

**ORDINANCE NO. 893**

**AN ORDINANCE AMENDING ORDINANCE NO. 864, WHICH ORDINANCE ESTABLISHED LAND USE ZONES REGULATING THE LOCATION OF BUILDING STRUCTURES AND THE USE OF LAND WITHIN THE CITY OF MADRAS; ESTABLISHING CERTAIN RECREATIONAL MARIJUANA BUSINESSES AS PERMITTED USES IN CERTAIN ZONES; ESTABLISHING APPROVAL CRITERIA AND APPLICATION PROCEDURES FOR RECREATIONAL MARIJUANA BUSINESSES; SUPERSEDING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.**

**WHEREAS**, the City of Madras ("City") adopted Ordinance No. 864 establishing land use zones and development regulations to govern the location of building structures and the uses of land within City; and

**WHEREAS**, City adopted Ordinance No. 870 establishing certain time, place, and manner regulations concerning medical marijuana dispensaries; and

**WHEREAS**, the Department of Land Conservation and Development was provided notice of certain proposed changes to City's land use regulations concerning recreational marijuana businesses; and

**WHEREAS**, City's Planning Commission, after receiving public testimony, and deliberating fully on the proposed changes, voted unanimously to recommend approval of the changes to the Madras City Council (the "Council"); and

**WHEREAS**, the Council, after receiving public testimony on the proposed changes during a scheduled public hearing on October 11, 2016, unanimously voted to approve the recommended changes.

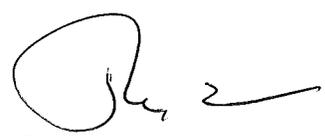
**NOW, THEREFORE**, the City of Madras ordains as follows:

1. Findings. The above-stated findings contained in this Ordinance No. 893 (this "Ordinance") are hereby adopted.
2. Amendments. The amendments to the City of Madras Zoning Ordinance (Ordinance No. 864) provided on the attached Exhibit A and incorporated herein by this reference are hereby approved and adopted. The foregoing amendments are hereby made part of Ordinance No. 864. The provisions of Ordinance No. 864 that are not amended or modified by this Ordinance remain unchanged and in full force and effect. The foregoing amendments supersede any ordinance and/or resolution provisions and/or policies in conflict with the amendments.
3. Severability; Savings; Corrections; Automatic Repeal. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. Nothing in this Ordinance affects the validity of any criminal or civil enforcement actions commenced prior to the adoption of this Ordinance; all City ordinances existing at the time that such actions were filed will remain

valid and in full force and effect for purposes of those actions. This Ordinance may be corrected by order of the Council to cure editorial and/or clerical errors. This Ordinance will be automatically repealed in its entirety and of no further force and effect without further action of the Council if the 2016 ballot measure prohibiting (banning) the establishment and operation of recreational marijuana producers, processors, wholesalers, and retailers referred by the Council to City's electors is passed (approved).

**APPROVED AND ADOPTED** by the City Council of the City of Madras and signed by the Mayor this 11<sup>th</sup> day of October, 2016.

Ayes: 5  
Nays: 0  
Abstentions: 0  
Absent: 1  
Vacancies: 0

  
\_\_\_\_\_  
Royce Embanks, Mayor

ATTEST:

Karen J. Coleman  
Karen J. Coleman, City Recorder

Exhibit A  
Amendments to the City of Madras Zoning Ordinance (Ordinance No. 864)

[attached]

Exhibit A to Ordinance No. 893  
City of Madras Recreational Marijuana Zoning Ordinance Amendments

Text added is double underlined. Text Deleted is ~~struck through~~.

*AMENDMENT NO. 1*

SECTION 1.3 DEFINITIONS

MARIJUANA. All parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin.

MARIJUANA BUSINESS. Any establishment operated by any person or entity who is or must be appropriately licensed by the Oregon Health Authority or the Oregon Liquor Control Commission which sells, produces, cultivates, grows, wholesales, processes, researches, develops or tests any form of marijuana or marijuana derivatives including, but not limited to, Marijuana Production Facilities, Marijuana Processing Facilities, Marijuana Testing Laboratories, Medical Marijuana Dispensaries, Marijuana Wholesalers, and Marijuana Retailers.

