



CITY OF JOHN DAY

STAFF REPORT AMD-21-04

Date Submitted: May 11, 2021

Agenda Date Requested: May 20, 2021

To: John Day Planning Commission

From: Daisy Goebel, City of John Day
Associate Planner

Subject: Staff report for Ordinance No. 21-194-05, An Ordinance of the City of John Day Amending the John Day Development Code to Establish Regulations Concerning Medical and Recreational Marijuana Producers, Processors, Wholesalers, Laboratories, and Retailers; Allowing these Facilities in Some Commercial and Industrial Zones with Certain Restrictions; and Repealing Ordinances No. 14-161-02 (Medical Marijuana Banning Ordinance), No. 14-162-03 (Medical Marijuana Tax), No. 15-164-02 (TPM Regulations), and No. 15-164-02 (Marijuana Banning Ordinance). Type IV Procedure AMD-21-04

Location: Citywide

Type of Action Requested

<input type="checkbox"/>	<input type="checkbox"/>	Resolution	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	<input type="checkbox"/>	Formal Action	<input type="checkbox"/>	<input type="checkbox"/>	Report Only

1. BACKGROUND

Oregon State law authorizes the operation of medical and recreational marijuana businesses and provides those businesses with immunity from state criminal

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prosecution. In 2018, Grant County overturned a 2015 ban on recreational marijuana businesses after county residents voted to repeal the moratorium. Although the State of Oregon and Grant County have passed legislation authorizing marijuana businesses and providing criminal immunity under state law, the operation of those businesses remains illegal under federal law. The city council has home rule authority to decide whether, and under what conditions, certain commercial conduct should be regulated within the city and subject to the general and police powers of the city, except when local action has been clearly and unambiguously preempted by state statute. The City of John Day seeks to regulate the operation of marijuana businesses in the city in ways that protect and benefit the public health, safety, and welfare of existing and future residents and businesses in the city.

During initial discussion among the City Council on February 9, several issues were raised for further consideration:

- Appropriateness of 1,000 ft. buffer between recreational marijuana retailers
- Clarity regarding odor mitigation
- Appropriateness of requiring industrial hemp production to occur only in fully-enclosed buildings
- Clarity regarding the process of determining which applicant gets “first dibs” on a particular 1,000-ft radius

2. APPLICABLE CRITERIA

This request is a legislative amendment to amend the John Day Development Code. Legislative amendments are policy decisions made by the City Council. The approval criteria in section 5-4.1.050.G apply. The amendment must also conform with the Transportation Planning Rule provisions in section 5-4.7.060, as applicable.

3. PLANNING COMMISSION CONSIDERATIONS

The Planning Commission’s review must focus on the relevant code criteria and follow the public hearing requirements for a Type IV Legislative Amendment under section 5-4.7.020. The Planning Commission should recommend the City Council approve the request if it conforms to the approval criteria.



4. STAFF RECOMMENDATION

Staff recommends that the Planning Commission make a recommendation to the City Council to **adopt Ordinance 21-194-05, as presented** and findings in this report.

5. PUBLIC NOTIFICATION

The City of John Day mailed public notice to all affected property owners on April 21, 2021 and notice was posted in the Blue Mountain Eagle on April 28, 2021 as required by the Development Code.

Public comments received: None

6. ADOPTION PROCEDURE AND FINDINGS

The following section shown in italics and boldface provides the decision making criteria as required by John Day Development Code Section 5-4.1.050.G.

Decision-Making Criteria. The recommendation by the Planning Commission and the decision by the City Council shall be based on the following factors:

1. Approval of the request is consistent with the Statewide Planning Goals;

Findings: Specific findings of compliance with statewide land use goals are addressed below.

Goal 1—Citizen Involvement

Finding: The Code establishes procedures for text amendments such as the subject proposal to implement Goal 1. The Code specifically calls for various forms of notice and public hearings. The City has provided the requisite notices and held the requisite public hearings to satisfy the Code and therefore Goal 1 (See 5. Public Notification).

Goal 2—Land Use Planning.



