



Home of the Tualatin River National Wildlife Refuge

## ORDINANCE 2020-011

### AMENDING THE CITY OF SHERWOOD MUNICIPAL CODE AS APPROVED BY CITY ELECTORS AT THE NOVEMBER 2020 ELECTION

**WHEREAS**, with its approval of Resolution 2020-085, the City Council accepted the City Recorder's canvassing of the official results of the November 2020 election as provided by the Washington County Elections Official; and

**WHEREAS**, as documented in the official results of the election, the City's electors approved Ballot Measure 34-299, amending the City's Municipal Code; and

**WHEREAS**, as such, the City Council now finds it appropriate to formalize the amendment of the Sherwood Municipal Code to incorporate the voter-approved changes as set forth in the attached Exhibit A; and

**WHEREAS**, the City Council held a public hearing on this Ordinance on December 1, 2020.

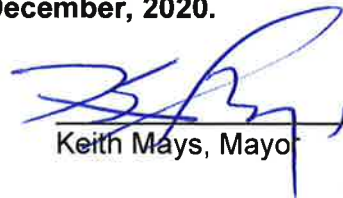
### NOW, THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

**Section 1.** The City Council hereby adopts the amendments to the Municipal Code set forth in Exhibit A, attached to this Ordinance.

**Section 2.** The City Recorder is hereby directed to enter a copy of this Ordinance in the record of the proceedings of this Council and to take such other actions necessary to effectuate the amendment of the Municipal Code.

**Section 3.** This Ordinance is and shall be effective on January 1, 2021.

**Duly passed by the City Council on this 1<sup>st</sup> day of December, 2020.**

  
\_\_\_\_\_  
Keith Mays, Mayor

Attest:

  
\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder

AYE   NAY

Scott	<input checked="" type="checkbox"/>	_____
Griffin	<input checked="" type="checkbox"/>	_____
Brouse	<input checked="" type="checkbox"/>	_____
Young	<input checked="" type="checkbox"/>	_____
Garland	<input checked="" type="checkbox"/>	_____
Rosener	<input checked="" type="checkbox"/>	_____
Mays	<input checked="" type="checkbox"/>	_____

**Chapter 3.25 – MARIJUANA TAX shall be amended and read:**

3.25.020 - Tax imposed.

As described in section 34a of House Bill 3400 (2015), the City of Sherwood hereby imposes a tax of three percent on the retail sale price of marijuana items by a recreational marijuana retailer in the area subject to the jurisdiction of the city.

3.25.030 - Collection.

The tax shall be collected at the point of sale of a marijuana item by a recreational marijuana retailer at the time at which the retail sale occurs and remitted by each recreational marijuana retailer that engages in the retail sale of marijuana items.

3.25.040 – Limitation on Marijuana Tax appropriation by the City.

Any tax monies collected pursuant to Sherwood Municipal Code Chapter 3.25 may only be appropriated for public safety purposes, which shall be defined for the purposes of this chapter as any expenses associated with public safety infrastructure capital expenditures or the City of Sherwood Police Department.

**Chapter 5.30 - RECREATIONAL MARIJUANA BUSINESSES shall be amended and read:**

5.30.010 - Definitions.

As used in this chapter, unless the context requires otherwise:

- (1) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.
- (2) "Recreational marijuana processor" means an entity licensed by the Oregon Liquor Control Commission to process marijuana.
- (3) "Recreational marijuana producer" means an entity licensed by the Oregon Liquor Control Commission to manufacture, plant, cultivate, grow or harvest marijuana.
- (4) "Recreational marijuana retailer" means an entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state.
- (5) "Recreational marijuana wholesaler" means an entity licensed by the Oregon Liquor Control Commission to purchase marijuana items in this state for resale to a person other than a consumer.
- (6) "Recreational marijuana laboratory" means an entity licensed by the Oregon Liquor Control Commission to perform qualitative and quantitative analysis on any marijuana items produced, processed, or otherwise manufactured for recreational or medical use in this state.

5.30.020 - Ban declared. **This section is repealed.**

~~As described in section 134 of House Bill 3400 (2015), the City of Sherwood hereby prohibits the establishment and operation of the following in the area subject to the jurisdiction of the City:~~

- ~~(1) Recreational marijuana producers;~~
- ~~(2) Recreational marijuana processors;~~
- ~~(3) Recreational marijuana wholesalers;~~
- ~~(4) Recreational marijuana retailers.~~

**Chapter 16.10 DEFINITIONS\* shall be amended and read:**

Section 16.10.020 – Definitions [5 Definitions Added]

**Marijuana Processing.** A building or structure used in whole or in part for processing recreational marijuana as defined in in O.R.S. 475B *et seq.*, as the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts, and which is licensed by the Oregon Liquor Control Commission. Processing may include packaging or labeling.