MARIJUANA PROCESSING FACILITY. Any establishment in, or premises on, which a person or entity required to be licensed under ORS 475B.090 or ORS 475B.435 operates.

MARIJUANA PRODUCTION FACILITY. Any establishment in, or premises on, which a person or entity required to be licensed under ORS 475B.070 or ORS 475B.420 operates.

MARIJUANA PRODUCTS. Includes marijuana and any item, good, or product made from or including marijuana.

MARIJUANA TESTING LABORATORY. A facility that conducts testing of marijuana products as required by ORS 475B.555 and required to be licensed under ORS 475B.560.

MARIJUANA RETAILER. Any establishment in, or premises, on which a person or entity required to be licensed under ORS 475B.110 operates.

MARIJUANA WHOLESALER. Any establishment in, or premises on, which a person or entity required to be licensed under ORS 475B.100 operates.

TIME, PLACE, AND MANNER RESTRICTIONS. City Ordinance Nos. 870 and 892 and any successor ordinance(s), all as may be amended from time to time.

AMENDMENT NO. 2

TABLE 3.5-1: USES IN THE C-1, C-2, and C-3 ZONES

Uses	Corridor Commercial (C-1)	Downtown Commercial (C-2)	Community Commercial (C-3)
Commercial			
<u>Marijuana Retailer</u>	<u>(P)(7)</u>	<u>(P)(7)</u>	<u>(P)(7)</u>
<u>Marijuana Testing Laboratories</u>	<u>(P)(7)</u>	<u>(P)(7)</u>	<u>(P)(7)</u>

vii. (7) Marijuana Businesses A Marijuana Dispensary must meet the applicable requirements of Section 3.14.

AMENDMENT NO. 3

SECTION 3.6 INDUSTRIAL

B. PERMITTED USES. (Subject to Site Plan Review)

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40. Marijuana Production Facility, Marijuana Processing Facility, Marijuana Wholesaler

- i. Marijuana Businesses must meet the applicable requirements of Section 3.14.

AMENDMENT NO. 4

SECTION 3.14 MARIJUANA BUSINESSES

A. PROCEDURES.

1. ~~Medical Marijuana Dispensaries~~ Marijuana Businesses, including new ~~Medical Marijuana Dispensaries~~ Marijuana Businesses located at the same location as a previously approved ~~Medical Marijuana Dispensaries~~ Marijuana Business, shall obtain Site Plan Approval pursuant to under Section 4.8. Notwithstanding the foregoing, no Site Plan Review approval is required for:

a. An existing Medical Marijuana Dispensary converts to a Marijuana Retailer.

2. All applications for Marijuana Businesses shall be made in the name of the Person Responsible for a Medical Marijuana Facility as defined in OAR 333-008-1010(26) person and/or entity identified in any state licensing and the City business license.

3. A Marijuana Business cannot be approved as a home occupation.

B. MARIJUANA BUSINESS GENERAL STANDARDS AND APPROVAL CRITERIA.

In addition to any applicable approval criteria for Site Plan Approval, and any other standards for the zone in which the Marijuana Business is located, the applicant shall ~~comply with~~ satisfy the following approval criteria:

1. ~~Medical Marijuana Dispensaries~~ Marijuana Businesses can only be approved in the zones in which they are the specific type of Marijuana Business is expressly identified as a permitted use. Similar uses are not permitted. Permissibility of one type of Marijuana Business in a particular zone cannot be the basis to allow a non-permitted type of Marijuana Business as a similar use under Section 9.28.

2. ~~An application for a Medical Marijuana Dispensary must have a current City business license at the time of application.~~ An applicant for a Marijuana Business must obtain a City business license and, as applicable, a recreational marijuana or dispensary permit pursuant to the Time, Place, and Manner Restrictions prior to initiating the use, but no later than six months after land use approval.