Finding: Staff is following the prescribed procedure for a text amendment to ensure adequate review of the proposed text amendment. This staff report identifies the basis for making a decision on the subject proposal pursuant to applicable code criteria. Staff finds Goal 2 is met.

Goals 3-8

Finding: The proposed text amendments will have no foreseeable impact on Agricultural Lands, Forest Lands, Natural Resources, Scenic and Historic Areas, Open Spaces, Air, Water and Land Resources Quality, Recreational needs or resources, or the City's ability to plan for natural hazards. These Goals do not apply.

Goal 9—Economic Development

Finding: The proposed amendments will increase the variety of economic activities available within the City of John Day.

The marijuana industry has infused the Oregon economy with tens of thousands of jobs and Billions of dollars in the last six years. In addition to job and new business creation, retailers are taxed by the state at a rate of 17% for all recreational marijuana sold. 10% of the collected tax revenue is distributed directly to cities on a per-capita basis, but the allocation does not apply to cities that have banned marijuana businesses. In addition to the shared revenue John Day would receive, municipalities may enact a local tax of up to 3% on recreational sales in their area with voter approval.

This proposal will allow for significant economic expansion and diversification. Staff finds Goal 9 is met.

Goal 10—Housing

Finding: The proposed amendment does not affect the City's supply of land available for residential development or otherwise inhibit residential development.

Goal 11—Public Facilities and Services

Finding: The proposed amendment does not impact the City's ability to plan for

or supply public facilities or services. This Goal does not apply.

Goal 12—Transportation

Finding: The proposed amendment has no impact on the City’s ability to plan for and supply an adequate transportation system. It does not allow for higher levels of development than presently permitted or otherwise change the function or classification of any transportation facility. This Goal does not apply.

Goal 13—Energy Conservation

Finding: The proposed amendment has no impacts on energy use. This Goal does not apply.

Goal 14—Urbanization

Finding: The proposed text amendments do not impact the transition of rural land to urban uses.

2. Approval of the request is consistent with the Comprehensive Plan; and

Finding: The goals and policies of the City’s Comprehensive plan largely mirror the Statewide Land Use Goals. Accordingly, those goals and policies are either satisfied or not applicable for the same reasons set out in findings for the corresponding statewide land use goal.

3. The property and affected area is presently provided with adequate public facilities and services, including transportation, sewer and water systems, to support the use, or such facilities and services are provided for in adopted City plans and can be provided concurrently with the development of the property.

Finding: The proposed amendment affects multiple zones and uses within the City of John Day, but is not likely to notably increase demand on existing facilities beyond that of currently projected commercial growth. The areas affected by this amendment are broadly provided with adequate public facilities and services to accommodate significant commercial and industrial expansion. Existing and planned public facilities were designed to accommodate larger commercial and industrial sectors.



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7. PLANNING COMMISSION MOTION

After hearing the staff presentation and any public testimony, including any rebuttal, the commission will close the hearing and deliberate. The following motion is suggested:

“I move to recommend City Council approve AMD-21-04 based on the findings contained in the staff report [with conditions, if any].”

The staff report may be amended during the course of the hearing.

RECOMMENDED TO THE CITY COUNCIL by the John Day Planning Commission this 20th day of May, 2021.

Ayes: _____
Nays: _____
Abstentions: _____
Absent: _____
Vacancies: _____

ORDERED:

Ken Boethin, Chair

ATTEST:

Nicholas Green, City Manager



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Ordinance 21-194-05

AN ORDINANCE OF THE CITY OF JOHN DAY AMENDING THE JOHN DAY DEVELOPMENT CODE TO ESTABLISH REGULATIONS CONCERNING MEDICAL AND RECREATIONAL MARIJUANA PRODUCERS, PROCESSORS, WHOLESALERS, LABORATORIES, AND RETAILERS; ALLOWING THESE FACILITIES IN SOME COMMERCIAL AND INDUSTRIAL ZONES WITH CERTAIN RESTRICTIONS; AND REPEALING ORDINANCES NO. 15-164-02 (TPM REGULATIONS), AND NO. 15-164-02 (MARIJUANA BANNING ORDINANCE). TYPE IV PROCEDURE

- Strikeout language (~~example~~) is shown where language is proposed for removal
- Double Underlined language shows a proposed addition

DEVELOPMENT CODE AMENDMENTS

ARTICLE 5-2 LAND USE DISTRICTS

...