**Marijuana Production.** A building or structure used in whole or in part for producing recreational marijuana as defined in O.R.S. 475B *et seq.*, as the manufacture, planting, cultivation, growing or harvesting of marijuana, and which is licensed by the Oregon Liquor Control Commission. Producing does not include cultivation and growing of an immature marijuana plant by a processor, wholesaler, or retailer if that party purchased or otherwise received the plant from a licensed producer.

**Marijuana Retail Sales.** A building or structure used in whole or in part for retail sales to a consumer of marijuana, cannabinoid products, and miscellaneous items, and which is licensed by the Oregon Liquor Control Commission.

**Marijuana Testing Laboratories.** A building or structure used in whole or in part for testing of marijuana items, and which is licensed by the Oregon Liquor Control Commission.

**Marijuana Wholesale Operations.** A building or structure used in whole or in part for wholesale distribution of marijuana, cannabinoid products, and miscellaneous items to a person other than a consumer, and which is licensed by the Oregon Liquor Control Commission.

**Chapter 16.38 SPECIAL USES shall be amended and read:**

**16.38.030 Recreational Marijuana Facilities.**

A. Characteristics:

1. Five types of recreational marijuana facilities are defined in Section 16.010.20.
2. Recreational marijuana facilities must be licensed by the Oregon Liquor Control Commission. A facility not licensed by the Oregon Liquor Control Commission is not permitted in any zone.

B. Approval Process. Where permitted, recreational marijuana facilities are subject to approval under 16.72.010.A2, the Type II process in addition to any other required land use review process required by this Code. Applications for approval shall include detailed responses to the applicable standards listed in this section.

1. An existing Medical Marijuana Dispensary in compliance with Section 16.38.020 (Medical Marijuana Dispensary) which completes a conversion to a recreational marijuana licensee under regulation by the Oregon Liquor License Commission pursuant O.R.S. 475B *et seq* shall be exempted from the requirement to complete a Type II process and shall only be required to complete a Type I process under 16.72.010.A1.

C. General Standards for Recreational Marijuana Facilities

1. All new construction of recreational marijuana facilities shall comply with 16.90 Site Planning.
  - a. A medical marijuana dispensary which is in compliance with Section 16.38.020 (Medical Marijuana Dispensary) on or before April 1, 2020, and which maintains such compliance until completion of a conversion to a recreational marijuana licensee under regulation by the Oregon Liquor License Commission pursuant to O.R.S. 475B *et seq* shall be exempted from 16.90 Site Planning for any new or modified recreational marijuana facilities.
2. In the case of production facilities, views from the exterior of the building into the production area are prohibited. Views of interior lighting in the production area from the exterior of the building are also prohibited.
3. Only indoor recreational marijuana production is allowed. Exterior growing is prohibited for commercial distribution.
4. Public Access Prohibited. Access to any production, processing, testing laboratory and wholesale facility shall be limited to employees, personnel, and guests over the age of 21, authorized by the facility operator.
5. Security Measures Required
  - a. Landscaping shall be continuously maintained to provide clear lines of sight from public rights-of-way to all building entrances.
  - b. Exterior lighting shall be provided and continuously maintained.
  - c. Any security bars installed on doors or windows visible from the public right-of-way shall be installed interior to the door or window, in a manner that they are not visible from the public right-of-way.
  - d. No outdoor storage of marijuana is allowed at any recreational marijuana facilities.
6. Odor Mitigation Measures Required. Production and processing facilities shall install and maintain enhanced ventilation systems designed to prevent detection of marijuana odor from adjacent properties or the public right-of-way. Such systems shall include the following features:
  - a. Installation of activated carbon filters on all exhaust outlets to the building exterior;

- b. Location of exhaust outlets a minimum of 10 feet from the property line and 10 feet above finished grade; and
- c. Maintenance of negative air pressure within the facility; or
- d. An alternative odor control system approved by the Building Official based on a report by a mechanical engineer licensed in the State of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.

7. Proximity Restrictions. A recreational marijuana production, processing, testing laboratory or wholesale sales facility shall not be located within 1000 feet of any single-family residential or multi-family residential zone. For purposes of this paragraph, the distance specified is measured from the closest points between property lines of the affected properties.