3. Applicant's proposal must demonstrate compliance, or the ability to comply (with appropriate conditions of approval), with ~~Ordinance No. 870~~ applicable provisions of the Time, Place, and Manner Restrictions.

4. If there are any conflicting standards between state law, ~~Ordinance No. 870~~ the Time, Place, and Manner Restrictions, and this Ordinance, the most stringent standard shall apply.

5. All exterior lighting must comply with the lighting standards in the zone in which the use is proposed.

6. Co-location of Marijuana Businesses on the same property is permitted except as prohibited by state law, the Time, Place, and Manner Restrictions, and this Zoning Ordinance.

7. All Marijuana Businesses will conduct operations inside secure, enclosed structures. Marijuana Products may not be displayed in a manner that is externally visible to the public. No drive-through, curbside, mobile, or other external sale methods are permitted.

8. The applicant shall demonstrate how the proposed Marijuana Business complies with all state security system requirements applicable to the proposed Marijuana Business.

9. The applicant must demonstrate how measures to control odors satisfies applicable requirements set forth in the Time, Place, and Manner Restrictions.

10. The structure within which the Marijuana Business will operate must meet applicable fire and building code requirements.

11. Applications for a specific type of Marijuana Business shall satisfy the additional standards applicable to that type of Marijuana Business set out in subsection (C) through (H) below.

#### C. ADDITIONAL CRITERIA FOR MEDICINAL MARIJUANA DISPENSARIES

1. A Medical Marijuana Dispensary must not be located (a) at the same address as a marijuana grow site registered under ORS 475B.420, (b) within 1,000 feet of the real property comprising a public or private elementary, secondary, and/or career school attended primarily by minors, and/or (c) within 1,000 feet of another dispensary. "Within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from the closest point on the boundary line of the real property on which the Medical Marijuana Dispensary is proposed to be sited.
2. Medical Marijuana Dispensaries are not permitted in the Industrial (I) Zone even when incidental or subordinate to a permitted use in the (I) Zone.
3. Medical Marijuana Dispensaries are considered "retail" for purposes of parking requirements.

#### D. ADDITIONAL CRITERIA FOR MARIJUANA RETAILERS

1. Marijuana Retailers must not be located (a) at the same address as another Marijuana Business except as permitted under Oregon law, the Time, Place, and Manner Restrictions, and this Zoning Ordinance, or (b) within 1,000 feet of the real property comprising a public or private elementary, secondary, and/or career school attended primarily by minors. "Within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from the closest point on the boundary line of the real property on which the Marijuana Retailer is proposed to be sited.
2. Marijuana Retailers are not permitted in the Industrial (I) Zone even when incidental or subordinate to a permitted use in the (I) Zone.
3. Marijuana Retailers are considered "retail" for purposes of parking requirements.

#### E. ADDITIONAL CRITERIA FOR MARIJUANA PRODUCTION FACILITIES

1. Marijuana Production Facilities shall only be approved if the growing activities occur exclusively within permanent, fully enclosed, rigid, non-translucent structures that require a building permit, reviewed under Section 3.6(E). All lighting used for growing purposes must be contained completely inside the structure. No hoop-houses, sheds, shipping containers, trailers, or similar structures are permitted.
2. Under no circumstances, and notwithstanding anything in this Zoning Ordinance to the contrary, may retail sales of Marijuana Products occur at the same location as a Marijuana Production Facility in the Industrial (I) Zone.

#### F. ADDITIONAL CRITERIA FOR MARIJUANA PROCESSING FACILITIES

1. Marijuana Processing Operations shall only occur in permanent, fully enclosed, rigid, non-translucent structures requiring a building permit and reviewed under Section 3.6(E).
2. Under no circumstances, and notwithstanding anything in this Zoning Ordinance to the contrary, may retail sales of Marijuana Products occur at the same location as a Marijuana Processing Facility in the Industrial (I) Zone.

