



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

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www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: July 27, 2015
Jurisdiction: City of Phoenix
Local file no.: LDC 15-01
DLCD file no.: 001-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 07/22/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 35 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 001-15 {23785}
Received: 7/22/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Phoenix

Local file no.: **LDC15-01**

Date of adoption: July 20, 2015

Date sent: 7/22/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 05/04/15

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Minor typographical and substantive revisions

Local contact (name and title): Matt Brinkley, Director of Planning

Phone: 541-535-2050

E-mail: matt.brinkley@phoenixoregon.gov

Street address: 112 W. 2nd Street

City: Phoenix

Zip: 97535-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

None

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- | | | | |
|-------------|----|--------|--|
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

CHAPTERS 2

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: City of Phoenix

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Official record is included with this submittal. The amendment establishes regulations on the time, manner, and place of cannabis cultivation activities and operations in the City of Phoenix.

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

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



Date of Notice: July 6, 2015

File Number: LDC 15-01

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Planning Commission of the City of Phoenix will hold a Public Hearing on July 6, 2015 at 6:30 pm at Phoenix Public Works at 1000 S “B” Street, Phoenix, Oregon to consider the following request:

Request: AN AMENDMENT TO THE PHOENIX LAND DEVELOPMENT CODE ESTABLISHING SPECIAL STANDARDS REGULATING TIME, MANNER, AND PLACE OF CANNABIS CULTIVATION IN ALL LAND USE DISTRICTS IN THE CITY OF PHOENIX.

Applicant: City of Phoenix

Date of City Council hearing: July 6, 2015

Project information: Marijuana grow sites are operating throughout the City. In the fall of 2014, City Council heard testimony from residents who complained about the negative impacts of grow sites located in residential neighborhoods in Phoenix. In some cases, individuals are producing cannabis for their own consumption. Other “grows”, however, are commercial enterprises where a single entity cultivates cannabis for multiple OMMP registrants or “cardholders”. As is the case in most communities where grows exist, odor was identified as the primary and most significant negative offsite impact. This is likely to intensify with the passage of BM 91 in November, 2014.

The Planning Commission deliberated on land use standards and procedures regulating the time, place, and manner of cannabis cultivation, and has recommended that City Council adopt them in order to protect the health, safety, and welfare of the City. These regulations would affect the cultivation of cannabis intended for personal use and cannabis intended for distribution to the general public (aka commercial cannabis cultivation), whether used for medical or non-medical purposes.

Legislative Review: The purpose of Legislative review is to ensure compliance with the Comprehensive Plan of the City of Phoenix. A public hearing before the Planning Commission is required before the proposed amendment can be acted upon following a subsequent public hearing before the Phoenix City Council.

Approval Criteria: After holding and closing a public hearing, the Planning Commission may vote on and prepare a recommendation to the City Council to approve, modify or reject the proposed amendment. The recommendation will be based on criteria listed and referenced in LDC Section 4.7.3.A. Contact the Planning and Building Department to explain or provide the criteria; or visit the Planning and Building Department on the City of Phoenix home page at www.phoenixoregon.net (click on Planning and Building link on left side of homepage), and click on the Phoenix Development Code link.

Public Participation: We encourage the public to comment on this matter either in writing or orally at the Public Hearing. Mailed comments should be sent to the City of Phoenix, Planning and Building Department, P.O. Box 330, Phoenix, OR, 97535. Related information is available for public review at the City of Phoenix, Planning and Building Department, 112 W. 2nd Street, Phoenix, Oregon 97535.

Office hours are 8 a.m. to noon and 1 p.m. to 5 p.m., Monday through Friday. Contact Matt Brinkley, Planning Director at 541-535-2050, extension 316, with any questions or comments.

Failure to raise an issue in person, or in writing either before or at the hearing, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to a question or concern shall disqualify protesting parties from appealing the recommended action at the State Land Use Board of Appeals (see Land Development Code 4.1.5.C.2.e).

Staff Report: A staff report was prepared, and is available as a PDF on the department’s website. A hard copy may be obtained at 25 cents per page.

Notice to mortgagee, lien holder, vendor, or seller: If you receive this notice, it shall be promptly forwarded to the purchaser.



Date of Notice: July 8, 2015

File Number: LDC 15-01

NOTICE OF PUBLIC HEARING (DATE CORRECTED FROM PREVIOUS NOTICE)

Notice is hereby given that the City Council of the City of Phoenix will hold a Public Hearing on July 20, 2015 at 6:30 pm at Phoenix Public Works at 1000 S "B" Street, Phoenix, Oregon to consider the following request:

Request: AN AMENDMENT TO THE PHOENIX LAND DEVELOPMENT CODE ESTABLISHING SPECIAL STANDARDS REGULATING TIME, MANNER, AND PLACE OF CANNABIS CULTIVATION IN ALL LAND USE DISTRICTS IN THE CITY OF PHOENIX.

Applicant: City of Phoenix

Date of City Council hearing: Monday July 20, 2015 (moved from Monday July 6, 2015 due meeting cancellation)

Project information: Marijuana grow sites are operating throughout the City. In the fall of 2014, City Council heard testimony from residents who complained about the negative impacts of grow sites located in residential neighborhoods in Phoenix. In some cases, individuals are producing cannabis for their own consumption. Other "grows", however, are commercial enterprises where a single entity cultivates cannabis for multiple OMMP registrants or "cardholders". As is the case in most communities where grows exist, odor was identified as the primary and most significant negative offsite impact. This is likely to intensify with the passage of BM 91 in November, 2014.

The Planning Commission deliberated on land use standards and procedures regulating the time, place, and manner of cannabis cultivation, and has recommended that City Council adopt them in order to protect the health, safety, and welfare of the City. These regulations would affect the cultivation of cannabis intended for personal use and cannabis intended for distribution to the general public (aka commercial cannabis cultivation), whether used for medical or non-medical purposes.

Legislative Review: The purpose of Legislative review is to ensure compliance with the Comprehensive Plan of the City of Phoenix. A public hearing before the Planning Commission is required before the proposed amendment can be acted upon following a subsequent public hearing before the Phoenix City Council.

Approval Criteria: After holding and closing a public hearing, the Planning Commission may vote on and prepare a recommendation to the City Council to approve, modify or reject the proposed amendment. The recommendation will be based on criteria listed and referenced in LDC Section 4.7.3.A. Contact the Planning and Building Department to explain or provide the criteria; or visit the Planning and Building Department on the City of Phoenix home page at www.phoenixoregon.net (click on Planning and Building link on left side of homepage), and click on the Phoenix Development Code link.

Public Participation: We encourage the public to comment on this matter either in writing or orally at the Public Hearing. Mailed comments should be sent to the City of Phoenix, Planning and Building Department, P.O. Box 330, Phoenix, OR, 97535. Related information is available for public review at the City of Phoenix, Planning and Building Department, 112 W. 2nd Street, Phoenix, Oregon 97535.

Office hours are 8 a.m. to noon and 1 p.m. to 5 p.m., Monday through Friday. Contact Matt Brinkley, Planning Director at 541-535-2050, extension 316, with any questions or comments.

Failure to raise an issue in person, or in writing either before or at the hearing, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to a question or concern shall disqualify protesting parties from appealing the recommended action at the State Land Use Board of Appeals (see Land Development Code 4.1.5.C.2.e).

Staff Report: A staff report was prepared, and is available as a PDF on the department's website. A hard copy may be obtained at 25 cents per page.

Notice to mortgagee, lien holder, vendor, or seller: If you receive this notice, it shall be promptly forwarded to the purchaser.



Date of Notice: May 19, 2015

File Number: LDC 15-01

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Planning Commission of the City of Phoenix will hold a Public Hearing on June 8, 2015 at 6:30 pm at Phoenix Public Works at 1000 S “B” Street, Phoenix, Oregon to consider the following request:

Request: AMENDMENT TO THE PHOENIX LAND DEVELOPMENT CODE PERTAINING TO THE CULTIVATION OF CANNABIS

Applicant: City of Phoenix

Date of Planning Commission hearing: June 8, 2015

Project information: The Planning Commission shall consider land use standards and procedures regulating the time, place, and manner of cannabis cultivation. These regulations could affect the cultivation of cannabis intended for personal use and cannabis intended for distribution (aka commercial cannabis cultivation), whether used for medical or non-medical purposes.

Legislative Review: The purpose of Legislative review is to ensure compliance with the Comprehensive Plan of the City of Phoenix. A public hearing before the Planning Commission is required before the proposed amendment can be acted upon following a subsequent public hearing before the Phoenix City Council.

Approval Criteria: After holding and closing a public hearing, the Planning Commission may vote on and prepare a recommendation to the City Council to approve, modify or reject the proposed amendment. The recommendation will be based on criteria listed and referenced in LDC Section 4.7.3.A. Contact the Planning and Building Department to explain or provide the criteria; or visit the Planning and Building Department on the City of Phoenix home page at www.phoenixoregon.net (click on Planning and Building link on left side of homepage), and click on the Phoenix Development Code link.

Public Participation: We encourage the public to comment on this matter either in writing or orally at the Public Hearing. Mailed comments should be sent to the City of Phoenix, Planning and Building Department, P.O. Box 330, Phoenix, OR, 97535. Related information is available for public review at the City of Phoenix, Planning and Building Department, 112 W. 2nd Street, Phoenix, Oregon 97535.

Office hours are 8 a.m. to noon and 1 p.m. to 5 p.m., Monday through Friday. Contact Matt Brinkley, Planning Director at 541-535-2050 with any questions or comments.

Failure to raise an issue in person, or in writing either before or at the hearing, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to a question or concern shall disqualify protesting parties from appealing the recommended action at the State Land Use Board of Appeals (see Land Development Code 4.1.5.C.2.e).

Staff Report: A staff report will be prepared and included in the Planning Commission’s agenda. The report will be available for review on the City’s website (phoenixoregon.gov) by Wednesday, May 27, 2015, and a hard copy may be obtained at 25 cents per page.

Notice to mortgagee, lien holder, vendor, or seller: If you receive this notice, it shall be promptly forwarded to the purchaser.



NOTICE OF A PROPOSED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.:

Received:

Local governments are required to send notice of a proposed change to a comprehensive plan or land use regulation **at least 35 days before the first evidentiary hearing.** (See [OAR 660-018-0020](#) for a post-acknowledgment plan amendment and [OAR 660-025-0080](#) for a periodic review task). The rules require that the notice include a completed copy of this form.

Jurisdiction: **City of Phoenix**

Local file no.:

Please check the type of change that best describes the proposal:

- Urban growth boundary (UGB) amendment** including more than 50 acres, by a city with a population greater than 2,500 within the UGB
- UGB amendment** over 100 acres by a metropolitan service district
- Urban reserve designation**, or amendment including over 50 acres, by a city with a population greater than 2,500 within the UGB
- Periodic review task** – Task no.:
- Any other change** to a comp plan or land use regulation (*e.g.*, a post-acknowledgement plan amendment)

Local contact person (name and title): Matt Brinkley, Planning Director

Phone: 541-535-2050 E-mail: matt.brinkley@phoenixoregon.gov

Street address: 112 W 2nd Street City: Phoenix Zip: 97535-

Briefly summarize the proposal in plain language. Please identify all chapters of the plan or code proposed for amendment (maximum 500 characters):

The proposed amendment would add special standards to existing land use district regulations related to the commercial and personal cultivation of cannabis.

Date of first evidentiary hearing: 06/08/2015

Date of final hearing:

This is a revision to a previously submitted notice. Date of previous submittal:

Check all that apply:

- Comprehensive Plan text amendment(s)
- Comprehensive Plan map amendment(s) – Change from _____ to _____
Change from _____ to _____
- New or amended land use regulation
- Zoning map amendment(s) – Change from _____ to _____
Change from _____ to _____
- An exception to a statewide planning goal is proposed – goal(s) subject to exception:
- Acres affected by map amendment:

Location of property, if applicable (site address and T, R, Sec., TL):

List affected state or federal agencies, local governments and special districts:

If you have any questions or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0017 or e-mail plan.amendments@state.or.us.

Notice checklist. Include all that apply:

- Completed Form 1
- The text of the amendment (e.g., plan or code text changes, exception findings, justification for change)
- Any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained
- A map of the affected area showing existing and proposed plan and zone designations
- A copy of the notice or a draft of the notice regarding a quasi-judicial land use hearing, if applicable
- Any other information necessary to advise DLCD of the effect of the proposal



Exhibit A
PLDC as Amended by LDC15-01
Additions to existing text are underlined,
deletions are ~~stricken~~;
all other text appears as it will in the final,
amended document.

Chapter 1.3 – Definitions

Cultivation area: the area within which plants are grown. All parts of a plant grown within a cultivation area shall be contained within the perimeter of the cultivation area. No part of a plant, except for rhizomal matter, roots, etc., grown within a cultivation area shall grow past the perimeter of the cultivation area.

Resident grower: an individual engaged in the cultivation of cannabis for personal consumption, whether for medical or non-medical purposes, and whose primary residence is the site at which cultivation occurs.

Urban agriculture, urban agricultural land use: the cultivation of plants and raising of animals at a scale sufficient to enable the distribution of goods produced by these activities, whether in their raw form or as processed finished goods, to the general public, food processing operations, and other commercial and industrial enterprises. Confined animal feedlots, or CAFOs, and animal breeding operations are not considered to be urban agricultural land uses.

2.2.9--Special Standards for Certain Uses

N. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within Residential Land Use Map districts in a manner that protects the health, safety and welfare of the community, while avoiding undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top of average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;



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- d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
- e. The OMMP registered patient for whom cannabis is cultivated shall reside at the site where cultivation occurs.
3. Standards for the cultivation of cannabis for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet upon the property;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in all Residential Land Use Districts. Cannabis cultivated in a Residential Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for onsite consumption by an individual who is legally entitled to do so. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate.
5. Cannabis cultivation and distribution is not considered an accessory use in Residential Land Use Map Districts.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted;
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of Section 2.2.9.N.2.a or



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2.2.9.N.2.c may request a Code Interpretation of the need for additional cultivation area or reduction in the minimum spatial separation requirements defined by 2.2.9.N.2.c. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The Request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with PLDC Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:

- a. Shall be in compliance with all other applicable standards in sections 2.2.9.N.1-9 above;
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. An individual cultivating cannabis or wishing to cultivate cannabis within a Residential Land Use District shall obtain a Type I Zoning Clearance from the Planning Department prior to commencement of cultivation (typically prior to planting of immature plants or seeds). The applicant shall submit information as is necessary for department staff to determine that the cultivation area will meet the requirements established herein.



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2.3.2 – Permitted Use

Table 2.3.2.A - Land Uses and Building

<p>1. Residential*: a. Single-family attached townhouses b. Three-Family housing (triplex) c. Multi-family housing d. Residential care homes and facilities e. Family daycare (12 or fewer children) g. Mixed-use development (housing & other permitted use)*</p> <p>2. Bed & Breakfast Inn's</p>	<p>3. Public and Institutional*: a. Churches and places of worship b. Clubs, lodges, similar uses c. Government offices and facilities (administration, public safety, transportation, utilities, and similar uses) d. Libraries, museums, community centers, concert halls and similar uses e. Public parking lots and garages f. Private utilities g. Public parks and recreational facilities h. Schools (public and private) i. Special district facilities j. Uses similar to those listed above [subject to CUP requirements, as applicable]</p> <p>4. Accessory Uses and Structures*</p> <p>5. Cottage Industrial*: "Light manufacture" (e.g., small-scale crafts, electronic equipment, bakery, furniture, similar goods when in conjunction with retail)</p>	<p>6. Commercial: a. Retail trade and services, except auto-oriented uses b. Entertainment (e.g., theaters, clubs, amusement uses) c. Hotels/motels d. Medical and dental offices, clinics and laboratories e. Mixed-use development (housing & other permitted use)* f. Office uses g. Personal and professional services (e.g., child care center, catering/food services, restaurants, Laundromats and drycleaners, barber shops and salons, banks and financial institutions, and similar uses) h. Repair services must be enclosed within a building [subject to CUP requirements, as applicable] j. Uses similar to those listed above [may be subject to CUP requirements, as applicable]</p>
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Uses marked with an asterisk (*) are subject to the standards in Chapter 2.3.10 – Special Standards for Certain Uses. Uses with a double asterisk (**) require a Conditional Use Permit.

2.3.10--Special Standards for Certain Uses

G. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within the City Center Land Use Map district in a manner that protects the health, safety and welfare of the community, while avoiding undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon.



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1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. The OMMP registered patient for whom cannabis is cultivated shall reside in a legal dwelling at the site where cultivation occurs. This dwelling shall be either conforming or legally nonconforming with the standards of the current Phoenix Land Development Code, Comprehensive Plan, and applicable building codes.
3. Standards for the cultivation of cannabis for the consumption by a resident grower other than a resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.



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- iii. A resident grower shall reside at the site where cultivation occurs.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in the City Center Land Use District. Cannabis cultivated in the C-C Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the City Center Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of Section 2.3.10.G.2.a may request a Code Interpretation of the need for additional cultivation area or reduction in the minimum spatial separation requirements defined by 2.3.10.G.2.c. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with PLDC Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:
 - a. Shall be in compliance with all other applicable standards in sections 2.3.10.G.1-9 above;
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.



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11. An individual cultivating cannabis or wishing to cultivate cannabis within the City Center Land Use District under the provisions of Chapter 2.3.10.2 or 3 shall obtain a Type I Zoning Clearance from the Planning Department prior to commencement of cultivation (typically prior to planting of immature plants or seeds). The applicant shall submit information as is necessary for department staff to determine that the cultivation area will meet the requirements established herein.
12. The commercial cultivation of cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail customers, whether for medical or non-medical purposes, is expressly prohibited within the City Center Land Use District. Cannabis cultivated in a City Center Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal use as allowed by state law. Cannabis cultivated in the City Center Land Use District shall not be sold for offsite distribution or consumption by an individual or body corporate.



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Commercial	
Retail Sales and Service, indoor only: <ul style="list-style-type: none"> ▪ less than 30,000 square feet GLA* ▪ 30,000 to 50,000 square feet GLA ▪ greater than 50,000 square feet GLA 	P C C, I-5
Nurseries and Landscape Supplies	C
<u>Urban Agriculture < 2,000 GLA (indoor and outdoor)</u>	<u>P</u>
<u>Urban Agriculture > 2,000 GLA (indoor and outdoor)</u>	<u>C</u>
Restaurants <ul style="list-style-type: none"> ▪ with drive-through ▪ without drive-through 	C P
Drive-up, drive-in, and drive-through facilities	C
Office, Banks, Research Facilities, and Clinics	P
Vet Hospitals (entirely enclosed in building)	C
Truck Stops, Truck Sales, and Heavy Equipment Sales	C, I-5
Auto Repair	P
Service Stations	C
Distribution Facilities	C
Lodging and RV Parks	P
Vehicle Sales and Service, RV and Boat Sales, Manufactured Home Sales, and Fuel Sales	C
Commercial and Public Parking	P
Commercial Storage <ul style="list-style-type: none"> ▪ enclosed in building and on an upper story ▪ not enclosed in building 	P C
Entertainment and Gyms <ul style="list-style-type: none"> ▪ enclosed in building (e.g., theater, museums, bowling alleys) ▪ not enclosed (e.g., amusement parks) 	P C
Wholesale <ul style="list-style-type: none"> ▪ 20,000 square feet GLA and greater ▪ less than 20,000 square feet GLA 	C P
Assisted Living Facilities	C
Mixed-use (residential with commercial/civic/industrial)	N
Civic	
Government –offices, public library	P
Government –public works yards	C
Parks and Open Space	P
Schools <ul style="list-style-type: none"> ▪ pre-school, daycare, and primary ▪ secondary, colleges, and vocational 	P P
Clubs and Religious Institutions	C
Light Industrial	
Manufacturing and Production <ul style="list-style-type: none"> ▪ 5,000 sq. ft. and larger ▪ less than 5,000 sq. ft. with retail outlet 	C P
Warehouse	C
Transportation, Freight and Distribution, Taxi Cab Dispatch, Emergency Vehicle Dispatch	C, I-5



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Industrial Service (e.g., cleaning, repair)	C, I-5
Processing of Raw Materials	N

2.4.5—Special Standards for Certain Uses

K. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within Commercial Highway Land Use Map districts in a manner that protects the health, safety and welfare of the community, allows for commercial cultivation of cannabis, and avoids undue interference with an individual’s right to cultivate cannabis as allowed by the laws of the State of Oregon. Cultivation of cannabis shall also be considered an “Urban Agriculture” use, and shall be subject to any additional requirements that are applicable to such uses.

1. **Applicability.** All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. **Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:**
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. The OMMP registered patient for whom cannabis is cultivated shall reside in a legal dwelling at the site where cultivation occurs. This dwelling shall be either conforming or legally nonconforming with the standards of the current Phoenix Land Development Code, Comprehensive Plan, and applicable building codes.



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3. Standards for the cultivation of cannabis by a resident grower for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in the Commercial Highway Land Use District. Cannabis cultivated by a resident grower in the C-H Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the Commercial Highway Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of sections 2.4.5.K.2.a or 2.4.5.K.2.c may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with PLDC Chapter 4.8. The City Building Official may require additional specific standards to



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meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:

- a. Shall be in compliance with all other applicable standards in sections 2.4.5.K.1-9 above;
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. Additional standards for the commercial cultivation of cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail customers, whether for medical or non-medical purposes, within the C-H Commercial Highway Land Use District shall be met:
- a. The total area permitted to be used for cannabis cultivation upon any single site shall not exceed five thousand (5,000) square feet GLA;
 - b. A maximum business frontage of no more than one hundred and fifty (150) feet;
 - c. A commercial cultivation operation shall obtain all licenses, certifications, permits, and other regulatory approvals prior to operation, and shall remain in good standing as required by the terms of those approvals;
 - d. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a garage, out building, greenhouse, or other commercial building;
 - e. An indoor cultivation area shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. At a minimum, the cannabis cultivation area shall be surrounded by a 1-hour firewall or shall utilize a sufficiently sized fire suppression system;
 - iii. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers;
 - f. At a minimum, the cannabis cultivation area shall be surrounded by a 1-hour firewall or shall utilize a sufficiently sized fire suppression system;
 - g. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers.



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Industrial
Heavy manufacturing, assembly, and processing of raw materials* [CUP]
Light manufacture (e.g., electronic equipment, printing, bindery, furniture, and similar goods)
Urban agriculture (indoor crop cultivation, aquaculture, plant nurseries) < 5,000 square feet GLA
Urban agriculture (indoor crop cultivation, aquaculture, plant nurseries) > 5,000 square feet GLA* [CUP]
Warehousing and distribution (this does not include Mini-Warehouse Storage facilities)
Uses similar to those listed above
Commercial
Offices and other commercial uses are permitted when they are integral to a primary industrial use (e.g., administrative offices, wholesale of goods produced on location, and similar uses).
Public and institutional uses
Government facilities (e.g., public safety, utilities, school district bus facilities, public works yards, transit and transportation, and similar facilities where the public is generally not received.)
Private Utilities (e.g., natural gas, electricity, telephone, cable, and similar facilities)
Special district facilities (e.g., irrigation district, and similar facilities)
Vocational schools co-located with parent industry or sponsoring organization
Uses similar to those listed above.
Accessory uses and structures
Wireless communication equipment – CUP*
Residential uses for security purposes only
One caretaker unit shall be permitted for each development, subject to the standards in Chapter 2.5.8 – Special Standards for Certain Uses. Other residential uses are not permitted, except that residences existing prior to the effective date of this Code may continue.
* Land uses with an asterisk (*) shall require a Conditional Use Permit subject to the procedure and standards in Chapter 4.4 – Conditional Use Permits.

2.5.8 – Special Standards for Certain Uses

D. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within General Industrial (GI) District Land Use Map districts in a manner that protects the health, safety and welfare of the community, allows for commercial cultivation of cannabis, and avoids undue interference with an individual’s right to cultivate cannabis as allowed by the laws of the State of Oregon. Commercial cultivation of cannabis shall also be considered an “Urban Agriculture” use, and shall be subject to any additional requirements that are applicable to such uses.



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1. **Applicability.** All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. The OMMP registered patient for whom cannabis is cultivated shall reside in a legal dwelling at the site where cultivation occurs. This dwelling shall be either conforming or legally nonconforming with the standards of the current Phoenix Land Development Code, Comprehensive Plan, and applicable building codes.
3. Standards for the cultivation of cannabis by a resident grower for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.



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4. Cannabis cultivation and distribution are prohibited as a Home Occupation in the General Industrial Land Use District. Cannabis cultivated in a G-I Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the General Industrial Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of sections 2.5.8.D.2.a or 2.5.8.D.2.c may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:
 - a. Shall be in compliance with all other applicable standards in sections 2.5.8.D.1-9 above; and
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. Additional standards for the commercial cultivation of cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail



Department

Exhibit A
PLDC as Amended by LDC15-01
Additions to existing text are underlined,
deletions are ~~stricken~~;
all other text appears as it will in the final,
amended document.

customers, whether for medical or non-medical purposes, within the General Industrial G-I Land Use District shall be met:

- a. The total area permitted to be used for cannabis cultivation upon or at any single site shall not exceed forty thousand (40,000) square feet GLA;
- b. A maximum business frontage of no more than two hundred (200) feet;
- c. A commercial cultivation operation shall obtain all licenses, certifications, permits, and other regulatory approvals prior to operation, and shall remain in good standing as required by the terms of those approvals;
- d. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a garage, out building, greenhouse, or other commercial building;
- e. An indoor cultivation area shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The facility shall utilize an air filtration and ventilation system which, to the greatest extent feasible, confines all objectionable odors associated with the facility to the premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
 - iii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
- f. At a minimum, the cannabis cultivation area shall be surrounded by a 1-hour firewall or shall utilize a sufficiently sized fire suppression system.
- g. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers.



