



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



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

Date: June 01, 2016  
Jurisdiction: City of Lincoln City  
Local file no.: ZOA 2016-02  
DLCD file no.: 001-16

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 05/31/2016. 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

File No.: 001-16 {24244}

Received: 5/31/2016

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 Lincoln City

Local file no.: **ZOA 2016-02**

Date of adoption: 4/25/2016

Date sent: 5/31/2016

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): 1/27/16

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): Richard Townsend, Planning &amp; Community Development Director

Phone: 541-996-1227

E-mail: [rtown@lincolncity.org](mailto:rtown@lincolncity.org)

Street address: 801 SW Hwy. 101

City: Lincoln City

Zip: 97367-

### 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:

Title 17, Zoning, amending Chapter 17.32 General Commercial zone; 17.34.050 (Permitted Uses in the Nelscott Plan District; 17.45.030 (Land Use Activities in the Taft Village Core Zone; 17.50.050 (Permitted Uses in the Oceanlake Plan District); 17.80 (Provisions Applying to Special Uses) and 17.80.120 (Medical Marijuana Dispensaries)

**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.

This ordinance enacts regulations regarding location and standards for both recreational and medical marijuana dispensaries.

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**ORDINANCE NO. 2016-05**

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE,  
TITLE 17, (ZONING); AMENDING CHAPTER 17.32 GENERAL COMMERCIAL (GC) ZONE,  
AMENDING SECTION 17.34.050 (PERMITTED USES IN THE NELSCOTT PLAN (NP)  
DISTRICT), AMENDING SECTION 17.45.030 (LAND USE ACTIVITIES IN THE TAFT VILLAGE  
CORE (TVC) ZONE), AMENDING SECTION 17.50.050 (PERMITTED USES IN THE  
OCEANLAKE PLAN (OP) DISTRICT), AMENDING CHAPTER 17.80 (PROVISIONS APPLYING  
TO SPECIAL USES), AND AMENDING SECTION 17.80.120 (MEDICAL MARIJUANA  
DISPENSARIES)**

*Annotated to show deletions and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **bold underlined**.*

**The City Council finds:**

- A. The amendments to the Lincoln City Municipal Code are in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A".
- B. The amendments are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements.
- C. The City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610, of its consideration of the proposed amendment(s) on January 27, 2016; notice of the proposed amendments was included in an ORS 227.186(4) notice to all affected property owners.
- D. The Planning Commission, on March 1, 2016 held a public hearing and considered the amendments contained within this ordinance. On March 15, 2016 the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted.
- E. The City Council held a public hearing on March 28, 2016 closed the record, and deliberated on the proposed amendments. After deliberation Council requested staff prepare an ordinance for adoption.

1 F. All persons were given an opportunity to provide written and/or oral testimony  
 2 on the proposed ordinance amendments.  
 3

4 **THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:**

5  
 6 **SECTION 1.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.32 (*General Commercial (GC) Zone*), Section 17.32.020, (Uses permitted) is hereby amended to add  
 7 paragraph BB to read as follows:  
 8

9 **BB. ~~Medical marijuana dispensaries~~ Retail marijuana facilities**, subject to the  
 10 provisions of LCMC 17.80.120.

11 **SECTION 2.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.34 (*Nelscott Plan (NP) District*), Section 17.34.050 (Permitted uses), Table 17.34.050.A is hereby amended  
 12 to read as follows:  
 13

Uses	Status of Use in District		
	Business District	Cottage Residential	Beachside Mixed Use
Use Categories			
Residential Categories			
Single-family dwelling	P	P	P
Attached single-family dwelling	P	N	P
Duplex or two-family dwelling (when developed on a minimum 7,000-square-foot lot)	P	P	P
Accessory dwelling unit, accessory to single-family dwelling or duplex, subject to compliance with design guidelines	P	P	P
Primary use of a single-family dwelling as a vacation rental dwelling, subject to LCMC <u>17.80.050</u>	P	N	P
Multiple-family dwellings	P	N	P
Mixed use	P	N	P

