

ORDINANCE NO. 924

AN ORDINANCE AMENDING ORDINANCE NOS. 874 & 907, SECTION 7.02 & SECTION 24.08 OF THE ZONING ORDINANCE OF THE CITY OF OAKRIDGE ESTABLISHING LAND USE REGULATIONS FOR MARIJUANA FACILITIES IN THE CITY OF OAKRIDGE

WHEREAS, during the 2013 Special Legislative Session, the Oregon Legislature passed HB 3460, which allows for the establishment and registration of Medical **and Recreational** Marijuana Facilities; and

WHEREAS, at the November 2014 General Election, the voters of the State of Oregon approved Ballot Measure 91, which will legalize the use and sale of recreational marijuana in Oregon; and

WHEREAS, marijuana is classified as a Schedule I Controlled Substance under the Federal Controlled Substances Act, the use, possession, and sale of which is currently illegal under Federal law; and

WHEREAS, pursuant to Article IX, Section 2 of the Oregon Constitution and the Oakridge Charter, the City of Oakridge is a home rule municipality with all the powers that the constitutions, statutes, and common law of the United States and the State of Oregon expressly or impliedly grant or allow the City; and

WHEREAS, the 2014 Oregon Legislature approved Senate Bill 1531, which explicitly allows cities in Oregon to adopt reasonable regulations on the operation of Marijuana Facilities, including: 1) limitations on the hours during which Medical and Recreational Marijuana Facilities may be operated, 2) limitations on where a Marijuana Facilities may be located within an agricultural, industrial, commercial, or mixed use zone, and 3) conditions on the manner in which Marijuana Facilities may dispense medical and recreational marijuana; and

WHEREAS, Ballot Measure 91 does not restrict cities from adopting reasonable time, place, and manner regulations of the nuisance aspects of **establishments that sell, manufacture, store or distribute marijuana** or **marijuana related goods to the marijuana industry** if the City makes specific findings that the establishment would cause adverse effects to occur; and

WHEREAS, Ballot Measure 91 recognizes that any authority to regulate marijuana uses granted by Measure 91 is in addition to and not in lieu of the City's authority to regulate pursuant to the Oakridge Charter, Oregon statutes and the Oregon Constitution; and

WHEREAS, the City Council finds that location of Marijuana Businesses Uses in the Low Density Residential District (R-1), Medium Density Residential District (R-2), Neighborhood Commercial District (C-1) and Mixed Use District (M-1) would adversely affect other property owners' ability to peacefully enjoy property located in those zones; and

WHEREAS, in the interest of the health, safety, and well-being of the citizens of Oakridge, the City Council has determined that Marijuana Uses should be allowed only within

certain zones and those uses should be subject to reasonable regulations; and

WHEREAS, on September 27, 2016, Oakridge notified the Department of Land Conservation and Development of the proposed amendments to the Zoning Ordinance of the City of Oakridge (ZOCO); and

WHEREAS, on December 29, 2016, notice of a public hearing before the Planning Commission was mailed to all affected property owners in compliance with ORS 227.186; and

WHEREAS, Notice of a public hearing before the Planning Commission was posted on December 29, 2016, at regular posting locations and December 29, 2016 on the internet. The notice was published/posted in order to reach persons believed to have particular interest and to provide the public with a reasonable opportunity to be aware of the hearings on the proposal pursuant to ZOCO Section 32.02; and

WHEREAS, the Planning Commission held a public hearing on the proposed amendments to the Zoning Ordinance of the City of Oakridge on January 17 2017, adopted recommended findings of fact, and recommended to the City Council that Zoning Ordinance of the City of Oakridge be amended as presented in this ordinance; and

WHEREAS, notice of a public hearing before the City Council was posted on February 24 & April 21 at regular posting locations and February 24 & April 24 in the local publication. The notice was published/posted in order to reach persons believed to have particular interest and to provide the public with a reasonable opportunity to be aware of the hearings on the proposal pursuant to ZOCO Section 32.02; and

WHEREAS, the Oakridge City Council held a public hearing on the proposed amendments to the Zoning Ordinance of the City of Oakridge on March 16 2017 & May 18, 2017; and

WHEREAS, the Council has considered materials relevant to the proposed amendments, including staff reports, the findings made by the Planning Commission, testimony and comments submitted at both public hearings, both orally and in writing;