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2.6.8—Special Standards for Certain Uses

D. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within Light Industrial Land Use Map districts in a manner that protects the health, safety and welfare of the community, allows for commercial cultivation of cannabis, and avoids undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon. Cultivation of cannabis shall also be considered an "Urban Agriculture" use, and shall be subject to any additional requirements that are applicable to such uses.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. The OMMP registered patient for whom cannabis is cultivated shall reside in a legal dwelling at the site where cultivation occurs. This dwelling shall be either conforming or legally nonconforming with the standards of the current Phoenix Land Development Code, Comprehensive Plan, and applicable building codes.
3. Standards for the cultivation of cannabis by a resident grower for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;



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- b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
- c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in the Light Industrial Land Use District. Cannabis cultivated in the L-I Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the Light Industrial Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of sections 2.6.8.D.2.a or 2.6.8.D.2.c may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:
 - a. Shall be in compliance with all other applicable standards in sections 2.6.8.N.1-9 above;



Department

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- b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. Additional standards for the commercial cultivation of cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail customers, whether for medical or non-medical purposes, within the Light Industrial L-I Land Use District shall be met:
- a. The total area permitted to be used for cannabis cultivation upon or at any single site shall not exceed ten thousand (10,000) square feet GLA;
 - b. A maximum business frontage of no more than one hundred and fifty (150) feet;
 - c. A commercial cultivation operation shall obtain all licenses, certifications, permits, and other regulatory approvals prior to operation, and shall remain in good standing as required by the terms of those approvals;
 - d. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a garage, out building, greenhouse, or other commercial building;
 - e. An indoor cultivation area shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The facility shall utilize an air filtration and ventilation system which, to the greatest extent feasible, confines all objectionable odors associated with the facility to the premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
 - iii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
 - f. At a minimum, the cannabis cultivation area shall be surrounded by a 1-hour firewall or shall utilize a sufficiently sized fire suppression system.
 - g. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers.



Planning Commission Memorandum

To: Planning Commission
From: Matt Brinkley, Planning Director
Re: Cannabis cultivation
Date: March 18, 2015; updated May 8, 2015

Marijuana grow sites are operating throughout the City. In some cases, individuals are producing cannabis for their own consumption. Other “grows”, however, are commercial enterprises where a single entity cultivates cannabis for multiple OMMP registrants or “cardholders”. These grows operate from properties located within commercial, industrial, and residential zones.

City Council was recently presented with testimony from two residents who complained about the negative impacts of grows located in residential neighborhoods in Phoenix. As is the case in most communities where grows exist, odor was identified as the primary and most significant negative offsite impact. The cities of Ashland and Medford have recently begun to consider regulating grows in different ways. Medford is contemplating the use of fencing to mitigate impacts of grows within residential neighborhoods. The effectiveness of fencing to manage a problem that is not visual in nature is doubtful. Ashland, on the other hand, is considering limits on the number of plant permitted to be grown within residential neighborhoods and whether outdoor growing should be permitted at all, and

Many communities in California, where medical cannabis has been legal for a decade, have enacted regulations that restrict outdoor growing and establish other performance standards. The City of Arcata limits the size of grows and prohibits outdoor growing altogether. Speaking with the Director of the Community Development Department, I learned that prior to these regulations Arcata experienced widespread code violations related to the operation of medical marijuana cultivation operations. In addition to noxious odors, the City often discovered serious building code violations when investigating grow operations. Indoor cannabis cultivation requires energy intensive artificial lighting (roughly 15 – 30 watts/square foot). These systems often exceed the typical design capacities of typical single and multifamily dwellings. Electrical and HVAC work was often unpermitted. The City also encountered problems with the widespread conversion of homes into indoor grow operations in residential neighborhoods. The dwellings no longer provided housing for residents and undermined the residential character of established neighborhoods by introducing a commercial or industrial agricultural operation into their midst. Consequently, the City prohibits cultivation as home occupation and limits to cultivation to dwellings where the resident actually lives.

With the passage of Measure 91 in November, 2014, land use conflicts arising from the cultivation of cannabis in urban and rural areas, in residential and nonresidential land use districts, is only likely to intensify. The substantial profit involved in cannabis cultivation and the availability of vacant properties in a City like Phoenix make it very susceptible to an influx in the number of operations. The City of Phoenix is already home to at least two cultivation operations in its commercial land use districts; anecdotal evidence suggests that several more are operating in residential land use districts. The Land Development Code does not currently allow urban agricultural operations other than “nurseries”, and only then with a Conditional Use Permit.

Planning Commission Public Hearing
July 20, 2015

Land Development Code: Cannabis Cultivation

Statement of need

- Oregon's Medical Marijuana Program & BM 91 allow for the cultivation of cannabis
 - 4 plants, ½ pound for non-medical "homegrown" cannabis; no limits on total at commercial grow
 - 6 plants, 1 ½ pounds for medical between patient, grower, and caregiver; grower can grow for 4 patients at any one time (OAR 333-008-0025)

Statement of need

- Oregon's Medical Marijuana Program & BM 91 allow for the cultivation of cannabis
 - While both sets of State regulations allow cultivation, both are silent concerning local land use controls and the ability of localities to place regulations on time, manner, and place

Statement of need

- In residential settings, known negative offsite impacts include
 - Offensive odors
 - Intensity, duration
 - Conversion of dwellings into “grow sites”
 - Commercial uses within residential neighborhoods disrupts residential character and function
 - Attractive nuisance or target for criminal activities

Statement of need

- Arcata, California



Statement of need

- Arcata, California
 - Since 1996, hundreds of houses converted to commercial cultivation operations
 - According to the Director of Community Development, Larry Oetker, numerous building code violations including life safety-building code issues
 - Most serious impact was on neighborhoods; loss of neighbors to commercial operations, loss of housing stock for residents of Arcata

Statement of need

- Arcata, California
 - Created regulations
 - Passed a ballot measure to impose a 45% electricity rates paid by households that use three times the electricity of average households

Statement of need

- In non-residential settings, known negative offsite impacts include
 - Offensive odors
 - Intensity, duration
 - Distortion of local commercial real estate markets
 - High, pent up demand for indoor grow space
 - Large differential between rents that typical industrial and heavier commercial tenants expect to pay vs. cannabis cultivation operations
 - Attractive nuisance or target for criminal activities
 - Energy consumption and impacts on other infrastructure

Statement of need

- In non-residential settings, known negative offsite impacts include
 - Distortion of local commercial real estate markets
 - Industrial space in Denver, CO has increased 21% in 2 years, cultivation operations willing and able to pay retail and office rents (more than \$17/square foot)
 - In the Rogue Valley, a cannabis condo sells for \$100/square foot, \$12-15/square foot NNN lease
 - State of Oregon is estimating that 2,000 individuals will register to grow non-medical cannabis

Statement of need

- Results of very unscientific survey ...
 - Disclaimer: the survey was not scientifically designed, no controls on multiple responses from 1 respondent, etc.
 - 56 respondents
 - About 20% knew of a cultivation operation in their neighborhood or next-door (10 respondents), most respondents had no direct experience with a grow site (60%)
 - 69% voted for MB-91
 - 41 respondents thought cultivation should be allowed without any additional restrictions; 25 thought there should be additional regulations

Statement of need

- Current regulations affecting cannabis cultivation
 - No regulation of non-commercial cannabis cultivation in residential land use districts; commercial cultivation would require a home occupation permit under current Land Development Code
 - In non-residential districts, commercial cultivation ONLY allowed in Commercial Highway as a conditional use as a “nursery”
 - No regulations in the places that are most vulnerable to secondary impacts; No allowance in places intended for more intensive uses

Statement of need

- Regulations in other communities
 - Grants Pass—ban on all outdoor cultivation
 - Medford—ban on all outdoor cultivation
 - Central Point—banned all outdoor cultivation, requires that indoor cultivation IS NOT detectable from the exterior of a building, not permitted in multifamily or attached single family
 - Ashland discussing possible regulations
 - Talent discussed regulations and decided to wait

Statement of need

- Regulations in other communities
 - State of Oregon attempted to create rules for cultivation, and failed (Joint Committee on Implementing Measure 91)
 - Limiting total number of plants within Cities to 12 or maybe 24, 48 in Counties, or maybe 96
 - Making it illegal to grow medical cannabis within 1,000 feet of schools

Regulatory goals

- Protect and improve the residential character of the City's neighborhoods
 - Resident growers, no commercial cultivation
 - Mitigate negative offsite impacts
- Provide OMMP registered individuals with access to low cost cannabis for treatment
- Manage the growth of a new industry with potential for rapid expansion in the context of Oregon land use planning

Proposed regulations

- Updates to LDC:
 - Rules for each land use map district as “Special Standards for Certain Uses”
 - Allowance for outdoor cultivation in residential districts for OMMP patients ONLY
 - NO commercial cultivation in residential districts
 - NO outdoor cultivation of non-medical in residential districts
 - OMMP registrant must reside at the residence

Proposed regulations

- Updates to LDC:
 - Rules for each land use map district as “Special Standards for Certain Uses”
 - Allowance for outdoor cultivation in residential districts for OMMP patients ONLY
 - 35 square feet, sufficient to 3-4 plants, average yield of 700 - 1400 grams or 1.5-3.0 pounds/growing season
 - Assuming consumption of ½ oz/wk, that’s a sufficient supply for 48-96 weeks
 - NO commercial cultivation in residential districts
 - NO outdoor cultivation of non-medical in residential districts
 - OMMP registrant must reside at the residence

Proposed regulations

- Updates to LDC:
 - Minimum dimensional separations between outdoor cultivation area and adjacent property line (10 feet) and closest dwelling (30 feet)
 - Limit on total area used for cultivation is 100 square feet, can be expanded by 50 more square feet with documented justification
 - Code interpretation to provide relief from these 2 requirements where need can be demonstrated
 - Limit on total artificial illumination/square foot to 1200 watts/50 square feet

Proposed regulations

- Features of proposed regulation:
 - NO outdoor cultivation in C-C, C-H, L-I, or G-I districts except for 35 square foot cultivation area for OMMP resident patient residing in a legal or legally nonconforming residence
 - Must not conflict with design guidelines
 - Maximum cultivation area limits in C-H 5,000 sqft GLA, L-I 10,000 SQFT GLA, and G-I 40,000 sqft GLA

Implementation

- Conditional Use Permit, Special Standards, Type I Zone Clearance
- Complaint driven

Next steps

- 1st Evidentiary Hearing on June 8, 2015 (Planning Commission), recommendation to Council (7-0) after 4 work sessions March 23, April 14 & 27, May 11 & 26
- City Council conducts 2nd evidentiary hearing

Council actions

- Adopt, amend and adopt, remand to Planning Commission, table, hold public hearing open to take additional testimony

Planning Commission Public Hearing
June 8, 2015

Land Development Code: Cannabis Cultivation

Statement of need

- Oregon's Medical Marijuana Program & BM 91 allow for the cultivation of cannabis
 - 4 plants, ½ pound for non-medical "homegrown"; no limits on total at commercial grow
 - 6 plants, 1 ½ pounds for medical between patient, grower, and caregiver; grower can grow for 4 patients at any one time.

Statement of need

- Known negative offsite impacts include
 - Offensive odors
 - Intensity, duration
 - Conversion of dwellings into “grow sites”
 - Commercial uses within residential neighborhoods disrupts residential character and function

Progress Update

- Updates to LDC:
 - Rules for each land use map district as “Special Standards for Certain Uses”
 - Allowance for outdoor cultivation in residential districts for OMMP patients ONLY
 - NO commercial grows in residential districts
 - NO outdoor cultivation of non-medical
 - OMMP must reside at the residence

Progress Update

- Updates to LDC:
 - Minimum dimensional separations between outdoor cultivation area and adjacent property line (10 feet) and closest dwelling (30 feet)
 - Limit on total area used for cultivation is 100 square feet, 20 square for outdoor cultivation
 - Limit on total artificial illumination/square foot

Progress Update

- Features of proposed regulation:
 - NO outdoor cultivation in C-C, C-H, L-I, or G-I districts except for 20 square foot cultivation area for OMMP resident patient; no indoor cultivation in C-C
 - Must not conflict with design guidelines
 - Maximum cultivation area limits in C-H 5,000 sqft GLA, L-I 10,000 SQFT GLA, and G-I sqft GLA

Other features

- Conditional Use Permit, Special Standards, Type I Zone Clearance



Next steps

- 1st Evidentiary Hearing (Planning Commission), recommendation to Council
- City Council conducts 2nd evidentiary hearing

Planning Commission Study Session

April 27, 2015

Land Development Code: Cannabis Cultivation

Statement of need

- Oregon's Medical Marijuana Program & BM 91 allow for the cultivation of cannabis
 - 4 plants, ½ pound for non-medical "homegrown"; no limits on total at commercial grow
 - 6 plants, 1 ½ pounds for medical between patient, grower, and caregiver; grower can grow for 4 patients at any one time.

Statement of need

- Known negative offsite impacts include
 - Offensive odors
 - Intensity, duration
 - Conversion of dwellings into “grow sites”
 - Commercial uses within residential neighborhoods disrupts residential character and function

Progress Update

- Updates to LDC:
 - Rules for each land use map district as “Special Standards for Certain Uses”
 - Allowance for outdoor cultivation in residential districts for OMMP patients ONLY
 - NO commercial grows in residential districts
 - NO outdoor cultivation of non-medical
 - OMMP must reside at the residence

Progress Update

- Updates to LDC:
 - Minimum dimensional separations between outdoor cultivation area and adjacent property line (10 feet) and closest dwelling (30 feet)
 - Limit on total area used for cultivation is 100 square feet, 20 square for outdoor cultivation
 - Limit on total artificial illumination/square foot

Progress Update

- Updates to LDC:
 - NO outdoor cultivation in C-C, C-H, L-I, or G-I districts except for 20 square foot cultivation area for OMMP resident patient
 - Must not conflict with design guidelines
 - No maximum cultivation area limits in C-H, C-C, L-I, and G-I zones

Considerations

- Maximum cultivation area limits in NON-residential districts?
- Conditional Use Permit, Special Standards, Special License
 - Depends on level of notice, oversight authority
- Allow outdoor growing under any/certain circumstances
 - Limited allowance for medical cannabis
 - Limited allowance for non-medical cannabis?



Next steps

- Set 1st Evidentiary Hearing (Planning Commission)
- Notice DLCD
- Maybe notice all affected property owners (BM-56 notice requirements)

Planning Commission Study Session

April 27, 2015

Land Development Code: Cannabis Cultivation

Statement of need

- Oregon's Medical Marijuana Program & BM 91 allow for the cultivation of cannabis
 - 4 plants, ½ pound for non-medical "homegrown"; no limits on total at commercial grow
 - 6 plants, 1 ½ pounds for medical between patient, grower, and caregiver; grower can grow for 4 patients at any one time.

Statement of need

- Known negative offsite impacts include
 - Offensive odors
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 - Commercial uses within residential neighborhoods disrupts residential character and function

Progress Update

- Updates to LDC:
 - Rules for each land use map district as “Special Standards for Certain Uses”
 - Allowance for outdoor cultivation in residential districts for OMMP patients ONLY
 - NO commercial grows in residential districts
 - NO outdoor cultivation of non-medical
 - OMMP must reside at the residence

Progress Update

- Updates to LDC:
 - Minimum dimensional separations between outdoor cultivation area and adjacent property line (10 feet) and closest dwelling (30 feet)
 - Limit on total area used for cultivation is 100 square feet, 20 square for outdoor cultivation
 - Limit on total artificial illumination/square foot

Progress Update

- Updates to LDC:
 - NO outdoor cultivation in C-C, C-H, L-I, or G-I districts except for 20 square foot cultivation area for OMMP resident patient
 - Must not conflict with design guidelines
 - No maximum cultivation area limits in C-H, C-C, L-I, and G-I zones

Considerations

- Maximum cultivation area limits in NON-residential districts?
- Conditional Use Permit, Special Standards, Special License
 - Depends on level of notice, oversight authority
- Allow outdoor growing under any/certain circumstances
 - Limited allowance for medical cannabis
 - Limited allowance for non-medical cannabis?



Next steps

- Set 1st Evidentiary Hearing (Planning Commission)
- Notice DLCD
- Maybe notice all affected property owners (BM-56 notice requirements)

AGENDA BILL

AGENDA ITEM: _____

AGENDA TITLE: FIRST READING BY TITLE ONLY OF AN AMENDMENT TO THE PHOENIX LAND DEVELOPMENT CODE ESTABLISHING SPECIAL STANDARDS REGULATING TIME, MANNER, AND PLACE OF CANNABIS CULTIVATION IN ALL LAND USE DISTRICTS IN THE CITY OF PHOENIX.

DATE: June 15, 2015

ACTION REQUIRED:

ORDINANCE: N/A
MOTION: XX

RESOLUTION: N/A
INFORMATION: N/A

EXPLANATION:

The Planning Commission has deliberated on land use standards and procedures regulating the time, place, and manner of cannabis cultivation. These regulations would affect the cultivation of cannabis intended for personal use and cannabis intended for distribution to the general public (aka commercial cannabis cultivation), whether used for medical or non-medical purposes.

Marijuana grow sites are operating throughout the City. In some cases, individuals are producing cannabis for their own consumption. Other “grows”, however, are commercial enterprises where a single entity cultivates cannabis for multiple OMMP registrants or “cardholders”. These grows operate from properties located within commercial, industrial, and residential zones.

In the fall of 2014, City Council heard testimony from residents who complained about the negative impacts of grow sites located in residential neighborhoods in Phoenix. As is the case in most communities where grows exist, odor was identified as the primary and most significant negative offsite impact.

With the passage of Measure 91 in November, 2014, land use conflicts arising from the cultivation of cannabis in urban and rural areas, in residential and nonresidential land use districts, is only likely to intensify. The substantial profit involved in cannabis cultivation and the availability of vacant properties in a city like Phoenix make it very susceptible to an influx in the number of operations. The City of Phoenix is already home to at least two commercial cultivation operations in its commercial land use districts; anecdotal evidence suggests that several more are operating in residential land use districts. The Land Development Code does not currently allow urban agricultural operations other than “nurseries”, and only then with a Conditional Use Permit.

FISCAL IMPACT:

There should be no fiscal impact on the City of Phoenix.

ALTERNATIVES:

The Council may refuse to read the proposed ordinance by title and fail set a date for a Second Reading and Public Hearing.

STAFF RECOMMENDATION:

Staff recommends the Mayor read the ordinance by title only and schedule a Second Reading and Public Hearing for the next regular City Council meeting on July 6th, 2015. This will be the second evidentiary hearing and public comment will be heard.

MOTION: I move that the proposed ordinance, also known as LDC15-01, be read by title only, and that a Second Reading and public hearing be set for July 6th, 2015.

PREPARED BY: M. BRINKLEY **REVIEWED BY:** _____

AGENDA BILL

AGENDA ITEM: _____

AGENDA TITLE: A SECOND READING AND PUBLIC HEARING ON AN AMENDMENT TO THE PHOENIX LAND DEVELOPMENT CODE ESTABLISHING SPECIAL STANDARDS REGULATING TIME, MANNER, AND PLACE OF CANNABIS CULTIVATION IN ALL LAND USE DISTRICTS IN THE CITY OF PHOENIX.

DATE: July 20, 2015

ACTION REQUIRED:

ORDINANCE: XX
MOTION: N/A

RESOLUTION: N/A
INFORMATION: N/A

EXPLANATION:

The Planning Commission has deliberated on land use standards and procedures regulating the time, place, and manner of cannabis cultivation. These regulations would affect the cultivation of cannabis intended for personal use and cannabis intended for distribution to the general public (aka commercial cannabis cultivation), whether used for medical or non-medical purposes.

Cannabis cultivation sites are operating throughout the City. In some cases, individuals are producing cannabis for their own consumption. Other “grows”, however, are commercial enterprises where a single entity cultivates cannabis for multiple OMMP registrants or “cardholders”. These grows operate from properties located within commercial, industrial, and residential zones.

In the fall of 2014, City Council heard unsolicited testimony from residents who complained about the negative impacts of grow sites located in residential neighborhoods in Phoenix. As is the case in most communities where grows exist, odor was identified as the primary and most significant negative offsite impact.

With the passage of Measure 91 in November, 2014, land use conflicts arising from the cultivation of cannabis in urban and rural areas, in residential and nonresidential land use districts, is only likely to intensify. The substantial profit involved in cannabis cultivation and the availability of vacant properties in a city like Phoenix make it very susceptible to an influx in the number of operations. The City of Phoenix is already home to at least two commercial cultivation operations in its commercial land use districts; anecdotal evidence suggests that several more are operating in residential land use districts. The Land Development Code does not currently allow urban agricultural operations other than “nurseries”, and only then with a Conditional Use Permit.

FISCAL IMPACT:

There should be no fiscal impact on the City of Phoenix.

ALTERNATIVES:

According to PLDC Chapter 4.1.6.H.3.a, the Council shall “approve, approve with modifications, approve with conditions, deny, or adopt an alternative for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application”.

STAFF RECOMMENDATION:

Staff recommends adoption of the proposed amendment of the Phoenix Land Development code by ordinance.

MOTION: I move to adopt ordinance # _____.

PREPARED BY: M. BRINKLEY **REVIEWED BY:** _____



Land Development Code Revision

TITLE: **AMENDMENT TO THE PHOENIX LAND DEVELOPMENT CODE REGARDING THE CULTIVATION OF CANNABIS.**

FILE NUMBER: LDC 15-01

APPLICANT: City of Phoenix

STAFF REPORT: June 1, 2015 at the City of Phoenix, 112 West 2nd Street, Phoenix, Oregon 97535, M-F, 8:00am – 5:00pm, or on the Planning & Building Department website (<http://www.phoenixoregon.gov>).

DATE OF PLANNING COMMISSION HEARING: June 8, 2015

STAFF RECOMMENDATION: Staff recommends that the Planning Commission accept the findings of this report and forward the proposed amendment to the City Council for its review and approval of the amendment after taking public testimony and deliberating at a duly noticed and conducted public hearing.

Note: Text excerpted from the PLDC appears below in italics.

I. PROJECT INFORMATION: The Planning Commission of the City of Phoenix has discussed the issue of cannabis cultivation at several work sessions beginning on March 23, 2015. The issue was originally brought to the City's attention during public comment at several City Council meetings during 2014. Members of the community expressed concern and dissatisfaction with the presence of outdoor cannabis cultivation operations in residential neighborhoods. These operations appear, at least from eyewitness accounts, to be intensive cultivation operations that consume entire backyards on residential lots. Smaller cultivation operations where the intended final consumer of cannabis is someone who lives on the premises (a resident grower), likely exist throughout the City but have not been identified in complaints.

Intensive, outdoor cannabis cultivation within and adjacent to residential neighborhoods creates land use conflicts between established residential uses and the new nonresidential, agricultural uses of these more intensive cultivation operations. The primary complaint received by the City has been the odor generated by mature cannabis plants at or around harvest time, lasting from late August through the end of September. Such complaints have been documented in communities throughout the Rogue Valley including Ashland. In Phoenix, complainants indicated that for several months during the summer growing season they were unable to open windows due to the pervasiveness of the odor. They further stated that the inability to enjoy their own outdoor space and open windows in their own homes significantly impairs their quality of life.

Aside from the most noticeable offsite impact (odor), cannabis cultivation can have other negative impacts on residential neighborhoods. Officials in other communities, most notably Arcata, California, have documented the phenomenon of conversion of



Land Development Code Revision

dwelling in established residential neighborhoods into cultivation facilities that no longer function as residential properties in any way. The presence of a commercial agricultural operation in the midst of a residential neighborhood is inconsistent with many residents' expectations of neighborhood character and function. Converted homes are, for all practical purposes, vacant and convey an image of disuse and abandonment—a problem that may in fact be exacerbated by the property owner's own negligence or unwillingness to maintain a property as a resident would. Even under the best of circumstances, where a cultivation operation is concealed within a well-maintained residential property, the property ceases to contribute to any sense of community or neighborliness.

Other documented impacts of conversion of residences to cultivation sites include a variety of environmental, community development, and public safety problems. An energy-hungry industry, residential properties have been targeted in California for acquisition by commercial cultivation operations because of the lower electrical utility rate payer status accorded to residential customers. A home converted for indoor cultivation can consume as much electricity as a 10,000 square foot retail commercial property. According to community development officials in Arcata, California, during the height of this phenomenon in their community very few of the estimated 600-700 converted residential cultivation sites legally upgraded electrical systems to meet the demands of such high consumption. As a result, building code violations were common and cultivation sites were not adequately protected from the threat of fire. Unpermitted and improvised electrical work poses a risk to the lives of public safety personnel and area residents while imposing an additional burden on local fiscal resources. Pesticides and nonorganic fertilizers are often used to enhance growth, and because residential sewer systems are not designed for industrial pretreatment many of these substances are sent downstream where wastewater management facilities are often unable to remove them from waste water before it is released into surface waters.

In addition to unregistered cultivation sites in residential neighborhoods, registered medical marijuana grow sites that are regulated under the OMMP operate within the City. These operations are purposefully commercial in nature, providing cannabis to individual OMMP registrants or "cardholders" and dispensaries. They are located on properties within nonresidential land use districts, more specifically the C-C City Center.

Though they share some commonalities with cultivation sites in residential neighborhoods, cannabis cultivation operations in nonresidential land use districts present a unique set of problems. One of the registered grow sites located in Phoenix is outdoor and, according to neighboring property owners, has been subject to several thefts that have occurred at night after standard business hours. Whereas cultivation by resident growers in residential neighborhoods may be particularly vulnerable to theft during the day when many residents are away at work, cultivation sites in nonresidential land use districts may be particularly vulnerable to theft at night when activity at surrounding properties decreases. Unlike most other agricultural operations, cannabis



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is a high value crop, very transportable, and requires very little processing prior to sale. All of these characteristics make it a target for theft relative to other agricultural crops.

It should also be noted that given Phoenix's relatively small size and compact development pattern, problems created by or associated with a particular type of land use may be experienced beyond the limits of that particular land use district. In the case of the commercial cultivation operations in Phoenix, all of them are located directly adjacent to established residential neighborhoods. Odors generated by cultivation operations and the increased likelihood of criminal activity are examples of land use conflicts that are, in instances like this, embedded within the interface between residential and nonresidential land uses.

The negative impacts of cannabis cultivation manifest directly through the trespass of odors onto adjacent properties, the increased risk of fire attributable to building code violations, and the increased incidence of criminal acts. These impacts can be managed through operational performance standards and facility design standards (for example the requirement that cultivation occur in secured, enclosed areas). But they can also impact communities indirectly through their influence on real estate markets.