– dwelling(s) above or abutting a ground floor commercial use – dwelling(s) below a ground floor commercial use fronting on Highway 101	N	N	P
Commercial Categories			
Drive-up/drive-in/drive-through (drive-up windows, ATMs, similar uses/facilities) – lawfully existing as of June 1, 2008 – new or expanded use	P N	N N	N N
Walk-up windows, ATMs, similar uses/facilities	P	N	P
Bed and breakfast inn, per LCMC 17.80.060	P	P	P
Educational services, not a school (e.g., tutoring or similar services)	P	P	P
Entertainment, major event	P	N	P
Overnight accommodations, except bed and breakfast inns	P	N	P
Offices	P	N	P
Outdoor recreation, commercial	CU	N	CU
Surface parking lot, except for public facilities and parking as an accessory use	CU	CU	CU
Vehicle servicing or vehicle repair	N	N	N
Retail sales and service, excluding drive-up	P	N	P
Retail sales and service, greater than 60,000 square feet	N	N	N
<b>Medical-marijuana-dispensary <u>Retail marijuana facility</u>, subject to the provisions of LCMC 17.80.120</b>	<u>P</u>	<u>N</u>	<u>N</u>
Self-service storage	N	N	N
Industrial Categories			
Industrial service, excluding drive-up	CU	N	N

– fully enclosed (e.g., office)	N	N	N
– not enclosed			
Manufacturing and production in conjunction with an allowed commercial use			
– fully enclosed	CU	N	N
– not enclosed	N	N	N
Warehouse and freight movement	N	N	N
Waste-related, except as accessory to a primary permitted use	N	N	N
Wholesale sales			
– fully enclosed	CU	N	N
– not enclosed	N	N	N
Institutional Categories			
Basic utilities	P	P	P
Colleges	CU	N	N
Government use	P	CU	CU
Day care, adult or child day care; does not include family day care (16 or fewer children) under ORS 657A.440	CU	CU	CU
Nursing home, assisted living facility, hospital, rest home, sanitarium, and similar uses	CU	N	N
Parks and open space			
– pedestrian amenities	P	P	P
– parks and recreation facilities	P	P	P
– other open space	P	P	P
Religious institutions and houses of worship	CU	CU	CU
Schools	CU	CU	CU
Other Categories			

Accessory structures (with a permitted use)	P	P	P
Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC <u>17.80.080</u>	P	P	P
Gardens and animals, accessory to a permitted use and subject to the provisions of LCMC <u>17.80.080</u>	P	P	P
Radio frequency transmission facilities such as mini-cell antennas and wi-fi antennas	CU	CU	CU
Stand-alone wireless communication facilities	N	N	N
Essential emergency communications facilities	P	P	P
Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city's transportation system plan)	P	P	P

1  
2 **SECTION 3.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.45 (*Taft Village Core*  
3 (*TVC*) *Zone*), Section 17.45.030 (Land use activities), TVC Land Use Activity table is hereby  
4 amended to read as follows:

TVC Land Use Activity	P or C
<b>A. Administrative and Professional Offices</b>	
Commercial establishments where the administrative, clerical and managerial functions of a business or industry are conducted or where members of a profession conduct their practice. Examples include accounting, medicine, physical therapy, veterinary with no kennels, engineering, real estate.	P
<b>B. Automotive Related Uses</b>	
Commercial establishments which provide parts, repair and service for motor vehicles:	
1. Auto parts/supplies sales – No installations	P
2. Auto parts/supplies sales – With installations	–
3. Car washes	–



4. Fuel/service stations	-
5. Vehicle (car, RV and truck) sales/leasing	-
<b>C. Boarding and Lodging Facilities'</b>	
Commercial establishments which provide boarding and lodging facilities:	
1. Bed and breakfast accommodations	P
2. Condominiums with 10 units or less and with nightly rentals <sup>2</sup>	C
3. Hotels/motels with 10 units or less	P
4. Recreational vehicle parks	-
5. Time-share units	C
<b>D. Eating/Drinking Establishments</b>	
Commercial establishments which serve prepared food or beverages for consumption on or off the premises:	
1. Night clubs/bars/lounges/micro-brew pubs	P
2. Restaurants – without drive-throughs (including cafes, coffee shops, family restaurants, etc.)	P
3. Restaurants – with drive-throughs	-
4. Restaurants – with walk-up windows (with or without seating)	P
5. Sidewalk cafes	C
6. Wine tasting	P
<b>E. Entertainment/Recreation Establishments</b>	
Commercial establishments which provide participant/spectator amusement, entertainment or sport, primarily for financial gain. Examples include auditoriums, theaters, museums. Game arcades are limited to five games/machines when located as an auxiliary use in an otherwise permitted use.	
1. Auditoriums, convention centers, movie theaters, museums	C

