

ORDINANCE NO. 2007

AN ORDINANCE AMENDING TITLE 8 OF THE CENTRAL POINT MUNICIPAL CODE, BY ADDING A CHAPTER 8.45 HOMEGROWN AND MEDICAL MARIJUANA

RECITALS:

- A.** In November 1998, Oregon voters approved the Oregon Medical Marijuana Act (OMMA) which allowed medical use and possession of marijuana, and in 2013 the Oregon legislature approved House Bill 3460 amending the OMMA to allow medical marijuana dispensaries (collectively "OMMA").
- B.** In November 2014, Oregon voters approved Measure 91 (M. 91) legalizing personal possession, growth, processing, delivery and sale of nonmedical marijuana.
- C.** OMMA and M. 91 fail to address local regulation and impact of the growing of medical and homegrown marijuana in city limits, which the City Council has found to be a substantial and important issue implicating health, welfare and safety concerns within the City of Central Point.
- D.** Marijuana plants, whether grown indoors or outdoors, especially as they mature prior to harvest, may produce a distinctive odor that may be detectable far beyond property boundaries.
- E.** The strong smell of marijuana may create an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery and armed robbery; and
- F.** The City of Central Point is a home-rule Municipal corporation; and
- G.** Section 4 of the Central Point Charter provides: "The City shall have all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities, as fully as though this charter specifically enumerated each of those powers.";
- H.** Words ~~lined through~~ are to be deleted and words **in bold** are added.

THE PEOPLE OF CENTRAL POINT DO ORDAIN AS FOLLOWS:

SECTION 1. Title 8 HEALTH AND SAFETY of the Central Point Municipal Code hereby adds a new Chapter 8.45, restricting homegrown and medicinal marijuana grows in city limits, as follows:

**CHAPTER 8.45
HOMEGROWN AND MEDICAL MARIJUANA**

Sections:

- 8.45.010 Intent and Purpose**
- 8.45.020 Definitions**
- 8.45.030 Homegrown and Medical Marijuana Subject to Regulation**
- 8.45.040 Public Nuisance Remedy**
- 8.45.050 Violation**
- 8.45.060 Conflict of Laws**
- 8.45.070 Severability**

8.45.010 Intent and Purpose

The City Council of the City of Central Point recognizes that citizens of the state of Oregon may engage in both recreational and medicinal use of marijuana in accordance with state law. However, the City Council also recognizes that cultivating, drying, production, processing, keeping or storage of marijuana, without appropriate safeguards in place, can have a detrimental effect upon public safety and neighboring citizens. The City Council finds and declares that the health, safety and welfare of its citizens are promoted by requiring marijuana cultivators engaged in recreational or medicinal cultivation, drying, production, processing, keeping or storage of marijuana to ensure that said marijuana is not accessible, visible or odor causing to other persons or property, or otherwise illegal under Oregon state law.

8.45.020 Definitions

Words and phrases used in Sections 8.45.010 to 8.45.070 shall have the following meanings ascribed to them:

"Homegrown Marijuana" means any marijuana cultivated, dried, produced, processed, kept or stored for personal recreational use by a person 21 years of age or older in accordance with state law.

"Household" means a housing unit, and includes any indoor structure or accessory dwelling unit in or around the housing unit at which the occupants of the housing unit are cultivating, drying, producing, processing, keeping, or storing homegrown marijuana.

"Housing unit" means a house; a mobile home; a manufactured home; and/or a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall including an individual residential unit in an apartment, duplex, townhome, condominium, or senior living facility.

"Indoors/Indoor Structure" means within a fully enclosed and secure structure that complies with the Oregon Residential Specialty Code (ORSC) or Oregon Structural Specialty Code (OSSC), as adopted by the City of Central Point, which has a complete roof enclosure supported by connecting walls extending from the foundation/slab to the roof. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" x 4" or larger wood studs covered with 3/8" or thicker weather-resistant siding or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

"Marijuana" means all parts of the plant Cannabis family Moraceae, including, but not limited to, its dried leaves and flowers, any marijuana products derived therefrom. The term includes any and all homegrown marijuana, medical marijuana and marijuana products as defined in this section.

"Marijuana cultivator" means a medical marijuana grower, recreational marijuana homegrower, patient, and any landlord or property owner allowing marijuana to be cultivated, dried, produced, processed, kept or stored at a premises.

"Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption.

"Medical Marijuana" means the marijuana cultivated, dried, produced, processed, kept or stored for medicinal use in accordance with the OMMA.

"Medical Marijuana Grower" means any person engaged in the cultivation, drying, production, processing, keeping or storage of medical marijuana in accordance with state law, and includes, but is not limited to the meaning set out at OAR 333-008-0010 (11)&(21).

"Medical Marijuana Grow Site" means a location registered pursuant to ORS 475.304 where medical marijuana is produced for use by a patient.

"Recreational Marijuana Homegrower" means a person 21 years of age and older engaged in the cultivation, drying, production, processing, keeping or storage of homegrown marijuana in accordance with state law.

"Homegrown Marijuana Grow Site" means a location in which a person 21 years of age and older cultivates, dries, produces, processes, keeps or stores homegrown recreational marijuana in accordance with state law.