5-2.3.020 Commercial Districts- Allowed Land Uses

Table 5-2.3.020 Commercial Districts- Allowed Land Uses

Table 5-2.3.020 identifies the land uses that are allowed in the Commercial Districts. The specific land use categories are defined in Chapter 5-1.3 and 5-1.4.

Table 5-2.3—Land Uses Allowed in Commercial Districts (D, GC)			
Uses	Status of Use in District		
	Downtown (D)	General Commercial (GC)	[Reserve]
<u>Marijuana Retailer</u>	<u>CU/S</u>	<u>CU/S</u>	
<u>Medical Marijuana Dispensary</u>	<u>CU/S</u>	<u>CU/S</u>	
<u>Marijuana Wholesaler</u>	<u>CU/S</u>	<u>CU/S</u>	

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Marijuana Testing Laboratory	CU/S	CU/S	
Marijuana Production Facility	N	CU/S	
Marijuana Processing Facility	N	CU/S	

Key:

P = Permitted, subject to site/development review

S = Permitted with standards (Section 5-2.3.100)

CU= Conditional Use Permit Required (Chapter 5-4.4)

N = Not permitted

[CU/S = Conditional use with standards \(5-2.4.070\)](#)

...

The following section adds marijuana business standards to the commercial and industrial zones. The standards are a collection from other cities, the John Day attorneys, and the State model code for marijuana. The process requirements have been kept separate from the standards. No specific criteria have been added for marijuana uses. The only criteria that would be applied are the standards criteria in the Site Plan Review and Conditional Use Permit review sections. The standards below would have to be met for either kind of permit.

5-2.3.100 Commercial Districts – Special Use Standards

This section supplements the standards contained [in](#) Sections 5-2.3.020 through 5-2.3.090. It provides standards for the following land uses to control the scale and compatibility of those uses:

...

[B. Marijuana Businesses](#)

1. [Marijuana Business General Standards.](#)

[In addition to the approval criteria for site design review and/or conditional use permit approval, and any other applicable standards in this Development Code, the applicant shall satisfy the following standards. These shall continue to be maintained throughout the life of the permit.](#)



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- a. The marijuana business's state license or authority must be in good standing with the Oregon Health Authority or Oregon Liquor Control Commission and the marijuana business must comply with all applicable laws and regulations administered by the respective state agency, including, without limitation those rules that relate to labeling, packaging, testing, security, waste management, food handling, and training.
- b. If there are any conflicting standards between state law and the standards of this Development Code, the most stringent standard shall apply.
- c. An applicant for a marijuana business must obtain a City business license no later than six months after land use approval.
- d. All marijuana businesses shall conduct operations inside secure, enclosed structures. Marijuana products may not be displayed in a manner that is externally visible to the public. All doorways, windows, and other openings shall be located, covered, or screened in such a manner to prevent a view into the interior from any exterior public or semipublic area. No drive-through, curb-side, or other external sales methods are permitted.
- e. The applicant shall demonstrate how the proposed marijuana business complies with all state security system requirements applicable to the proposed marijuana business.
- f. Odors shall not be detectable at the property line. The applicant must demonstrate that an air filtration system or other mitigation measures will effectively control odors, to the satisfaction of the Planning Commission.
- g. The structure within which the marijuana business will operate must meet applicable fire and building code requirements.
- h. Applicants for a specific type of marijuana business shall satisfy the additional standards applicable to that type of marijuana business set out in subsections (2) through (5) of this section.
- i. Marijuana businesses must maintain adequate outdoor lighting over each exterior exit. All outdoor lighting must be fully shielded, downward casting, and must not spill over onto structures, other properties, or the night sky.
- j. No events of any kind are permitted in any marijuana business.

Extra standards for Medical and Recreational only differ by the distance to which they must separate. That is why there are two sections below, one for medical and one for recreational. If the PC determines that these should be the same, they could be condensed.

