEMENTING TIME AND PLACE STANDARDS FOR MEDICAL MARIJUANA DISPENSARIES AND MARIJUANA GROW SITES AND DECLARING AN EMERGENCY.

WHEREAS, an emergency has been declared because on March 19, 2014, Senate Bill 1531 was signed into law giving local governments the ability to impose certain regulations and restrictions on the operation of medical marijuana dispensaries, including the ability to impose a moratorium for a period of time up until May 2015; and

WHEREASE, the Reedsport City Council voted to impose a moratorium on medical marijuana dispensaries and requesting the Reedsport Planning Commission to develop such regulations and restrictions; and

WHEREAS, the Planning Commission initiated an amendment to the Reedsport Land Usage Ordinance Chapters 10.64-10.76 at a work session on February 9, 2015 where they met to discuss and develop standards for medical marijuana facilities; and

WHEREAS, a notice of the proposed code amendment was sent to the Department of Land Conservation and Development (DLCD) on February 11, 2015 not less than 35 days prior to the first evidentiary hearing of March 23, 2015 as required by State law; and

WHEREAS, a notice of the proposed amendments was sent to all affected public districts, service providers, and governmental agencies on March 3, 2015 notifying them of the proposal, public hearing dates and requesting comments; and

WHEREAS, a public notice of the Planning Commission public hearing was sent to all property owners, owning Commercial or Industrial property as designated by the Reedsport Comprehensive Plan map, on March 3, 2015; and

WHEREAS, a public notice of the Planning Commission and City Council public hearings was published in the Umpqua Post on February 25, 2015; and

WHEREAS, the Planning Commission held a public hearing on March 23, 2015, and made a recommendation to the City Council to approve the text amendments proposal with one modification; and

WHEREAS, the Reedsport Planning Commission modified the original text amendment proposal by striking the word "medical" from "medical marijuana grow site(s)" in anticipation of future legislation that may authorize recreational grow sites, but acknowledging that only medical marijuana grow sites will be authorized at this time.

NOW, THEREFORE, THE CITY OF REEDSPORT ORDAINS AS FOLLOWS:

SECTION 1: On the basis of the facts contained in the record, the City Council finds there is sufficient justification and need to accept the Planning Commission recommendation and hereby adopt as its own the Findings of Fact of the Planning Commission which are included by this reference.

SECTION 2: The Land Usage Ordinance contained in the Reedsport Municipal Code is hereby amended to add the following italicized language:

10.64.030 Definitions.

“Drugstore” means a store that contains a pharmacy and also sells products such as toiletries, cosmetics, household goods, and snacks.

“Marijuana” means all parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin. It does not mean the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. Nor does it mean industrial hemp, as defined in ORS 571.300 (Definitions for ORS 571.300 to 571.315), or industrial hemp commodities or products.

“Medical Marijuana” means all parts of marijuana plants that may be used to treat or alleviate a qualified patient’s debilitating medical condition or symptoms associated with the patient’s debilitating medical condition.

“Medical Marijuana Dispensary” means a facility or operation designed, intended or used for the purposes of delivering, dispensing or transferring marijuana to Oregon Medical Marijuana Register Identification Card holders pursuant to ORS 475.300-475.346.

“Marijuana Grow Facility” means a facility that grows marijuana as allowed under Oregon Revised Statute and as regulated by the Oregon Health Authority. A grow facility or laboratory cannot be located on the same site as a Medical Marijuana Dispensary.

“Oregon Medical Marijuana Program (OMMP)” means the state medical marijuana registry program administered by the Oregon Health Authority Public Health Division.

“OMMP Qualified Patient” means a person who has been issued a medical marijuana card from the Oregon Health Authority to engage in the medical use of marijuana and, if the person has a designated primary caregiver under ORS 475.312, the person’s designated primary caregiver.

“Pharmacy” means a place where drugs and medicines are prepared and dispensed by a licensed pharmacist. A pharmacy may also be a drug store.

10.72.060 (C-1) Commercial transitional zone.

D.3. Medical marijuana Dispensaries as specified in Section 10.76.035

10.72.070 (C-2) Commercial zone.

C.3. *Medical marijuana Dispensaries as specified in Section 10.76.035*

10.72.085 (CMU) Commercial Mixed-Use zone.