8. No recreational marijuana facility may be located within the Old Town Overlay District.

9. Recreational Marijuana Facilities (Retailer, Processor, Wholesaler, Producer, or Laboratory) licensed by the Oregon Liquor Control Commission shall only be permitted in zones classified as General Industrial.

a. **Exception.** Any existing medical marijuana dispensary located in an area zoned Light Industrial which is in compliance with Section 16.38.020 (Medical Marijuana Dispensary) on or before April 1, 2020, will be an approved situs for a licensed recreational marijuana facility. This section expressly authorizes the operation of a licensed recreational marijuana facility in the following location zoned Light Industrial:

**Tax Lot 2S129A 000500 - Parcel R0547705  
15025 SW Tualatin-Sherwood Rd, Sherwood, OR 97140**

b. The sale of any property listed at 16.38.030(9)(a) shall not terminate this exception and such exception shall run with the land. A purchaser of the applicable real estate may, but shall not be required, to undertake a "Change of Ownership" review by the Oregon Liquor Control Commission. A subsequent purchaser of the applicable real estate may seek a new recreational marijuana license from the Oregon Liquor Control Commission unconnected with the license maintained by the prior owner(s).

10. One or more licensed Recreational Marijuana Facilities (Retailer, Processor, Wholesaler, Producer, or Laboratory) shall be permitted on the same tax lot, subject to the proximity restrictions under 16.38.030(D)(7).

#### D. Specific Standards for Recreational Marijuana Retail Sales Facilities.

1. All new construction of recreational marijuana retail facilities shall comply with 16.90 Site Planning, unless such facility is exempted from 16.90 Site Planning under 16.38.030(C)(1)(a).

2. Public Access Prohibited. Access to a retail sales facility shall be limited to employees, personnel, and customers over the age of 21.

a. A OHA-registered medical marijuana patient or caregiver at least 18 years of age shall be permitted to enter a retail sales facility for the purposes of purchasing medical marijuana.

3. Hours of Operation.

a. Retail sales facilities shall operate only between the hours of 10:00 a.m. to 8:00 p.m. Sunday through Thursday.

b. Retail sales facilities shall operate only between the hours of 10:00 a.m. to 10:00 p.m. Friday and Saturday.

c. An individual facility may set hours within those specified, but may not be open outside those parameters.

4. Security Measures Required.

- a. Landscaping shall be continuously maintained to provide clear lines of sight from public rights-of-way to all building entrances.
- b. Exterior lighting shall be provided and continuously maintained consistent with Section 16.154.
- c. Any security bars installed on doors or windows visible from the public right-of-way shall be installed interior to the door or window, in a manner that they are not visible from the public right-of-way.

- 5. Mobile or Temporary Businesses Prohibited. A retail sales facility may not operate as a mobile or temporary business as defined in Section 16.10.020.
- 6. Drive-in or Drive-Through Facilities Only Permitted Where Authorized by OLCC. A retail sales facility may only operate a drive-in, or drive-through or “curbside delivery” retailer facility, as defined in Section 16.10.020. Nothing in this section shall prohibit a marijuana retailer from operating a delivery service which is compliant with state law and OLCC regulations concerning delivery by a recreational marijuana retailer.
- 7. Proximity Restrictions. A retail marijuana facility shall not be located within the specified proximity of any of the uses listed below. For purposes of this paragraph, the distance specified is measured from the closest points between property lines of the affected properties.
  - a. Schools. Within 1,000 feet of a public or private elementary or secondary school attended primarily by children under 19 years of age.
  - b. Other Retail Facilities. Within 1,000 feet of another retail recreational marijuana facility or any medical marijuana dispensary.
  - c. Public Plazas and Active Use Parks. Within 1,000 feet of a public plaza or active use park. As used in this paragraph, an active use park includes a public park which includes features such as playground equipment, athletic courts or fields, active use water features, or skating or skateboard features.
- 8. No recreational marijuana retail facility shall exceed an area of 3,000 square feet of publicly accessible areas associated with the retail sale of recreational marijuana. No additional size limitations on recreational retail marijuana facilities shall be imposed except as required by state law.

**Chapter 16.12 - RESIDENTIAL LAND USE DISTRICTS shall be amended to conform with the above provisions.**

**Chapter 16.22 - COMMERCIAL LAND USE DISTRICTS shall be amended to conform with the above provisions.**

**Chapter 16.31 - INDUSTRIAL LAND USE DISTRICTS shall be amended to conform with the above provisions.**

**Chapter 16.72 - PROCEDURES FOR PROCESSING DEVELOPMENT PERMITS\* shall be amended to conform with the above provisions.**

**Chapter 16.90 - SITE PLANNING\* shall be amended to conform with the above provisions.**

**Chapter 16 – Any portion of Chapter 16 ZONING AND COMMUNITY DEVELOPMENT CODE inconsistent with the terms of this petition initiative shall be amended to conform with the above provisions.**