2. Miscellaneous indoor establishments (i.e., pool halls, billiard parlors, game arcades)	C
3. Miscellaneous outdoor establishments (i.e., amphitheater, swimming/aquatics facility)	C
<b>F. Financial</b>	
Commercial establishments that engage in monetary transactions not directly related to the sale of a product/service. Examples include: banks, savings and loan, etc.	
1. Financial land use, with no ATMs	P
2. Financial land use, with interior ATMs	P
3. Financial land use, with exterior ATMs	C
4. Interior ATMs, as an accessory to another permitted or conditionally permitted use	C
5. Exterior ATMs, as an accessory to another permitted or conditionally permitted use	-
<b>G. Mixed Use</b>	
Developments that contain office/retail/service establishments and residential uses, either within the same structure or on the same parcel.	
<b>H. Personal Service</b>	
Commercial establishments which provide services of a personal nature. Examples include: barber/beauty/nail shops, tailor shops, dance school/karate studio, dry cleaners/laundromat, health/athletic clubs, travel agent, therapeutic massage.	
<b>I. Residential</b>	
1. Single-family dwellings, in accordance with Chapter <u>17.16</u> LCMC	P
2. Attached single-family dwellings, in accordance with LCMC <u>17.52.260</u>	P
3. Two-family and duplexes, in accordance with Chapter <u>17.16</u> LCMC	P
4. Multifamily dwelling units, with edge treatment B, in accordance with R-M zone standards	C
5. Multifamily dwelling units, with edge treatment A or C, in accordance with R-M zone standards	P

6. Accessory dwelling units, in accordance with LCMC <u>17.45.060(D)</u>	P
7. Manufactured homes, in accordance with Chapter <u>17.16</u> LCMC and LCMC <u>17.52.250</u>	P
<b>J. Retail Commercial</b>	
Commercial establishments which sell merchandise generally needed/desired by the residents, employees and visitors of/to the community. Examples include: packaged food, liquor, grocery, drugs, video rental, general merchandise, gift shops, sporting goods, building materials, garden supplies/nurseries, antiques/second hand stores, convenience stores, but exclude mini-warehouses.	P
<del>Medical-marijuana-dispensary</del> <u>Retail marijuana facility</u> , if located within 100 feet of the right-of-way of Highway 101, and subject to the provisions of LCMC 17.80.120.	<u>P</u>
<b>K. Service Commercial</b>	
Commercial establishments which provide business, repair and miscellaneous services. Examples include: printing/publishing, laboratories, catering, interior design, miscellaneous repairs (indoor only).	P
<b>L. Other Uses</b>	
1. Ambulance service	C
2. Art gallery and studio	P
3. Places of worship	C
4. Clubs, lodges, meeting halls	C
5. Home occupations	P
6. Handicraft-type industries with on-site sales (i.e., crafts, saddles)	P
7. Parks/playgrounds/community gardens	C
8. Police/fire facilities	C
9. Public facilities/public parking lots	P
10. Public/private schools, business/trade schools, in accordance with LCMC <u>17.80.010</u>	C
11. Public utility or utility substation	C

12. Essential emergency communications and warning facilities	P
13. Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC <u>17.80.080</u>	P
14. Gardens and animals, accessory to a permitted use and subject to the provisions of LCMC <u>17.80.080</u>	P

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**SECTION 4.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.50 (*Oceanlake Plan (OP) District*), Section 17.50.050 (Permitted uses), Table 17.50.050. is hereby amended to read as follows:

Uses  Use Categories	Status of Use in District		
	Main Street Area	Interior Area	Oceanfront Area
Residential Categories			
Household Living			
All residential uses allowed, if:			
Lawfully existing as of July 25, 2007	P	P	P
New dwelling(s) – ground floor	N	P	P
Dwelling(s) above a ground floor commercial use	P	P	P
Commercial Categories			
Drive-up/drive-in/drive-through (drive-up windows, kiosks, ATMs, similar uses/facilities)			
Lawfully existing as of July 25, 2007	P	N	N
New or expanded use	N	N	N
Bed and breakfast inn, per LCMC <u>17.80.060</u>	P	P	P