No limits were added to the hours of operation, though they could be. The State does allow the City to regulate the hours of deliveries or operation.

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2. Additional standards for Medical Marijuana Dispensaries.

- a. The premises of a medical marijuana dispensary must not be located:
 - i. On the same parcel or lot as a marijuana grow site registered under ORS 475B.810;
 - ii. Within 1,000 feet of the real property comprising a school providing education to K-12 grades, childcare center, or park;
 - iii. Within 1,00 feet of the premises of another medical marijuana dispensary; and/or
 - iv. Within 500 feet of the premises of a marijuana retailer
 - v. Sales or any other transfers of marijuana to customers must occur inside the licensed premises and must be conducted only between the marijuana business and individuals 21 years of age and older.
- b. “Within 1,000 feet” or “500 feet” means a straight-line measurement in a radius extending for 1,000 feet or less, or 500 feet or less (as applicable), in every direction from the closest point on the boundary line of the real property or premises (as applicable) of the applicable conflicting use identified in this section.
- c. “Premises” shall have the meaning assigned to such term in ORS 475B.015(30) as if such statute were also applicable to medical marijuana dispensaries.
- d. Medical marijuana dispensaries are considered “retail” for purposes of parking requirements.
- e. When a marijuana business is both a medical marijuana dispensary and a recreational marijuana retailer, the marijuana business must adhere to more the stringent standard as between the two uses.
- f. No marijuana shall be consumed on the premises.

3. Additional standards for Recreational Marijuana Retailers.

- a. The premises for a marijuana retailer must not be located:
 - i. At the same address as another marijuana business except as permitted under state law, the time, place, and manner restrictions, and this Development Code; or
 - ii. Within 1,000 feet of the real property comprising a public or private elementary, secondary, and/or career school attended primarily by minors;
 - iii. Within 1,000 feet of the premises of a medical marijuana dispensary; and/or
 - iv. Within 1,000 feet of the premises of another marijuana retailer.



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by non-invasive fire-resistant vegetation and fenced with locking gates with a Knox lock. Razor wire and similar fencing shall not be permitted. Weapons and firearms at the cultivation site are prohibited. Security measures shall be designed to ensure emergency access in compliance with fire safe standards. All structures used for production shall have locking doors to prevent free access.

- f. Any production facilities that utilize hazardous materials shall maintain any applicable permits from local, regional, or state programs regulating the use, storage, or disposal of hazardous materials.
 - g. A waste management plan addressing the storing, handling, and disposing of all waste by-products of the production activities in compliance shall be submitted for review and approval by the agency having jurisdiction. The plan shall characterize the volumes and types of waste generated, and the operational measures that are proposed to manage and dispose or reuse the wastes in compliance with best management practices. All garbage and refuse on the site shall be accumulated or stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on the site shall not be accumulated or stored for more than seven (7) calendar days and shall be properly disposed of before the end of the seventh day in a manner prescribed by the solid waste local enforcement agency. All waste, including but not limited to refuse, garbage, green waste, and recyclables, must be disposed of in accordance with local and state codes, laws, and regulations. All waste generated from production facilities must be properly stored and secured to prevent access from the public.
5. Additional standards for Marijuana Processing Facilities
- a. Marijuana processing operations shall only occur in permanent, fully enclosed, rigid, non-translucent with an approved building permit. No hoop-houses, sheds, shipping containers, trailers, or similar structures are permitted.
 - b. All processing facilities shall be equipped with odor control filtration and ventilation system(s) to control odors, humidity, and mold.
 - c. A site security plan shall be required. Security cameras shall be motion-sensor and be installed with capability to record activity beneath the canopy but shall not be visible from surrounding parcels and shall not be pointed at or recording activity on surrounding lots or parcels. Surveillance video shall be kept for a minimum of thirty (30) days. Video

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must use standard industry format to support criminal investigations. Lighting and alarms shall be installed to ensure the safety of persons and to protect the premises from theft. All processing sites shall be screened by non-invasive fire-resistant vegetation and fenced with locking gates with a Knox lock. Razor wire and similar fencing shall not be permitted. Weapons and firearms at the cultivation site are prohibited. Security measures shall be designed to ensure emergency access in compliance with fire safe standards. All structures used for processing shall have locking doors to prevent free access.

