

**ORDINANCE NO. 2015-03**

**AN ORDINANCE AMENDING ORDINANCE NO. 2012-05; ESTABLISHING MEDICAL MARIJUANA DISPENSARIES AS A PRINCIPAL USE IN CERTAIN ZONES; SUPERSEDING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND DECLARING AN EMERGENCY.**

WHEREAS, the City of La Pine ("City") adopted Ordinance No. 2012-05 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. 2014-04 imposing a moratorium on medical marijuana dispensaries; and

WHEREAS, City adopted Ordinance No. 2015-02 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 medical marijuana dispensaries on March 7, 2015; 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 La Pine City Council (the "Council"); and

WHEREAS, the Council, after receiving public testimony on the proposed changes during a scheduled public hearing on April 22, 2015, unanimously voted to approve the recommended changes.

NOW, THEREFORE, the City of La Pine ordains as follows:

1. Findings. The above-stated findings contained in this Ordinance No. 2015-03 (this "Ordinance") are hereby adopted.

2. Amendments. The amendments to the City of La Pine Zoning Ordinance (Ordinance No. 2012-05) provided on the attached Exhibit A and herein incorporated by this reference are hereby approved and adopted. The foregoing amendments are hereby made part of Ordinance No. 2012-05. The provisions of Ordinance No. 2012-05 that are not amended or modified by this Ordinance shall 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. 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.

4. Emergency Declaration. The Council finds that passage of this Ordinance is necessary for the immediate preservation of the peace, health, and safety of City's citizens. Therefore, an emergency is hereby declared to exist. This emergency Ordinance will be in full force and effect upon its passage by the Council and approval of the mayor.

This Ordinance was PASSED and ADOPTED by the La Pine City Council by a vote of \_\_\_ for and \_\_\_ against and APPROVED by the mayor on April 22, 2015.

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Ken Mulenex, Mayor

ATTEST:

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Richard L. Allen, Interim City Manager

# EXHIBIT A

(Medical marijuana dispensaries)

(Note: double underlined is new text, ~~strikethrough~~ text is deleted)

## **Amendment 1:**

### Section 8 DEFINITIONS

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**Medical Marijuana Dispensary.** Any structure or use of property subject to registration through the Oregon Health Authority under ORS 475.300 to 475.346, as may be amended from time to time, involving the sale, distribution, transmittal, gift, dispensing, and/or otherwise provides medical marijuana or medical marijuana products to medical marijuana qualifying patients excluding the wholesaling or production of medical marijuana or medical marijuana products.

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**Building Setback.** ~~The distance on a lot from the centerline of any road within which no building or structure, principal or accessory, shall be placed, unless otherwise indicated in this Ordinance.~~ The minimum allowable horizontal distance from a property line, to the nearest vertical wall or other element of a building or structure as defined herein. Where a public access easement is provided in lieu of right-of-way, the interior easement line shall become an assumed property boundary for the purposes of setbacks.

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## **Amendment 2:**

### Section 10 PERMITTED USES

The following table lists principal and accessory uses that are permitted in each zone. Uses shall be interpreted according to the common meaning of the term or as defined. Uses not specifically listed ~~shall not be permitted~~ may be permitted pursuant to Section 16 of this Ordinance.

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## C

### Traditional Commercial Zone

#### Principal uses

#### Conditional Uses

Retail sales and/or product service, including auto sales/service

Single-family dwellings (701.1)  
Parking lots not associated with a principal

establishments, including auto related sales/services  
 Public, non-commercial parks & recreation  
 Eating & drinking establishments  
 Personal & health service establishments such as Health clubs and training  
 Business, professional &, government offices  
 Hotels and lodging  
 Transit Facilities  
 Commercial recreational uses  
 Multi-family dwellings  
 Veterinary clinic  
 Public, non-commercial parks & recreation  
 Public & private schools  
 Residential Care Facilities & nursing homes  
 Family day care home, group day care home  
 Churches  
 Cemeteries  
 Bed & breakfast establishments  
 Clubs and lodges  
 Government buildings & services  
 Forestry activities, including but not limited to timber harvesting  
 Essential services  
 Day care centers  
 Funeral homes  
Medical Marijuana Dispensary (subject to the requirements of Section 12.N of this Ordinance.)

use  
 Any use that emits fumes or noxious odors such as paint booths, refinishing, sand blasting, food processing, animal processing, tanneries, composting, and the like  
 Any use that requires a DEQ air quality permit  
 Any use that emits noise beyond 20 dB