Emerging from decades of prohibition, the cannabis industry is poised for very fast growth to meet pent up demand. That means demand for land for retail distribution, processing, and cultivation will likely match consumer demand and rapid business development. This puts cannabis industry land uses in a unique position within local real estate markets, because they both need land very quickly and they are positioned to pay a premium for suitable land as supplies become more and more limited. Compared to other nonresidential land uses, cannabis cultivation operations are able to pay much higher rents due to larger profit margins. The Denver Post reported that industrial vacancy throughout the Denver metropolitan region reached an historic low of 3% two years after cannabis was legalized for recreational use. These low vacancy rates were attributed to the burgeoning commercial cannabis cultivation industry. Local industrial real estate brokers identified cannabis cultivation operations as the reason for the declining availability of industrial space and rising rents. In the Rogue Valley, the impending legalization of cannabis for non-medical consumption has drawn the attention of property owners and developers. In one case, a local developer has built 1,500 square foot "grow condos" that sell for \$100/square foot under land contract that costs the purchaser an additional 10.7%/year in interest. The 15,000 building is 100% occupied. The per square foot cost of \$100 (not including debt service) is \$25 over average industrial asking prices for existing industrial space.

Reduced vacancy and higher rents alone are not necessarily a problem. But placed in the context of a constrained real estate market environment and Oregon's growth management system that restricts access to developable land, these factors have unintended consequences for community economic development. Many industries that use industrial and commercial land will compete with cannabis cultivation operations for



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a limited supply of available space. These industries, a small woodworking shop for example or artisanal food producer, operate on much tighter margins than do cannabis cultivation operations. Their business models do not allow them to commit more operating income to real estate costs, putting them at a competitive disadvantage.

This may very well change over time as the cannabis industry achieves greater stability and profit margins decline as competition weighs on retail prices and gross revenues. But until that time, it is reasonable to assume that cannabis businesses will compete with—and especially in the case of industrial land out-compete—existing businesses for limited real estate. This should be a consideration when designing land use regulations for cannabis industry land uses if a community wishes to provide opportunities for a variety of commercial and industrial land users and encourage an economically diverse local economy.

The challenge before the Planning Commission, therefore, is to balance individuals' rights that have been established through statute, the rights of neighbors to quiet enjoyment of their private property, and broader community development and economic development goals. It is the opinion of staff that conflict between these goals can be managed through an approach that allows for the cultivation of cannabis with specific time, place, and manner regulations.

State Regulation of Cultivation

Oregon Medical Marijuana Act or OMMA

The State does not require proof of compliance with local land use regulations when a cannabis cultivation operation is registered; nor does the OMMA release properties owners from local land use regulations (OAR 333-008-0025). In other words, the OMMA does not preempt local land use regulations.

Measure 91

Final rules for this ballot initiative have not been approved by the State Legislature as of this writing, and are not anticipated. Regarding cultivation of cannabis by a resident grower for consumption not related to a medical condition and therapeutic course of treatment, Ballot Measure 91 clearly conveys the right to produce, keep, and store eight (8) ounces of "homegrown marijuana" and no more than 4 plants per household (Section 6). As proposed by Ballot Measure 91, "commercial" cannabis production would be licensed by the Oregon Liquor Control Commission (Section 19). The language does not, however, specifically state or otherwise imply that this license pre-empts local land use controls that may directly or indirectly regulate the cannabis cultivation. Section 58, which describes the "authority of cities and counties over establishments that serve marijuana", explicitly states that BM-91 authorizes local jurisdictions to adopt "reasonable, time, place, and manner regulations of the nuisance



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aspects of establishments that sell marijuana to consumers [...]”. This section does not discuss local regulation of cannabis cultivation or any other form of urban agriculture through land use controls.

Other Communities

Ashland

The City of Ashland began looking at the issue of cannabis cultivation in residential neighborhoods in early 2015, but has yet to take any decisive action. Many of the same concerns discussed above were raised during at least one City Council meeting.

Grants Pass

Grants Pass is considering a total ban on outdoor cultivation of cannabis in all land use districts. The matter is under deliberation by the City Council.

Central Point

Central Point’s City Council adopted regulations prohibiting all outdoor cannabis cultivation, whether for medical or non-medical purposes, whether for personal or offsite (commercial) consumption on May 14, 2015 (Ordinance 2007). It also requires that cultivation “must not be perceptible from the exterior of the household”; limits indoor cultivation to permanent structures with solid walls and foundation; prohibits cultivation in “multifamily or attached residential development such as townhomes and condominiums” (Section 8.45.030); and prohibits “licensed commercial grows, as defined in M. 91” from all residential zones.

Medford

Medford is contemplating the use of fencing to mitigate impacts of grows within residential neighborhoods. The effectiveness of fencing to manage a problem that is not primarily visual in nature is doubtful.

Arcata, CA

Many communities in California, where medical cannabis has been legal since 1996, have enacted regulations that restrict outdoor growing and establish other performance standards. The City of Arcata limits the size of grows and prohibits outdoor growing altogether. Speaking with the Director of the Community Development Department, staff learned that prior to these regulations Arcata experienced widespread code violations related to the operation of medical marijuana cultivation operations. In addition to noxious odors, the City often discovered serious building code violations when investigating grow operations. In 2012, voters in Arcata overwhelmingly approved an initiative taxing commercial marijuana cultivation operations through special electricity rates. The tax reportedly amounts to a tripling of the cost of electricity for residential properties that consume.



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Indoor cannabis cultivation requires energy intensive artificial lighting (roughly 15 – 30 watts/square foot). These systems often exceed the design capacities of typical single and multifamily dwellings. Electrical and HVAC work is often completed without permits and inspections.

The City also encountered problems with the widespread conversion of homes into indoor grow operations in residential neighborhoods. The dwellings no longer provided housing for residents in a tight housing market and degraded the residential character of established neighborhoods by introducing commercial or industrial agricultural operation into their midst. Consequently, the City prohibits cultivation as home occupation and limits cultivation to dwellings where the resident actually lives.

Current Land Development Code & Proposed Amendment

With the passage of Measure 91 in November, 2014, land use conflicts arising from the cultivation of cannabis in urban and rural areas, in residential and nonresidential land use districts, are only likely to increase in number and intensity. The substantial profit involved in cannabis cultivation and the availability of vacant properties in a City like Phoenix make it very susceptible to an influx in the number of operations. The City of Phoenix is already home to at least two cultivation operations in one of its commercial land use districts; anecdotal evidence suggests that several more are operating in residential land use districts. The Land Development Code does not currently allow urban agricultural operations other than “nurseries”, and only then with a Conditional Use Permit.

Key Features of Proposed Time, Place, and Manner Regulations

As of June 8, 2015, the proposed PLDC regulations are as follows:

- The proposed PLDC regulations make an allowance for outdoor cultivation of 35 square feet in every land use district for “resident growers” who are registered as OMMP patients. This area is counted against a total maximum cultivation area of 100 square feet. They must reside at the cultivation site. A resident grower who is NOT registered as an OMMP patient can cultivate up to 100 square feet indoors in any land use district. The resident grower must actually reside at the cultivation site. Cultivation sites in residential districts would be required to get Type I Zoning Clearance.
- Commercial cultivation is expressly prohibited in all residential land use districts and may not be a home occupation. Commercial cultivation is also expressly prohibited in the City Center land use district.
- Outdoor cultivation areas must be surrounded by a six foot fence that is “secured at all times to prevent unauthorized access”; must be at least 10 feet from any property line and at least 30 feet from any dwelling on any contiguous property.



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- Wattage for lighting is limited in to 1200 watts/50 square feet of cultivation area in every land use district.
- Commercial cultivation would be prohibited within the City Center district.
- Commercial cultivation would be allowed in the Commercial Highway land use district, but limited to a maximum of 5,000 square feet for each site; sites in General and Light Industrial land use districts could have a maximum of 40,000 and 10,000 square feet, respectively.
- Commercial cultivation in C-H, G-I, and L-I land use districts will need to obtain a special business license that would be a part of the current "Cannabis Facility License" program. Operations over certain sizes may also need a Conditional Use Permit.

II. PROPOSED AMENDMENTS: see Exhibit A in the attached draft Planning Commission Recommendation.

III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Demonstration of compliance with section 4.7.2.

1. The proposed amendment is consistent with the purpose of the subject section and article.

FINDING: The proposed amendment addresses issues arising from a certain use of land, its consistencies and inconsistencies with the purpose of each land use district, and establishes measures to mitigate or eliminate the undesirable secondary effects of that land use.

CONCLUSIONS OF LAW: Placing the proposed additions to the PLDC within this Chapter should provide for ease of use. Someone interested in knowing about permitted uses of land and any applicable standards would expect to find that information within this Chapter. **Proposed amendment is consistent with the purpose of the subject section and article.**

2. The proposed amendment is consistent with other Provisions of this Code.

FINDING: The proposed amendment is supportive of other provisions within the PLDC, particularly Chapter 2. Chapter 2 primarily addresses the orderly and systematic



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development of land within the City. Each land use district is considered individually below.

R-1, 2, 3 Residential

The stated purpose of Chapter 2.2.1 (residential districts) is the promotion of livable and stable neighborhoods within the City, and their improvement. As discussed above, commercial cultivation of cannabis is not consistent with the residential character and function of property located within residential land use districts. Therefore, the proposed amendment to the Code would establish the following special standards for cannabis cultivation in all residential land use districts that limit the extent to which a residential property could be used for cultivation:

- Commercial cultivation, that being cultivation for consumption by anyone other than a resident grower or care provider for offsite distribution would be prohibited.
- Outdoor cultivation is limited to 35 square feet, and only then for cannabis cultivated for use by an OMMP registered resident. This allowance was designed to provide access to an affordable supply of cannabis for therapeutic use. According to Robert Bergman, author of "The Marijuana Grow Bible", a 35 square foot outdoor cultivation area could accommodate 3-4 plants at 9 square feet/plant with a yield of 500 grams or 17.50 ounces of usable cannabis per plant for a total of 3.30 pounds per growing season.
- An outdoor "cultivation area" would need to be at least 10 feet from any property line, and 30 feet from any dwelling on an adjacent lot. This standard is consistent with current standards for the raising of livestock, beekeeping, and other small scale agricultural uses within residential land use districts.
- So called "recreational marijuana" would not be permitted to be grown outdoors; it would need to be grown within the residence or other type of secured outbuilding.

C-C City Center

The stated purpose of Chapter 2.3.10 is to "strengthen the City Center District as the 'heart' of the community and as the logical place for people to gather and create a business center." The City Center district is intended to accommodate mixed land uses that support a vibrant walkable, urban environment. Auto-oriented land uses, and those that do not promote or contribute to an active downtown environment are not permitted. Urban agriculture uses, except for small outdoor gardens, are not currently permitted within this district.



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Due to their need for secured space, commercial cannabis cultivation facilities would not be consistent with the policy goals of the City Center district. Stringent design guidelines which strongly encourage street level retail and service uses are highly incompatible with any operation that is closed to the general public. This should also be understood in the context of the physical characteristics of Phoenix's city center which is quite small and provides limited opportunities to develop the types of land uses that would be supportive of an active downtown. Commercial cultivation of cannabis operations would compete for space with land uses that directly support the goal of creating a downtown area where residents and visitors can shop, dine, and recreate. Commercial cannabis cultivation operations would not, therefore, be appropriate in this land use district.

Allowances are made for personal cultivation for resident growers and registered care providers, just as in residential land use districts.

C-H Commercial Highway

The stated purpose of the C-H Commercial Highway land use district is to "provide for the development of easily accessible commercial areas that are intended to accommodate a mixture of retail businesses, services, and professional offices to serve the commercial and retail needs of the community and surrounding areas".

Of the two commercial districts, Commercial Highway is the only district that currently allows for a land use that is similar to the commercial cultivation. "Nurseries", which in contrast to a commercial cultivation facility are retail operations serving the general public, are permitted in the C-H land use district with a Conditional Use Permit. Large-scale outdoor cultivation similar to farming is not permitted in this land use district. (Oregon land use regulations, in fact, make a clear distinction between urban and rural "resource" lands. Hence, active farms are not often found within the political boundaries of cities in Oregon.)

With locations on the periphery of C-C districts, along major arterials, and (usually) with some spatial separation from adjacent residential neighborhoods, the C-H district can accommodate more intensive commercial and light industrial land uses that are known to generate offsite impacts that are incompatible with residential land uses. Therefore, commercial cannabis cultivation operations may be reasonably located within this district provided that they conform to special standards designed to mitigate offsite impacts unique to them. These standards include a maximum total permitted size of 5,000 square feet and a maximum business frontage of 150 feet for each cannabis cultivation site. These standards are designed 1) to prevent development of massive buildings that would be more industrial than commercial in character and 2) reduce the likelihood that large amounts of the City's limited commercial properties could be converted to commercial cultivation operations.



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Allowances are made for personal cultivation for resident growers and registered care providers in instances where such individuals may live in legally nonconforming dwellings.

G-I General and L-I Light Industrial

These industrial land use districts are at once the most suitable locations for commercial cultivation operations, the most easily converted to such operations, and some of the most important lands to the City for economic development. Industrially zoned land, and land designated as industrial by the comprehensive plan are currently quite limited. However, with current design standards and additional special standards for cannabis cultivation that are proposed herein, locating commercial cultivation operations within G-I and L-I land use districts offers the greatest opportunity to accommodate such operations while managing potential land use conflicts.

Allowances are made for personal cultivation for resident growers and registered care providers in instances where such individuals may live in legally nonconforming dwellings.

FINDING: According to Section 4.1.6.D – *Notice of Hearing*, amendments to the PLDC must undergo a public hearing before the Planning Commission and the City Council. The Planning Commission will conduct a public hearing on the proposed amendment on June 8, 2015. If the Planning Commission affirmatively recommends the amendment to the City Council, a subsequent public hearing will be conducted 2015 before the City Council.

FINDING: According to Section 4.1.6.D.2, all Type IV decisions must be noticed in the following manner: 1) DLCD shall be notice at least 35 days before the 1st evidentiary hearing; 2) notices mailed to certain recipients at least 20 days and no more than 40 days before the 1st evidentiary hearing; 3) notice shall be posted on the City's website, at City Hall, and in other locations as deemed appropriate.

All of these notice requirements have been met (or were not applicable given the nature of this action), and an affidavit of notice will be included in the official record once it has been closed.

Demonstration of compliance with Section 4.7.6 – *Transportation Planning Rule Compliance.*

FINDING: subsection 4.7.6.B states "Amendments [...] land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan." The proposed amendment is not anticipated to



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“significantly affect a transportation facility”. **Standard is not applicable to the land use action under consideration.**

CONCLUSIONS OF LAW: Proposed amendment is consistent with other Provisions of this Code.

3. *The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, and most effectively carries out those goals and policies of all alternatives considered.*

FINDING: The proposed amendment is supportive of existing provisions of the PLDC which have previously been found to be consistent with the Comprehensive Plan.

FINDING: The Land Use element describes the C-C district as having “an emphasis on general and specialty retail, service, and professional office” (p. 9). It continues stating that design standards within this district shall include “Providing for the construction of a streetscape and thus providing a clear pedestrian orientation”. For reasons discussed in greater detail above, indoor cultivation operations are incompatible with these objectives.

Other commercial and “interchange business” designated lands are intended to provide opportunities for convenience retail and service commercial that is more likely to be dependent on automobile traffic for business. Lands in this designation may be conducive to commercial cultivation operations, but these lands are of limited supply and commitment of some portion of them for non-commercial uses should be carefully managed. This is why light industrial is allowed by right in the C-H district when accompanied by a retail use; light industrial uses otherwise require a Conditional Use Permit.

Land designated industrial by the Comprehensive Plan has been so identified to facilitate the development of employment opportunities served by public transportation and in close proximity to residential centers. These areas are, furthermore, intended to accommodate businesses that cannot be located within the City Center district. But as the plan recognizes, there are only 54 acres of industrial land within the City’s UGB and a majority it is practically unbuildable at this time due to access issues. Allowing managed development of commercial cultivation on industrial lands, pursuant to design and performance standards, attempts to balance competing goals to both encourage new businesses in the City while ensuring that a supply of industrial land that can support a diversified local economic base that is not dependent on a single, dominant industry.

FINDING: Goals #1 of the Energy Conservation element states that the City will “work toward optimum levels of energy efficiency and conservation in structures of all types



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throughout the Community” and that the City will “promote energy efficient design in all new development that maximizes the use of nat (p. 10).

CONCLUSIONS OF LAW: Proposed amendment is consistent with the Comprehensive Plan.

III. STAFF RECOMMENDATION: Staff recommends that the Planning Commission accept these findings and, upon closure of the public hearing and after all due deliberation, move to approve the attached Planning Commission Recommendation, and forward the matter to the Phoenix City Council for review and ratification.

Estimating Adequate Licensed Square Footage for Production

Jonathan Caulkins, BOTEC Analysis, Carnegie Mellon University

Matthew Cohen, TriQ Inc.

Luigi Zamarra

Introduction

This document and associated spreadsheet provide a guide for estimating the cultivation area needed to support a given level of cannabis production. The data is drawn from a review of the relevant literature and from interviews conducted with 16 growers. This report finds that indoor and outdoor yields average about 40 grams per square foot per harvest, but with a considerable range. Yields per square foot per year can be much higher of course, because there can be multiple harvests per year, particularly for indoor production.

If the goal is to limit a licensee's production, restricting growing area may be a useful supplemental constraint. Setting a limit that is relatively generous (say double what one might expect is required) might discourage willful gross violations of production limits, without greatly inconveniencing a responsible grower. However, trying to make growing area the binding constraint invites a range of adaptations to increase yield per square foot that would also drive up cost and might even somewhat restrict the range of varieties brought to market.

Factors Complicating Cultivation Area Estimation

Estimating cultivation area seems straightforward. For example, if each of four harvests per year yields 50 grams per square foot, then to produce 120 metric tons of marijuana annually, one needs to license $120,000,000 / (4 * 50) = 600,000$ square feet.

Five factors complicate the analysis:

- 1) Yield figures are not standardized.
- 2) Yield is normally expressed per square foot harvested, and indoor marijuana grows customarily produce multiple harvests per year.
- 3) Yields can vary by modality (e.g., greenhouse vs. artificial lights), variety of strain, and intensity (e.g., wattage of artificial lights or type and amount of fertilizer). We use averages that account for these variables.

- 4) Yields are conventionally described in terms of grams per square foot harvested, but production facilities also have ancillary spaces for seedlings, walkways, etc. A major decision point for the WSLCB, therefore, relates to whether the area-restriction applies to the entire building, all areas occupied by plants, or solely to areas occupied by mature plants that can be harvested.
- 5) The future mix of production strategies and associated yields is unknown and partially endogenous to WSLCB policy. For instance, if growing area is restricted, growers may have an incentive to employ higher yielding but more expensive production methods.

The Effect of Legalization on Average Yield

Growing in the U.S. has tended toward high yields per square foot because the need to avoid detection by law enforcement incentivizes a small operational footprint. However, there are some exceptions. Growers concerned about the 100-plant threshold, (qualifying the owner for a 5-year federal mandatory minimum sentence) and who have access to a large warehouse might grow 99 very large plants and spread them out to maximize each plant's yield. A more common approach is densely packing many small plants under artificial lights to mature them quickly enough to produce multiple harvests per year.

These may not represent best practices post legalization. Densely packed plants are more vulnerable to pests and disease. Furthermore, greenhouses are more economical (with cheaper structures and lower electricity costs), attested by the fact that few legal crops are grown entirely with artificial light. However, greenhouses' economic advantages disappear in winter due to heating costs. Greenhouse R-values are very low, meaning they are poorly insulated for heat, so greenhouses might not produce as many crops per year.

Hence, there is a trade-off between yield and production cost. If there is no limit on production area, one might expect greenhouse production to gain popularity due to cost considerations. However, if production area is constrained to the point that greenhouse production would leave some demand unsatisfied, growers might use their scarce growing area for production under artificial lights—unless production limits keep prices high.

There can be a similar trade-off across different modes of production under artificial lights. Some strains or varieties of cannabis yield more per square foot than others. Likewise, some mature faster, resulting in more crops per year. Similarly, increasing lighting or fertilizer intensity can increase yield. Therefore, if production area is constrained, growers might focus on the highest yielding varieties or use more lamps per square foot to boost yields—even if that constrains the range of varieties available for sale or increased electricity consumption and production cost per kilogram.

This complicates the establishment of suitable production quotas. For example, even if the WSLCB licensed the correct acreage to produce for the entire WA market at greenhouse-level yields, producers might still use all licensed and allocated space for high yield methods, if the excess production could still be sold (e.g., because “smurf and aggregate” operations carried the additional product to other states).

Using the Attached Spreadsheet as a Tool for Estimating Yield

The spreadsheet associated with this report accounts for multiple production forms and intensities. Users may enter not only the total production target (e.g., 120 metric tons), but also a description of the mix of production forms the industry is anticipated to employ. Those cells (indicated in blue in the spreadsheet) are now set to default values that represent our best guess at present, but should be updated by the WSLCB as better information on industry structure becomes available.

The spreadsheet is “preloaded” with five scenarios: (i) base case, (ii) high yield modalities, (iii) a low cost scenario, (iv) all indoor production (balanced mix), and (v) all greenhouse production.¹ Average yield varies by a factor of about 2 across the scenarios. For instance, the area needed for a target production of 120 metric tons varies from about 0.8 to 1.5 million square feet (19 – 34 acres). Of course, we would encourage the LCB to define its own scenarios as more and better information becomes available on grower behavior.²

Note: We set “no roof” (full sun) at 2% as a place holder, in the belief that it will account for a negligible share of production in Washington. If that proves false, then of course that parameter should be changed.

If the WSLCB tries to restrict production substantially by tightly constraining area cultivated, it should expect the industry to adapt in various ways and so achieve yields per unit area that are at the higher end of the ranges described. As a result, the WSLCB may prefer to utilize the “skewed toward high yield” in order to determine total allowable production area. Conversely, if production area were not meaningfully constrained, then the mix of production methods might trend toward modalities that produce less per square foot per year, and the “all greenhouse” scenario might be more informative.

Variables Pertinent to Yield-per-unit-area-harvested

Yield varies for three distinct types of reasons: (1) controlled variables, (2) the possibility of a partial or complete crop failure, and (3) random variation.

Besides venue (artificial lights vs. greenhouse vs. open air), controlled variables include factors such as variety, fertilizer, hydration, soil quality, pruning method,

¹ Scenarios can be accessed by choosing from the Excel (2010 or later) menu: Data, What-If Analysis, and Scenario Manager, then highlighting the desired scenario and clicking the “Show” button.

² Defining additional scenarios is easy in Excel. We would be happy to teach how if necessary.

harvest time, and lighting intensity. There are some predictable relationships, such as causation between more intense lighting and yield per unit area. Indeed, it is not uncommon to see the literature measure yield per watt rather than per square foot (e.g., Rosenthal). Other relationships are still being investigated. For example, Vanhove (2013) finds that matching the proper fertilizer to the strain type can have a substantial effect on yield. There are also factors that can affect yield post-harvest, in the drying, curing and processing phases.

Surprisingly, the grade of flower or THC potency does not necessarily play a factor in yield. A very high quality crop can have a very low yield, and a very low quality crop can have a high yield. However, since different strains have different lengths of growth cycles, limiting licensed growth square footage may encourage producers to grow those strains that have shorter growth cycles.

Crop failures can occur for a variety of reasons, including pests (mites), fungal contamination, and other miscellaneous causes. Even when the crop does not fail and the familiar control variables are held constant, there can still be variation from crop to crop. Even expert growers can have seemingly identical crops next to one another that vary in yield by 10-20%. Indeed, Vanhove et al. (2011) demonstrate that the average coefficient of variation in yield *within* a growth condition is 0.53. This is not a mystery or in any way unique to marijuana; yields in all forms of agriculture are more variable than in assembly line production.

Production potential per square foot harvested

The tables below summarize the evidence gathered for this task from the literature and 16 interviews with growers.³ Indoor and outdoor yields average about 40 and 47 grams per square foot, respectively, regardless of whether ranges are reduced to point estimates via arithmetic or geometric averaging.⁴

The higher value for outdoor production is due to two very high estimates. It is the interviewer's judgment that one respondent was thinking of an extreme best case scenario, and that the second may have provided an anecdotal response not supported by reliable data. Due to outlier data points, a trimmed mean may be a more reliable central measure than the usual mean. The trimmed means, omitting the two lowest and two highest estimates, are very close to 40 grams per square foot indoor or out.⁵

³ The Appendix provides further information on the estimates drawn from the literature beyond that reviewed by Leggett (2006).

⁴ Geometric averages – meaning the n^{th} root of the product of n numbers – have some advantages over the traditional arithmetic mean when reducing ranges to point estimates, but in this case gave essentially the same overall answer.

⁵ Indeed, the trimmed mean for indoor production (40.9) is slightly larger than for the outdoor estimates (39.6), indicating just how heavily the simple average of 47 grams per sq. ft. was influenced by the two very high reports.

Source	Item/Respondent	Details of Mode	Min	Max	Arithmetic Average	Geometric Average
Indoor						
Interviewer #1	#1		20	70	45	37.4
	#2		28.375	78.03	53.2025	47.1
	#3		20	70	45	37.4
	#4		20	70	45	37.4
	#5		20	70	45	37.4
	#6		15	60	37.5	30.0
	#7		28	56	42	39.6
	#8		30	60	45	42.4
Interviewer #2	#1		30	50	40	38.7
	#2		28	42	35	34.3
	#3		41	46	43.5	43.4
	#4		20	40	30	28.3
	#5		28	36	32	31.7
	#6		23	46	34.5	32.5
Leggett (2006) review	#1	Indoor scientific	37	56	46.5	45.5
	#2	Indoor scientific	17	65	40.9	33.0
	#3	Indica/sativa 1 m indoor	37	37	37.2	37.2
	#4	Indoor ("Skunk #1")	14	28	20.9	19.7
	#5	Indoor Sea of Green	30	47	38.5	37.5
	#6	Indoor Screen of Green	70	70	70.2	70.2
	#7	Indoor Screen of Green	47	47	46.8	46.8
	#8	Unspecified indoor	63	63	63.2	63.2
	#9	Indoor hydroponics	Dropped as an outlier			
	#10	Indoors	28	56	41.8	39.4
Toonen et al. (2006)			46.9	46.9	46.9	46.9
vanHove et al. (2011)		400 Watts / sq. meter	11.6	31.45	21.5	19.1
		600 Watts / sq. meter	21.44	44.9	33.2	31.0
Knight et al. (2010)		ScrOG, successful grow	32.7	32.7	32.7	32.7
Cervantes (2006)			29.6	53	41.3	39.6
Rosenthal			25.43	62.5	44.0	39.9
Avg across respondents					41.3	38.6
Outdoor						
Interviewer #1	#9		27.24	27.24	27.24	27.2
Interviewer #2	#1		40	70	55	52.9
	#3		93	93	93	93.0
	#4		25	50	37.5	35.4
	#5		112	112	112	112.0
Leggett (2006) review	#1	Outdoor rain-fed	14	14	14.1	14.1
	#2	Outdoor irrigated	24	24	23.6	23.6
	#3	Unspecified outdoor	14	28	21.2	20.0
	#4	Outdoor	46	46	46.5	46.5
Avg across respondents					47.8	47.2

Production potential per square foot *licensed*

It is crucial to understand that the figures cited above are per harvest and per area harvested.