- d. Any processing facilities that utilize hazardous materials shall maintain any applicable permits from local, regional, or state programs regulating the use, storage, or disposal of hazardous materials.
- e. A waste management plan addressing the storing, handling, and disposing of all waste by-products of the processing activities shall be submitted for review and approval by the agency having jurisdiction. The plan shall characterize the volumes and types of waste generated, and the operational measures that are proposed to manage and dispose or reuse the wastes in compliance with best management practices. All garbage and refuse on the site shall be accumulated or stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on the site shall not be accumulated or stored for more than seven (7) calendar days and shall be properly disposed of before the end of the seventh day in a manner prescribed by the solid waste local enforcement agency. All waste, including but not limited to refuse, garbage, green waste and recyclables, must be disposed of in accordance with local and state codes, laws and regulations. All waste generated from processing facilities must be properly stored and secured to prevent access from the public.

Below are the regulations. These differ from the standards because the applicant does not usually have to show evidence of compliance with the permit application like they do the standards; but they DO have to comply over the life of the permit. This is also why they are required as conditions of approval. They would apply even if they were not added as conditions, but they help these rules be easy to find for the applicants.



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6. The following regulations apply to all marijuana business and shall be reiterated in the Conditions of Approval of all land use approvals for a marijuana business.
 - a. The applicant for a marijuana business shall obtain and present documentation of all applicable state approvals, registrations, licensing, and permitting to the City within six months after land use approval.
 - b. Marijuana businesses shall keep all required state registrations, licensing, and permitting current at all times.
 - c. Marijuana businesses shall keep all required City business licenses, permits, or other required approvals current at all times.
 - d. At all times, marijuana businesses shall remain compliant with applicable standards and applicable state laws governing marijuana businesses, all as they may be amended from time to time.
 - e. 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.
 - f. Any approval for a marijuana business shall be sent to the Planning Commission for a Type III revocation hearing if any condition of approval is violated and not cured within thirty (30) days of the City's delivery of a notice identifying the violation. The Planning Commission shall have the authority to revoke the land use approval after a public hearing on the matter if it is shown that the applicant did not adhere to any criteria or development standard. The City Manager may prescribe a longer cure period provided such period does not exceed ninety (90) days.
 - g. Any approval for a marijuana business shall be deemed abandoned, and thus void, if the marijuana business ceases to operate for any period of one hundred eighty (180) or more consecutive days.
 - h. Marijuana and tobacco products must not be smoked, ingested, consumed, or otherwise used on the licensed premises.
 - i. The facility must provide for secure disposal of marijuana remnants or byproducts; marijuana remnants or by-products shall not be placed within the marijuana business's exterior refuse containers.
 - j. All products containing marijuana intended to be ingested (i.e. edibles) must be labeled with the product's serving size and the amount of tetrahydrocannabinol in each serving in accordance with Oregon Health Authority and Oregon Liquor Control Commission rules.

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5-2.4 Industrial Districts

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Table 5-2.4.020 identifies the land uses that are allowed in the Commercial Districts. The specific land use categories are defined in Chapter 5-1.3 and 5-1.4.

Uses	Status of Use in District		
	General Industrial (GI)	Light industrial (LI)	Airport Industrial Park (AIP)
Agriculture- Nurseries and similar horticulture (See also, Wholesale and Retail Uses)	<u>P</u> <u>S</u>	<u>P</u> <u>S</u>	<u>P</u> <u>S</u>
<u>Agricultural Processing</u>	<u>S</u>	<u>S</u>	<u>S</u>
<u>Marijuana Wholesaler</u>	<u>S</u>	<u>S</u>	<u>S</u>
<u>Marijuana Testing Laboratory</u>	<u>S</u>	<u>S</u>	<u>S</u>
<u>Marijuana Production Facility</u>	<u>CU/S</u>	<u>CU/S</u>	<u>CU/S</u>
<u>Marijuana Processing Facility</u>	<u>CU/S</u>	<u>CU/S</u>	<u>CU/S</u>
<u>Industrial Hemp Production</u>	<u>S</u>	<u>S</u>	<u>S</u>

Key:

P = Permitted, subject to site/development review

S = Permitted with standards (Section 5-2.4.070)

CU= Conditional Use Permit Required (Chapter 5-4.4)

N = Not permitted

[CU/S = Conditional use with standards \(5-2.4.070\)](#)

...