Accessory uses

Garage, storage shed, swimming pool  
 Home occupation & home-based business  
 Shelter for domestic pets  
 Other clearly incidental & subordinate uses

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**CMX**  
**Mixed-Use Commercial Zone**

Principal uses

All uses in the RSF, RMF, and RMP zones  
 Retail sales and/or product service, including show rooms  
 Personal & health service establishments  
 Eating and drink establishments  
 Business, professional &, government offices including business parks  
 Passenger transportation terminals  
 Parking lots and structures  
 Motels and hotels

Conditional uses

Automobile, RV & truck sales and/or service uses  
 Accessory dwellings

Accessory uses to a Primary Use\*

Clearly incidental & subordinate uses  
 \*Accessory uses shall be constructed after or in conjunction to the construction of the property's primary use.

Clubs, lodges & fraternal organizations  
 Commercial recreation and amusement  
 Funeral homes  
 Veterinary clinic  
 Government buildings & services  
 Forestry activities, including but not limited  
 to timber harvesting  
 Essential services  
Medical Marijuana Dispensary (subject to the  
 requirements of Section 12.N of this Ordinance.)

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**F and PF  
 Forest, and Public Facility Zones**

Principal uses

All I zone principal uses  
 Public utilities, facilities, and structures that  
 do not contain point of service offices open  
 to the general public  
 Wildfire interface and wildfire prevention  
 activities  
 Energy production facilities that do not  
 contain point of service offices pen to the  
 general public  
 Forestry activities, including but not limited  
 to timber harvesting  
Public schools

Conditional uses

All I zone conditional uses  
 Establishments for storage and/or sale of  
 junk  
 Sanitary landfill, solid waste transfer  
 stations, or similar facility for processing  
 and disposal of solid waste

Accessory uses to a Primary Use\*

Clearly incidental & subordinate uses  
 \*Accessory uses shall be constructed after or  
 in conjunction to the construction of the  
 property's primary use.

Prohibited Uses

Residential subdivisions, commercial service and  
 retail uses

**Amendment 3:**

12. SPECIAL USES

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**N. Medical Marijuana Dispensaries**

**1. PROCEDURES**

- a. Medical Marijuana Dispensaries shall obtain a Zoning Permit pursuant to Section 7, and/or a Site Plan Review approval pursuant to Section 13, as required by the Zoning Ordinance.
  - b. All applications shall be made in the name of the Person Responsible for a Medical Marijuana Dispensary as defined in OAR 333-008-1010(26).
2. ADDITIONAL APPROVAL CRITERIA. In addition to any applicable approval criteria for Zoning Permit and/or Site Plan Review approval, the applicant shall comply with the following approval criteria:
- a. An application for a Medical Marijuana Dispensary must have a current city business license at the time of application.
  - b. Applicant's proposal must demonstrate compliance, or the ability to comply (with appropriate conditions of approval), with Ordinance No. 2015-02.
  - c. A Medical Marijuana Dispensary shall be setback at least 50 feet from Highway 97.
  - d. A public entrance to a Medical Marijuana Dispensary shall not be visible from or oriented towards Highway 97 or Huntington Road, unless the Medical Marijuana Dispensary is located in a building that is more than 50 feet from the right-of-way of those roadways.
3. CONDITIONS OF APPROVAL. In addition to any conditions of approval imposed as part of Zoning Permit and/or Site Plan Review approval, Medical Marijuana Dispensaries are subject to the following conditions of approval:
- a. The applicant for a Medical Marijuana Dispensary shall obtain and present documentation of all applicable state approvals, registration, licensing, and permitting to the City within 6 months of Zoning Permit or Site Plan Review approval.
  - b. Medical Marijuana Dispensaries shall keep all required state registration, licensing, and permitting current.
  - c. Medical Marijuana Dispensaries shall keep all required City business license or other required permits current.
  - d. At all times, Medical Marijuana Dispensaries shall remain compliant with Ordinance No. 2015-02 and applicable state laws governing Medical Marijuana Dispensaries, all as they may be amended from time to time.
  - e. The applicant shall provide the City notice and applicable documentation from the state of any change in the Person Responsible for a Medical Marijuana Dispensary or the

suspension, loss, or forfeiture of any state approval, registration, licensing, or permitting.

- f. The Zoning Permit and/or Site Plan Review approval for a Medical Marijuana Dispensary shall be void if any condition of approval is violated.