Indoor production allows 4-6 harvests per year (5 being typical), whereas outdoor production allows only 1-3 harvests per year. Thus, production per square foot per year is much higher with indoor growing.

There were no complete estimates of yields in greenhouses. One might expect the production to be comparable per harvest per square foot, but that the number of harvests per year would be somewhat lower, since greenhouse heating can be so expensive in winter months. On the other hand, air conditioning costs in the summer when growing with artificial lights can also be very high.

There is also the complicated question of ancillary space that is essential to production, but which is not itself harvested. There are three types of ancillary space:

- 1) Space for growing plants that are not at the harvestable stage (mother plants, seedlings, etc.).
- 2) Dead space that is intertwined with area to be harvested (e.g., walkways).
- 3) Other areas not directly involved in growing (space used for drying, storing tools, record keeping, bathrooms, etc.).

Ancillary space can easily be half as large as the canopy area that is harvested, meaning that 2/3 of a facility may be devoted to canopy.

Administratively, the simplest approach might be to license the total size of the building, which would encompass all of these types of ancillary space. However, if the license limits the sum of all these types of space, then growers will have an incentive to go to great lengths and expenses to minimize the ancillary space. For example, a grower might employ crawl space under grow tables for storing supplies and moving about. Given the high potential value of cannabis yield per unit area, such limits could justify rather extraordinary measures.

An alternative would be to license just the area devoted to mature plants. This approach would allow officials to apply the yield figures above without adjustment. However, that would require some perhaps considerable extra effort for growers and inspectors to subtract out the area of walkways when computing area under canopy. Furthermore, there is also the question of how to write a clear and consistent rule that differentiates mature plants from seedlings.⁶

⁶ The mother plants do not require that much space in total, so folding them in with mature plants would require a relatively minor adjustment to the yield estimates above.

A third alternative would be to license total area devoted to plants, including mature plants, seedlings, and mother plants. That leaves out the third type of ancillary space, but includes the first two. In that case, the licensed area would be somewhat greater than what is occupied by mature plants, and the yield figures above would be reduced correspondingly.

Appendix A: Literature Review

From the published literature

Summary of Leggett (2006)

Leggett (2006, Table 3, pp.27-29) reviewed 35 yield estimates from a wide range of sources. Key elements of indoor estimates are reproduced below. Leggett (p.30) summarizes them as ranging from just over 300 to just under 800 grams per square meter per harvest, with an overall average of about 500 grams per square meter, with four-stage cultivation systems allowing 3-6 harvests per year.

Row	Source	Cultivation Style	Output per plant (grams)	Plants per square meter	Weight per Square Meter (grams)	Seasons per year	Output per square meter per year (grams)
#1	W. Scholten	Indoor scientific	100	4-6	400-600	4	1600-2400
#2	Br Columbia Compassion Club Soc	Indoor scientific			180-700		
#3	R. Clarke (2002, p.9)	Indica/sativa 1 m indoor	100	Assume 4	400	3-4	1200-1600
#4	R. Clarke (19998, p.189)	Indoor ("Skunk #1")			150-300 (flowers only)	3	
#5	M. Thomas (2002)	Indoor Sea of Green	9-14 (0.5 oz.)	36 (2 per sq. ft.)	324-504	4	1296-2016
#6	M. Thomas (2002)	Indoor Screen of Green	84 (3 oz.)	9	756	3	2268
#7	G. Green (2003)	Indoor Screen of Green	56 (2 oz.)	9	504	3	1512
#8	Onlinepot.org website	Unspecified indoor	170	Assume 4	680	4-52 (with CO2)	720-3400
#9	J. Cervantes (1993)	Indoor hydroponics	7	4	28	4	112
#10	Cannabis-seedbank.nl website	Indoors			300-600	3-6	

For outdoor yields, Leggett quotes Conrad in suggesting that yields of 200 grams per square meter are consistent with figures gathered from court cases in the U.S., but nonetheless uses 100 grams per square meter (one MT per hectare). Those figures would translate to 18.6 and 9.3 grams per square foot. Nonetheless, Leggett's Table 3 records some substantially greater yields, which are given here (exclusive of two described as "feral"). The sole greenhouse estimate is also included.

Row	Source	Cultivation Style	Output per plant (grams)	Plants per square meter	Weight per Square Meter (grams)	Seasons per year	Output per square meter per year (grams)
#1	UNODC Morocco	Outdoor rain-fed	76	1	76	2	152
#2	UNODC Morocco	Outdoor irrigated	4	30	127	2	254
#3	M. Starks (1990)	Unspecified outdoor	227-454	0.66	152-304	1	152-304
#4	M. Thomas (2002)	Outdoor	About 500	1	500	1	500
#5	Cannabis-seedbank.nl website	Outdoor	10-200	40 X 10 g	300-600		
#6	Cannabis-seedbank.nl website	Greenhouse		1-10	50-250	3-6	

Subsequent and Additional Citable Sources on Indoor Yield

Toonen et al. (2006) build a regression model based on 86 samples obtained from law enforcement raids in the Netherlands. Point estimate was 505 grams per square meter of dried female flower buds, which is equivalent to 46.9 grams per square foot.

Toonen et al. (2006, p.1053) also report that, “in popular cannabis cultivation literature, average yields of 366–610 g/m² are described (11)” with the citation being to Green G. The cannabis grow bible. USA: Green Candy Press, 2001. That range is equivalent to 34.0 to 56.7 grams per square foot.

Vanhove et al. (2011) seek to improve on Toonen et al. via a growing experiment with a full factorial Latin square design, varying light intensity (400 or 600 W per sq. meter), plant density (16 and 20 plants per square meter), and plant variety (four varieties). Plants were harvested after 11 weeks. Yields were 11.6 – 44.9 grams per square foot, although the discussion states, “According to the Belgian Police, the yield figures presented in this study are below the average yield found in common illicit cannabis indoor plantations.” Yields were substantially higher under the 600W condition, even slightly more than 1.5 times higher. Yields per unit area were not affected by plant density over this range. Yields did vary considerably by variety. If we focus on the two higher-yielding varieties (Big Bug and Super Skunk) under the 600W condition, the average yield was 40.7 grams per square foot.

Vanhove et al. (2012) summarized more such experiments, stating: “the lower-bound of the one-sided 95% confidence interval of the yield of an indoor cannabis plantation can be set at 575 g/m².”

Vanhove (2013, personal communications) performed a subsequent, unpublished, study interacting fertilizer type (complete scheme described in earlier papers vs. just NPK-fertilizers) crossed with variety. There was a (negative) main effect for the just NPK-fertilizer, but also a very strong interaction effect (e.g., Big Bud did better with basic fertilizer). The conclusion is that mismatching fertilizer with type can reduce yield below the 575 gram per square meter potential obtained earlier.

Knight et al. (2010) did three cycles of hydroponic growing (“Screen of Green” or ScrOG method). Each crop had six plants grown in 4.32m X 3.48 m. Production ranged from 94.2 to 186.4 ounces, which is 16.5 – 32.7 grams per square foot. Authors report problems with all three grows, due to their inexperience, particularly the two grows with lower yields. So the 32.7 gram per square foot figure would appear to be the best most relevant from this study.

As an aside, the yields per plant were considerable. The authors conclude that they have demonstrated one can obtain 42 ounce per plant with THC of 30%.

Cervantes (2006, pp.148-152) describes a case study of three crops with yields of 29.6 – 53.0 grams per square foot in 10, 9, and 9 weeks, respectively.

	Crop #1	Crop #2	Crop #3
Space	16' 5" x 7' 10"	33' x 7' 10"	33' x 7' 10"
Sq. Feet	128.6	258.5	258.5
Yield (pounds)	8.4	27.6	30.2
Grams per sq ft.	29.6	48.4	53.0

This is consistent with his rule of thumb of “0.5g-1g/watt”, which at typical light densities, equates to 31.25g-62.5g/sq. ft.

Rosenthal (Marijuana Grower’s Handbook) states that “A 1000w lamp produces a yield of about 375-1000 grams.” Typically a 1000w flowering lamp is used every 16 sq. ft. (4’x4’), so this translates to 23.43g-62.5g per sq. ft.

Other studies read, but not deemed relevant

McNeill (1992, p.391, “Kif in the Rif”) reports outdoor production in Morocco as 2,000 kilograms per hectare, which is equivalent to 18.6 grams per square foot.

Chris Conrad (2007) Safe Access Now Online Handbook, Cannabis Yields and Dosage (Part 1-b), downloaded April 29, 2013 from <http://www.safeaccessnow.net/adversitycanopy.htm>.

“The typical indoor yield is 0.25 to 0.5 ounces per square foot” which would be 7.1 – 14.2 grams per square foot, but the gestalt of the overall document was an argument for liberal growing areas limits, so the author may have had an incentive to lowball yield per square foot. He relates, “About half of the area is used for flowering females ... The other half is for mothers, seedlings, clones and young plants”

Amaducci et al. (2008) describe a careful agricultural experimental on yields using a completely randomized block design over two genotypes, three densities, and two harvest times, but is not really relevant since it pertained to outdoor production of cannabis for hemp. Yield in the better of the two growing seasons was close to 12 metric tons per hectare of dried stem matter, which corresponds to 111 grams per square foot. But, that is stem, so the study is worth mentioning only because it represents a true agricultural experiment.

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By Thomas Moriarty
For the Tidings

[Print Page](#)

February 18, 2015 4:25PM

City may restrict outdoor pot growing

With the legalization of marijuana less than five months away, Ashland city officials are considering an ordinance that would restrict the outdoor growing of pot in residential areas.

Under Ballot Measure 91, which takes effect July 1, adults 21 and older will be allowed to possess up to 8 ounces of marijuana and up to four plants. The Oregon Liquor Control Commission will start licensing for commercial sales Jan. 1, 2016.

Ashland City Administrator Dave Kanner told Ashland City Council Tuesday he's worried the new law could cause an increase in offensive odors and other quality-of-life issues, a problem city officials already have encountered with medical marijuana.

"Last fall, we responded to about a half dozen odor complaints all over town — people were growing marijuana outdoors," Kanner said. He pointed to Arcata, Calif., as an example of a city that successfully has adapted its civil code to rein in commercial growing.

"They regulate not just outdoor growing but indoor growing as well," he said.

Arcata adopted the ordinances after it experienced a massive boom in the number of grow operations following California voters' approval of medical marijuana in 1996. "There were 625 houses in which nobody was living," Kanner said. "They were being used solely for growing marijuana."

Kanner said that Ashland's ordinances may not need to be as restrictive as Arcata's. The new law already requires plants possessed for personal use to be screened from public view, Kanner said. He suggested the new ordinance could prevent a rash of unoccupied grow houses by requiring plants possessed for personal use to be kept in that person's physical residence and require a minimum distance from other residences to minimize offensive odors from flowering plants.

Councilor Greg Lemhouse suggested that time-place restrictions could include prohibitions on indoor growing near schools.

"I wonder if it's even appropriate in certain areas of town," he said.

The council gave city staff direction to pursue the drafting of a new ordinance. Kanner said he'd also like to explore changes to the city's electrical infrastructure in hopes of capturing revenue from commercial growers who may be drawn to the city by its low electrical rates.

"This is something that's coming, and it's coming very soon," he said.

Reach reporter Thomas Moriarty at 541-776-4471 or tmoriarty@mailtribune.com. Follow him at [@ThomasDMoriarty](https://twitter.com/ThomasDMoriarty).

<http://www.dailytidings.com/article/20150218/NEWS/150219811>

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City of Arcata Residential Electricity Users Tax, Measure I (November 2012)


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A **City of Arcata Residential Electricity Users Tax, Measure I** ballot question was on the [November 6, 2012, ballot](#) for voters in the City of Arcata in [Humboldt County](#), where it was **approved**.

Measure I imposed an electricity users tax of 45% on any residential customers "whose electricity usage exceeds 600% over the established Baseline Allowance."

Election results

Measure I		
Result	Votes	Percentage
 Yes	5,314	68.00%
No	2,501	32.00%

Final official results from the [Humboldt County elections office](#).

Ballot question

The question on the ballot:

Measure I: Shall the City of Arcata impose an electricity users tax rate of 45% on residential customers whose electricity usage exceeds 600% over the established Baseline Allowance with a sole exemption

for households receiving an extended Medical Baseline from the electricity service supplier, and automatically terminating in twelve years (City of Arcata Resolution No. 112-52)?^[1]

Ballotpedia

How Much Marijuana Does A Marijuana Plant Yield?

Posted by [Robert Bergman](#) at 6:31 AM on January 21, 2014 [Growing Marijuana](#)



How Much Does One Marijuana Plant Produce?

One of the most popular questions regarding marijuana is “How much can I expect to get?” or “How much usable marijuana will a single plant provide?” There are no simple answers to this question as each situation depends on a number of variables.

Many people take up growing weed and they have a variety of reasons for doing so. In every case, you want to get the most out of your crop. Whether you’re growing for medical reasons or you just want to make a little money on the side, the overall yield is a top priority for all growers. Here are some tips to get the most out of your garden.

Growing Indoors

Lights are of the utmost importance when you’re growing indoors. Experienced growers can produce about a gram of marijuana per watt of light (1 gram = 0,035 oz). So, a 400-watt HPS lamp can potentially translate to 400 grams or 14 oz of usable cannabis. Likewise, a grow room with 1200 watts of light will produce 1.2 kilograms or 42 oz of cannabis. Having the right equipment, adequate nutrient solutions, beneficial air quality, and other valuable factors is important for producing the highest yields. Making sure the plants have space to grow is also key. Beginners can expect to yield grass as follows:

Imperial

- An average of around 1.5 to 2.0 oz (3.5 oz for advanced growers) with 200-watt CFL lamps in a grow cabinet that measures 3.5 x 1.5 x 6.5 ft.
- An average of around 3.0 to 5.0 oz (9.0 oz for advanced growers) with a 250-watt HPS lamp in a grow cabinet that measures 3.5 x 1.5 x 6.5 ft.
- An average of around 4.5 to 9.0 oz (14 oz for advanced growers) with a 400-watt HPS lamp in a grow room that measures 3.5 x 3.5 x 7 ft.
- An average of around 5.0 to 10 oz (21 for advanced growers) with a 600-watt HPS lamp in a grow room that measures 4 x 4 x 8 ft.
- An average of around 250 to 500 grams (1000 for advanced growers) with a 1000-watt HPS lamp in a grow room that measures 5 x 5 x 8 ft.

Metric

- An average of around 40 to 60 grams (100 for advanced growers) with 200-watt CFL lamps in a grow cabinet that measures 1 x 0.5 x 2 m
- An average of around 80 to 150 grams (250 for advanced growers) with a 250-watt HPS lamp in a grow cabinet that measures 1 x 0.5 x 2 m
- An average of around 100 to 250 grams (400 for advanced growers) with a 400-watt HPS lamp in a grow room that measures 1 x 1 x 2.5 m,
- An average of around 150 to 300 grams (600 for advanced growers) with a 600-watt HPS lamp in a grow room that measures 1.2 x 1.2 x 2.5 m.
- An average of around 250 to 500 grams (1000 for advanced growers) with a 1000-watt HPS lamp in a grow room that measures 1.5 x 1.5 x 2.5 m.

Individual Plant Yield

Indoor growth doesn't bring with it a lot of certainty in terms of yield per plant. If you have only four plants per lamp, then you'll yield much more than you would with total of sixteen plants for every lamp. You should consider these things prior to choosing how many plants you want to grow:

- If you've only got 4 plants, your crop will be ruined if even one gets a disease or dies
- Vegetative growth lasts longer with only four plants. You should want to force flowering when the tips of the leaves are touching. If there are more plants, the leaves touch quicker.
- Four plants are easier to manage than sixteen.
- If someone catches you, you only have four plants to your name.

Either way, growing four plants using a 600-watt HPS lamp could produce about 150 grams or 5.0 oz per plant. Sixteen plants that are grown under a 600-watt HPS lamp could produce about 37.5 grams or 1.3 oz of marijuana per plant.

Growing Outdoors

Under perfect, outdoor conditions, you can expect yields to extend to 500 grams or 17.5 oz per plant. Space is a necessity (at least two meters) along with water, nutrients, and a dearth of pests and diseases. If you use containers, they should be at least 50 liters or 15 gallons in size. It's a good idea to germinate the seeds early on to allow the plants time to grow large. It's best to germinate indoors where you can manage the humidity and the temperature for the seedlings. Again, 500 grams (17.5 oz) per plant is possible if everything goes as planned.

Aside from an adequate amount of sun, water, and nutrient quality, the actual genetics of the plant play a very important role. Seeds are vital and you need to have some exceptional seeds at your disposal. You can look through our [marijuana seed shop](#) to find the a strain that's right for you. It all starts with genetics....

Want to know more about growing marijuana? [Get your free copy of 'The Marijuana Grow Bible' by Robert Bergman at this link here.](#)

Source: ILoveGrowingMarijuana.Com

STAFF REPORT
City Council Agenda
May 2, 2012

TO: Randy Mendosa, City Manager
FROM: Larry Oetker, Community Development Director *LPO*
DATE: April 25, 2012

SUBJECT: Public Hearing to Consider Adopting Ordinance Number 1417- An Urgency Measure of the City Council Adopted as an Ordinance imposing a Temporary Moratorium on the Establishment of Medical Marijuana Dispensaries, Growing and Processing Operations.

RECOMMENDATION: Staff recommends that the City Council: Adopt Ordinance No. 1417 - An Urgency Measure of the City Council Adopted as an Ordinance imposing a Temporary Moratorium on the Establishment of Medical Marijuana Dispensaries, Growing and Processing Operations; waive reading of the text and consent to read by title only.

INTRODUCTION: On October 5, 2011, the City Council reviewed issues regarding medical marijuana permits and directed staff to “continue processing, but take no final action until the Council has received a legal update.” On January 4, 2012, the City Attorney provided an update on legal developments pertaining to medical marijuana to the City Council. On that date, the City Council directed staff to develop an interim ordinance imposing a temporary moratorium on new medical marijuana collective/cooperative uses within the City. On March 21st, the Council adopted the urgency Ordinance 1413.

DISCUSSION: Government Code Section 65858 allows for a City Council to adopt by four-fifths vote as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or planning department is considering or studying or intends to study within a reasonable time. The adopted urgency Ordinance 1413 will expire 45 days after March 22nd. Because Ordinance No. 1417 included a 10 day advanced published notice, the moratorium can be extended up to an additional 22 months and 15 days.

The moratorium will be imposed on the establishment of medical marijuana dispensary, growing and processing operations in the City of Arcata, including within the Coastal Zone. Existing documented collectives and cooperatives can remain open during the moratorium unless their Conditional Use Permit has been denied. The moratorium shall not apply to Land Use Code (LUC) Section 9.42.105.D. Medical Marijuana for Personal use, as this section is not in conflict with current court cases or memos from the Department of Justice. LUC Section 9.42.105.D. has been effective in allowing individual qualified patients to cultivate medical marijuana within their residences, and has been an effective regulation to shut down illegal non-medical marijuana “grow houses.”

BUDGETARY/FISCAL IMPACT: The approximately \$320 cost of the required public hearing noticing has been expended. The Community Development Department has no budget for these required expenditures.

ATTACHMENTS:

- A. Draft Ordinance No. 1417
- B. Section 9.42.105 Medical Marijuana: Cultivation and Dispensing

INTERIM ORDINANCE NO. 1417

**AN URGENCY MEASURE OF THE CITY COUNCIL OF THE CITY OF
ARCATA ADOPTED AS AN INTERIM ORDINANCE IMPOSING A
TEMPORARY MORATORIUM ON THE ESTABLISHMENT OF MEDICAL
MARIJUANA DISPENSARIES, GROWING AND PROCESSING OPERATIONS**

The City Council of the City of Arcata does hereby ordain as follows:

Section 1. Findings.

The City Council hereby makes the following findings:

- A. In 1996, the Compassionate Use Act (CUA) was adopted in California by voter initiative providing a criminal defense for the medical use of marijuana by the seriously ill with a doctor's recommendation.
- B. Pursuant to the CUA, on November 19, 2008, the City Council of the City of Arcata adopted medical marijuana zoning standards and regulations by adopting Ordinance 1382 amending the Land Use Code (LUC), codified in the Arcata Municipal Code at Title IX, by adding Section 9.42.105, *Medical Marijuana: Cultivation and Dispensing* as a new standard for specific land use; revising LUC *Allowable Land Uses and Permit Requirements Tables 2-1, 2-4, and 2-10*; adding associated definitions to LUC Article 10, *Glossary*; and revising the text of LUC Section 9.42.040, *Accessory Uses* and Section 9.42.090, *Home Occupations*. Ordinance 1382 became effective December 19, 2008.
- C. Also on November 19, 2008, the City Council adopted Resolution No. 089-37 adopting Local Coastal Plan amendments to add Chapter III, Article 9 – *Medical Marijuana: Cultivation and Dispensing* as a new land use standard for the areas within the City of Arcata's Coastal Zone boundary.
- D. The City's medical marijuana zoning standards and regulations distinguish between two types of medical marijuana uses: 1) personal cultivation by qualified patients and their care givers in residential zones (use permits are not required, however zoning standards apply), and 2) cultivation, processing and dispensing activities by medical marijuana cooperatives and collectives (all of which require use permits).
- E. At the time the City adopted its medical marijuana zoning standards and regulations, the California case law had concluded that the CUA is not in conflict with the federal Controlled Substances Act (CSA), which does not recognize a medical use for marijuana and lists marijuana as a controlled substance (see *City of Garden Grove v. Superior Court (Khu)* (2007) 157 Cal.App.4th 355, 371-373, 381-382; *County of San Diego v. San Diego NORML* (2008) 165 Cal.App.4th 798, 825-828). The City had additionally

been informed that the United States Department of Justice (DOJ) did not intend to use its limited federal resources to enforce the CSA against seriously ill individuals using marijuana for medical purposes in accordance with the state's CUA. This position of the DOJ was formalized in a written guidance memorandum distributed to its federal prosecutors in October 2009 (the "Ogden Memo").

- F. Beginning in February 2011, the DOJ and the regional U. S. Attorneys indicated a change in their position concerning enforcement of the marijuana provisions in the CSA. The DOJ issued a second guidance memorandum to its federal prosecutors in June 2011 stating a core priority of the DOJ to be prosecution efforts against those who are in the business of cultivating, selling or distributing marijuana and those who knowingly facilitate such activities (the "Cole Memo"). The federal prosecutors through the regional U.S. Attorneys' offices began in February 2011 sending letters to local governments advising that local government regulatory programs that permit industrial marijuana cultivation and manufacturing adopted pursuant to the state CUA violate the federal CSA, and that public officials adopting, implementing or enforcing such programs could be found to be illegally facilitating marijuana cultivation, and could be subject to federal prosecution.
- G. In August 2011, the Arcata Police Chief and City Attorney met with the U.S. Attorney for the Northern District of California and were advised that the City's medical marijuana zoning regulations requiring use permits for the cultivation, manufacturing and processing of medical marijuana by collectives, cooperatives and/or dispensaries (LUC sub-Sections 9.42.105.E and F) violate the federal CSA, and that the City could be subject to enforcement including injunctive relief to prohibit the City from further implementation of the zoning regulations, as well as civil and criminal prosecution. The U.S. Attorney also reiterated that limited federal resources would most likely not be used against the seriously ill who use and grow marijuana for their own use.
- H. The four regional U.S. Attorneys for California began a coordinated prosecution effort beginning in October 2011 against marijuana dispensaries.
- I. At the time the City adopted its medical marijuana zoning standards and regulations in 2008 (Ordinance 1382 and Resolution No. 089-37), the City was aware of four (4) medical marijuana dispensaries and/or uses that operated within the City, which variously included growing and processing components as well as interactions with the public for the dispensing of the medical marijuana, which would require permits under the City's medical marijuana zoning standards.
- J. Sub-Section 9.42.105.E of the City's medical marijuana standards and regulations requires the four (4) preexisting dispensaries to come into full

compliance with Ordinance 1382 and resolution No. 089-37 within one (1) year after the effective date of Ordinance 1382.

- K. Pursuant to the City's medical marijuana zoning standards and regulations, the four (4) pre-existing dispensaries applied for and the City diligently processed five (5) total Conditional Use Permit applications: four (4) applications for Medical Marijuana Cooperatives or Collectives (sub-Section 9.42.105.E), and one (1) application for Medical Marijuana Cultivation for Cooperative or Collective (sub-Section 9.42.105.F).
- L. Of the applications processed, one (1) Conditional Use Permit was approved (permit No. 089-038); one (1) was denied (permit No. 090-024). At this time, three (3) permit applications arising from two dispensaries remain pending under Sub-Section 9.42.105.E of the City's medical marijuana standards and regulations
- M. On October 5, 2011, because of the apparent change in enforcement policy of the DOJ since adoption of the City's medical marijuana zoning standards and regulations, the City Council temporarily suspended the further issuance of use permits for medical marijuana cooperatives or collectives until the City was no longer under threat for implementing sub-sections 9.42.105.E and F of its medical marijuana zoning regulations..
- N. In October 2011, a California appellate Court issued a ruling declaring that the federal CSA preempts local governments from adopting, implementing and enforcing local regulations such as those found in the City's medical marijuana zoning regulations pertaining to medical marijuana collectives and cooperatives at sub-Sections 9.42.105.E and F. (*Pack v. City of Long Beach*, 10/4/11, 2nd Appellate Division, Case No. B228781). This ruling does not impact the City's medical marijuana personal use standards found at sub-Section 9.42.105.D of the LUC.
- O. The California Supreme Court has agreed to review the *Pack* decision, as well as three other appellate level cases issuing conflicting decisions under the CUA pertaining to the authority of a City to ban dispensaries and standing to sue a local government over a local medical marijuana dispensary ban.
- P. On December 21, 2011, the California Attorney General sent a letter to the California State legislature stating that the current state of medical marijuana regulation in California "is far more complicated than was the case in 2008," when the first AG Medical Marijuana Guidelines were issued, and that, "the state law itself needs to be reformed, simplified, and improved to better explain how, when, and where individuals may cultivate and obtain physician-recommended marijuana, and to provide law enforcement officers with guidelines for enforcement."