[5-2.4.070 Industrial Districts - Special Use Standards](#)

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This section supplements the standards contained Sections 5-2.4.020 through 5-2.4.060. It provides standards for the following land uses to control the scale and compatibility of those uses:

A. Marijuana Businesses

1. Marijuana Business General Standards.

In addition to approval the criteria for site design review and/or conditional use permit approval, and any other applicable standards in this Development Code, the applicant shall satisfy the following standards. These shall continue to be maintained throughout the life of the permit.

- a. If there are any conflicting standards between state law and the standards of this Development Code, the most stringent standard shall apply.
- b. An applicant for a marijuana business must obtain a City business license no later than six months after land use approval.
- c. All marijuana businesses shall 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, curb-side, or other external sales methods are permitted.
- d. The applicant shall demonstrate how the proposed marijuana business complies with all state security system requirements applicable to the proposed marijuana business.
- e. Odors shall not be detectable at the property line. The applicant must demonstrate that the air filtration system will effectively control odors, to the satisfaction of the Planning Commission.
- f. The structure within which the marijuana business will operate must meet applicable fire and building code requirements.
- g. Applications for a specific type of marijuana business shall satisfy the additional standards applicable to that type of marijuana business set out in subsections (2) through (3) of this section.

2. Additional standards for Marijuana Production Facilities.

- a. Marijuana production facilities shall only be approved if the growing activities occur exclusively within permanent, fully enclosed, rigid, non-translucent structures with an approved building permit. No hoop-houses, sheds, shipping containers, trailers, or similar structures are permitted.



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- b. Under no circumstances, and notwithstanding anything in this Development Code to the contrary, may retail sales of marijuana products occur at the same location as a marijuana production facility.
- c. All production facilities shall be equipped with odor control filtration and ventilation system(s) that is sufficiently sized to control odors, humidity, and mold.
- d. All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties, or the night sky. All production facilities shall be fully contained so that little to no grow lighting escapes. Grow lighting shall not escape at a level that is visible from neighboring properties between sunset and sunrise.
- e. A site security plan shall be required. Security cameras shall be motion-sensor and be installed with capability to record activity beneath the canopy but shall not be visible from surrounding parcels and shall not be pointed at or recording activity on surrounding lots or parcels. Surveillance video shall be kept for a minimum of thirty (30) days. Video must use standard industry format to support criminal investigations. Lighting and alarms shall be installed to ensure the safety of persons and to protect the premises from theft. All production sites shall be screened by non-invasive fire-resistant vegetation and fenced with locking gates with a Knox lock. Razor wire and similar fencing shall not be permitted. Weapons and firearms at the cultivation site are prohibited. Security measures shall be designed to ensure emergency access in compliance with fire safe standards. All structures used for production shall have locking doors to prevent free access.
- f. Any production facilities that utilize hazardous materials shall maintain any applicable permits from local, regional, or state programs regulating the use, storage, or disposal of hazardous materials.
- g. A waste management plan addressing the storing, handling, and disposing of all waste by-products of the production activities in compliance shall be submitted for review and approval by the agency having jurisdiction. The plan shall characterize the volumes and types of waste generated, and the operational measures that are proposed to manage and dispose or reuse the wastes in compliance with best management practices. All garbage and refuse on the site shall be accumulated or stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on the site shall not be accumulated or stored for more than seven (7) calendar days

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and shall be properly disposed of before the end of the seventh day in a manner prescribed by the solid waste local enforcement agency. All waste, including but not limited to refuse, garbage, green waste, and recyclables, must be disposed of in accordance with local and state codes, laws, and regulations. All waste generated from production facilities must be properly stored and secured to prevent access from the public.