NOW, THEREFORE, The City of Oakridge ordains as follows:

Section I. Section 7.02 of the Zoning Ordinance of the City of Oakridge is amended to read as follows:

ARTICLE 7 – CENTRAL COMMERCIAL DISTRICT (C-2)

SECTION 7.02

(2) Uses and structures permitted conditionally. The Planning Commission, subject to the procedures and criteria of Article 24 - Conditional Use Permits of this ordinance, may grant a conditional use permit for the following uses:

(a) Amusement establishments, such as arcades, pool halls, movie theaters, and similar uses;

- (a) Automotive sales and repair, as long as it is fully enclosed within one or more buildings and has no outside parking, storage or display in a front or side yard;
- (b) Bars, taverns and nightclubs not accessory to a restaurant;
- (c) Building maintenance service;
- (d) Clubs, lodges, fraternal organizations and religious institutions, with less than 15,000 square feet of floor area;
- (e) Manufacturing products for retail or wholesale sale, less than 30,000 square feet in floor area, as long as it is fully enclosed within one or more buildings and has no outside parking or storage in a front or side yard;
- (f) Mixed-use developments (two or more uses in a single building or development) including one or more conditionally permitted uses;
- (g) Marijuana Retailers;
- (h) Public or private schools;
- (i) Public parking areas and structures;
- (j) Public parks, playgrounds and community centers;
- (k) Residential uses that do not meet the requirements of Section 6.02(1)(g) of this Article;
- (l) Drive-through facilities, when normal and incidental to the uses permitted by this section.
- (m) Uses determined by the Planning Director to be similar to the uses listed above and also consistent with the purpose of this district stated in section 7.01.

Section II. Section 24.08 of the Zoning Ordinance of the City of Oakridge is amended to read as follows:

SECTION 24.08 ADDITIONAL CONDITIONS

Some land uses, by the nature of the activity associated with them, require separate and intense consideration by the Planning Commission before their establishment.

- (1) Agriculture: Agricultural uses shall conform to the following criteria:
 - (a) Domestic farm animals shall not be kept on lots having an area of less than 20,000 square feet. The total number of all such animals, other than their young under the age of six months, allowed on a lot shall be limited to the square footage of the lot divided by the total minimum areas required for each animal as listed below:

Horses and Cattle	10,000 Square foot area
Goats and Sheep	5,000 Square foot area
Bee Colonies	1.000 Square foot area
Fowl and Rabbits	500 Square Foot area
 - (b) No animal raising or breeding enterprise shall be conducted on a commercial basis.
 - (c) Animal runs or barns, fowl and rabbit pens, and bee colonies shall be located on

the rear half of the property but not closer than 70 feet to the front property line nor closer than 50 feet from any residence nor closer than 20 feet to any interior property line.

- (d) Domestic farm animals shall be properly caged or housed, and proper sanitation shall be maintained at all times.
 - (e) All animal or fowl food shall be stored in metal or other rodent-proof receptacles.
- (2) Boarding, lodging or rooming house having four or more boarders
- (a) Lot area. The minimum lot area shall be 8,000 square feet.
 - (b) Lot coverage. The maximum coverage of the lot by all structures shall not exceed 45 percent of the lot area. The maximum coverage of the lot for all structures, driveways, and parking areas shall not exceed 65 percent of the lot area.
 - (c) Yards.
 - (i) Principal building. Each principal building shall be set back from all property lines at least one foot for each foot of height, except that no principal building shall be required to be set back more than 20 feet from any property line.
 - (ii) Accessory building. Accessory buildings are not allowed in any side yard.
 - (d) Landscaping. All lot area not covered by building or parking areas is to be landscaped. A minimum of 35 percent of the total lot area shall be landscaped. See Article 25 - Site Plan Review of this ordinance for further information.
- (3) Hospitals. Any building used for hospital purposes shall provide and maintain a minimum of 50 feet from side and rear property lines, except in the street side of a corner lot where the street is dedicated to the public.
- Alleys next to or within the property being used for hospital purposes may be included in the required setback.
- (4) Marijuana Facilities, Marijuana Processors, Marijuana Retailers, Marijuana Wholesalers, and Medical Marijuana Facilities.
- (a) At the time the conditional use application is filed, the Marijuana Facility, Marijuana Retailer or Medical Marijuana Facility may not be located within 1000 feet of any of the following:
 - (i) A public or private elementary, secondary, or career school;
 - (b) At the time the conditional use application is filed, the Marijuana Retailer may not be located within 1000 feet of another Marijuana Retailer.
 - (c) At the time the conditional use application is filed, the Marijuana Facility may not be located within 750 feet of another Marijuana Facility.
 - (d) In addition to the restrictions imposed by subsection (a) of this section, at the time a conditional use application is filed, a Medical Marijuana Facility may not be located within 1000 feet of another Medical Marijuana Facility. (ORS