- Q. On March 21st, 2012, the City Council adopted Interim Ordinance 1413. As per State Law, Interim Ordinance 1413 may only be in effect for 45 days. The Interim Ordinance imposed a moratorium on the establishment of medical marijuana dispensary, growing and processing operations in the City of Arcata, including within the Coastal Zone. Existing documented collectives and cooperatives could remain open during the moratorium unless their Conditional Use Permit has been denied. The moratorium did not apply to Land Use Code (LUC) Section 9.42.105.D. Medical Marijuana for Personal use, as this section is not in conflict with current court cases or memos from the Department of Justice.
- R. Based on the recent developments stated above, the City's medical marijuana zoning standards and regulations found in LUC sub-sections 9.42.105.E and F. appear to conflict with federal law. Amendments to these standards are therefore required, however it is impossible to know what the permissible scope of the amendments to the City's provisions should be until the Supreme Court issues an opinion on the medical marijuana cases presently pending before it, the California Legislature takes action to clarify the CUA, or the federal government adopts a new enforcement policy for the CSA affirmatively recognizing the authority of local governments to regulate medical uses of marijuana.
- S. Since their adoption in 2008, the City's medical marijuana zoning standards established in Section 9.42.105.D, *Medical Marijuana for Personal Use*, have been effective in allowing individual qualified patients to cultivate medical marijuana within his/her residence while shutting down illegal non medical marijuana "grow houses".
- T. Sub-section 9.42.105.D of the City's medical marijuana zoning standards has been utilized fifty-eight (58) times since 2008 and is an indispensable tool in the City's multi-pronged strategy to curtail illegal "grow houses" in the City.
- U. The City's land use based marijuana standards have been utilized as a model for other communities in Humboldt County and throughout the State.
- V. Government Code section 65858 allows a City, without following the procedures otherwise required prior to the adoption of a zoning ordinance, to protect the public safety, health and welfare through adoption as an urgency measure of an interim ordinance prohibiting any uses that may be in conflict with a contemplated zoning proposal that the City Council, Planning Commission or Planning Department is considering or studying or intends to study within a reasonable time.

Section 2. Moratorium Established.

A moratorium is hereby imposed on the establishment of medical marijuana dispensary, growing, and processing operations in the City of Arcata. Notwithstanding

the City of Arcata Land Use Code (LUC) Section 9.42.105, *Medical Marijuana: Cultivation and Dispensing*; LUC *Allowed Land Uses and Permit Requirements Tables 2-1, 2-4, and 2-10*; or any other provisions of the Land Use Code, Local Coastal Program, Arcata Municipal Code or any other regulations of the City of Arcata, no medical marijuana dispensary, growing or processing operation shall be established in the City, and no permits, licenses, or other applicable entitlements for use, which has as its result the final approval or allowance of medical marijuana collective, cooperative or dispensary, growing, or processing operations within the City of Arcata, shall be granted or approved by any employee, department or commission of the City for a period of forty-five (45) days immediately succeeding the effective date of this ordinance, unless extended by a later enacted ordinance.

This moratorium shall not apply to Section 9.42.105.D Medical Marijuana for Personal use, as this section is not in conflict with *Pack v. City of Long Beach* or the Department of Justice Ogden and Cole memos. Section 9.42.105.D has also been effective in allowing individual qualified patients to cultivate medical marijuana within his/her residence as well as an effective regulation to shut down illegal non medical marijuana “grow houses”.

This ordinance and the moratorium established herein applies to any site, facility, location, use, cooperative or business that distributes, dispenses, stores, sells, exchanges, processes, delivers, gives away, or cultivates marijuana for medical purposes to qualified patients, or converts or causes the conversion of residential uses into illegal medical marijuana growing, processing, and/or dispensing uses.

Section 3. Existing Dispensaries.

The City Council makes no determination under City laws and regulations in existence at the effective date of this ordinance as to the lawfulness of the two existing medical marijuana dispensaries for which three Conditional Use Permit applications are suspended and their present methods of operation and activities. The three pending permits are as follows:

- A. HPRC 980 6th Street, 090-032-UP, APN 021-168-006
- B. HPRC Alder Grove, 090-033-UP, APN 507-461-073
- C. The Humboldt California Assoc., 601 “I” Street, 090-031-UP2, APN 0210163-006

All such dispensaries will be expected to comply with future City laws and standards adopted as a result of City planning efforts initiated during the period of this ordinance.

Section 4. Urgency.

This ordinance is declared to be an interim ordinance of the City of Arcata for preserving the public safety, health, and welfare. The reasons for the interim ordinance in connection with this ordinance are herein set forth and incorporated by reference in the findings contained and set forth in Section 1 above.

Section 5. Extension.

This interim urgency ordinance shall by operation of law be of no further force and effect twenty-two (22) months and fifteen (15) days after the date of this adoption on May 2, 2012.

Section 6. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 7. Penalties.

Violation of any provision of this ordinance shall constitute an infraction. In addition, any violation of this ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

Section 8. Effective Date.

This ordinance is hereby declared to be an urgency measure and shall be enforced and be in effect immediately upon its adoption.

Section 9. Publication.

Within fifteen (15) days after adoption, this ordinance shall be circulated with the names of the members voting for and against the same at least once in a newspaper of general circulation in the City of Arcata, and posted in public places within the City.

DATE: May 2, 2012

ATTEST:

APPROVED:

City Clerk, City of Arcata

Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of **Ordinance No. 1417**, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California on the 2nd day of May, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

City Clerk, City of Arcata

9.42.105 – Medical Marijuana: Cultivation and Dispensing ⁽¹⁾

- A. Purpose.** The purpose and intent of this section is to regulate the cultivation and dispensing of medical marijuana in a manner that protects the health, safety and welfare of the community. This section is not intended to interfere with a patient's right to medical marijuana, as provided for in California Health & Safety Code Section 11362, nor does it criminalize medical marijuana possession or cultivation by specifically defined classifications of persons, pursuant to state law.
- B. Applicability.** No part of this ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation. The cultivation, processing and dispensing of medical marijuana in the City of Arcata is controlled by the provisions of this section of the Land Use Code. Accessory uses and home occupations, where medical marijuana is involved shall be governed by the provisions of this section.
- C. Release of Liability and Hold Harmless.** The owner and permittee of a medical marijuana cooperative, collective or cultivation facility shall release the City of Arcata, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of cooperative or collective or cultivation owners, operators, employees, or clients for violation of state or federal laws in a form satisfactory to the Director. In addition, the owner and permittee of each medical marijuana cooperative, collective or cultivation facility shall indemnify and hold harmless the City of Arcata and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the cooperative, collective or cultivation facility, and for any claims brought by any of their clients for problems, injuries, damages, or liabilities of any kind that may arise out of the distribution, cultivation and/or on- or off-site use of medical marijuana provided at the cooperative, collective or cultivation facility in a form satisfactory to the Director.
- D. Medical Marijuana for Personal Use.** An individual qualified patient shall be allowed to cultivate medical marijuana within his/her private residence. A primary caregiver shall only cultivate medical marijuana at the residence of a qualified patient for whom he/she is the primary caregiver. Medical marijuana for personal use shall be in conformance with the following standards:
1. The medical marijuana cultivation area shall not exceed 50 square feet and not exceed ten feet (10') in height per residence;
 - a. Medical marijuana cultivation lighting shall not exceed 1200 watts;
 - b. The use of gas products (CO₂, butane, etc.) for medical marijuana cultivation or processing is prohibited;
 - c. In accordance with Section 9.42.090.B.2., medical marijuana cultivation and sale is prohibited as a Home Occupation. Per Section 9.42.040, Accessory Uses, medical marijuana cultivation and sales is not considered an accessory use. No sale or dispensing of medical marijuana for personal use is allowed;
 - d. From a public right of way, there shall be no exterior evidence of medical marijuana cultivation either within or outside the residence;
 - e. The qualified patient shall reside in the residence where the medical marijuana cultivation occurs;
 - f. The qualified patient shall not participate in medical marijuana cultivation in any other residential location within the City of Arcata;
 - g. The residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and not be used primarily for medical marijuana cultivation;

- b. In addition to Section 9.72.080 F (Use Permit Findings and decision), the review authority should give special consideration to approving cooperatives or collectives located: within a 300 foot radius from any existing residential zoning district, within 500 feet of any other medical marijuana cooperative or collective as defined in the glossary which is located either inside or outside the jurisdiction of the City, or within 500 feet from any existing public park, playground, day care, or school.
- c. Source of medical marijuana. A medical marijuana cooperative or collective shall only dispense marijuana from the following sources:
 - (1) Permitted Cooperative or Collective. If the Use Permit authorizes limited, on-site medical marijuana cultivation at the cooperative or collective, a permitted medical marijuana cooperatives' or collectives' on-site cultivation shall not exceed twenty-five (25) percent of the cooperatives' or collectives' total floor area, but in no case greater than 1,500 square feet and not exceed ten feet (10') in height.
 - (2) Off-site Permitted Cultivation. The cooperative or collective cultivates medical marijuana in an off-site location in accordance with applicable zoning regulations from the jurisdiction in which it is located. Zoning compliance documentation from the applicable jurisdiction shall accompany the Use Permit application and be updated annually.
 - (3) Qualified Patients. In the case of a medical marijuana cooperative or collective, the medical marijuana is acquired from an individual qualified patient who cultivated the medical marijuana in accordance with the standards in Section 9.42.105.D., the qualified patient received no monetary remittance, and the qualified patient is a member of the medical marijuana cooperative or collective. Pursuant to California Health and Safety Code §11362.765 (c) a collective or cooperative may credit its members for medical marijuana provided to the collective or cooperative, which they may allocate to other members.
- d. Notwithstanding Section 9.72.080 (Use Permit and Minor Use Permit) a medical marijuana cooperative or collective application for a Use Permit shall include a detailed Operations Manual including but not necessarily limited to the following information:
 - (1) Authorization for the City, its agents and employees, to seek verification of the information contained within the application;
 - (2) A description of the staff screening process including appropriate background checks;
 - (3) The hours and days of the week the medical marijuana cooperative or collective will be open;
 - (4) Text and graphic materials showing the site, floor plan and facilities of the medical marijuana cooperative or collective. The material shall also show adjacent structures and land uses;
 - (5) A description of the security measures located on the premises, including but not limited to, lighting, alarms, and automatic law enforcement notification;
 - (6) A description of the screening, registration and validation process for qualified patients;
 - (7) A description of qualified patient records acquisition and retention procedures;
 - (8) The process for tracking medical marijuana quantities and inventory controls including on-site cultivation, processing, and/or medical marijuana products received from outside sources;
 - (9) Description of measures taken to minimize or offset energy use from the cultivation or processing of medical marijuana;
 - (10) Description of chemicals stored, used and any effluent discharged into the City's wastewater and/or stormwater system; and
 - (11) Other information required by the Community Development Director.

- 2. Operating Standards.** Medical marijuana cooperatives or collectives shall comply with all of the following operating standards.
- a. No dispensing medical marijuana to an individual qualified patient or primary caregiver more than twice a day;
 - b. Medical marijuana cooperatives or collectives shall only dispense medical marijuana to an individual qualified patient who has a valid, verified physician's recommendation. The medical marijuana cooperative or collective shall verify that the physician's recommendation is current and valid;
 - c. Medical cooperatives or collectives shall display the client rules and/or regulations in a conspicuous place that is readily seen by all persons entering the cooperative or collective. The client rules and/or regulations shall include, but not limited to:
 - (1) Each building entrance to a medical marijuana cooperative or collective shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming medical marijuana on the premises or in the vicinity of the cooperative or collective is prohibited unless specifically authorized with the Use Permit.
 - (2) The building entrance to a medical marijuana cooperative or collective shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) are precluded from entering the premises unless they are qualified patients and/or they are under the supervision of their parent or legal guardian.
 - d. The hours of operation for an approved medical marijuana cooperative or collective shall be limited to between 8:00 a.m. to 8:00 p.m. or as specified within the Use Permit.
 - e. Medical marijuana cooperatives or collectives shall not permit the use of medical marijuana on-site unless specifically authorized under the Use Permit.
 - f. Medical marijuana cooperatives or collectives shall not permit the on-site display of marijuana plants except for approved signs according to Chapter 9.38 (Signs);
 - g. Medical marijuana cooperatives or collectives shall only permit the distribution of live plants, starts and clones as allowed by the approved Use Permit. Such distribution shall be limited to qualified patients or primary caregiver;
 - h. Medical marijuana cooperatives or collectives shall only permit the on-site display or sale of marijuana paraphernalia used for the consumption of medical marijuana as allowed by the approved Use Permit;
 - i. Medical marijuana cooperatives or collectives shall comply with other conditions as outlined in the Use Permit;
 - j. Medical marijuana cooperatives or collectives shall maintain all necessary permits, and pay all appropriate taxes. Medical marijuana cooperatives or collectives shall also provide invoices to vendors to ensure vendor's tax liability responsibility;
 - k. Medical marijuana cooperatives or collectives shall implement procedures as outlined in their approved Operations Manual;
 - l. Medical marijuana cooperatives or collectives shall submit an "Annual Performance Review Report" for review and approval by the Community Development Director. The "Annual Performance Review Report" is intended to identify effectiveness of the approved Use Permit, Operations Manual, and Conditions of Approval, as well as the identification and implementation of additional procedures as deemed necessary. The Community Development Director may review and approve amendments to the approved "Operations Manual"; and the frequency of the "Annual Performance Review Report". Medical marijuana cultivation and dispensing monitoring review fees pursuant to the current Planning and Zoning Fee Resolution shall accompany the "Annual Performance Review Report" for costs associated with the review and approval of the report.

3. **Permit Revocation or Modification.** A use permit may be revoked or modified according to Section 9.96.070 (Permit Revocation or Modification). Use Permit revocation proceedings may occur for non-compliance with one or more of the items 2.a. through I. above.
4. **Transfer of Use Permit.** The rights of an approved Use Permit to operate a medical marijuana cooperative or collective may be transferred to another cooperative or collective as a Use Permit modification according to Section 9.96.070 (Permit Revocation or Modification).

F. Medical Marijuana Cultivation for Cooperative or Collective. Except as permitted in Section 9.42.105 E. 1. c. (1) medical marijuana cultivation and processing for medical marijuana cooperatives or collectives is considered an agricultural use and may be established only in those zoning districts listed in Table 2-1 "Allowable Land Uses and Permit Requirements for Agricultural and Resource Zoning Districts" and 2-10, "Allowable Land Uses and Permit Requirements for Commercial, Industrial, and Public Facility Zoning Districts." Medical marijuana cultivation and processing for a medical marijuana cooperative or collective shall only be allowed with an approved Use Permit in conformance with Section 9.72.080 (Use Permit and Minor Use Permit). The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining a Use Permit to operate medical marijuana cultivation or processing facility.

Notwithstanding the provisions of Chapter 9 (Nonconforming Uses, Structures, and Parcels), an existing medical marijuana cultivation and processing structure or use in operation as of the effective date of this ordinance shall be brought into full compliance with the provisions of this section within one year of the effective date of the ordinance establishing this section.

1. **Specific Regulations.** The following specific regulations apply to medical marijuana cultivation and processing.
 - a. The total number of medical marijuana cultivation and processing facilities within the City of Arcata shall be limited to four (4) until which time one (1) or two (2) of the cultivation and processing facilities ceases to operate, then the total number shall be reduced to three (3) and ultimately two (2). If a medical marijuana cooperative or collective allows for marijuana cultivation and processing pursuant to Section 9.42.105 E. 1. c. (1), the cooperative or collective shall be counted as one of the four (4) (or three (3), or two (2) as noted above) allowed marijuana cultivation and processing facilities.
 - b. The grow area shall be within a self-contained structure, with a 1-hour firewall assembly made of green board, shall be ventilated with odor control, and shall not create a humidity or mold problem;
 - c. The medical marijuana cultivation and processing facility shall not adversely affect the health or safety of the nearby residents or businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes;
 - d. The medical marijuana cultivation and processing facility must be permitted in conjunction with an associated medical marijuana cooperative or collective in accordance to applicable zoning regulations from the jurisdiction in which it is located;
 - e. The medical marijuana cultivation and processing facility shall comply with stormwater, wastewater, and applicable greenhouse gas reduction requirements;
 - f. The size and scale of the cultivation shall be proportional to the qualified patient load of an associated medical marijuana cooperative or collective in accordance to applicable zoning regulations from the jurisdiction in which it is located;
 - g. Medical marijuana cultivation and processing facilities shall not permit the on-site display of marijuana plants except for approved signs according to Chapter 9.38 (Signs);
 - h. Medical marijuana cultivation and processing facilities shall not permit the on-site display or sale of paraphernalia used for the use or consumption of medical marijuana;

- i. Medical marijuana cultivation and processing facilities shall comply with other conditions as outlined in the Use Permit;
- j. Medical marijuana cultivation and processing facilities shall maintain all necessary permits, and pay all appropriate taxes. Medical marijuana cultivation and processing facilities shall also provide invoices to vendors to ensure vendor's tax liability responsibility;
- k. Notwithstanding Section 9.72.080 (Use Permit and Minor Use Permit) a medical marijuana cultivation and processing application for a Use Permit shall include a detailed Operations Manual including but not necessarily limited to the following information:
 - (1) Authorization for the City, its agents and employees, to seek verification of the information contained within the application;
 - (2) A description of the staff screening process including appropriate background checks;
 - (3) The hours and days of the week the medical marijuana cultivation and processing facility will be open;
 - (4) Text and graphic materials showing the site, floor plan and facilities of the medical marijuana cultivation and processing facility. The material shall also show adjacent structures and land uses;
 - (5) A description of the security measures located on the premises, including but not limited to, lighting, alarms, and automatic law enforcement notification;
 - (6) The process for tracking medical marijuana quantities and inventory controls;
 - (7) Description of measures taken to minimize or offset energy use from the cultivation or processing of medical marijuana;
 - (8) Description of chemicals stored, used and any effluent discharged into the City's wastewater and/or stormwater system; and
 - (9) Other information required by the Community Development Director.
- l. Medical marijuana cultivation and processing facilities shall implement procedures as outlined in their approved Operations Manual;
- m. Medical marijuana cultivation and processing facilities shall submit an "Annual Performance Review Report" for review and approval by the Community Development Director. The "Annual Performance Review Report" is intended to identify effectiveness of the approved Use Permit, Operations Manual, and Conditions of Approval, as well as the identification and implementation of additional procedures as deemed necessary. The Community Development Director may review and approve amendments to the approved "Operations Manual"; and the frequency of the "Annual Performance Review Report". Medical marijuana cultivation and processing monitoring review fees pursuant to the current Planning and Zoning Fee Resolution shall accompany the "Annual Performance Review Report" for costs associated with the review and approval of the report.

Medical marijuana patients fret about new grower limits being considered by Oregon legislators

Jeff Mapes | The Oregonian/OregonLive By Jeff Mapes | The Oregonian/OregonLive
Email the author | Follow on Twitter

on April 27, 2015 at 5:00 PM, updated April 28, 2015 at 5:48 PM

A bill that would limit the size of medical marijuana growing operations in Oregon is generating angry opposition from some patients and activists.

The proposed measure, unveiled late Friday afternoon, is aimed at curbing the black market while prodding larger growers to supply the legal recreational market the state is developing.

This approach is **winning wide support on the House-Senate committee** charged with implementing the marijuana legalization initiative approved by Oregon voters in November. It also has varying degrees of support from many marijuana industry figures who want to develop a successful legal market in the state.

But the **89-page amendment to Senate Bill 844** quickly created sparks among medical marijuana patients and many activists. Several legislators reported being besieged with emails and phone calls Monday from people worried that they would lose their supply of low-cost medical marijuana.

"It's going to take medicine away from the sickest and most disenfranchised patients," said Alex Rogers, who owns a medical marijuana clinic in Ashland and has been **using social media** to build opposition to the proposal.

Rogers also charged that legislators were trying to rush the proposal through by unveiling the lengthy amendment on Friday and scheduling a Monday evening work session.

"I think they're trying to pull a fast one on the cannabis community" by not holding a public hearing on the amendment, he said.

Rep. Ann Lininger, D-Lake Oswego and co-chair of the House-Senate marijuana committee, said there was no intent to avoid public scrutiny.

She said the committee members have taken testimony for weeks now on how to revamp the medical marijuana program so that it fits into the overall legalization of the drug.

The new proposal "takes a lot of steps to make sure that growers and patients will have a reasonable transition," said Lininger, adding that lawmakers have an "over-arching duty" to manage legal marijuana in a way that won't run afoul of federal guidelines.

State officials say a large amount of the marijuana that is ostensibly grown for medical marijuana patients gets diverted to the black market. Growers are allowed to grow up to six plants per patient, which in many cases produces far more pot than an individual is likely to consume.

Under the Oregon initiative, possession of small amounts of marijuana will become legal on July 1. Retail sales are not expected to start until late 2016, although legislators are considering a proposal to temporarily allowing medical marijuana dispensaries to sell to other adults.

Here are some of the major limits included in the proposal:

- Existing medical marijuana growers in most areas would be limited to 96 plants, while newer growers would face a 48-plant limit.
- Growers in residential areas within cities would have a 24-plant limit if they were in operation before Jan. 1 of this year. Newer growers would be limited to 12 plants.
- Medical marijuana growers would also have to comply with new reporting requirements and could face lower limits if they violate the rules. Existing growers could also face lower limits if they lose patients.

Lininger said Monday's session is primarily aimed at giving legislators a chance to talk about the proposal and that she didn't expect anything to be passed that day.

"You have to have reasonable regulations on both the medical side and the adult recreational use side," she said.

Amy Margolis, a Portland attorney with the Oregon Cannabis PAC, said her group doesn't take a position on the plant limits in the amendment.

But she praised several of the provisions, saying they will help Oregon develop a strong legal market. That's a primary concern for her group, which includes several members who want to serve the recreational market.

Margolis also said medical marijuana patients would be helped by one provision that would curb the ability of local governments to prohibit medical marijuana dispensaries. In addition, she noted, the proposal would also allow medical marijuana growers to be compensated for their labor by patients.

However, Anthony Taylor, co-founder of Compassionate Oregon, a medical marijuana patient advocacy group, said that legislators should leave the medical marijuana program alone for now.

Instead, legislators should establish recreational sales and then see whether something should be done with how the medical marijuana program works, he said.

"It's really hard to get rid of a black market," he said, "and it's a tricky landscape because it puts so many patients at risk."

-- Jeff Mapes

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By The Associated Press

April 28, 2015 3:14PM

New bill may curb Oregon medical marijuana growing operations



In this photograph taken Saturday, April 25, 2015, an employee loads packets with medicinal marijuana for sale in Nevada. AP PHOTO.

SALEM — Legislators writing rules for recreational pot in Oregon propose to limit the size of medical marijuana growing operations.

Their intention is to stanch a potential alternative source of marijuana that that could undercut the legal — and taxed — recreational market to be established next year.

Oregon officials have long said that a large amount of the marijuana ostensibly grown for medical marijuana patients gets diverted to the black market. Growers are allowed to grow up to six plants per patient, often much more than an individual is likely to consume, The Oregonian reports.

One effect of the limits could be to encourage growers in the largely unregulated medical marijuana farms to grow for the recreational trade.

Growers, dispensary operators and patients in the well-established medical marijuana trade have organized against the legislation, which was unveiled late last week.

"It's going to take medicine away from the sickest and most disenfranchised patients," said Alex Rogers, who owns a dispensary in Ashland.

But lawmakers have an "over-arching duty" to manage marijuana in a way that won't run afoul of federal guidelines, said Rep. Ann Lininger of Lake Oswego, a leader of the House-Senate marijuana committee. The committee is writing rules to accompany the law Oregonians approved in a vote to legalize recreational marijuana.

Under the Oregon initiative, possession of small amounts of marijuana will become legal July 1. Retail sales are not expected to start until late 2016, but legislators have a proposal to allow medical dispensaries temporarily to sell to other adults.

The grow limits the committee is considering:

- Existing medical marijuana growers in most areas would be limited to 96 plants, while newer growers would face a 48-plant limit.
- Growers in residential areas within cities would have a 24-plant limit if they were in operation before Jan. 1. Newer growers would be limited to 12 plants.
- Medical marijuana growers would also have to comply with new reporting requirements and could face lower limits if they violate the rules. Existing growers could also face lower limits if they lose patients.

<http://www.mailtribune.com/article/20150428/NEWS/150429546>



Planning Commission Memorandum

Progress Update

As of May 8, 2015, the proposed PLDC regulations are as follows:

- The proposed PLDC regulations make an allowance for outdoor cultivation of 20 square feet in every land use district for “resident growers” who are registered as OMMP patients. This area is counted against a total maximum cultivation area of 100 square foot. They must reside at the cultivation site. A resident grower who is NOT registered as an OMMP patient can cultivate up to 100 square feet indoors in any land use district. The resident grower must actually reside at the cultivation site. Cultivation sites in residential districts would be required to get Type I Zoning Clearance.
- Commercial cultivation is expressly prohibited in all residential land use districts and may not be a home occupation. Commercial cultivation is also expressly prohibited in the City Center land use district.
- Outdoor cultivation areas must be surrounded by a six foot fence that is “secured at all times to prevent unauthorized access”; must be at least 10 feet from any property line and at least 30 feet from any dwelling on any contiguous property.
- Wattage for lighting is limited in to 1200 watts in every land use district.
- Commercial cultivation would be prohibited within the City Center district.
- Commercial cultivation would be allowed in the Commercial Highway land use district, but limited to a maximum of 5,000 square feet for each site; sites in General and Light Industrial land use districts could have a maximum of 10,000 square feet.
- Commercial cultivation in C-H, G-I, and L-I land use districts will need to obtain a special business license that would be a part of the current “Cannabis Facility License” program. Operations over certain sizes may also need a Conditional Use Permit.

Pot-growing warehouses in short supply as demand for legal weed surges

Updated: 03/11/2014 08:52:55 AM MDT

DenverPost.com

- Feb 4:
- [Apple Shed in Penrose one step closer to becoming a medical-pot grow](#)
- Jan 26:
- [MBank pulls out of Colorado a week after taking on cannabis accounts](#)
- Oct 27:
- [Former bank building to be marijuana business incubator, perhaps first bank](#)
- Sep 30:
- [Aurora won't see any marijuana retail stores opening Wednesday](#)
- Aug 26:
- [Former Brush prison will not be marijuana grow after council vote](#)
- Jul 22:
- [Cannabis Club battles to keep its spot on Breckenridge's Main Street](#)
- Jul 12:
- [Recreational pot sales dip slightly](#)
- May 1:
- [Colorado hemp farmers ask for nearly 1,300 acres for crops this year](#)
- Apr 16:
- [Big Colorado pot business bans drug use at work](#)
- Apr 14:
- [Denver Relief hires NASA scientist as pot-growing adviser](#)
- Apr 7:
- [Lack of banking opens private-money doors for marijuana properties](#)
- [Adams County hosts hemp information session for farmers](#)
- Apr 3:
- [16th Street Mall's new marijuana shop's chic design targets tourists](#)

Legal marijuana is delivering a powerful buzz to the typically unglamorous Denver industrial real estate market.