"Patient" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.

"Premises" means a household, medical marijuana grow site, homegrown marijuana grow site, and/or primary residence of a patient.

"Property" means any home, business or public right-of-way.

8.45.030 Homegrown and Medical Marijuana Subject to Regulation

A. Marijuana Cultivators shall be allowed to cultivate, produce, process and/or possess homegrown marijuana and medical marijuana subject to the following conditions:

- 1. such cultivation, production, processing, or possession of marijuana must be in full compliance with all applicable provisions of OMMA and M. 91;**
- 2. such cultivation, production, processing or possession of marijuana must be conducted indoors;**

3. the cultivation, production, processing, or possession of such marijuana must not be perceptible from the exterior of the household, housing unit, and/or indoor structure including but not limited to:
 - a. common visual observation, which would prohibit any form of signage;
 - b. unusual odors, smells, fragrances, or other olfactory stimulus;
 - c. light pollution, glare, or brightness that disturbs the repose of another;
 - d. undue vehicular or foot traffic, including excess parking within the residential zone; and
 - e. excessive noise that disturbs the repose of another in violation of CPMC 8.04.
4. such cultivation, production, processing, or possession of marijuana plants shall be within a secure, defined area;
5. such cultivation, production, processing or possession of marijuana shall meet the requirements of all adopted city building and life/safety codes;
6. such cultivation, production, processing or possession of marijuana shall meet the requirements of all adopted water and sewer regulations promulgated by the City or any special district having jurisdiction;
7. disposal of any excess or unused marijuana, marijuana products, or other byproducts thereof, shall meet any and all local and state requirements for disposal, and shall be disposed of in a secure fashion so as to avoid access by children, visitors, casual passersby, vandals or anyone not licensed or authorized to possess medical or homegrown marijuana;
8. such cultivation, production, processing or possession of marijuana in a commercial or industrial structure located in a commercial or industrial zone shall meet the following requirements:
 - a. the use must be conducted indoors;

- b. the premises must not be vacant and there shall be an actual daily presence, use and occupancy of the premises by an owner, tenant, employee or agent thereof;

9. such cultivation, production, processing or possession of marijuana in residential zones or in a housing unit shall meet the following requirements:

- a. such cultivation, production, processing, or possession of marijuana shall only be conducted within the primary residence of the marijuana cultivator;
- b. such marijuana plants shall not be cultivated, processed, produced or possessed in the common areas of a multi-family or attached residential development such as townhomes and condominiums;
- c. for purposes of this ordinance, "primary residence" means the place that a person, by custom and practice, makes his or her principle domicile and address and to which the person intends to return, following any temporary absence, such as vacation. Residence is evidenced by actual daily physical presence, use, and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking of meals, regular mail delivery, vehicle and voter registration, or credit, water, and utility billing. A person shall have only one primary residence, which may include an indoor structure or accessory dwelling unit, provided that the indoor structure or accessory dwelling unit is located on the same tax lot as the primary residence.

10. For purposes of this ordinance, "a secure" area means an area within the primary residence or indoor structure accessible only to the patient or primary caregiver, or marijuana cultivator. Secure premises shall be locked or partitioned off to prevent access by children, visitors, casual passersby, vandals, or anyone not licensed and authorized to possess medical or homegrown marijuana.

B. Licensed commercial grows, as defined in M. 91, are strictly prohibited in all residential zones.

8.45.040 Public Nuisance Remedy

Ordinance No. 2007 (05/14/2015)

A. Any household, housing unit, premises, property, building, structure or place of any kind where medical or homegrown marijuana is grown, processed, manufactured, bartered, distributed or given away in violation of state law or this chapter, or any place where medical or homegrown marijuana is kept or possessed for sale, barter, distribution or gift in violation of state law or this chapter, is a public nuisance per Chapter 8.04.

B. In addition to the foregoing, two or more violations in a 30-day period may be deemed a Chronic Nuisance Property subject to the provisions of Chapter 8.02.

C. In addition to any remedies provided in Chapters 8.02 and 8.04, the city may institute an action in municipal or circuit court in the name of the city to abate, and to temporarily and permanently enjoin, such nuisance. The court has the right to make temporary and final orders as in other injunction proceedings. The city shall not be required to give bond in such an action.

8.45.050 Violation

In addition to treatment as a nuisance, all violations of this title are subject to punishment under the general penalty provisions in Chapter 1.16. Each day in which a violation continues shall constitute a separate violation.

8.45.060 Conflict of Laws

In the event of any conflict between the provisions of this Ordinance and the provisions of any other applicable state or local law, the more restrictive provision shall control.

8.45.070 Severability

The sections, subsections, paragraphs and clauses of this Ordinance are severable. The invalidity of one section, subsection, paragraph or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 2. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word Ordinance may be changed to "code", "article", "section", "chapter", or other word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions need not be codified and the City Recorder is authorized to correct any cross references and any typographical errors.

PASSED by the Council and signed by me in authentication of its passage this 28th day of May 2015.


Mayor Hank Williams

ATTEST:



City Recorder