475.314(3)(d))

- (e) For purposes of this section (4) the following definitions apply:
- (i) "Career School" means any private proprietary professional, technical, business, or other school instruction, organization, or person that offers any instruction or training for the purpose or purported purpose of instructing, training, or preparing persons for any profession at a physical location attended primarily by minors.
 - (ii) "Elementary School" means a learning institution containing any combination of grades Kindergarten through 8 or age level equivalent.
 - (iii) "Marijuana Facility" means Marijuana Processor, Marijuana Producer or Marijuana Wholesaler, or any commercial activity related to the growing, producing, storage, transportation of marijuana or any cannabinoid product or by-product and regulated by the Oregon Liquor Control Commission.
 - (iv) "Marijuana Retailer" means any commercial sales activity related to the sales or consuming of marijuana or any cannabinoid product or by-product and regulated by the Oregon Liquor Control Commission.
 - (v) "Medical Marijuana Facility" means any commercial activity related to the growing, producing, storage, transportation of marijuana or any cannabinoid product or by-product for the use as a prescribed medicine and regulated by Oregon Health Authority.
 - (vi) "Secondary School" means a learning institution containing any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.
 - (vii) "Within 750 feet" means a straight-line measurement in a radius extending for 750 feet or less in every direction from any point on the boundary line of the real property on which the Marijuana-Processor, Marijuana-Wholesaler is located and the real property on which a use identified in subsection (a) is located.
 - (viii) "Within 1000 feet" means a straight-line measurement in a radius extending for 1000 feet or less in every direction from any point on the boundary line of the real property on which the Marijuana Retailer, or Medical Marijuana Facility is located and the real property on which a use identified in subsection (a) is located.

(5) Public or private schools. Any building used for school purposes shall provide and maintain setbacks of 50 feet from side and rear property lines, except in the street side of a corner lot where a setback of at least 25 feet shall be required. Alleys next to or within the property being used for school purposes may be included in the required setback.

(6) Religious institutions. Any building used for religious worship purposes in any residential area, except freestanding parsonages, shall provide and

maintain a minimum setback of 20 feet from any property line that is under a different ownership and is zoned for residential use.

(7) Service stations.

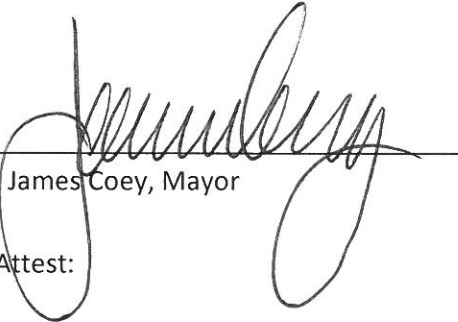
- (a) A sight-obscuring fence or wall, not less than five feet in height, shall be provided between the service station and abutting property in any residential district. Said wall or fence shall reduce to a three-foot maximum in any required front yard setback.
- (b) All lighting shall be such that its direction and color do not create a traffic hazard or a nuisance to any adjoining property.
- (c) A minimum of 15 percent of the total lot area must be landscaped according to Article 25 - Site Plan Review of this ordinance.

Section III. This ordinance shall take effect on the 30th day after its enactment.


READ BY TITLE ONLY, PASSED AND ADOPTED by a vote of the Oakridge City Council this 18th day of May, 2017

PASSED BY THE COUNCIL of the City of Oakridge this 18th day of May, 2017

APPROVED AND SIGNED BY THE MAYOR of the City of Oakridge this 18th day of May, 2017


James Coey, Mayor

Attest:


Susan LaDuke, City Recorder

Ayes: 7
Nays: 0