Educational services, not a school (e.g., tutoring or similar services)	P	P	P
Entertainment, major event	CU	CU	CU
Overnight accommodations, except bed and breakfast inns	CU	CU	P
Offices	P	P	P
Outdoor recreation, commercial	CU	CU	CU
Surface parking lot, except for public facilities and parking as an accessory use	N	CU	N
Vehicle servicing or vehicle repair	N	N	N
Retail sales and service, excluding drive-up	P	P	P
<del>Medical-marijuana-dispensary</del> <u>Retail marijuana facility</u> , subject to the provisions of LCMC 17.80.120	<u>P</u>	<u>N</u>	<u>N</u>
Self-service storage	N	N	N
Industrial Categories			
Industrial service, excluding drive-up			
Fully enclosed (e.g., office)	CU	CU	N
Not enclosed	N	N	N
Manufacturing and production in conjunction with an allowed commercial use			
Fully enclosed	CU	CU	CU
Not enclosed	N	N	N
Warehouse and freight movement	N	N	N
Waste-related, except as accessory to a primary permitted use	N	N	N

Wholesale sales			
Fully enclosed	CU	CU	N
Not enclosed	N	N	N
Institutional Categories			
Basic utilities	P	P	P
Colleges	CU	N	N
Community service, including government use (public or nonprofit)	P	CU	CU
Day care, adult or child day care; does not include family day care (16 or fewer children) under ORS 657A.440	CU	P	CU
Parks and open space			
Pedestrian amenities	P	P	P
Parks and recreation facilities	P	P	P
Other open space	P	P	P
Religious institutions and houses of worship			
Lawfully existing as of July 25, 2007	P	P	P
New	CU	CU	CU
Schools	CU	CU	CU
Other Categories			
Accessory structures (with a permitted use)	P	P	P
Commercial radio frequency transmission facilities such as mini-cell antennas and Wi-Fi antennas	CU	CU	CU
Stand-alone wireless communications facilities	N	N	N
Essential emergency communications and warning facilities	P	P	P

Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC <u>17.80.080</u>	P	P	P
Gardens and animals, accessory to a permitted use and subject to the provisions of LCMC <u>17.80.080</u>	P	P	P
Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city's transportation system plan)	P	P	P

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**SECTION 5.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.80 (Provisions Applying to Special Uses), Section 17.80.130, (Medical marijuana dispensaries) is hereby amended to read as follows:

6 **17.80.130 Medical-Retail marijuana dispensaries-facilities.**

7 A. Definitions. **Retail marijuana facilities are limited to medical marijuana**  
8 **dispensaries and retail recreational marijuana facilities.**

9 **1.** "Medical marijuana dispensary" means a business facility registered by the  
10 Oregon Health Authority under ORS 475.300 to 475.346 and that sells,  
11 distributes, transmits, gives, dispenses or otherwise provides medical marijuana  
12 to registry identification cardholders (persons who have been diagnosed by a  
13 physician as having a debilitating medical condition) as further defined by ORS  
14 475.302(3) or the designated primary caregivers of the cardholders as defined by  
15 ORS 475.302(5).

16 **2.** "Retail recreational marijuana facility" is a facility, registered and  
17 **licensed by the Oregon Liquor Control Commission, that engages in retail**  
18 **sales of marijuana and marijuana-derived products to persons 21 years of**  
19 **age or older.**

20  
21 **3. A recreational licensee registered with the Oregon Liquor Control**  
22 **Commission to also sell marijuana for medical purposes is not considered to**  
23 **have two separate retail marijuana stores if the dispensary and the**

1 recreational marijuana store are located in the same store or adjacent stores.  
2 A medical dispensary authorized to also sell recreational marijuana is not  
3 considered to have two separate retail marijuana stores if the dispensary  
4 and the recreational marijuana store are located in the same store or  
5 adjacent stores.  
6

