



ORDINANCE NO. 6036

AN ORDINANCE AMENDING ORDINANCES 5887 AND 5892, AND AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 5.08 TO MODIFY THE LOCATIONAL REQUIREMENTS FOR RECREATIONAL MARIJUANA USES; UPDATE REFERENCES TO THE OREGON REVISED STATUTES (ORS); AND REMOVE REFERENCES TO ANNUAL PAYMENTS

WHEREAS, the City adopted Ordinance 5892 amending Section 5.08.025 of the AMC establishing regulations for all medical marijuana businesses and facilities in the City of Albany; and

WHEREAS, the City adopted Ordinance 5887 amending Section 5.08.026 of the AMC, establishing regulations for recreational marijuana uses and facilities in the City of Albany; and

WHEREAS, AMC 5.08.025(1) provides an exception for medical marijuana facilities in the City's industrial zones (Industrial Park - IP, Light Industrial - LI, Heavy Industrial - HI), exempting them from the 300-foot buffer from residentially zoned property if located in one of these industrial zones; and

WHEREAS, AMC 5.08.026, regulation of recreational marijuana facilities, does not provide the same exception; and

WHEREAS, the ORS for marijuana uses has been renumbered; and the City desires to reflect the renumbering of the ORS in the AMC; and

WHEREAS, the City does not collect an annual payment as described in the AMC for both medical and recreational uses; and

WHEREAS, the City desires to update the AMC to recognize that payment of an annual city fee is not required, and desires to provide consistency in the regulation of manufacturing uses for recreational and medical marijuana facilities.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: AMC Chapter 5.08, Peddlers – Solicitors, is hereby modified and amended as follows:

5.08.025 Limitations on operation of medical marijuana facilities.

(1) In addition to such limitations and regulations as may be imposed by State law on medical marijuana facilities which dispense marijuana pursuant to ORS ~~475C.475B.350~~, no such facility, nor any person operating as an employee or agent of such facility, shall operate, locate, or dispense marijuana within 300 feet of any property zoned residential as described in Article 3 of the Albany Development Code (ADC) or zoned mixed-use as described in Article 5 of the ADC, and the Office Professional (OP) and Neighborhood Commercial (NC) zones as described in the ADC. This restriction does not apply to property that is zoned Industrial Park (IP), Light Industrial (LI) or Heavy Industrial (HI).

(2) In addition to such limitations and regulations as may be imposed by State law, all other medical marijuana businesses, including, but not limited to, growers and processors, and medical marijuana facilities are subject to the same restrictions as those for recreational marijuana as set forth in AMC ~~5.08.026(2)(a)~~, inclusive of applicable definitions. This subsection does not apply to those businesses and facilities legally in existence prior to April 12, 2017.

~~(3) In addition to such limitations and regulations as may be imposed by State law on medical marijuana facilities which dispense marijuana pursuant to ORS ~~475C.475B.350~~, no such facility nor any person operating as an employee or agent of such facility shall locate or operate a medical marijuana facility or dispense medical marijuana without an annual payment to the City of Albany in an amount to be determined by resolution to defray law enforcement costs associated with reasonable inspections, oversight, and enforcement actions associated with the operation of medical marijuana facilities within the jurisdictional limits of the City of Albany.~~

(3) (4) Violation of this section shall be a misdemeanor punishable under the general penalty set forth at Chapter ~~1.04~~ AMC. (Ord. 5892 § 1, 2017; Ord. 5833 § 1, 2014).

5.08.026 Recreational marijuana.

(1) Definitions.

(a) “Marijuana” means 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 as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended.

(b) “Marijuana processor” means an individual or entity licensed by the Oregon Liquor Control Commission to process marijuana.

(c) “Marijuana producer” means an individual or entity licensed by the Oregon Liquor Control Commission to manufacture, plant, cultivate, grow or harvest marijuana.

(d) “Marijuana retailer” means an individual or entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state.

(e) “Marijuana wholesaler” means an individual or entity licensed by the Oregon Liquor Control Commission to purchase items in this state for resale to a person other than a consumer.

(f) “Marijuana uses” means a marijuana processor, marijuana producer, or marijuana wholesaler. A “marijuana use” is not an authorized home occupation.

(g) “Within 300 feet” means a straight line measurement in a radius extending for 300 feet or less in every direction between any point on the boundary line of real property on which the marijuana use is located and the real property boundary line containing any property zoned residential as described in Article 3 of the Albany Development Code (ADC); zoned Mixed-Use as described in Article 5 of the ADC; zoned Office Professional (OP) as described in the ADC or zoned Neighborhood Commercial (NC) as described in the ADC.

(2) Applicable Zones.

(a) In addition to such limitations and regulations as may be imposed by state law on recreational marijuana uses pursuant to ORS Chapter ~~475C~~ ~~475B~~, no such marijuana use, marijuana use facility, marijuana testing or research facility nor any person operating as an employee or agent of such facility shall operate or locate within 300 feet of any property zoned Residential as described in Article 3 of the Albany Development Code (ADC); zoned Mixed-Use as described in Article 5 of the ADC; zoned Office Professional (OP) as described in the ADC or zoned Neighborhood Commercial (NC) as described in the ADC. **This restriction does not apply to property that is zoned Industrial Park (IP), Light Industrial (LI) or Heavy Industrial (HI).** In addition, all marijuana producers and marijuana processors shall be located indoors in a fully enclosed facility.

(b) Retail sales of marijuana which may be authorized by Oregon 2014 Initiative Measure 91 and/or any administrative regulations adopted pursuant thereto shall be subject to the same locational limitations and regulations applicable to medical marijuana facilities pursuant to AMC [5.08.025](#) including the sanction for violation set forth therein.

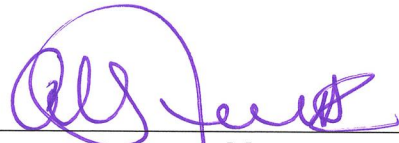
~~(c) In addition to such limitations and regulations as may be imposed by state law on marijuana uses and retail facilities pursuant to ORS Chapter ~~475B~~, no such marijuana use facility, marijuana retail facility, nor any person operating as an employee or agent of such facility shall locate or operate a marijuana use facility or dispense marijuana without an annual payment to the City of Albany in an amount to be determined by resolution as a fee to defray law enforcement costs associated with reasonable inspections, oversight, and enforcement actions associated with the operation of marijuana use facilities within the jurisdictional limits of the City of Albany.~~

(c) ~~(d)~~ Violation of this section shall be a misdemeanor punishable under the general penalty set forth at Chapter [1.04](#) AMC. (Ord. 5887 § 1, 2016; Ord. 5844 § 1, 2014).

Passed by the Council: February 28, 2024



Approved by the Mayor: February 28, 2024

Effective Date: March 29, 2024



Mayor

ATTEST:

Clerk