[Booming sales of cannabis](#) have pot merchants scrambling to find enough vacant warehouses suitable for growing their product.

Not every municipality in Colorado allows marijuana cultivation, and in Denver, where it is OK, very little space is available. Denver's industrial vacancy rate of 3.1 percent is abnormally low — the lowest in decades, according to brokerage firm Colliers International.

The Cannabist

- [More Denver Post marijuana coverage at **The Cannabist**](#)
- [See a map of Colorado's recreational marijuana shops](#)
- **Recent Cannabist news**

Commercial real estate tracker Xceligent Inc.



Colorado Marijuana News Site

estimates that marijuana cultivation and manufacturing facilities in the city occupy about 4.5 million square feet — the equivalent of 78 football fields.

"This industry has come on so fast that initially I was uneasy — it seemed like a fad," said Brad Calbert, president of the Colliers International brokerage in Denver. "But what's making it sustainable is supply, demand and capital. Supply is deficient, demand is excessive, and capital is abundant."

Rabid demand for warehouses is pitting pot dispensary against pot dispensary, while landlords

capitalize by charging premium lease rates.

Industrial brokers report instances of warehouse space leasing for as much as four times the prices paid before medical marijuana sales began to boom in 2009.

The newest wave of impact in the industrial market is occurring as recreational pot sales, which began Jan. 1, are robust. State budget officials are projecting sales of \$613 million over the next year — more than 50 percent higher than previous projections. That's on top of an estimated \$345 million in medical dispensary sales. [January sales tax figures released Monday](#) suggest that the market may be smaller than those projections.

Some recreational stores have been [forced to curtail sales because strong demand from customers has outpaced supply](#).

"Nobody is growing enough marijuana," said Jason Thomas of Avalon Realty Advisors, a firm that specializes in finding warehouse space for cannabis cultivation. "Activity is off the charts, but we're still not meeting demand."

Thomas said that almost all owners of dispensaries and recreational stores are looking for more grow space, either to serve their own customers or to sell wholesale to other undersupplied merchants.

At a nondescript, unsigned warehouse near Interstate 70 in northeast Denver, master grower Evan Schick has to tiptoe gingerly among a green expanse of 750 marijuana plants. Growing space is so valuable that it's a waste to create aisles between the rows of cannabis that supply Walking Raven dispensary in Denver.

With each plant producing an average of 2 ounces of smokeable buds, the retail value warehouse's inventory at any given time is worth about \$500,000. And that's in a 3,000-square-foot building — small by comparison with other cultivation facilities. Larger warehouses can accommodate plants worth millions of dollars.

Numbers of that magnitude explain why pot-shop owners are generally reluctant to talk about the location and size of their growing operations.

Yet the facilities are pervasive throughout Denver. Hot spots include the I-70 and I-25 corridors, South Santa Fe Drive, Brighton Boulevard and the Platte Valley west of downtown.

Capital in the industry often comes in the form of cash. Marijuana's illegal status under federal law [limits the ability of dispensary owners and grow-house](#) landlords to hold bank accounts and use conventional commercial loans.

Calbert related an anecdote told to him recently by the owner of a Denver warehouse. The owner was negotiating a lease with a cannabis cultivation operator and sought assurance that the grower was a good credit risk. The grower walked out to the parking lot, opened his car's trunk, and showed the landlord a suitcase filled with \$1 million in cash.

Brokers say the competition for warehouses by cash-rich growers and dispensary owners is problematic for traditional warehouse tenants, such as supply and distribution companies. They're faced with a choice of paying sharply higher rents or finding facilities in less convenient suburban locations.

Industrial space in the city of Denver leases at an average rate of \$4.74 per square foot, an increase of 21 percent over the past two years, according to Colliers International. But examples are plentiful of marijuana businesses willingly agreeing to far higher rates — \$17 per square foot or more — in order to secure space.

"The cost to play here is really tough if you don't have adequate capital," said Elliott Klug, co-founder and CEO of the Pink House Blooms chain of marijuana shops. "I thought \$17 was the going rate for class C office space. It looks like they're charging me the same rate (for warehouses) that some oil and gas companies are paying for offices."

Walking Raven dispensary co-owner Luke Ramirez is searching for additional grow space. The rates he's being quoted make him feel fortunate to be paying just \$18 per square foot for one of his two current warehouses.

But unwavering consumer demand for recreational marijuana make him and other owners willing to pay what the industrial market demands.

"We cannot grow as much as we could sell right now," Ramirez said. "Nobody can."

He has found a building he's interested in leasing, but won't disclose its location.

"I can't say where," he said. "There are a lot of other people out there looking, ready to come in and make a higher offer."

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SUNDAY FOCUS: THE MARIJUANA INDUSTRY

Budding Opportunity

By **Damian Mann**

Mail Tribune

April 26, 2015 - 12:01 AM

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Grow Condos provides a 1,500-square-foot space, electricity, security system and water hookup for medical marijuana grows at a cost of \$150,000, or \$2,000 a month in a lease option. Owner Wayne Zallen says his business could boom when recreational pot becomes legal. Mail Tribune / Bob Pennell

SUNDAY FOCUS: THE MARIJUANA INDUSTRY

Budding Opportunity

By **Damian Mann**

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April 26, 2015 - 12:01 AM

The lid is ready to blow off the pot industry after decades of prohibition kept it simmering on the black market.

Delivery services, laboratory testing, commercial grows, retail operations, grow "condos" and an untold number of backyard gardens are sprouting up in anticipation of July 1, when recreational marijuana becomes legal in Oregon.

Entrepreneurs are launching legal challenges or finding ways to work around resistance by local governments to embrace the new law because of fears it will lead to increases in crime, drug addiction and conflicts among neighbors over the pungent, skunk-like odor of ripening pot plants. Some entrepreneurs are locating their businesses in Jackson County, rather than cities where the population hubs are, simply because the county doesn't require business licenses.

Wayne Zallen says that within a month after launching Grow Condos — condominiums for medical marijuana growers — his 15,000-square-foot warehouse in northern Jackson County was filled up with 10 new businesses.

He's now branching out, getting ready to offer a similar concept in Portland and Eugene.

"Eugene is welcoming me with open arms," he says. "Portland is welcoming me with open arms, and Jackson County is telling me marijuana is not a permitted crop."

Zallen says his business model operates within existing medical marijuana laws but could be applied to commercial recreational grows once the state begins licensing them after July 1, potentially opening the floodgates for large indoor and outdoor operations.

In Zallen's Grow Condos warehouse, each space offered is 1,500 square feet. But tenants often build a second story inside the warehouse, doubling the square footage, he says. (Zallen didn't want to disclose the exact location of the warehouse.)

He says each condo can be purchased for \$150,000. But most growers don't have that kind of cash and can't get a bank loan, so Zallen offers a lease-purchase option. With a 25 percent down payment, the tenant pays \$1,000 to lease the space and \$1,000 toward the lease option every month. After 36 months, the \$36,000 accumulated from the lease option is applied against the remainder of the \$150,000.

The tenant receives the space inside the warehouse, a 400-amp electric panel, a security system and a water hookup, Zallen says. Under the Oregon Medical Marijuana Act, designated growers can cultivate up to six plants for each of four patients.

"It's up to each tenant to obtain their own medical marijuana cards or a commercial license," Zallen says. He expects many growers to apply for a commercial license once recreational pot is legalized.

In White City, Kenevir Technologies LLC and Kenevir Research Labs began operations last year to test marijuana for potency and also for the presence of mold and mildew, a requirement before cannabis can be sold at a dispensary.

Anthony Smith, who runs the two-man laboratory on Antelope Road, tests cannabis for many local dispensaries, including the Talent Health Club, Green Valley Wellness, House of Leaves and Siskiyou Medical Supply. Kenevir requires a valid Oregon Medical Marijuana Card and valid state-issued identification.

Smith's microscopes, gas chromatograph machine, petri dishes and mass spectrometer analyze marijuana before it's sold to check for mold, mildew and THC, the active ingredient in pot that produces the high.

"Flowers we test have a high rate of failing," he says, adding about 10 to 15 percent of the buds test positive for mold or fungus. Some also test positive for pesticides and other contaminants, he says.

Smith received a PhD from Oregon State University in molecular and cellular biology with an emphasis on biochemistry, metabolism and nutrition. He also works for a biotechnology company in White City called BioMed.

Walking inside his facility on Antelope Road, the first thing a visitor notices is the lack of that familiar pot smell.

Smith, who has a grower license, says the building is well ventilated and there is very little actual marijuana on the premises. Typically, growers supply 3.5 grams of marijuana for testing. Most of it is diluted in solvents for testing purposes.

Smith says he tends to err on the conservative side when he checks for THC because of recent reports that different laboratories are coming up with exaggerated levels of potency.

"Folks are disappointed that there isn't one tried-and-true standard," Smith says. "Unfortunately for my industry, they put numbers out there that are obviously too high."

Still, the highest level detected of all the pot samples so far has been 28.5 percent, he says.

The Oregon Legislature is currently working on developing standards for testing both medical and recreational marijuana, Smith says. Though Kenevir is not currently licensed by the state, it follows industry-standard testing methods and is ready for any requirements the state might legislate, he says.

"It's a lot of record keeping and transparent data," he says.

Smith says he was hoping to put his lab in Medford on one of his properties, but "Medford is staunchly against me being in Medford. I hit a brick wall there."

Smith says he wants to expand his two-man operation and is looking for a new location, possibly in Central Point, because he anticipates a surge in business once pot is legalized.

He wants to branch out into other related ventures, including genetic testing of cannabis and creating tissue cultures of specific strains, which he says provides more control than using seeds or clones for propagation.

“I basically want to bring biotech into the cannabis industry,” he says.

Kenevir Research will host a Medicinal Herb Science Symposium from 6:30 to 8 p.m. Tuesday, May 19, in Room 319 in the Stevenson Union at Southern Oregon University in Ashland.

State Rep. Peter Buckley, an Ashland Democrat who has championed cannabis legalization, says the Legislature is working on rules that would make the testing for medical marijuana consistent with the testing for recreational marijuana.

He also would like a food safety review of edible marijuana products and would like the packaging to be consistent for all pot products.

Other marijuana-based businesses that have cropped up include Smokey J’s and Upper Rogue Cooperative, both of Medford, which offer medical marijuana delivery service to help disabled patients. Medford police Lt. Kevin Walruff says his department has contacted such delivery services and explained to them what is allowed under the Oregon Medical Marijuana Act.

“If someone is a caregiver for a patient, that person can deliver to the patient,” Walruff says. “If indeed that person is not a caregiver, they would then be working outside the umbrella of the Oregon Medical Marijuana Act and are subject to criminal penalties. We haven’t seen anything that would be a crime at this point.”

The city is still operating under a moratorium for medical marijuana dispensaries until police receive further direction from the City Council.

“We want to allow people to do what is legally allowed,” Walruff says. “If not, we will hold them accountable.”

A representative from Smokey J's declined to be interviewed, and the Upper Rogue Cooperative could not be reached for comment.

Medical marijuana dispensaries were the first attempt to provide a legal means of providing marijuana to patients. So far about 10 dispensaries are operating, according to the popular pot website, leafly.com. Several physicians in the area also help patients receive medical marijuana cards.

Some dispensaries have had to launch legal challenges to city bans, however. Patients Helping Patients, on East Main Street in Medford, where there's a permanent ban on dispensaries, continues to offer medical marijuana to patients while the court decides its case. The Greenery in Phoenix was forced to shut down because of a citywide moratorium on dispensaries and lost its legal challenge in February.

The newest dispensary, House of Leaves in Ashland, was named fifth best in the state for April, according to leafly.com. Owners of the dispensary are already considering retail sales of recreational cannabis in 2016.

Justin Hancock, operating manager, says he thinks many people would prefer to buy marijuana at the store even though it is taxed under the new state law and will cost more.

“The idea of a black market is upsetting,” he says. “Some people would rather pay that tax and obtain their cannabis from a legitimate business.”

One advantage to buying pot from a store is the requirement that it be tested for mold, mildew and other chemicals, Hancock notes.

House of Leaves envisions a hybrid business that would offer a two-tiered pricing structure: untaxed for medical marijuana and taxed for recreational marijuana. Ashland enacted a 5 percent tax on medical marijuana, but House of Leaves builds it into the cost, Hancock says.

Dispensaries are not sure how the legalization of pot will affect price. In Washington State, demand outstripped supply after pot was legalized last year.

For medical marijuana, the average price for an eighth of an ounce, or 3.5 grams, is \$25 at House of leaves. The same strain of marijuana, once it becomes legal for recreational use, could cost up to \$45 because of the extra taxes added on by the state, Hancock says.

“It’s going to be real awkward when the guy in front of you gets it for \$25, when you have to pay \$35 or \$45,” Hancock says.

Reach reporter Damian Mann at 541-776-4476 or dmann@mailtribune.com">dmann@mailtribune.com. Follow him on Twitter at www.twitter.com/reporterdm.

Urban pot grows could be trimmed

Buckley asks Medford to have patience and reconsider pot ban

By Damian Mann

Mail Tribune

Posted Mar. 28, 2015 at 11:01 PM

An eight-plant limit could be imposed on recreational pot gardens in cities under a series of changes contemplated by the Oregon Legislature as it attempts to tweak the state's new marijuana legalization law.

Another change would allow recreational cannabis to be grown within 1,000 feet of a school as long as it wasn't visible, said Rep. Peter Buckley, D-Ashland.

On the medical marijuana side, Buckley has sponsored a bill that would limit the number of plants grown by medical marijuana patients to 12 per household within city limits. It would remain illegal to grow medical marijuana within 1,000 feet of a school, Buckley said.

“We’re trying to minimize the number of larger medical grows in residential areas,” he said.

The various changes proposed could mean recreational pot growers living in a household could be allowed to grow up to eight plants near a school, while a medical marijuana grower could not, Buckley said.

Ballot Measure 91, which was passed by voters last November, doesn’t specify whether marijuana can be grown near schools, he said. However, laws currently on the books prohibit growing medical marijuana near schools.

Over the next few years, Oregonians will see a lot of changes to both the medical marijuana and recreational pot laws as issues arise and legislators try to find common ground with cities and counties that are wrestling with legalization, Buckley said.

“It is a very complex thing to bring an illegal substance into a legal realm,” he said.

Measure 91 allows up to four plants for every adult. That means if 10 adults lived in a house, the law would allow them to grow a combined 40 plants. The tweak being considered by lawmakers would cap the household limit at eight plants per household within cities.

The medical marijuana program allows six plants per medical marijuana cardholder, but lawmakers want to cap it at 12 plants per urban grow site.

The state has made a rough forecast that 2,000 businesses and farmers will apply for licenses for recreational marijuana once the Oregon Liquor Control Commission begins accepting applications in 2016, Buckley said.

Buckley, who is a member of the Joint Committee On Implementing Measure 91, said he expects the state to reaffirm through legislation that the sole authority to tax cannabis should come only from the Legislature.

Buckley's House Bill 3400 would expressly prohibit municipalities from taxing medical marijuana.

Municipalities such as Medford and Jackson County have attempted to enact their own laws as a reaction to the legalization of both medical and recreational marijuana.

“We don’t want to allow taxation on the local level because we want to discourage the black market,” Buckley said. “High taxes in Washington are tending to keep the black market operating there.”

Buckley said he encourages Medford and other cities to show more patience before enacting local laws as the Legislature works to smooth out some of the issues surrounding legalization. Recreational marijuana becomes legal in Oregon July 1.

Buckley said cities such as Medford have reacted too strongly against legalization efforts. Medford has permanently banned medical marijuana dispensaries.

“Again, I would like to point to the huge concern over dispensaries in Medford,” Buckley said. “Dispensaries are operating around the state without any problems.”

Colorado, he said, has not seen increased law enforcement costs associated with cannabis legalization.

Oregon is also looking at rules for recreational and medical grows outside city limits, Buckley said.

A medical marijuana garden would have a 48-plant limit, Buckley said. Once a medical grower wants to surpass the limit, the grower would have to obtain a commercial license.

“The intent is to keep the small growers in business,” he said. “We want to make sure they have access to the dispensaries. We’re trying to accommodate farmers who want to grow on a small scale for medical marijuana.”

Medford Councilor Daniel Bunn said an eight-plant limit would be a step in the right direction, but he said that even four plants is a lot.

“Four plants push the limit in a residential setting,” Bunn said. “Eight plants is a lot of marijuana.”

He criticized allowing pot within 1,000 feet of a school.

“That’s ridiculous,” he said. “Measure 91 hasn’t even started, and they’re already trying to get it closer to children.”

He said there are dozens of things wrong with Measure 91 that he thinks should be addressed rather than allowing growing closer to schools.

Bunn said he agreed with Buckley about the need to have patience as the state wrestles with legalization of marijuana.

“There are going to be some bumps in the road,” he said.

Reach reporter Damian Mann at 541-776-4476 or dmann@mailtribune.com. Follow on Twitter at [@reporterdm](https://twitter.com/reporterdm).



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Chapter 1.3 – Definitions

Cultivation area: the area within which plants are grown. All parts of a plant grown within a cultivation area shall be contained within the perimeter of the cultivation area. No part of a plant, except for rhizomal matter, roots, etc., grown within a cultivation area shall grow past the perimeter of the cultivation area.

Resident grower: an individual engaged in the cultivation of cannabis for personal consumption, whether for medical or non-medical purposes, and whose primary residence is the site at which cultivation occurs.

Urban agriculture, urban agricultural land use: the cultivation of plants and raising of animals at a scale to enable the distribution of goods produced by these activities, whether in their raw form or as processed finished goods, to the general public, food processing operations, and other commercial and industrial enterprises. Confined animal feedlots, or CAFOs, and animal breeding operations are not considered to be urban agricultural land uses.

2.2.9--Special Standards for Certain Uses

N. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within Residential Land Use Map districts in a manner that protects the health, safety and welfare of the community, while avoiding undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top of average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;



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- d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
- e. The OMMP registered patient for whom cannabis is cultivated shall reside at the site where cultivation occurs.
3. Standards for the cultivation of cannabis for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet upon the property;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in all Residential Land Use Districts. Cannabis cultivated in a Residential Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for onsite consumption by an individual who is legally entitled to do so. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate.
5. Cannabis cultivation and distribution is not considered an accessory use in Residential Land Use Map Districts.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted;
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.



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10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of Section 2.2.9.N.2.a or 2.2.9.N.2.c may request a Code Interpretation of the need for additional cultivation area or reduction in the minimum spatial separation requirements defined by 2.2.9.N.2.c. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The Request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with PLDC Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:
- Shall be in compliance with all other applicable standards in sections 2.2.9.N.1-9 above;
 - The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. An individual cultivating cannabis or wishing to cultivate cannabis within a Residential Land Use District shall obtain a Type I Zoning Clearance from the Planning Department prior to commencement of cultivation (typically prior to planting of immature plants or seeds). The applicant shall submit information as is necessary for department staff to determine that the cultivation area will meet the requirements established herein.



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2.3.2 – Permitted Use

Table 2.3.2.A - Land Uses and Building

<p>1. Residential*: a. Single-family attached townhouses b. Three-Family housing (triplex) c. Multi-family housing d. Residential care homes and facilities e. Family daycare (12 or fewer children) g. Mixed-use development (housing & other permitted use)*</p> <p>2. Bed & Breakfast Inn's</p>	<p>3. Public and Institutional*: a. Churches and places of worship b. Clubs, lodges, similar uses c. Government offices and facilities (administration, public safety, transportation, utilities, and similar uses) d. Libraries, museums, community centers, concert halls and similar uses e. Public parking lots and garages f. Private utilities g. Public parks and recreational facilities h. Schools (public and private) i. Special district facilities j. Uses similar to those listed above [subject to CUP requirements, as applicable]</p> <p>4. Accessory Uses and Structures*</p> <p>5. Cottage Industrial*: "Light manufacture" (e.g., small-scale crafts, electronic equipment, bakery, furniture, similar goods when in conjunction with retail)</p>	<p>6. Commercial: a. Retail trade and services, except auto-oriented uses b. Entertainment (e.g., theaters, clubs, amusement uses) c. Hotels/motels d. Medical and dental offices, clinics and laboratories e. Mixed-use development (housing & other permitted use)* f. Office uses g. Personal and professional services (e.g., child care center, catering/food services, restaurants, Laundromats and drycleaners, barber shops and salons, banks and financial institutions, and similar uses) h. Repair services must be enclosed within a building [subject to CUP requirements, as applicable] j. Uses similar to those listed above [may be subject to CUP requirements, as applicable]</p>
<p>Uses marked with an asterisk (*) are subject to the standards in Chapter 2.3.10 – Special Standards for Certain Uses. <u>Uses with a double asterisk (**)</u> require a Conditional Use Permit.</p>		

2.3.10--Special Standards for Certain Uses

G. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within the City Center Land Use Map district in a manner that protects the



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health, safety and welfare of the community, while avoiding undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. The OMMP registered patient for whom cannabis is cultivated shall reside at the site where cultivation occurs.
3. Standards for the cultivation of cannabis for the consumption by a resident grower other than a resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;



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- ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
- iii. A resident grower shall reside at the site where cultivation occurs.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in all Residential Land Use Districts. Cannabis cultivated in a Residential Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the City Center Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of Section 2.3.10.G.2.a may request a Code Interpretation of the need for additional cultivation area or reduction in the minimum spatial separation requirements defined by 2.3.10.G.2.c. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with PLDC Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:
 - a. Shall be in compliance with all other applicable standards in sections 2.3.10.G.1-9 above;
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;



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- d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. An individual cultivating cannabis or wishing to cultivate cannabis within the City Center Land Use District under the provisions of Chapter 2.3.10.2 or 3 shall obtain a Type I Zoning Clearance from the Planning Department prior to commencement of cultivation (typically prior to planting of immature plants or seeds). The applicant shall submit information as is necessary for department staff to determine that the cultivation area will meet the requirements established herein.
12. The commercial cultivation of cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail customers, whether for medical or non-medical purposes, is expressly prohibited within the City Center Land Use District. Cannabis cultivated in a City Center Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal use as allowed by state law. Cannabis cultivated in the City Center Land Use District shall not be sold for offsite distribution or consumption by an individual or body corporate.



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Commercial	
Retail Sales and Service, indoor only: <ul style="list-style-type: none"> ▪ less than 30,000 square feet GLA* ▪ 30,000 to 50,000 square feet GLA ▪ greater than 50,000 square feet GLA 	P C C, I-5
Nurseries and Landscape Supplies	C
<u>Urban Agriculture < 2,000 GLA (indoor and outdoor)</u>	P
<u>Urban Agriculture > 2,000 GLA (indoor and outdoor)</u>	C
Restaurants <ul style="list-style-type: none"> ▪ with drive-through ▪ without drive-through 	C P
Drive-up, drive-in, and drive-through facilities	C
Office, Banks, Research Facilities, and Clinics	P
Vet Hospitals (entirely enclosed in building)	C
Truck Stops, Truck Sales, and Heavy Equipment Sales	C, I-5
Auto Repair	P
Service Stations	C
Distribution Facilities	C
Lodging and RV Parks	P
Vehicle Sales and Service, RV and Boat Sales, Manufactured Home Sales, and Fuel Sales	C
Commercial and Public Parking	P
Commercial Storage <ul style="list-style-type: none"> ▪ enclosed in building and on an upper story ▪ not enclosed in building 	P C
Entertainment and Gyms <ul style="list-style-type: none"> ▪ enclosed in building (e.g., theater, museums, bowling alleys) ▪ not enclosed (e.g., amusement parks) 	P C
Wholesale <ul style="list-style-type: none"> ▪ 20,000 square feet GLA and greater ▪ less than 20,000 square feet GLA 	C P
Assisted Living Facilities	C
Mixed-use (residential with commercial/civic/industrial)	N
Civic	
Government –offices, public library	P
Government –public works yards	C
Parks and Open Space	P
Schools <ul style="list-style-type: none"> ▪ pre-school, daycare, and primary ▪ secondary, colleges, and vocational 	P P
Clubs and Religious Institutions	C
Light Industrial	
Manufacturing and Production <ul style="list-style-type: none"> ▪ 5,000 sq. ft. and larger ▪ less than 5,000 sq. ft. with retail outlet 	C P
Warehouse	C



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Transportation, Freight and Distribution, Taxi Cab Dispatch, Emergency Vehicle Dispatch	C, I-5
Industrial Service (e.g., cleaning, repair)	C, I-5
Processing of Raw Materials	N

2.4.5—Special Standards for Certain Uses

K. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within Commercial Highway Land Use Map districts in a manner that protects the health, safety and welfare of the community, allows for commercial cultivation of cannabis, and avoids undue interference with an individual’s right to cultivate cannabis as allowed by the laws of the State of Oregon. Cultivation of cannabis shall also be considered an “Urban Agriculture” use, and shall be subject to any additional requirements that are applicable to such uses.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;



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- e. The OMMP registered patient for whom cannabis is cultivated shall reside at the site where cultivation occurs.
3. Standards for the cultivation of cannabis by a resident grower for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in all Residential Land Use Districts. Cannabis cultivated in a Residential Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the Commerical Highway Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of sections 2.4.5.K.2.a or 2.4.5.K.2.c may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review



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the submitted information and make an interpretation in accordance with PLDC Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:

- a. Shall be in compliance with all other applicable standards in sections 2.4.5.K.1-9 above;
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. Additional standards for the commercial cultivation cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail customers, whether for medical or non-medical purposes, within the C-H Commercial Highway Land Use District shall be met:
- a. The total area permitted to be used for cannabis cultivation upon any single site shall not exceed five thousand (5,000) square feet GLA;
 - b. A maximum business frontage of no more than one hundred and fifty feet;
 - c. A commercial cultivation operation shall obtain all licenses, certifications, permits, and other regulatory approvals prior to operation, and shall remain in good standing as required by the terms of those approvals;
 - d. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - e. An indoor cultivation area shall shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. At a minimum, the cannabis cultivation area shall be surrounded by a 1-hour firewall or shall utilize a sufficiently sized fire suppression system.
 - iii. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers.