7 B. Limitations. Operators of ~~medical-marijuana-dispensaries~~ retail marijuana facilities  
8 are solely responsible for obtaining all required approvals, permits, licenses, and  
9 authorizations from the responsible federal, state, and local authorities or other entities  
10 necessary to engage in the business of selling or otherwise providing **medical** marijuana  
11 and marijuana-infused products for consideration in the manner contemplated. The city  
12 of Lincoln City has no duty, responsibility, or liability for requesting, obtaining, ensuring,  
13 or verifying an operator's compliance with applicable federal or state permit or approval  
14 requirements. Designating ~~medical-marijuana-dispensaries~~ retail marijuana facilities  
15 as permitted uses is not an approval or endorsement of such facilities and shall not in  
16 any way be interpreted as a waiver, modification, or grant of any federal, state, or local  
17 agency permits, approvals, or authorizations. Businesses operating within the city of  
18 Lincoln City shall comply with all applicable federal, state, and local laws.

19 C. Standards. ~~Medical-marijuana-dispensaries~~ retail marijuana facilities must comply  
20 with the following standards:

- 21 1. The business must be located in a permanent building and may not be located  
22 in a trailer, cargo container or motor vehicle;
- 23 2. The business must be located in a building or tenant space no portion of which  
24 is less than 1,000 feet from any lot upon which there is located a public or private  
25 elementary, secondary, or career school primarily attended by minors;
- 26 3. The business must be located in a building or tenant space no portion of which  
27 is less than 1,000 feet from any lot upon which there is located another **medical**  
28 ~~marijuana-dispensary-business~~ retail marijuana facility;
- 29 4. The business must not be located on the same lot as a marijuana grow site;



1 5. Doorways, windows and other openings shall be located, covered, or screened in  
2 such a manner as to prevent a view into the interior from any adjacent exterior  
3 public or semipublic area;

4 6. No ~~medical-marijuana-dispensary~~ **retail marijuana facility**, as defined in this  
5 chapter, may be open for business earlier than 8:00 a.m. or later than 8:00 p.m. of  
6 the same day;

7 7. Cultivation or infusion of ~~medical~~-marijuana at the site of the ~~dispensary-retail~~  
8 **marijuana facility** is prohibited;

9 8. The business must have a written plan for secure disposal of marijuana remnants  
10 or by-products and must provide for secure disposal of marijuana remnants or by-  
11 products; such remnants or by-products shall not be placed within the facility's  
12 exterior refuse containers;

13 9. The business may not have a drive-through.

14 **SECTION 6. Findings Adopted.**

15  
16 The findings contained in the Whereas Clauses of this ordinance, together with the  
17 Findings set forth in Exhibit A, as well as the competent substantial evidence in the  
18 whole record of this legislative proceeding are incorporated into this section by  
19 reference as if fully set forth herein, and are adopted in support of this legislative action.

20 **SECTION 7. Severability.**

21  
22 The sections, subsections, paragraphs and clauses of this ordinance are severable. The  
23 invalidity of one section, subsection, paragraph, or clause shall not affect the validity of  
24 the remaining sections, subsections, paragraphs and clauses.  
25

26 **SECTION 8. Savings.**

27 Notwithstanding the amendment to this Title, the existing Title remains valid and in full  
28 force and effect for purposes of all criminal, civil or administrative code enforcement  
29 cases or land use actions or applications filed or commenced during the time said  
30 ordinances were operative. Nothing in this Ordinance affects the validity of

1 prosecutions commenced and continued under the laws in effect at the time the matters  
2 were originally filed.

3 **SECTION 9. Ordinance Effective Date.**

4 Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of  
5 its adoption.

6

7 **SECTION 10. Codification.**

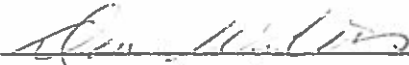
8 Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal  
9 Code and the word "ordinance" may be changed to "code", "article", "section", "chapter"  
10 or another word, and the sections of this Ordinance may be renumbered, or re-lettered,  
11 provided that any Whereas clauses and boilerplate provisions (i.e. Sections 6-10) need  
12 not be codified and the City Recorder is authorized to correct any cross-references and  
13 any typographical errors.

14

15 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX,  
16 Section 9.2 of the City of Lincoln City Charter on the 11th day of April, 2016 (First  
17 Reading) and on the 25<sup>th</sup> day of April, 2016 (Second Reading).