3. Additional standards for Marijuana Processing Facilities or Testing Laboratory.
 - a. Marijuana processing operations shall only occur in permanent, fully enclosed, rigid, non-translucent structure with an approved building permit. No hoop-houses, sheds, shipping containers, trailers, or similar structures are permitted.
 - b. All processing facilities shall be equipped with odor control filtration and ventilation system(s) that is sufficiently sized to control odors, humidity, and mold.
 - c. A site security plan shall be required. Security cameras shall be motion-sensor and be installed with capability to record activity beneath the canopy but shall not be visible from surrounding parcels and shall not be pointed at or recording activity on surrounding lots or parcels. Surveillance video shall be kept for a minimum of thirty (30) days. Video must use standard industry format to support criminal investigations. Lighting and alarms shall be installed to ensure the safety of persons and to protect the premises from theft. All processing sites shall be screened by non-invasive fire-resistant vegetation and fenced with locking gates with a Knox lock. Razor wire and similar fencing shall not be permitted. Weapons and firearms at the cultivation site are prohibited. Security measures shall be designed to ensure emergency access in compliance with fire safe standards. All structures used for processing shall have locking doors to prevent free access.
 - d. Any processing facilities that utilize hazardous materials shall maintain any applicable permits from local, regional, or state programs regulating the use, storage, or disposal of hazardous materials.
 - e. A waste management plan addressing the storing, handling, and disposing of all waste by-products of the processing activities shall be submitted for review and approval by the agency having jurisdiction. The plan shall characterize the volumes and types of waste generated, and the operational measures that are proposed to manage and dispose or reuse the wastes in compliance with best management practices. All garbage and refuse on the site shall be accumulated or stored in non-absorbent,

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water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on the site shall not be accumulated or stored for more than seven (7) calendar days and shall be properly disposed of before the end of the seventh day in a manner prescribed by the solid waste local enforcement agency. All waste, including but not limited to refuse, garbage, green waste and recyclables, must be disposed of in accordance with local and state codes, laws and regulations. All waste generated from processing facilities must be properly stored and secured to prevent access from the public.

4. The following regulations apply to all marijuana business and shall be reiterated in the Conditions of Approval of all land use permits for such business.
 - a. The applicant for a marijuana business shall obtain and present documentation of all applicable state approvals, registrations, licensing, and permitting to the City within six months after land use approval.
 - b. Marijuana businesses shall keep all required state registrations, licensing, and permitting current at all times.
 - c. Marijuana businesses shall keep all required City business licenses, permits, or other required approvals current at all times.
 - d. At all times, marijuana businesses shall remain compliant with applicable standards and applicable state laws governing marijuana businesses, all as they may be amended from time to time.
 - e. 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.
 - f. Any approval for a marijuana business shall be sent to the Planning Commission for a Type III revocation hearing if any condition of approval is violated and not cured within thirty (30) days of the City's delivery of a notice identifying the violation. The Planning Commission shall have the authority to revoke the land use approval after a public hearing on the matter if it is shown that the applicant did not adhere to any criteria or development standard. The City Manager may prescribe a longer cure period provided such period does not exceed ninety (90) days.

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- g. Any approval for a marijuana business shall be deemed abandoned, and thus void, if the marijuana business ceases to operate for any period of one hundred eighty (180) or more consecutive days.
- h. Marijuana and tobacco products must not be smoked, ingested, consumed or otherwise used on the licensed premises.
- i. The facility must provide for secure disposal of marijuana remnants or byproducts; marijuana remnants or by-products shall not be placed within the marijuana business's exterior refuse containers.
- j. All products containing marijuana intended to be ingested (i.e. edibles) must be labeled with the product's serving size and the amount of tetrahydrocannabinol in each serving in accordance with Oregon Health Authority and Oregon Liquor Control Commission rules.