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Industrial
Heavy manufacturing, assembly, and processing of raw materials* [CUP]
Light manufacture (e.g., electronic equipment, printing, bindery, furniture, and similar goods)
Urban agriculture (indoor crop cultivation, aquaculture, plant nurseries) < 5,000 square feet GLA
Urban agriculture (indoor crop cultivation, aquaculture, plant nurseries) > 5,000 square feet GLA* [CUP]
Warehousing and distribution (this does not include Mini-Warehouse Storage facilities)
Uses similar to those listed above
Commercial
Offices and other commercial uses are permitted when they are integral to a primary industrial use (e.g., administrative offices, wholesale of goods produced on location, and similar uses).
Public and institutional uses
Government facilities (e.g., public safety, utilities, school district bus facilities, public works yards, transit and transportation, and similar facilities where the public is generally not received.)
Private Utilities (e.g., natural gas, electricity, telephone, cable, and similar facilities)
Special district facilities (e.g., irrigation district, and similar facilities)
Vocational schools co-located with parent industry or sponsoring organization
Uses similar to those listed above.
Accessory uses and structures
Wireless communication equipment – CUP*
Residential uses for security purposes only
One caretaker unit shall be permitted for each development, subject to the standards in Chapter 2.5.8 – Special Standards for Certain Uses. Other residential uses are not permitted, except that residences existing prior to the effective date of this Code may continue.
* Land uses with an asterisk (*) shall require a Conditional Use Permit subject to the procedure and standards in Chapter 4.4 – Conditional Use Permits.

2.5.8 – Special Standards for Certain Uses

D. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within General Industrial (GI) District Land Use Map districts in a manner that protects the health, safety and welfare of the community, allows for commercial



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cultivation of cannabis, and avoids undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon. Cultivation of cannabis shall also be considered an "Urban Agriculture" use, and shall be subject to any additional requirements that are applicable to such uses.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. The OMMP registered patient for whom cannabis is cultivated shall reside at the site where cultivation occurs.
3. Standards for the cultivation of cannabis by a resident grower for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:



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- i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in all Residential Land Use Districts. Cannabis cultivated in a Residential Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the General Industrial Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of sections 2.5.8.D.2.a or 2.5.8.D.2.c may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:
 - a. Shall be in compliance with all other applicable standards in sections 2.5.8.D.1-9 above; and
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;



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- d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. Additional standards for the commercial cultivation cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail customers, whether for medical or non-medical purposes, within the General Industrial G-I Land Use District shall be met:
- a. The total area permitted to be used for cannabis cultivation upon or at any single site shall not exceed forty thousand (40,000) square feet GLA;
 - b. A commercial cultivation operation shall obtain all licenses, certifications, permits, and other regulatory approvals prior to operation, and shall remain in good standing as required by the terms of those approvals;
 - c. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - d. An indoor cultivation area shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The facility shall utilize an air filtration and ventilation system which, to the greatest extent feasible, confines all objectionable odors associated with the facility to the premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
 - iii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
 - e. At a minimum, the cannabis cultivation area shall be surrounded by a 1-hour firewall or shall utilize a sufficiently sized fire suppression system.
 - f. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers.



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2.6.8—Special Standards for Certain Uses

D. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within General Industrial Land Use Map districts in a manner that protects the health, safety and welfare of the community, allows for commercial cultivation of cannabis, and avoids undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon. Cultivation of cannabis shall also be considered an "Urban Agriculture" use, and shall be subject to any additional requirements that are applicable to such uses.

1. **Applicability.** All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. **Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:**
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. The OMMP registered patient for whom cannabis is cultivated shall reside at the site where cultivation occurs.
3. **Standards for the cultivation of cannabis by a resident grower for the consumption by individuals other than resident OMMP registered individuals are as follows:**
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;



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- b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
- c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in all Residential Land Use Districts. Cannabis cultivated in a Residential Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the Light Industrial Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of sections 2.6.8.D.2.a or 2.6.8.D.2.c may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:



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- a. Shall be in compliance with all other applicable standards in sections 2.6.8.N.1-9 above;
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. Additional standards for the commercial cultivation cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail customers, whether for medical or non-medical purposes, within the Light Industrial L-I Land Use District shall be met:
- a. The total area permitted to be used for cannabis cultivation upon or at any single site shall not exceed ten thousand (10,000) square feet GLA;
 - b. A commercial cultivation operation shall obtain all licenses, certifications, permits, and other regulatory approvals prior to operation, and shall remain in good standing as required by the terms of those approvals;
 - c. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - d. An indoor cultivation area shall not exceed ten feet (10') in height per and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The facility shall utilize an air filtration and ventilation system which, to the greatest extent feasible, confines all objectionable odors associated with the facility to the premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
 - iii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
 - e. At a minimum, the cannabis cultivation area shall be surrounded by a 1-hour firewall or shall utilize a sufficiently sized fire suppression system.
 - f. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers.



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Chapter 1.3 – Definitions

Cultivation area: the area within which plants are grown. All parts of a plant grown within a cultivation area shall be contained within the perimeter of the cultivation area. No part of a plant, except for rhizomal matter, roots, etc., grown within a cultivation area shall grow past the perimeter of the cultivation area.

Resident grower: an individual engaged in the cultivation of cannabis for personal consumption, whether for medical or non-medical purposes, and whose primary residence is the site at which cultivation occurs.

Urban agriculture, urban agricultural land use: the cultivation of plants and raising of animals at a scale sufficient to enable the distribution of goods produced by these activities, whether in their raw form or as processed finished goods, to the general public, food processing operations, and other commercial and industrial enterprises. Confined animal feedlots, or CAFOs, and animal breeding operations are not considered to be urban agricultural land uses.

2.2.9--Special Standards for Certain Uses

N. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within Residential Land Use Map districts in a manner that protects the health, safety and welfare of the community, while avoiding undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top of average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;



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- d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
- e. The OMMP registered patient for whom cannabis is cultivated shall reside at the site where cultivation occurs.
3. Standards for the cultivation of cannabis for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet upon the property;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in all Residential Land Use Districts. Cannabis cultivated in a Residential Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for onsite consumption by an individual who is legally entitled to do so. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate.
5. Cannabis cultivation and distribution is not considered an accessory use in Residential Land Use Map Districts.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted;
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.



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10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of Section 2.2.9.N.2.a or 2.2.9.N.2.c may request a Code Interpretation of the need for additional cultivation area or reduction in the minimum spatial separation requirements defined by 2.2.9.N.2.c. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The Request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with PLDC Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:
- a. Shall be in compliance with all other applicable standards in sections 2.2.9.N.1-9 above;
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. An individual cultivating cannabis or wishing to cultivate cannabis within a Residential Land Use District shall obtain a Type I Zoning Clearance from the Planning Department prior to commencement of cultivation (typically prior to planting of immature plants or seeds). The applicant shall submit information as is necessary for department staff to determine that the cultivation area will meet the requirements established herein.



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2.3.2 – Permitted Use

Table 2.3.2.A - Land Uses and Building

<p>1. Residential*:</p> <ul style="list-style-type: none"> a. Single-family attached townhouses b. Three-Family housing (triplex) c. Multi-family housing d. Residential care homes and facilities e. Family daycare (12 or fewer children) g. Mixed-use development (housing & other permitted use)* <p>2. Bed & Breakfast Inn's</p>	<p>3. Public and Institutional*:</p> <ul style="list-style-type: none"> a. Churches and places of worship b. Clubs, lodges, similar uses c. Government offices and facilities (administration, public safety, transportation, utilities, and similar uses) d. Libraries, museums, community centers, concert halls and similar uses e. Public parking lots and garages f. Private utilities g. Public parks and recreational facilities h. Schools (public and private) i. Special district facilities j. Uses similar to those listed above [subject to CUP requirements, as applicable] <p>4. Accessory Uses and Structures*</p> <p>5. Cottage Industrial*: "Light manufacture" (e.g., small-scale crafts, electronic equipment, bakery, furniture, similar goods when in conjunction with retail)</p>	<p>6. Commercial:</p> <ul style="list-style-type: none"> a. Retail trade and services, except auto-oriented uses b. Entertainment (e.g., theaters, clubs, amusement uses) c. Hotels/motels d. Medical and dental offices, clinics and laboratories e. Mixed-use development (housing & other permitted use)* f. Office uses g. Personal and professional services (e.g., child care center, catering/food services, restaurants, Laundromats and drycleaners, barber shops and salons, banks and financial institutions, and similar uses) h. Repair services must be enclosed within a building [subject to CUP requirements, as applicable] j. Uses similar to those listed above [may be subject to CUP requirements, as applicable]
<p>Uses marked with an asterisk (*) are subject to the standards in Chapter 2.3.10 – Special Standards for Certain Uses. <u>Uses with a double asterisk (**) require a Conditional Use Permit.</u></p>		

2.3.10--Special Standards for Certain Uses

G. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within the City Center Land Use Map district in a manner that protects the



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health, safety and welfare of the community, while avoiding undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. The OMMP registered patient for whom cannabis is cultivated shall reside in a legal dwelling at the site where cultivation occurs. This dwelling shall be either conforming or legally nonconforming with the standards of the current Phoenix Land Development Code, Comprehensive Plan, and applicable building codes.
3. Standards for the cultivation of cannabis for the consumption by a resident grower other than a resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:



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- i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
 - iii. A resident grower shall reside at the site where cultivation occurs.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in the City Center Land Use District. Cannabis cultivated in the C-C Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the City Center Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of Section 2.3.10.G.2.a may request a Code Interpretation of the need for additional cultivation area or reduction in the minimum spatial separation requirements defined by 2.3.10.G.2.c. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with PLDC Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:
 - a. Shall be in compliance with all other applicable standards in sections 2.3.10.G.1-9 above;
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;



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- c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. An individual cultivating cannabis or wishing to cultivate cannabis within the City Center Land Use District under the provisions of Chapter 2.3.10.2 or 3 shall obtain a Type I Zoning Clearance from the Planning Department prior to commencement of cultivation (typically prior to planting of immature plants or seeds). The applicant shall submit information as is necessary for department staff to determine that the cultivation area will meet the requirements established herein.
12. The commercial cultivation of cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail customers, whether for medical or non-medical purposes, is expressly prohibited within the City Center Land Use District. Cannabis cultivated in a City Center Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal use as allowed by state law. Cannabis cultivated in the City Center Land Use District shall not be sold for offsite distribution or consumption by an individual or body corporate.



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Commercial	
Retail Sales and Service, indoor only: <ul style="list-style-type: none"> ▪ less than 30,000 square feet GLA* ▪ 30,000 to 50,000 square feet GLA ▪ greater than 50,000 square feet GLA 	P C C, I-5
Nurseries and Landscape Supplies	C
<u>Urban Agriculture < 2,000 GLA (indoor and outdoor)</u>	P
<u>Urban Agriculture > 2,000 GLA (indoor and outdoor)</u>	C
Restaurants <ul style="list-style-type: none"> ▪ with drive-through ▪ without drive-through 	C P
Drive-up, drive-in, and drive-through facilities	C
Office, Banks, Research Facilities, and Clinics	P
Vet Hospitals (entirely enclosed in building)	C
Truck Stops, Truck Sales, and Heavy Equipment Sales	C, I-5
Auto Repair	P
Service Stations	C
Distribution Facilities	C
Lodging and RV Parks	P
Vehicle Sales and Service, RV and Boat Sales, Manufactured Home Sales, and Fuel Sales	C
Commercial and Public Parking	P
Commercial Storage <ul style="list-style-type: none"> ▪ enclosed in building and on an upper story ▪ not enclosed in building 	P C
Entertainment and Gyms <ul style="list-style-type: none"> ▪ enclosed in building (e.g., theater, museums, bowling alleys) ▪ not enclosed (e.g., amusement parks) 	P C
Wholesale <ul style="list-style-type: none"> ▪ 20,000 square feet GLA and greater ▪ less than 20,000 square feet GLA 	C P
Assisted Living Facilities	C
Mixed-use (residential with commercial/civic/industrial)	N
Civic	
Government –offices, public library	P
Government –public works yards	C
Parks and Open Space	P
Schools <ul style="list-style-type: none"> ▪ pre-school, daycare, and primary ▪ secondary, colleges, and vocational 	P P
Clubs and Religious Institutions	C
Light Industrial	
Manufacturing and Production <ul style="list-style-type: none"> ▪ 5,000 sq. ft. and larger ▪ less than 5,000 sq. ft. with retail outlet 	C P
Warehouse	C



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Transportation, Freight and Distribution, Taxi Cab Dispatch, Emergency Vehicle Dispatch	C, I-5
Industrial Service (e.g., cleaning, repair)	C, I-5
Processing of Raw Materials	N

2.4.5—Special Standards for Certain Uses

K. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within Commercial Highway Land Use Map districts in a manner that protects the health, safety and welfare of the community, allows for commercial cultivation of cannabis, and avoids undue interference with an individual’s right to cultivate cannabis as allowed by the laws of the State of Oregon. Cultivation of cannabis shall also be considered an “Urban Agriculture” use, and shall be subject to any additional requirements that are applicable to such uses.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;



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- e. The OMMP registered patient for whom cannabis is cultivated shall reside in a legal dwelling at the site where cultivation occurs. This dwelling shall be either conforming or legally nonconforming with the standards of the current Phoenix Land Development Code, Comprehensive Plan, and applicable building codes.
3. Standards for the cultivation of cannabis by a resident grower for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in the Commercial Highway Land Use District. Cannabis cultivated by a resident grower in the C-H Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the Commercial Highway Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of sections 2.4.5.K.2.a or 2.4.5.K.2.c may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request



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showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with PLDC Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:

- a. Shall be in compliance with all other applicable standards in sections 2.4.5.K.1-9 above;
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. Additional standards for the commercial cultivation cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail customers, whether for medical or non-medical purposes, within the C-H Commercial Highway Land Use District shall be met:
- a. The total area permitted to be used for cannabis cultivation upon any single site shall not exceed five thousand (5,000) square feet GLA;
 - b. A maximum business frontage of no more than one hundred and fifty (150) feet;
 - c. A commercial cultivation operation shall obtain all licenses, certifications, permits, and other regulatory approvals prior to operation, and shall remain in good standing as required by the terms of those approvals;
 - d. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - e. An indoor cultivation area shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. At a minimum, the cannabis cultivation area shall be surrounded by a 1-hour firewall or shall utilize a sufficiently sized fire suppression system.
 - iii. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers.
 - f. At a minimum, the cannabis cultivation area shall be surrounded by a 1-hour firewall or shall utilize a sufficiently sized fire suppression system.



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- g. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers.

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Industrial
Heavy manufacturing, assembly, and processing of raw materials* [CUP]
Light manufacture (e.g., electronic equipment, printing, bindery, furniture, and similar goods)
Urban agriculture (indoor crop cultivation, aquaculture, plant nurseries) < 5,000 square feet GLA
Urban agriculture (indoor crop cultivation, aquaculture, plant nurseries) > 5,000 square feet GLA* [CUP]
Warehousing and distribution (this does not include Mini-Warehouse Storage facilities)
Uses similar to those listed above
Commercial
Offices and other commercial uses are permitted when they are integral to a primary industrial use (e.g., administrative offices, wholesale of goods produced on location, and similar uses).
Public and institutional uses
Government facilities (e.g., public safety, utilities, school district bus facilities, public works yards, transit and transportation, and similar facilities where the public is generally not received.)
Private Utilities (e.g., natural gas, electricity, telephone, cable, and similar facilities)
Special district facilities (e.g., irrigation district, and similar facilities)
Vocational schools co-located with parent industry or sponsoring organization
Uses similar to those listed above.
Accessory uses and structures
Wireless communication equipment – CUP*
Residential uses for security purposes only
One caretaker unit shall be permitted for each development, subject to the standards in Chapter 2.5.8 – Special Standards for Certain Uses. Other residential uses are not permitted, except that residences existing prior to the effective date of this Code may continue.
* Land uses with an asterisk (*) shall require a Conditional Use Permit subject to the procedure and standards in Chapter 4.4 – Conditional Use Permits.

2.5.8 – Special Standards for Certain Uses

D. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within General Industrial (GI) District Land Use Map districts in a manner that protects the health, safety and welfare of the community, allows for commercial



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cultivation of cannabis, and avoids undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon. Commercial cultivation of cannabis shall also be considered an "Urban Agriculture" use, and shall be subject to any additional requirements that are applicable to such uses.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. The OMMP registered patient for whom cannabis is cultivated shall reside in a legal dwelling at the site where cultivation occurs. This dwelling shall be either conforming or legally nonconforming with the standards of the current Phoenix Land Development Code, Comprehensive Plan, and applicable building codes.
3. Standards for the cultivation of cannabis by a resident grower for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;



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- c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in the General Industrial Land Use District. Cannabis cultivated in a G-I Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the General Industrial Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of sections 2.5.8.D.2.a or 2.5.8.D.2.c may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:
 - a. Shall be in compliance with all other applicable standards in sections 2.5.8.D.1-9 above; and
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;



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- c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. Additional standards for the commercial cultivation cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail customers, whether for medical or non-medical purposes, within the General Industrial G-I Land Use District shall be met:
- a. The total area permitted to be used for cannabis cultivation upon or at any single site shall not exceed forty thousand (40,000) square feet GLA;
 - b. A maximum business frontage of no more than two hundred (200) feet;
 - c. A commercial cultivation operation shall obtain all licenses, certifications, permits, and other regulatory approvals prior to operation, and shall remain in good standing as required by the terms of those approvals;
 - d. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - e. An indoor cultivation area shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The facility shall utilize an air filtration and ventilation system which, to the greatest extent feasible, confines all objectionable odors associated with the facility to the premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
 - iii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
 - f. At a minimum, the cannabis cultivation area shall be surrounded by a 1-hour firewall or shall utilize a sufficiently sized fire suppression system.
 - g. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers.



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2.6.8—Special Standards for Certain Uses

D. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within General Industrial Land Use Map districts in a manner that protects the health, safety and welfare of the community, allows for commercial cultivation of cannabis, and avoids undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon. Cultivation of cannabis shall also be considered an "Urban Agriculture" use, and shall be subject to any additional requirements that are applicable to such uses.

1. **Applicability.** All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. **Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:**
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. The OMMP registered patient for whom cannabis is cultivated shall reside in a legal dwelling at the site where cultivation occurs. This dwelling shall be either conforming or legally nonconforming with the standards of the current Phoenix Land Development Code, Comprehensive Plan, and applicable building codes.
3. **Standards for the cultivation of cannabis by a resident grower for the consumption by individuals other than resident OMMP registered individuals are as follows:**



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- a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
- b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
- c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in the Light Industrial Land Use District. Cannabis cultivated in the L-I Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the Light Industrial Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of sections 2.6.8.D.2.a or 2.6.8.D.2.c may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of



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fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:

- a. Shall be in compliance with all other applicable standards in sections 2.6.8.N.1-9 above;
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. Additional standards for the commercial cultivation cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail customers, whether for medical or non-medical purposes, within the Light Industrial L-I Land Use District shall be met:
- a. The total area permitted to be used for cannabis cultivation upon or at any single site shall not exceed ten thousand (10,000) square feet GLA;
 - b. A maximum business frontage of no more than one hundred and fifty (150) feet;
 - c. A commercial cultivation operation shall obtain all licenses, certifications, permits, and other regulatory approvals prior to operation, and shall remain in good standing as required by the terms of those approvals;
 - d. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - e. An indoor cultivation area shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The facility shall utilize an air filtration and ventilation system which, to the greatest extent feasible, confines all objectionable odors associated with the facility to the premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
 - iii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
 - f. At a minimum, the cannabis cultivation area shall be surrounded by a 1-hour firewall or shall utilize a sufficiently sized fire suppression system.
 - g. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers.



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Chapter 1.3 – Definitions

Cultivation area: the area within which plants are grown. All parts of a plant grown within a cultivation area shall be contained within the perimeter of the cultivation area. No part of a plant, except for rhizomal matter, roots, etc., grown within a cultivation area shall grow past the perimeter of the cultivation area.

Resident grower: an individual engaged in the cultivation of cannabis for personal consumption, whether for medical or non-medical purposes, and whose primary residence is the site at which cultivation occurs.

Urban agriculture, urban agricultural land use: the cultivation of plants and raising of animals at a scale sufficient to enable the distribution of goods produced by these activities, whether in their raw form or as processed finished goods, to the general public, food processing operations, and other commercial and industrial enterprises. Confined animal feedlots, or CAFOs, and animal breeding operations are not considered to be urban agricultural land uses.

2.2.9--Special Standards for Certain Uses

N. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within Residential Land Use Map districts in a manner that protects the health, safety and welfare of the community, while avoiding undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top of average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;



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- d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
- e. The OMMP registered patient for whom cannabis is cultivated shall reside at the site where cultivation occurs.
3. Standards for the cultivation of cannabis for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet upon the property;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in all Residential Land Use Districts. Cannabis cultivated in a Residential Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for onsite consumption by an individual who is legally entitled to do so. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate.
5. Cannabis cultivation and distribution is not considered an accessory use in Residential Land Use Map Districts.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted;
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of Section 2.2.9.N.2.a or



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2.2.9.N.2.c may request a Code Interpretation of the need for additional cultivation area or reduction in the minimum spatial separation requirements defined by 2.2.9.N.2.c. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The Request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with PLDC Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:

- a. Shall be in compliance with all other applicable standards in sections 2.2.9.N.1-9 above;
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. An individual cultivating cannabis or wishing to cultivate cannabis within a Residential Land Use District shall obtain a Type I Zoning Clearance from the Planning Department prior to commencement of cultivation (typically prior to planting of immature plants or seeds). The applicant shall submit information as is necessary for department staff to determine that the cultivation area will meet the requirements established herein.



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2.3.2 – Permitted Use

Table 2.3.2.A - Land Uses and Building

<p>1. Residential*: a. Single-family attached townhouses b. Three-Family housing (triplex) c. Multi-family housing d. Residential care homes and facilities e. Family daycare (12 or fewer children) g. Mixed-use development (housing & other permitted use)*</p> <p>2. Bed & Breakfast Inn's</p>	<p>3. Public and Institutional*: a. Churches and places of worship b. Clubs, lodges, similar uses c. Government offices and facilities (administration, public safety, transportation, utilities, and similar uses) d. Libraries, museums, community centers, concert halls and similar uses e. Public parking lots and garages f. Private utilities g. Public parks and recreational facilities h. Schools (public and private) i. Special district facilities j. Uses similar to those listed above [subject to CUP requirements, as applicable]</p> <p>4. Accessory Uses and Structures*</p> <p>5. Cottage Industrial*: "Light manufacture" (e.g., small-scale crafts, electronic equipment, bakery, furniture, similar goods when in conjunction with retail)</p>	<p>6. Commercial: a. Retail trade and services, except auto-oriented uses b. Entertainment (e.g., theaters, clubs, amusement uses) c. Hotels/motels d. Medical and dental offices, clinics and laboratories e. Mixed-use development (housing & other permitted use)* f. Office uses g. Personal and professional services (e.g., child care center, catering/food services, restaurants, Laundromats and drycleaners, barber shops and salons, banks and financial institutions, and similar uses) h. Repair services must be enclosed within a building [subject to CUP requirements, as applicable] j. Uses similar to those listed above [may be subject to CUP requirements, as applicable]</p>
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Uses marked with an asterisk (*) are subject to the standards in Chapter 2.3.10 – Special Standards for Certain Uses. Uses with a double asterisk (**) require a Conditional Use Permit.

2.3.10--Special Standards for Certain Uses

G. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within the City Center Land Use Map district in a manner that protects the health, safety and welfare of the community, while avoiding undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon.



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1. **Applicability.** All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. **Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:**
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. The OMMP registered patient for whom cannabis is cultivated shall reside in a legal dwelling at the site where cultivation occurs. This dwelling shall be either conforming or legally nonconforming with the standards of the current Phoenix Land Development Code, Comprehensive Plan, and applicable building codes.
3. **Standards for the cultivation of cannabis for the consumption by a resident grower other than a resident OMMP registered individuals are as follows:**
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.



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- iii. A resident grower shall reside at the site where cultivation occurs.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in the City Center Land Use District. Cannabis cultivated in the C-C Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the City Center Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of Section 2.3.10.G.2.a may request a Code Interpretation of the need for additional cultivation area or reduction in the minimum spatial separation requirements defined by 2.3.10.G.2.c. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with PLDC Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:
 - a. Shall be in compliance with all other applicable standards in sections 2.3.10.G.1-9 above;
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.



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11. An individual cultivating cannabis or wishing to cultivate cannabis within the City Center Land Use District under the provisions of Chapter 2.3.10.2 or 3 shall obtain a Type I Zoning Clearance from the Planning Department prior to commencement of cultivation (typically prior to planting of immature plants or seeds). The applicant shall submit information as is necessary for department staff to determine that the cultivation area will meet the requirements established herein.
12. The commercial cultivation of cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail customers, whether for medical or non-medical purposes, is expressly prohibited within the City Center Land Use District. Cannabis cultivated in a City Center Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal use as allowed by state law. Cannabis cultivated in the City Center Land Use District shall not be sold for offsite distribution or consumption by an individual or body corporate.



