

ORDINANCE NO. 656

AN ORDINANCE AMENDING CHAPTERS 1 AND 2 OF THE WILLAMINA DEVELOPMENT CODE RELATED TO MEDICAL MARIJUANA FACILITIES; AND DECLARING AN EMERGENCY

WHEREAS, the City of Willamina has adopted a Development Code (hereinafter called "Code"); and

WHEREAS, the State Legislature adopted HB 3460 authorizing the placement of medical marijuana facilities in certain zones within a City or County effective March 3, 2014; and

WHEREAS, the City Council directed the Planning Commission to develop language to limit these facilities to the Industrial Zone and to prohibit them within 1,000 feet of a designated City park in order to protect the welfare of its citizens, and more specifically, its children; and

WHEREAS, a Public Hearing was held before the Planning Commission on February 4, 2014, and the City Council on February 13, 2014, to obtain public comment on the proposed rules;

NOW THEREFORE THE CITY OF WILLAMINA ORDAINS AS FOLLOWS:

Section 1. THAT Exhibit A, attached hereto and made a part hereof) is hereby adopted and shall be incorporated into the Development Code; and

Section 2. THAT in order to protect the peace, health and welfare of Willamina, its residents and its visitors, the City Council declares an emergency to exist, and, therefore, this ordinance will be effective immediately upon its adoption by the City Council.

First Reading: 02/13/14 Second Reading: 02/13/14

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WILLAMINA this 13th day of February, 2014, by the following vote and became effective immediately.

YEAS BALLER, BRAMALL, SKYBERG, ST ONGE
NAYS NONE
ABSTAIN NONE
ABSENT HILL, TONEY

Corey L Adams, Mayor

ATTEST:

Sue C Hollis, City Recorder



ATTACHMENT A
DCTA 2013-01

Code Amendment to include the process for reviewing land use applications
applicable to Medical Marijuana Facilities

Bold and underlined text = proposed additions to the City of Willamina Development Code
Other sections of the City's Code are included for informational purposes to provide additional details regarding an application review process and potential conditions of approval.

City of Willamina - Development Code -= Chapter 1 - Definitions

Medical Marijuana Facility: A medical marijuana facility validly registered with the State of Oregon that is authorized according to the State of Oregon Health Authority (OAH) to transfer usable marijuana and immature plants to and from:

- (1) registry identified cardholders, and**
- (2) persons responsible for a medical marijuana grow site.**

Parks: Recreational facilities that are either resource-based or activity based. Resource-based facilities are centered around particular natural resources which may provide opportunities for picnicking, hiking, water sports, fishing, or enjoying nature. Activity-based facilities are developed for the enjoyment of particular activities such as basketball, baseball/softball, football, or other recreational programs. Park activities included both active and passive types of recreation. City parks include Garden Spot (Main Street), Hampton Park and Huddleston Pond (Yamhill Street), Lamson Park (Lamson Avenue), Oaken Hills Park (3rd Street), Tina Miller Memorial Park (1st Street), Triangle Park (South Main), and any other park as designated by the City of Willamina.

City of Willamina - Development Code - Chapter 2 - How Land May be Used and Developed

2.108 INDUSTRIAL ZONE (M-1) (*excerpted sections*)

2.108.01 Purpose

To provide land for and to encourage the grouping together of warehousing, manufacturing, and other light industrial uses which, because of their normal characteristics, would be relatively unobjectionable, could be permitted to operate in close proximity to, and would not be detrimental to surrounding commercial or residential uses.

2.108.03 Conditional Uses

The following uses may be permitted in the M-1 District when authorized by the Planning Commission pursuant to Section 3.103.

- A. Bulk storage of flammable liquids or gases.

- B. Outdoor storage of materials of an industrial character.
- C. Concrete or asphalt batch plants.
- D. Chemical, fertilizer, insecticide, paint product manufacturing.
- E. Auction yard.
- F. Airport and heliport facilities.
- G. Wrecking, demolition, junk yards, including recycling firms.
- H. **Medical marijuana facility. (Also see Section 2.312.)**

2.108.04 Limitation of Use

The following special development limitations shall apply to all uses permitted in the M-1 district:

- A. Outside storage abutting or facing a residential or commercial zone shall be enclosed by a sight-obscuring fence.
- B. In addition to the provisions of Section 2.209.09, the following fence requirements shall apply:
 - 1. The fence shall obstruct the storage from view on the sides of the property abutting or facing a residential or commercial district.
 - 2. The fence shall be of such material and design and must be maintained so as not to detract from the adjacent residences or commercial activities.
 - 3. The fence shall be free of advertising.
- C. Outside storage in a required yard shall not exceed 10 feet in height.

2.108.06 Development Standards

All development in the Industrial District shall comply with the applicable provisions of Section 2.400 of this Ordinance. In addition, the following specific standards shall apply:

- A. **Off-street parking.** Off-street parking in the in the Industrial District shall conform to the standards of Section 2.203.