C.4. *Medical marijuana Dispensaries as specified in Section 10.76.035*

D3. *Industrial Buildings and Uses:*

- a. *Marijuana grow sites, provided that grow site is:*
 - i. *Not located at the same site as a registered marijuana dispensary;*
 - ii. *Is located in an enclosed building from which there is no indication from the exterior that the site is being used for the manufacture of marijuana.*

10.72.090 (M-1) Light industrial zone.

B.2. *Any use permitted in the C-3 and C-2 zone (excluding medical marijuana facilities and C-1 uses), subject to regulations of C-3 and C-2 zones;*

C.4. *Marijuana grow sites, provided that the grow site is:*

- a. *Not located at the same site as a registered marijuana dispensary;*
- b. *Is located in an enclosed building from which there is no indication from the exterior that the site is being used for the manufacture of marijuana.*

10.72.100 (M-2) Industrial zone.

C.4. *Marijuana grow sites, provided that the grow site is:*

- a. *Not located at the same site as a registered marijuana dispensary;*
- b. *Is located in an enclosed building from which there is no indication from the exterior that the site is being used for the manufacture of marijuana.*

10.76.035 Medical Marijuana Dispensaries

A. **Purpose.** *The purpose of this section is to minimize any adverse public safety and public health impacts that may result from allowing medical marijuana dispensaries in the City, by adopting particular time, place and manner requirements and a separate permitting process for such dispensaries.*

This section does not apply to marijuana grow sites.

B. **Minimum standards.** *All medical marijuana dispensaries shall possess the required state and local licenses, including a current City of Reedsport Dispensary Operators license. In addition to obtaining the appropriate licenses and permits, the person responsible for a medical marijuana dispensary shall ensure that the following standards are also being met:*

- 1. *Medical marijuana dispensaries shall not be located:*
 - a. *At the same site as a registered marijuana grow site;*
 - b. *Within 1,000 feet of a property comprising a school (including nursery school) that is primarily attended by minors, as defined by the Oregon Health Authority;*
 - c. *Within 1,000 feet of another property in possession of a City of Reedsport Dispensary Operator license:*

- ❖ *For the purpose of this section “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 school or comprising a licensed medical marijuana dispensary.*
- d. *Within 200 feet of a City park; and*
 - ❖ *For the purpose of this section “within 200 feet” means a straight line measurement in a radius extending for 200 feet or less in every direction from any point on the boundary line of the real property of Barrone, Centennial, Champion, Henderson and Lion Parks.*
- e. *Within 25 feet of a public library and shall not have a storefront or store access facing a public library;*
- 2. *No dispensary shall front a Residential zone;*
- 3. *Primary entrances shall not be located facing an alleyway;*
- 4. *Primary entrances must be located on street-facing facades and clearly visible from a street;*
- 5. *No marijuana or paraphernalia shall be displayed or kept in a dispensary so as to be visible from the outside of the licensed premises, including views through doorways, windows, and other openings;*
- 6. *The exterior appearance of the structure shall be consistent with the appearance of existing commercial structures in the immediate neighborhood, so as not to cause blight;*
- 7. *Parking lots, primary entrances, and exterior walkways shall be sufficiently illuminated to provide after-dark visibility to employees and patrons.*
- 8. *Drive-through medical marijuana dispensaries are prohibited;*
- 9. *A medical marijuana dispensary must operate from a permanent structure and may not be mobile in nature (i.e., operated from a motor vehicle, cargo container, trailer, RV, tent, or similar type of structure or vehicle);*
- 10. *Must not manufacture or produce any extracts, oils, resins or similar derivatives of marijuana on-site and must not use open flames in the preparation of any products;*
- 11. *Marijuana and tobacco products must not be inhaled (smoked or vaporized), ingested (orally, sublingually or rectally), topically applied or otherwise consumed, in any manner that creates any pharmaceutical effect or chemical includes on a person while on the premises of the dispensary;*
- 12. *Sufficient measures and means of preventing odors, debris, fluids and other substances from exiting the dispensary must be in effect at all times;*
- 13. *The dispensary must utilize an air filtration and ventilation system which to the greatest extent feasible confines all objectionable odors associated with the dispensary to the premises for the purposes of this provision, the standard for judging “objectionable odors” shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected;*
- 14. *The business shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the facility’s exterior refuse containers;*
- 15. *Outdoor storage of merchandise, raw materials or other material associated with*