18


1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 25th day of April,  
2 2016.

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DON WILLIAMS, MAYOR

7 ATTEST:

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CATHY STEERE, CITY RECORDER

11 APPROVED AS TO FORM:

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15 RICHARD APPICELLO, CITY ATTORNEY

**ORDINANCE NO. 2016-05**

**RETAIL MARIJUANA FACILITIES**

**EXHIBIT A - FINDINGS**

A. Statewide Planning Goals

(1) Goal 1: Citizen Involvement

“To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.”

All documents relating to this proposal were made available for public review and purchase, and were posted on the city’s website. Staff was available to interpret and explain the technical information. The city sent notice to all affected property owners regarding the public hearings on the proposed zoning ordinance amendments and the local newspaper published hearing notices in accordance with notice requirements. The planning commission and the city council each held a public hearing at which citizens were invited to participate. Therefore, the amendments are consistent with Goal 1.

(2) Goal 2: Land Use Planning

“To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. The City Council considered the proposed amendments to the Lincoln City Zoning Ordinance in accordance with the process and based on the criteria provided in the Municipal Code. Therefore the amendments are consistent with Goal 2.

(3) Goal 3: Agricultural Lands

“To preserve and maintain agricultural lands.”

The area affected by the proposed zoning ordinance amendments is located within the city’s urban growth boundary. The area currently is designated and zoned for urban development. There is no agricultural land in Lincoln City. The amendment does not affect agricultural lands. Goal 3 is not applicable.

(4) Goal 4: Forest Lands

“To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed zoning ordinance amendment is within the city’s urban growth boundary. The affected area does not include any designated forest lands; therefore, Goal 4 is not applicable.

(5) Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

“To protect natural resources and conserve scenic and historic areas and open spaces.”

The amendments affect only areas already committed to urban commercial development. They do not by themselves permit development in any areas of protected natural resources, scenic or historic areas, or open spaces. The amendments are consistent with Goal 5.

Goal 6: Air, Water and Land Resources Quality

“To maintain and improve the quality of the air, water and land resources of the state.”

The amendments will not adversely affect the quality of the air or water. They do not by themselves permit development that might affect water or air quality. The existing ordinance and plan requirements relating to water and air quality will continue to apply to all properties that might be affected. Therefore, the amendments are consistent with Goal 6.

(7) Goal 7: Areas Subject to Natural Disasters and Hazards

“To protect people and property from natural hazards.”

The amendments do not by themselves allow development within any natural hazard area. The existing ordinance and plan requirement relating to natural hazards will continue to apply to all properties that might be affected by natural hazards. Therefore, they are consistent with Goal 7.

(8) Goal 8: Recreational Needs

“To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

The proposed ordinance amendments do not relate to recreation as that term is used in this goal and do not adversely affect the provision of or ability to site recreational areas in the City. To the extent “retail marijuana facilities” sell what sometimes is referred to as “recreational marijuana” that term is intended to distinguish marijuana sales that do not involve therapeutic medical marijuana. The amendments are consistent with Goal 8.

**Goal 9: Economic Development**

“To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

The amendments do not relate directly to economic development other than by allowing and regulating the allowed locations of another type of business to be sited within Lincoln City. The proposed amendments are consistent with Goal 9.

**(10) Goal 10: Housing**

“To provide for the housing needs of citizens of the state.”

The amendments do not relate directly to the housing needs of the people of Lincoln City. Goal 10 therefore, is not applicable.

**(11) Goal 11: Public Facilities and Services**

“To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

The amendments do not relate directly to public facilities and services. Goal 11 is not applicable.

**(12) Goal 12: Transportation**

“To provide and encourage a safe, convenient and economic transportation system.”

The amendments do not relate directly to transportation. Goal 12 is not applicable.

**(13) Goal 13: Energy Conservation**

“To conserve energy.”

The amendments do not relate directly to energy conservation. Goal 13 is not applicable.

**(14) Goal 14: Urbanization**

“To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The amendments do not relate directly to urbanization. Goal 14 is not applicable.

(15) Goal 15: Willamette River Greenway

“To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The affected area is not located within the Willamette River Greenway; therefore, Goal 15 is not applicable.