- B. Signs. Signs in the Industrial District shall conform to the provisions of Section 2.206.
- D. Site Plan Review. All new development or expansion of existing structure or use in the Industrial District shall be subject to the Site Development Review procedures of Section 3.105.
- E. Landscaping. All development in the Industrial District shall provide a minimum landscaped area equal to 6 percent of the gross site area. Landscaping improvements shall be installed and maintained in accordance with Section 2.207 of this Ordinance.
- F. Access. Site access points shall be located to minimize traffic hazards.

2.203 OFF-STREET PARKING AND LOADING (*excerpted sections*)

2.203.01 Purpose

The purpose of this Section is to provide adequate areas for the parking, maneuvering, loading and unloading of vehicles for all land uses in the City of Willamina.

2.203.02 Scope

Development of off-street parking and loading areas for commercial, industrial, or multi-family development shall be subject to the Site Development procedures of Section 2.200 and shall be reviewed pursuant to Section 3.105.

The provisions of this Section shall apply to the following types of development:

- A. Any new building or structure erected after the effective date of this Ordinance.
- B. The construction or provision of additional floor area, seating capacity, or other expansion of an existing building or structure.
- C. A change in the use of a building or structure which would require additional parking spaces or off-street loading areas under the provisions of this Section.
- D. As a condition of approval in a land use decision.

2.203.05 Off-Street Automobile Parking Requirements

Off-street parking shall be provided as required by Section 2.203.08 and approved by the City in the amount not less than listed below.

Industrial Land Use

W. Medical Marijuana Facility

1 space per 300 s.f. of gross floor area

Note: The following listed Sections 2.303.06 through 2.203.10 are applicable and reviewed at the time of application submittal.

- 2.203.06 Standards For Disabled Person Parking Spaces
- 2.203.07 Off-Street Loading Requirements
- 2.203.08 Parking and Loading Area Development Requirements
- 2.203.09 General Provisions Off-Street Parking and Loading
- 2.203.10 Parking Lot Landscaping and Screening Standards
- 2.203.11 Bicycle Parking

A. **Bicycle Parking Required.** Bicycle Parking shall be required in all new multi-family residential (four (4) or more units), new public and semi-public, commercial and industrial development as well as park-and-ride lots. Bicycle parking shall also be required for expansions and other remodeling that increases the required level of automobile parking. Bicycle parking shall be provided in the following amounts:

LAND USE ACTIVITY	BICYCLE SPACES	HOW MEASURED
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<u>Medical Marijuana Facility</u>	<u>1</u>	<u>Per 10 vehicle parking spaces</u>
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B. Bicycle Parking Development Requirements (applicable at the time of development)

2.203 STORM DRAINAGE

Note: Standards are based upon the applicable sections of the development standards based upon review at the time of application submittal.

2.204 UTILITY LINES AND FACILITIES

Note: Standards are based upon the applicable sections of the development standards based upon review at the time of application submittal. Public utility standards (water, sewer, storm) and requirements are based upon availability for subject property and the proposed development.

2.206 SIGNS

Note: Standards are based upon the type of sign (and as defined) that is proposed for properties located within an Industrial Zone and other applicable sections of the sign standards.

2.207 SITE AND LANDSCAPING DESIGN

Note: Standards are based upon the applicable sections of the development standards based upon review at the time of application submittal.

2.301 GENERAL PROVISIONS(included for informational purposes)

2.301.01 Applicability of Special Use Standards

Special uses included in this Section are uses which, due to their effect on surrounding properties, must be developed in accordance with special conditions and standards. These special use standards may differ from the development standards established for other uses in the same Zoning District. When a dimensional standard for a special use differs from that of the underlying district, the standard for the special use shall apply.

2.301.02 Process

The status of a special use as a permitted or conditional use is set forth in the underlying Zoning District.

Conditional uses shall be processed in accordance with the criteria and procedures specified in Section 3.103. Permitted uses shall be reviewed for compliance with the standards of Section 2.200 in the manner specified in the particular special use section.

- A. Conditional Uses: Special uses which are conditional uses in the underlying Zoning District shall be reviewed for compliance with the standards of Section 2.200 during the review of the Conditional Use

Permit. In addition to any specific requirements under the special use, the following information shall be included with the application submittal:

1. A description of the proposed use and specific reason for the request.
2. A vicinity map indicating the relationship of the proposed use to the surrounding area.
3. A site plan of the property, including existing and proposed improvements, and other information necessary to address the requirements and conditions associated with the use.
4. A building profile of proposed new or remodeled structures, as applicable.
5. Information addressing the criteria set forth under Section 3.103.

2.302 SUPPLEMENTAL STANDARDS FOR SPECIAL USES

2.312 MEDICAL MARIJUANA FACILITIES

2.312.01 Standards

Medical marijuana facilities may be allowed, subject to the following standards and restrictions:

- A. Compliance with all requirements as established by the Oregon Health Authority (OHA) to be validly registered.**
- B. Prior to operating the business, provide the City with a copy of the medical marijuana facility's valid proof of registration as issued by the OHA.**
- C. Compliance with the City's development requirements and design standards including all of the following:**
 - 1. location on property within an Industrial Zone District;**
 - 2. with the exception of Lamson Park, a location more than 1,000 feet from all outside boundaries of a City designated park;**
 - a. Note: The distance from Lamson Park is required to be 1,000 from the south, east, and west boundaries of the park. For the distance that Willamina Creek abuts the park, the distance requirement is waived.**

3. all conditions of approval resulting from the medical marijuana facility's conditional use permit application and review process as outlined in Section 3.103.