- the dispensary is prohibited; and*
16. *Hours of operation for a medical marijuana dispensary are limited to Monday through Saturday from 9:00am to 7:00pm and on Sunday from 9:00am to 5:00pm;*
- C. **Signage.** *All medical marijuana dispensaries shall meet the sign standards as prescribed in 10.76.040 and the sign standards contained herein:*
1. *The proposed development shall display no signage or advertisement that is visible outside of the store, which contains any of the following:*
- a. *Photos or illustrations of any parts of the marijuana plant; or*
- b. *Photos or illustrations of minors in the same frame as any words, logos, or photos intended to mean or replace the word marijuana.*

EFFECTIVE DATE OF ORDINANCE: An emergency is hereby declared to exist and this Ordinance shall take effect immediately upon its adoption by the Council and approval by the Mayor.

PASSED BY THE CITY COUNCIL this 4th day of May, 2015.

AYES 7 NAYS 0 ABSTAIN 1

APPROVED BY THE MAYOR this 4th day of May, 2015.


Mayor Linda McCollum

ATTEST:


Deanna, City Recorder

BEFORE THE CITY OF REEDSPORT PLANNING COMMISSION

Amendments to the Reedsport Land Usage Ordinance, Findings of Fact and Decision, Planning Department File No. 15-003.

This matter came before the City of Reedsport Planning Commission on March 23, 2015, in the City Council meeting room at City Hall.

The Planning Commissioners present at the hearing are on record with the City Clerk.

The Planning Commission takes official notice of the following:

1. The City of Reedsport Comprehensive Plan and City of Reedsport Land Usage Ordinance, adopted by the City of Reedsport City Council and acknowledged by the Land Conservation and Development Commission on April 26, 1984.
2. The records of the Planning Department of the City of Reedsport concerning publication and mailing of notice.

PROCEDURAL FINDINGS OF FACT

1. At least 35 days prior to March 23, 2015, a notice of public hearing was sent to the Department of Land Conservation and Development as an electronic submission.
2. Notice was sent to affected property owners, service providers and governmental agencies 20 days prior to the public hearing as required by ordinance and state law.
3. Notice of the hearing was given to a newspaper of general circulation in the affected area at least 20 days prior to March 23, 2015.
4. At the hearing, the Planning Commission recognized parties in the matter which are contained in the Record on file with the Planning Department.
5. Staff entered Staff Exhibits 1 through 3, including the Staff Report, and two responses received after the mailing of the Staff Report into the Record and gave the oral staff report.
6. The Planning Commission received testimony from members of the public in attendance as set forth herein.

SUBSTANTIVE FINDINGS OF FACT

On the basis of the testimony and evidence contained in the whole Record, the Planning Commission adopts the following findings of fact.

March 30, 2015

1. On March 19, 2014, Senate Bill 1531 was signed into law. SB 1531 gave local governments the ability to impose certain regulations and restrictions on the operation of medical marijuana dispensaries; therefore, the Reedsport Planning Commission has created time and place regulations by which to regulate both medical marijuana dispensaries and grow facilities.
2. The cultivation process is the same for marijuana whether the product is grown for recreational or medicinal purposes; therefore, staff requested an amendment to the proposed grow facility regulations to strike the word "medical" from the provisions. By striking the one word, it would allow marijuana to be cultivated for both medicinal purposes, as allowed under current regulations, and recreational purposes, as soon to be allowed under state law. In either case, a facility would have to comply with state law and have to complete a conditional use permit process which will ensure that notification to area land owners and governmental agencies is provided. Conditions could then be applied by the Planning Commission to further regulate the facility to ensure compatibility with existing land uses. The Planning Commission finds Staff's amendment to be appropriate.
3. The Planning Commission heard testimony from two property owners who stated their desire to open a medical marijuana dispensary in Reedsport, stating that they had no objection to the proposed regulations.
4. The Planning Commission heard testimony from two property owners who stated concerns over impacts on property value and youth. The Planning Commission takes note of the fact that the ability to dispense medicinal marijuana is an allowable use under state law and the ability to preclude such use in the City was granted for one year only; therefore, in May 2015, the City will no longer be able to preclude these uses from occurring within the City. Based on this, the Planning Commission proposes the following regulations to mitigate the property owners' concerns:
 - a. Medical marijuana dispensaries shall not be located within 1,000 feet of another property in possession of a City of Reedsport Dispensary Operator license;
 - b. Outdoor storage of merchandise, raw materials or other material associated with the dispensary is prohibited; and
 - c. No dispensary shall front a Residential zone;
 - d. Primary entrances shall not be located facing an alleyway;
 - e. Primary entrances must be located on street-facing facades and clearly visible from a street;
 - f. No marijuana or paraphernalia shall be displayed or kept in a dispensary so as to be visible from the outside of the licensed premises, including views through doorways, windows, and other openings;