#### G. ADDITIONAL CRITERIA FOR MARIJUANA WHOLESALING BUSINESSES

1. Under no circumstances, and notwithstanding anything in this Zoning Ordinance to the contrary, may retail sales of Marijuana Products be conducted by a Marijuana Wholesaling Business in the Industrial (I) Zone.

#### H. ADDITIONAL CRITERIA FOR MARIJUANA TESTING LABORATORIES

1. Under no circumstances, and notwithstanding anything in this Zoning Ordinance to the contrary, may retail sales of Marijuana Products be conducted by a Marijuana Testing Laboratory in the Industrial (I) Zone.

#### I. CONDITIONS OF APPROVAL

In addition to any conditions of approval imposed as part of Site Plan or zoning application approval, the following shall be mandatory conditions of approval for all ~~Medical Marijuana Dispensaries~~ Marijuana Businesses:

1. The applicant for a ~~Medical Marijuana Dispensary~~ Marijuana Business shall obtain and present documentation of all applicable state approvals, registrations, licensing, and permitting to the City within 6 months of Site Plan or zoning application approval.
2. Marijuana Businesses shall keep all required state registrations, licensing, and permitting current at all times.
3. Marijuana Businesses shall keep all required City business licenses, ~~or other required permits, or other required approvals~~ current at all times.
4. At all times, ~~Medical Marijuana Dispensaries~~ Marijuana Businesses shall remain compliant with ~~Ordinance No. 870~~ applicable provisions of the Time, Place, and Manner Restrictions and

applicable state laws governing ~~Medical Marijuana Dispensaries~~ Marijuana Businesses, all as they may be amended from time to time.

5. ~~The applicant shall provide the City notice and applicable documentation from the state of any change in the Person Responsible for a Medical Marijuana Facility or the suspension, loss, or forfeiture of any state approval, registration, licensing, or permitting. At all times, the operator of a Marijuana Business shall be the same person or entity holding the corresponding City business license, recreational marijuana or dispensary permit, and applicable state registrations, licensing, and/or permitting. The operator shall provide the City notice and appropriate documentation from the state of any changes in ownership or the suspension, loss, or forfeiture of any state approval, registration, licensing, or permitting.~~

6. Notwithstanding anything to the contrary in this Zoning Ordinance, any approval for a Marijuana Business shall be void if any condition of approval is violated and not cured within 30 days of City's delivery of a notice identifying the violation. The Community Development Director may prescribe a longer cure period provided such period does not exceed 90 days.

7. Notwithstanding anything to the contrary in this Zoning Ordinance, any approval for a Marijuana Business shall be deemed abandoned, and thus void, if the Marijuana Business ceases to operate for any period of 180 or more consecutive days.

AMENDMENT NO. 5

TABLE 4.5-1 REQUIRED VEHICLE PARKING

USE	PARKING SPACES REQUIRED (Spaces per 1,000 sq. ft. unless otherwise noted)
COMMERCIAL AND INDUSTRIAL	
Shopping Goods (Retail)	2.86 spaces
Convenience Goods (Retail) Retail	2.86 spaces
Manufacturing/Production/Processing/Laboratories	2.0 spaces

AMENDMENT NO. 6

SECTION 4.8 SITE PLAN APPROVAL. – To determine compliance with this Ordinance for development in zoning districts.

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B. PROCEDURES.

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7. Site Plan Criteria. Approval shall be based on the following criteria:

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d. Pedestrian and vehicular circulation and parking. The location and number of points of access to the site, sidewalks, the interior circulation patterns, designs of parking areas, and the separation between pedestrians and moving and parked vehicles shall be designed to promote safety and avoid congestion on adjacent streets. The proposal shall demonstrate compliance with Sections 4.4 to 4.7 as applicable.

...

h. Landscaping requirements. The proposal shall demonstrate compliance with pursuant to Section 3.5.1(N), 3.5.1(O)(6), or Section 3.6(O) as applicable.