(16) Goal 16: Estuarine Resources

“To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

The amendments by themselves do not allow development in areas adjacent to the city’s designated estuarine resource (i.e., Siletz Bay). All development in such areas already is controlled by existing ordinance and comprehensive plan standards and these standards would be applied to any retail marijuana facilities that might be developed in areas affecting the estuary. The amendments, therefore, are consistent with Goal 16.

(17) Goal 17: Coastal Shorelands

“To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

The city’s coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. The shorelands include some areas in which retail marijuana facilities might be proposed. All development in such areas already is controlled by existing ordinance and comprehensive plan standards and these standards

would be applied to any retail marijuana facilities that might be developed in areas affecting the coastal shorelands. The amendments, therefore, are consistent with Goal 17.

(18) Goal 18: Beaches & Dunes

“To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and to reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

Lincoln City has a large amount of coastal beach. Inventory maps show active dunes and deflation plains on the Salishan spit, but not within Lincoln City, with the possible exception of a few isolated spots in Cutler City. For Roads End, inventory maps show older, stabilized dunes. The amendments do not, by themselves, allow any development in or near beach and dune areas. All development in such areas already is controlled by existing ordinance and comprehensive plan standards and these standards would be applied to any retail marijuana facilities that might be developed in areas affecting beaches and dunes. The amendments are consistent with Goal 18.

(19) Goal 19: Ocean Resources

“To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

The amendments do not, by themselves, affect any ocean resources and, therefore, are consistent with Goal 19.

B. Comprehensive Plan Goals

(1) Planning Goal

“To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance after public hearing and has reviewed it on a periodic cycle to take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental units during their preparation, review, and revision. Review of the proposed amendment was in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions and, therefore, in conformance with this goal.



(2) Citizen Involvement Goal

“Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.”

The City has developed a citizen involvement program. In addition, the public hearing process, with notice to the public and property owners and review of the amendments by the Planning Commission (a citizen board) and the City Council (comprised of elected citizen representatives,) establishes conformance with this goal.

(3) Public Services and Utilities Goal

“To plan and develop a timely, orderly, and efficient arrangement of public facilities and services, which compliment the area and serve as a framework for urban and rural development.”

The proposed amendments do relate directly to public services and utilities. This goal is Not applicable.

(4) Urbanization Goal

“To promote an orderly and efficient transition of land uses from rural to urban.”

The amendments do not relate directly to urbanization. This goal is not applicable.

(5) Natural Hazard Goal

“The City shall control development in hazardous areas to protect life and property from natural disasters and hazards.”

The amendments, by themselves, do not allow development in hazardous areas. Development in such areas is controlled by existing comprehensive plan and zoning ordinance standards, as well as building code requirements. The amendments are consistent with this goal.

(6) Housing Goal

“To provide for the housing needs of all citizens.”

The amendments do not relate directly to the housing needs of the people of Lincoln City. The housing goal does apply.

(7) Economy Goal

“To support the tourist industry and achieve a degree of diversity in the community, which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area.”

The amendments do not relate directly to economic development other than by allowing and regulating the allowed locations of another type of business to be sited within Lincoln City. These amendments, therefore, are consistent with this goal.

(8) Aesthetic Goal

“To develop a livable and pleasing city which enhances man’s activities while protecting the exceptional aesthetic quality of the area.”

The amendments do not relate directly to aesthetics. This goal is not applicable.

(9) Transportation Goal

“To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people.”

The amendments do not relate directly to transportation. This goal is not applicable.

(10) Energy Goal

“To conserve energy.”

The amendments do not relate directly to energy conservation. This goal is not applicable.

(11) Overall Environmental Goal

“To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city.”

The amendments, by themselves, do not allow development in sensitive natural resource areas. The existing ordinance and plan requirement relating to protecting the natural environment will continue to apply to all properties that might be affected. These amendments contribute to this goal.

(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal

“To conserve, to protect, to enhance the coastal resources of the city.”

The amendments by themselves do not allow development in areas adjacent to the city's designated estuarine resource (i.e., Siletz Bay), in the city's coastal shorelands, beach and dune areas, or in ocean resource areas. To the extent these areas might be proposed for development of retail marijuana facilities, the existing ordinance and comprehensive plan standards and these would be applied, thereby protecting these resources. The amendments are consistent with this goal.