March 30, 2015

- g. The exterior appearance of the structure shall be consistent with the appearance of existing commercial structures in the immediate neighborhood, so as not to cause blight;
- h. Parking lots, primary entrances, and exterior walkways shall be sufficiently illuminated to provide after-dark visibility to employees and patrons.
- i. Drive-through medical marijuana dispensaries are prohibited;
- j. A medical marijuana dispensary must operate from a permanent structure and may not be mobile in nature (i.e., operated from a motor vehicle, cargo container, trailer, RV, tent, or similar type of structure or vehicle);
- k. Must not manufacture or produce any extracts, oils, resins or similar derivatives of marijuana on-site and must not use open flames in the preparation of any products;
- l. Marijuana and tobacco products must not be inhaled (smoked or vaporized), ingested (orally, sublingually or rectally), topically applied or otherwise consumed, in any manner that creates any pharmaceutical effect or chemical includes on a person while on the premises of the dispensary;
- m. Sufficient measures and means of preventing odors, debris, fluids and other substances from exiting the dispensary must be in effect at all times;
- n. The dispensary must utilize an air filtration and ventilation system which to the greatest extent feasible confines all objectionable odors associated with the dispensary to the premises for the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected;
- o. The business shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the facility's exterior refuse containers;
- p. Outdoor storage of merchandise, raw materials or other material associated with the dispensary is prohibited; and
- q. Hours of operation for a medical marijuana dispensary are limited to Monday through Saturday from 9:00am to 7:00pm and on Sunday from 9:00am to 5:00pm.

Based on these and the existing state regulations the Planning Commission finds that impacts to surrounding properties shall be negligible.

- 5. The Planning Commission concurs with concerns over impacts on youth; therefore, the Planning Commission proposes the following restrictions on dispensary

March 30, 2015

storefronts:

- a. The proposed development shall display no signage or advertisement that is visible outside of the store, which contains any photos or illustrations of any parts of the marijuana plant; or photos or illustrations of minors in the same frame as any words, logos, or photos intended to mean or replace the word marijuana.

Further, the Planning Commission is in agreement with the City Councils' effort to tax the sale of medical marijuana thereby providing revenues for youth prevention programs and enforcement. This matter is scheduled to be decided by voters in May. Both parties that spoke in favor of the proposed ordinance also acknowledged the importance of the passage of the local tax.

6. The Planning Commission agrees with the findings and provisions of the staff report and concludes, based on the testimony received, that the amendments are consistent with applicable provisions of the RLUC, Comprehensive Plan and Statewide Planning Goals and can be approved.
7. A motion was made to approve the request, subject to the conditions as proposed by Staff. The motion passed unanimously.

DECISION

Based on evidence received and the findings above and the findings in the Staff Report, we hereby APPROVE the amendments to the Reedsport Land Use Ordinance (RLUC) Chapters; 10.64, Definitions; 10.72 Commercial Transitional (C1), Commercial (C2) Commercial Mixed Use (CMU), Light Industrial (M1) and Heavy Industrial (M2); and adds section 10.76.035 Medical marijuana dispensaries. Planning Department File No. 15-003.

Dated this 30th day of March 2015.

REEDSPORT PLANNING COMMISSION

By: _____



Chairman Allen Teitzel