B. Industrial hemp businesses

1. Industrial Hemp Standards.

In addition to any applicable approval criteria, the applicant shall satisfy the following standards:

- a. The applicant must obtain all required state licenses and registrations and operate the industrial hemp use in accordance with state law.
- b. Applications for a specific type of industrial hemp use shall satisfy the additional standards applicable to that type of industrial hemp use set out in subsections (2) through (3) of this section.
- c. Industrial hemp 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. 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.
- d. Odors shall not be detectable at the property line. The applicant must demonstrate that the air filtration system will effectively control odors.
- e. Retail sales of industrial hemp products may occur at the same location as an industrial hemp production facility as an ancillary use provided such retail sales occupy less than ten percent (10%) of the total square footage of the structures in which industrial hemp production occurs.
- f. No outdoor storage or display of industrial hemp or industrial hemp products are permitted.



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2. The following regulations apply to all industrial hemp business and shall be reiterated in the Conditions of Approval of all land use permits for such business.
 - a. Industrial hemp uses shall keep all required state registrations, licensing, and permitting current.
 - b. At all times, industrial hemp uses shall remain compliant with applicable provisions of state laws governing industrial hemp, all as they may be amended from time to time.

...

5-6.1.030 Definitions

...

Industrial hemp. All non-seed parts and varieties of the Cannabis plant, whether growing or not, that contain an average tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis. Any Cannabis seed: (a) that is part of a crop; (b) that is retained by a grower for future planting; (c) that is agricultural hemp seed; (d) that is for processing into or for use as agricultural hemp seed; or (e) that has been processed in a manner or to an extent that the Cannabis seed is incapable of germination. Production of industrial hemp generally refers to cultivating seeds and/or plants for industrial hemp and industrial hemp processing generally refers to converting raw industrial hemp into an industrial hemp product. Production and processing of industrial hemp is considered an agricultural use. Sales of industrial hemp products is considered a retail use and does not require any special approvals. Notwithstanding anything herein to the contrary, Industrial Hemp is only permitted within the Industrial Districts as specified in Table 5-2.4.020.

...

Marijuana. Also known as cannabis. All parts of the plant Cannabis family Cannabaceae, 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" does not include industrial hemp and is not considered an agricultural use.

Marijuana business. Any establishment operated by any person or entity who is or must be licensed by the Oregon Health Authority or the Oregon Liquor Control Commission, which sells, produces, cultivates, grows, wholesales, processes, researches,

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

Marijuana testing laboratory. A facility that conducts testing of marijuana products as required by ORS 475B.555 and is required to be licensed under ORS 475B.560.

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

Medical marijuana dispensary. Any structure or use of property subject to registration through the Oregon Health Authority under ORS 475B.858 through 475B.876, as may be amended from time to time, involving the sale, distribution, transmittal, gift, dispensing, and/or otherwise providing medical marijuana or medical marijuana products to medical marijuana qualifying patients, excluding the wholesaling or production of medical marijuana or medical marijuana products.

The section below is intended to clarify that a marijuana business cannot be a home occupation.

5-4.9.020 Home Occupation Permits

3. Marijuana businesses, and any business involving industrial hemp, cannot be approved as a home occupation, see 5-2.3.100.

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The section below is intended to add special process requirements to the Site Plan Review section.

5-4.1.070 Special Procedures

B. Marijuana Businesses (also see Section 5-2.3.100)

1. Procedures.

- a. Notwithstanding anything in this Development Code to the contrary, marijuana businesses including, without limitation, a new marijuana business in an existing structure (i.e. change of use), an existing medical marijuana dispensary converted to a marijuana retailer, and a new marijuana business located at the same location as a previously approved marijuana business (i.e. a change of ownership), shall obtain Conditional Use under Section 5-4.4.040 and/or Site Design Review under Section 5-4.2.060, as applicable, see Tables 5-2.3.020 and 5-2.4.020.
- b. All applications for marijuana businesses shall be made in the name of the person and/or entity identified in any state licensing and the City business license.
- c. Permissibility of one type of marijuana business in a particular zone cannot be the basis to allow a nonpermitted type of marijuana business as a similar use pursuant Chapter 5-4.8 Code Interpretations.
- d. Co-location of marijuana businesses on the same property is permitted except as prohibited by state law and/or this Development Code.
- e. Permissibility of one type of industrial hemp use in a particular zone cannot be the basis to allow a non-permitted type of industrial hemp use as a similar use pursuant Chapter 5-4.8 Code Interpretations.