2.312.02 Non-Compliance

Any medical marijuana facility which does not comply with the requirements of this Section and the provisions of the underlying district shall be in violation of this Ordinance and shall be subject to the penalties and remedies of Subsection 1.102.03.

2.312.xx Reserved

3.103 CONDITIONAL USE PERMITS (included for informational purposes)

3.103.01 Process

Conditional Use Permit applications shall be reviewed in accordance with the Type II review procedures specified in Section 3.201.

3.103.02 Application and Fee

An application for a Conditional Use Permit shall be filed with the City recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

3.103.03 Criteria for Approval

Conditional Use Permits shall be approved if the applicant provides evidence substantiating that all the requirements of this Ordinance relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

- A. The use is listed as a conditional use in the underlying district.
- B. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features.
- C. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services, existing or planned for the area affected by the use.

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- D. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district.
- E. The proposal satisfies any applicable goals and policies of the Comprehensive Plan which apply to the proposed use.
- F. The authorization of such conditional use will not be materially detrimental to the public health, safety and welfare or injurious to property in the vicinity or district in which the property is located, or otherwise conflict with the objectives of any City plan or policy.

3.201.03 Procedure for Type II and Type III Actions (included for informational purposes)

- A. Upon receipt of an application for Type II or Type III land use action, the City staff shall review the application for completeness.
 - 1. Incomplete applications shall not be scheduled for Type II or Type III review until all required information has been submitted by the applicant.
 - 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either:
 - 1. Upon receipt of the additional information; or, if the applicant refuses to submit the information;
 - 2. On the 31st day after the original submittal the application shall be deemed complete for scheduling purposes only.
- C. Applications for more than one Type II or Type III land use action for the same property may, at the applicant's discretion, be combined and heard or reviewed concurrently.
- D. Referrals will be sent to interested agencies such as City departments, school district, utility companies, and applicable state agencies at the City recorder/Clerk's option. If a county road or state highway might be impacted, referrals should be sent to Yamhill or Polk County Public Works and/or ODOT.
- E. The Public Hearing shall be scheduled and notice shall be mailed to the applicant and adjacent property owners. Notice requirements shall comply with Section 3.202.02.

EXHIBIT A

- F. Staff shall prepare and have available within 7 days of the scheduled hearing a written recommendation concerning the proposed action. This report shall be mailed to the applicant and available at City Hall for all interested parties.
- G. The public hearing before the Planning Commission shall comply with the provisions in Section 3.203.
- H. Approvals of any Type II or Type III action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:
1. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall be related to the following:
 - a. Protection of the public from the potentially deleterious effects of the proposed use; or
 - b. Fulfillment of the need for public service demands created by the proposed use.
 2. Changes or alterations of conditions shall be processed as a new administrative action.
 3. Whenever practical, all conditions of approval required by the City shall be completed prior to occupancy. When an applicant provides information which demonstrates to the satisfaction of the Planning Commission that it is not practical to fulfill all conditions prior to issuance of such permit, the Planning Commission may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions.
 - a. **Types of Guarantees**

Performance guarantees may be in the form of performance bond payable to the City of Willamina, cash, certified check, time certificate of deposit, or other form acceptable to the City. The form must be approved by the City Attorney and appropriate documents filed with the City recorder.
 - b. **Amount of Guarantee**

The amount of the guarantee must be equal to at least one-hundred-ten percent (110%) of the estimated cost of the performance. The applicant must provide a written estimate acceptable to the City, which must include an itemized estimate of

all materials, labor, equipment and other costs of the required performance.

c. Time Periods

The Planning Commission may grant a waiver of performance for a period not to exceed six (6) months. A request for extension of any waiver granted must be submitted to and approved by the City Council.

- I. The applicant shall be notified, in writing, of the Planning Commission's decision or recommendation. In addition, notice of the Commission's decision shall be mailed to individuals who request such notice at the public hearing, or, by those individuals who submitted a written request for notice prior to the public hearing.
- J. A Type II land use decision may be appealed to the City Council by either the applicant or persons receiving notice of the decision. The appeal shall be filed within ten (10) days from the date of the decision, pursuant to the provisions of Section 3.205. Type III land use applications are automatically reviewed by the City Council.
- K. The timing requirements in established this Section are intended to allow a final action, including resolution of appeals for all Type II or Type III land use actions within one hundred twenty (120) days of receipt of a complete application. If for any reason it appears that such final action may not be completed within the 120 day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Ordinance.
 - 1. The City staff shall notify the City Council of the timing conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting with in the 120 day period.
 - 2. Public notice shall be mailed to affected parties as specified in Section 3.202.
 - 3. The City Council shall hold a public hearing on the specified date, in accordance with the provisions of Section 3.204 and render a decision approving or denying the request within the 120 day period. Such action shall be the final action by the City on the application.