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Commercial	
Retail Sales and Service, indoor only: <ul style="list-style-type: none"> ▪ less than 30,000 square feet GLA* ▪ 30,000 to 50,000 square feet GLA ▪ greater than 50,000 square feet GLA 	P C C, I-5
Nurseries and Landscape Supplies	C
<u>Urban Agriculture < 2,000 GLA (indoor and outdoor)</u>	<u>P</u>
<u>Urban Agriculture > 2,000 GLA (indoor and outdoor)</u>	<u>C</u>
Restaurants <ul style="list-style-type: none"> ▪ with drive-through ▪ without drive-through 	C P
Drive-up, drive-in, and drive-through facilities	C
Office, Banks, Research Facilities, and Clinics	P
Vet Hospitals (entirely enclosed in building)	C
Truck Stops, Truck Sales, and Heavy Equipment Sales	C, I-5
Auto Repair	P
Service Stations	C
Distribution Facilities	C
Lodging and RV Parks	P
Vehicle Sales and Service, RV and Boat Sales, Manufactured Home Sales, and Fuel Sales	C
Commercial and Public Parking	P
Commercial Storage <ul style="list-style-type: none"> ▪ enclosed in building and on an upper story ▪ not enclosed in building 	P C
Entertainment and Gyms <ul style="list-style-type: none"> ▪ enclosed in building (e.g., theater, museums, bowling alleys) ▪ not enclosed (e.g., amusement parks) 	P C
Wholesale <ul style="list-style-type: none"> ▪ 20,000 square feet GLA and greater ▪ less than 20,000 square feet GLA 	C P
Assisted Living Facilities	C
Mixed-use (residential with commercial/civic/industrial)	N
Civic	
Government –offices, public library	P
Government –public works yards	C
Parks and Open Space	P
Schools <ul style="list-style-type: none"> ▪ pre-school, daycare, and primary ▪ secondary, colleges, and vocational 	P P
Clubs and Religious Institutions	C
Light Industrial	
Manufacturing and Production <ul style="list-style-type: none"> ▪ 5,000 sq. ft. and larger ▪ less than 5,000 sq. ft. with retail outlet 	C P
Warehouse	C
Transportation, Freight and Distribution, Taxi Cab Dispatch, Emergency Vehicle Dispatch	C, I-5



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Industrial Service (e.g., cleaning, repair)	C, I-5
Processing of Raw Materials	N

2.4.5—Special Standards for Certain Uses

K. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within Commercial Highway Land Use Map districts in a manner that protects the health, safety and welfare of the community, allows for commercial cultivation of cannabis, and avoids undue interference with an individual’s right to cultivate cannabis as allowed by the laws of the State of Oregon. Cultivation of cannabis shall also be considered an “Urban Agriculture” use, and shall be subject to any additional requirements that are applicable to such uses.

1. **Applicability.** All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. **Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:**
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. The OMMP registered patient for whom cannabis is cultivated shall reside in a legal dwelling at the site where cultivation occurs. This dwelling shall be either conforming or legally nonconforming with the standards of the current Phoenix Land Development Code, Comprehensive Plan, and applicable building codes.



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3. Standards for the cultivation of cannabis by a resident grower for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in the Commercial Highway Land Use District. Cannabis cultivated by a resident grower in the C-H Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the Commercial Highway Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of sections 2.4.5.K.2.a or 2.4.5.K.2.c may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with PLDC Chapter 4.8. The City Building Official may require additional specific standards to



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meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:

- a. Shall be in compliance with all other applicable standards in sections 2.4.5.K.1-9 above;
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. Additional standards for the commercial cultivation of cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail customers, whether for medical or non-medical purposes, within the C-H Commercial Highway Land Use District shall be met:
- a. The total area permitted to be used for cannabis cultivation upon any single site shall not exceed five thousand (5,000) square feet GLA;
 - b. A maximum business frontage of no more than one hundred and fifty (150) feet;
 - c. A commercial cultivation operation shall obtain all licenses, certifications, permits, and other regulatory approvals prior to operation, and shall remain in good standing as required by the terms of those approvals;
 - d. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a garage, out building, greenhouse, or other commercial building;
 - e. An indoor cultivation area shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. At a minimum, the cannabis cultivation area shall be surrounded by a 1-hour firewall or shall utilize a sufficiently sized fire suppression system;
 - iii. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers;
 - f. At a minimum, the cannabis cultivation area shall be surrounded by a 1-hour firewall or shall utilize a sufficiently sized fire suppression system;
 - g. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers.



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Industrial
Heavy manufacturing, assembly, and processing of raw materials* [CUP]
Light manufacture (e.g., electronic equipment, printing, bindery, furniture, and similar goods)
Urban agriculture (indoor crop cultivation, aquaculture, plant nurseries) < 5,000 square feet GLA
Urban agriculture (indoor crop cultivation, aquaculture, plant nurseries) > 5,000 square feet GLA* [CUP]
Warehousing and distribution (this does not include Mini-Warehouse Storage facilities)
Uses similar to those listed above
Commercial
Offices and other commercial uses are permitted when they are integral to a primary industrial use (e.g., administrative offices, wholesale of goods produced on location, and similar uses).
Public and institutional uses
Government facilities (e.g., public safety, utilities, school district bus facilities, public works yards, transit and transportation, and similar facilities where the public is generally not received.)
Private Utilities (e.g., natural gas, electricity, telephone, cable, and similar facilities)
Special district facilities (e.g., irrigation district, and similar facilities)
Vocational schools co-located with parent industry or sponsoring organization
Uses similar to those listed above.
Accessory uses and structures
Wireless communication equipment – CUP*
Residential uses for security purposes only
One caretaker unit shall be permitted for each development, subject to the standards in Chapter 2.5.8 – Special Standards for Certain Uses. Other residential uses are not permitted, except that residences existing prior to the effective date of this Code may continue.
* Land uses with an asterisk (*) shall require a Conditional Use Permit subject to the procedure and standards in Chapter 4.4 – Conditional Use Permits.

2.5.8 – Special Standards for Certain Uses

D. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within General Industrial (GI) District Land Use Map districts in a manner that protects the health, safety and welfare of the community, allows for commercial cultivation of cannabis, and avoids undue interference with an individual’s right to cultivate cannabis as allowed by the laws of the State of Oregon. Commercial cultivation of cannabis shall also be considered an “Urban Agriculture” use, and shall be subject to any additional requirements that are applicable to such uses.



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Exhibit A

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1. **Applicability.** All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. The OMMP registered patient for whom cannabis is cultivated shall reside in a legal dwelling at the site where cultivation occurs. This dwelling shall be either conforming or legally nonconforming with the standards of the current Phoenix Land Development Code, Comprehensive Plan, and applicable building codes.
3. Standards for the cultivation of cannabis by a resident grower for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.



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4. Cannabis cultivation and distribution are prohibited as a Home Occupation in the General Industrial Land Use District. Cannabis cultivated in a G-I Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the General Industrial Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of sections 2.5.8.D.2.a or 2.5.8.D.2.c may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:
 - a. Shall be in compliance with all other applicable standards in sections 2.5.8.D.1-9 above; and
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. Additional standards for the commercial cultivation of cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail



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customers, whether for medical or non-medical purposes, within the General Industrial G-I Land Use District shall be met:

- a. The total area permitted to be used for cannabis cultivation upon or at any single site shall not exceed forty thousand (40,000) square feet GLA;
- b. A maximum business frontage of no more than two hundred (200) feet;
- c. A commercial cultivation operation shall obtain all licenses, certifications, permits, and other regulatory approvals prior to operation, and shall remain in good standing as required by the terms of those approvals;
- d. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a garage, out building, greenhouse, or other commercial building;
- e. An indoor cultivation area shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The facility shall utilize an air filtration and ventilation system which, to the greatest extent feasible, confines all objectionable odors associated with the facility to the premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
 - iii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
- f. At a minimum, the cannabis cultivation area shall be surrounded by a 1-hour firewall or shall utilize a sufficiently sized fire suppression system.
- g. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers.



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2.6.8—Special Standards for Certain Uses

D. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within Light Industrial Land Use Map districts in a manner that protects the health, safety and welfare of the community, allows for commercial cultivation of cannabis, and avoids undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon. Cultivation of cannabis shall also be considered an "Urban Agriculture" use, and shall be subject to any additional requirements that are applicable to such uses.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a resident grower who is a registered OMMP patient or care provider for consumption by a resident OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet upon the site;
 - b. An outdoor cultivation area shall not exceed thirty-five (35) square feet and not exceed ten (10) feet in height from the top average surrounding grade and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any other dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. The OMMP registered patient for whom cannabis is cultivated shall reside in a legal dwelling at the site where cultivation occurs. This dwelling shall be either conforming or legally nonconforming with the standards of the current Phoenix Land Development Code, Comprehensive Plan, and applicable building codes.
3. Standards for the cultivation of cannabis by a resident grower for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;



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- b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
- c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in the Light Industrial Land Use District. Cannabis cultivated in the L-I Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal consumption. This cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the Light Industrial Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of sections 2.6.8.D.2.a or 2.6.8.D.2.c may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with Chapter 4.8. The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:
 - a. Shall be in compliance with all other applicable standards in sections 2.6.8.N.1-9 above;



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- b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.
11. Additional standards for the commercial cultivation of cannabis, that being the cultivation of cannabis for the purpose of distribution to wholesale or retail customers, whether for medical or non-medical purposes, within the Light Industrial L-I Land Use District shall be met:
- a. The total area permitted to be used for cannabis cultivation upon or at any single site shall not exceed ten thousand (10,000) square feet GLA;
 - b. A maximum business frontage of no more than one hundred and fifty (150) feet;
 - c. A commercial cultivation operation shall obtain all licenses, certifications, permits, and other regulatory approvals prior to operation, and shall remain in good standing as required by the terms of those approvals;
 - d. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a garage, out building, greenhouse, or other commercial building;
 - e. An indoor cultivation area shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The facility shall utilize an air filtration and ventilation system which, to the greatest extent feasible, confines all objectionable odors associated with the facility to the premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
 - iii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
 - f. At a minimum, the cannabis cultivation area shall be surrounded by a 1-hour firewall or shall utilize a sufficiently sized fire suppression system.
 - g. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers.



Planning Commission Memorandum

To: Planning Commission
From: Matt Brinkley, Planning Director
Re: Cannabis cultivation
Date: March 18, 2015

Marijuana grow sites are operating throughout the City. In some cases, individuals are producing cannabis for their own consumption. Other “grows”, however, are commercial enterprises where a single entity cultivates cannabis for multiple OMMP registrants or “cardholders”. These grows operate from properties located within commercial, industrial, and residential zones.

City Council was recently presented with testimony from two residents who complained about the negative impacts of grows located in residential neighborhoods in Phoenix. As is the case in most communities where grows exist, odor was identified as the primary and most significant negative offsite impact. The cities of Ashland and Medford have recently begun to consider regulating grows in different ways. Medford is contemplating the use of fencing to mitigate impacts of grows within residential neighborhoods. The effectiveness of fencing to manage a problem that is not visual in nature is doubtful. Ashland, on the other hand, is considering limits on the number of plant permitted to be grown within residential neighborhoods and whether outdoor growing should be permitted at all, and

Many communities in California, where medical cannabis has been legal for a decade, have enacted regulations that restrict outdoor growing and establish other performance standards. The City of Arcata limits the size of grows and prohibits outdoor growing altogether. Speaking with the Director of the Community Development Department, I learned that prior to these regulations Arcata experienced widespread code violations related to the operation of medical marijuana cultivation operations. In addition to noxious odors, the City often discovered serious building code violations when investigating grow operations. Indoor cannabis cultivation requires energy intensive artificial lighting (roughly 15 – 30 watts/square foot). These systems often exceed the typical design capacities of typical single and multifamily dwellings. Electrical and HVAC work was often unpermitted. The City also encountered problems with the widespread conversion of homes into indoor grow operations in residential neighborhoods. The dwellings no longer provided housing for residents and undermined the residential character of established neighborhoods by introducing a commercial or industrial agricultural operation into their midst. Consequently, the City prohibits cultivation as home occupation and limits to cultivation to dwellings where the resident actually lives.

With the passage of Measure 91 in November, 2014, land use conflicts arising from the cultivation of cannabis in urban and rural areas, in residential and nonresidential land use districts, is only likely to intensify. The substantial profit involved in cannabis cultivation and the availability of vacant properties in a City like Phoenix make it very susceptible to an influx in the number of operations. The City of Phoenix is already home to at least two cultivation operations in its commercial land use districts; anecdotal evidence suggests that several more are operating in residential land use districts. The Land Development Code does not currently allow urban agricultural operations other than “nurseries”, and only then with a Conditional Use Permit.



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Chapter 1.3 – Definitions

Cultivation area: the area within which plants are grown. All parts of a plant grown within a cultivation area shall be contained within the perimeter of the cultivation area. No part of a plant, except for rhizomal matter, roots, etc., grown within a cultivation area shall grow past the perimeter of the cultivation area.

2.2.9--Special Standards for Certain Uses

N. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within Residential Land Use Map districts in a manner that protects the health, safety and welfare of the community, while avoiding undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by registered care provider for consumption by an OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet;
 - b. An outdoor cultivation area shall not exceed twenty (20) square feet and not exceed ten (10) feet in height and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. An OMMP registered patient shall reside at the site where cultivation occurs;
 - f. The OMMP registered patient shall not participate in cannabis cultivation in any other residential location within the City of Phoenix;



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3. Standards for the cultivation of cannabis for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a Home Occupation in all Residential Land Use Districts. Cannabis cultivated in a Residential Land Use District is explicitly intended to allow a resident grower to cultivate cannabis for personal, and this cannabis shall not be sold for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in Residential Land Use Map Districts.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted;
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of Section 2.2. N.2.a may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with Section . The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not



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limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:

- a. Shall be in compliance with Section 2.2. N.1-9 above; and
- b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
- c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
- d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.

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2.3.2 – Permitted Use

Table 2.3.2.A - Land Uses and Building

<p>1. Residential*:</p> <ul style="list-style-type: none"> a. Single-family attached townhouses b. Three-Family housing (triplex) c. Multi-family housing d. Residential care homes and facilities e. Family daycare (12 or fewer children) g. Mixed-use development (housing & other permitted use)* <p>2. Bed & Breakfast Inn's</p>	<p>3. Public and Institutional*:</p> <ul style="list-style-type: none"> a. Churches and places of worship b. Clubs, lodges, similar uses c. Government offices and facilities (administration, public safety, transportation, utilities, and similar uses) d. Libraries, museums, community centers, concert halls and similar uses e. Public parking lots and garages f. Private utilities g. Public parks and recreational facilities h. Schools (public and private) i. Special district facilities j. Uses similar to those listed above [subject to CUP requirements, as applicable] <p>4. Accessory Uses and Structures*</p> <p>5. Cottage Industrial*: "Light manufacture" (e.g., small-scale crafts, electronic equipment, bakery, furniture, similar goods when in conjunction with retail)</p>	<p>6. Commercial:</p> <ul style="list-style-type: none"> a. Retail trade and services, except auto-oriented uses b. Entertainment (e.g., theaters, clubs, amusement uses) c. Hotels/motels d. Medical and dental offices, clinics and laboratories e. Mixed-use development (housing & other permitted use)* f. Office uses g. Personal and professional services (e.g., child care center, catering/food services, restaurants, Laundromats and drycleaners, barber shops and salons, banks and financial institutions, and similar uses) h. Repair services must be enclosed within a building [subject to CUP requirements, as applicable] j. Uses similar to those listed above [may be subject to CUP requirements, as applicable] <u>k. Urban Agriculture < 1000 gross square feet*</u> <u>l. Urban Agriculture > 1000 gross square feet**</u>
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Uses marked with an asterisk (*) are subject to the standards in Chapter 2.3.10 – Special Standards for Certain Uses. Uses with a double asterisk (**) require a Conditional Use Permit.

2.3.10--Special Standards for Certain Uses

G. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within City Center Land Use Map districts in a manner that protects the health, safety and welfare of the community, while avoiding undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon.



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1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a registered resident OMMP patient or care provider for consumption by an OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet;
 - b. An outdoor cultivation area shall not exceed twenty (20) square feet and not exceed ten (10) feet in height and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;:
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. An OMMP registered patient shall reside at the site where cultivation occurs;
 - f. The OMMP registered patient shall not participate in cannabis cultivation in any other residential location within the City of Phoenix;
3. Standards for the cultivation of cannabis for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.



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4. Cannabis cultivation and distribution are prohibited as a Home Occupation. Cannabis cultivated within a dwelling unit or upon property on which a dwelling is located is intended for use by the resident grower, and may not be sold or otherwise distributed for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an accessory use in the City Center Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of Section 2.2. N.2.a may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with Section . The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:
 - a. Shall be in compliance with Section 2.2. N.1-9 above; and
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
 - d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.



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2.4.5—Special Standards for Certain Uses

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Commercial	
Retail Sales and Service, indoor only:	
▪ less than 30,000 square feet GLA*	P
▪ 30,000 to 50,000 square feet GLA	C
▪ greater than 50,000 square feet GLA	C, I-5
Nurseries and Landscape Supplies	C
<u>Urban Agriculture < 2,000 GLA (indoor and outdoor)</u>	P
<u>Urban Agriculture > 2,000 GLA (indoor and outdoor)</u>	C
Restaurants	
▪ with drive-through	C
▪ without drive-through	P
Drive-up, drive-in, and drive-through facilities	C
Office, Banks, Research Facilities, and Clinics	P
Vet Hospitals (entirely enclosed in building)	C
Truck Stops, Truck Sales, and Heavy Equipment Sales	C, I-5
Auto Repair	P
Service Stations	C
Distribution Facilities	C
Lodging and RV Parks	P
Vehicle Sales and Service, RV and Boat Sales, Manufactured Home Sales, and Fuel Sales	C
Commercial and Public Parking	P
Commercial Storage	
▪ enclosed in building and on an upper story	P
▪ not enclosed in building	C
Entertainment and Gyms	
▪ enclosed in building (e.g., theater, museums, bowling alleys)	P
▪ not enclosed (e.g., amusement parks)	C
Wholesale	
▪ 20,000 square feet GLA and greater	C
▪ less than 20,000 square feet GLA	P
Assisted Living Facilities	C
Mixed-use (residential with commercial/civic/industrial)	N
Civic	
Government ▪ offices, public library	P
Government –public works yards	C
Parks and Open Space	P
Schools	
▪ pre-school, daycare, and primary	P
▪ secondary, colleges, and vocational	P



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Clubs and Religious Institutions	C
----------------------------------	---

K. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within Commercial Highway Land Use Map districts in a manner that protects the health, safety and welfare of the community, while avoiding undue interference with an individual’s right to cultivate cannabis as allowed by the laws of the State of Oregon.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a registered resident OMMP patient or care provider for consumption by an OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet;
 - b. An outdoor cultivation area shall not exceed twenty (20) square feet and not exceed ten (10) feet in height and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. An OMMP registered patient shall reside at the site where cultivation occurs;
 - f. The OMMP registered patient shall not participate in cannabis cultivation in any other residential location within the City of Phoenix;
3. Standards for the cultivation of cannabis by a resident grower for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;



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- b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
- c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a [Home Occupation](#). Cannabis cultivated within a dwelling unit or upon property on which a dwelling is located is intended for use by the resident grower, and may not be sold or otherwise distributed for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an [accessory use](#) in the Commerical Highway Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of Section 2.2. N.2.a may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with Section _____ . The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:
 - a. Shall be in compliance with Section 2.2. N.1-9 above; and



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- b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
- c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
- d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.

DRAFT



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Industrial
Heavy manufacturing, assembly, and processing of raw materials* [CUP]
Light manufacture (e.g., electronic equipment, printing, bindery, furniture, and similar goods)
Urban agriculture (indoor crop cultivation, aquaculture, plant nurseries) < 5,000 square feet GLA
Urban agriculture (indoor crop cultivation, aquaculture, plant nurseries) > 5,000 square feet GLA* [CUP]
Warehousing and distribution (this does not include Mini-Warehouse Storage facilities)
Uses similar to those listed above
Commercial
Offices and other commercial uses are permitted when they are integral to a primary industrial use (e.g., administrative offices, wholesale of goods produced on location, and similar uses).
Public and institutional uses
Government facilities (e.g., public safety, utilities, school district bus facilities, public works yards, transit and transportation, and similar facilities where the public is generally not received.)
Private Utilities (e.g., natural gas, electricity, telephone, cable, and similar facilities)
Special district facilities (e.g., irrigation district, and similar facilities)
Vocational schools co-located with parent industry or sponsoring organization
Uses similar to those listed above.
Accessory Uses and Structures
Wireless communication equipment – CUP*
Residential Uses for security purposes only
One caretaker unit shall be permitted for each development, subject to the standards in Chapter 2.5.8 – Special Standards for Certain Uses. Other residential uses are not permitted, except that residences existing prior to the effective date of this Code may continue.
* Land uses with an asterisk (*) shall require a Conditional Use Permit subject to the procedure and standards in Chapter 4.4 – Conditional Use Permits.

2.5.8 – Special Standards for Certain Uses

D. Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within Commercial Highway Land Use Map districts in a manner that protects the health, safety and welfare of the community, while avoiding undue



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interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a registered resident OMMP patient or care provider for consumption by an OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet;
 - b. An outdoor cultivation area shall not exceed twenty (20) square feet and not exceed ten (10) feet in height and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. An OMMP registered patient shall reside at the site where cultivation occurs;
 - f. The OMMP registered patient shall not participate in cannabis cultivation in any other residential location within the City of Phoenix;
3. Standards for the cultivation of cannabis by a resident grower for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:



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- i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a [Home Occupation](#). Cannabis cultivated within a dwelling unit or upon property on which a dwelling is located is intended for use by the resident grower, and may not be sold or otherwise distributed for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an [accessory use](#) in the General Industrial Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of Section 2.2. N.2.a may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director shall review the submitted information and make an interpretation in accordance with Section _____ . The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:
 - a. Shall be in compliance with Section 2.2. N.1-9 above; and
 - b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
 - c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;



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- d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.

2.6.8—Special Standards for Certain Uses

Cannabis Cultivation. The purpose of this section is to regulate the cultivation of cannabis within General Industrial Land Use Map districts in a manner that protects the health, safety and welfare of the community, while avoiding undue interference with an individual's right to cultivate cannabis as allowed by the laws of the State of Oregon.

1. Applicability. All cultivation of cannabis, whether it is intended for immediate use by the grower or for distribution to and consumption by individuals other than the grower, shall meet the special use requirements established by this section.
2. Standards for the cultivation of cannabis by a registered resident OMMP patient or care provider for consumption by an OMMP registered patient shall be as follows:
 - a. The total area permitted to be used for cannabis cultivation, including indoor and outdoor cultivation areas, shall not exceed one hundred (100) square feet;
 - b. An outdoor cultivation area shall not exceed twenty (20) square feet and not exceed ten (10) feet in height and shall be surrounded by a fence that is six (6) feet in height. Any access points to the cultivation area must be secured at all times to prevent unauthorized access;
 - c. Any and all points along the perimeter of an outdoor cultivation area shall not be located closer than ten (10) feet to any property line and shall not be located closer than thirty (30) feet to the closest edge of any dwelling on any contiguous property;
 - d. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited;
 - e. An OMMP registered patient shall reside at the site where cultivation occurs;



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- f. The OMMP registered patient shall not participate in cannabis cultivation in any other residential location within the City of Phoenix;
3. Standards for the cultivation of cannabis by a resident grower for the consumption by individuals other than resident OMMP registered individuals are as follows:
 - a. The total area permitted to be used for cannabis cultivation shall not exceed one hundred (100) square feet;
 - b. Outdoor cultivation areas are not permitted. All cultivation shall be conducted within an enclosed, secured building such as a part of a dwelling, a garage, out building, or greenhouse;
 - c. An indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten feet (10') in height per residence and shall meet the following performance standards:
 - i. Lighting used for indoor cultivation shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - ii. The use of explosive or flammable gas products for cannabis cultivation or processing is prohibited.
4. Cannabis cultivation and distribution are prohibited as a [Home Occupation](#). Cannabis cultivated within a dwelling unit or upon property on which a dwelling is located is intended for use by the resident grower, and may not be sold or otherwise distributed for offsite distribution or consumption by an individual or body corporate other than the resident grower.
5. Cannabis cultivation and distribution is not considered an [accessory use](#) in the Light Industrial Land Use Map District.
6. There shall be no visual evidence of the presence of cannabis cultivation at the property line of the site upon which cultivation is conducted.
7. The residence shall maintain a functional kitchen, bathroom, and at least one legally occupiable bedroom.
8. The cannabis cultivation area shall be in compliance with the current, adopted edition of the Oregon Specialty Structural Code and other applicable building and fire safety codes.
9. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
10. Any proposed cannabis cultivation by an individual qualified patient or primary caregiver that cannot meet the cultivation area standards of Section 2.2. N.2.a may request a Code Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Planning Director or planning department staff assigned by the Planning Director



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shall review the submitted information and make an interpretation in accordance with Section _____ . The City Building Official may require additional specific standards to meet applicable building and fire safety codes, including but not limited to installation of fire suppression sprinklers. Approved cultivation for personal use that exceeds one hundred (100) square feet shall conform to the following standards:

- a. Shall be in compliance with Section 2.2. N.1-9 above; and
- b. The cannabis cultivation area shall not exceed an additional fifty (50) square feet for a total of 150 square feet, not exceeding ten (10) feet in height;
- c. At a minimum, the cannabis cultivation area shall be constructed with a 1-hour firewall;
- d. Any additional cannabis cultivation area approved through this process shall be conducted exclusively indoors, limited to a garage or other accessory building that is secured, locked, and fully enclosed.

From: [Clarkie](#)
To: [Matt Brinkley](#)
Subject: Re: Regulations concerning legal marijuana grows
Date: Friday, July 17, 2015 3:44:47 PM

Hi Matt, yes I understand that. My main concern is with the 4 plant recreational grow which is what most residents will be expecting to rightfully do so with no further regulations. OMMP residents are already operating within legal state guidelines and do not need further restrictions at the city level. Like I said, unless you can show proof that there is a problem I can't see making new laws with nothing to back them up. And, it might spare the city lawsuits should someone want to call them out on it.

Also, I was waiting to get crime statistics, but in viewing City Data websites, and in keeping up with crime in other cities where I have lived, it's common knowledge that bike theft and identity theft are the most common residential burglaries. I don't think theft of 4 plants is going to be very profitable for thieves as the finished product can not be turned around to fencers quickly. Notable, rape is very high in Phoenix, in fact twice as high as the national average per capita. This is a real concern for me and should be taken up seriously by the city leaders.

Again, I just want to emphasize that evidence with accurate facts need to be produced to back up all the unsubstantiated claims with no expert proof.

Thank you very much, I appreciate you taking into consideration my concerns.

Clarkie

On 7/17/15 2:01 PM, Matt Brinkley wrote:

> Clarkie,
>
> Thank you for taking the time to review the proposed regulations. To be clear, the proposed regulations would not ban cultivation outright. As I think you understand, outdoor cultivation of cannabis to be used for non-medical purposes would be prohibited. However, OMMP resident growers would be able to maintain a 35 square foot outdoor cultivation area. In practical terms that would allow a resident grower to cultivate 3-4 plants with industry recommended allowances of 9 square feet for each plant. Typical outdoor yields even for relatively inexperienced growers average around 40 grams/square foot. That's a hair over 3 pounds of colas (the flower or usable portion of the plant).
>
> Call or email me with any additional comments or questions. I will enter them into the official record.
>
> Matt Brinkley, AICP CFM
> Planning Director
> City of Phoenix
> 112 W. 2nd Street
> PO Box 330
> Phoenix, OR
> 97535
> Direct: 541-535-2050 ext. 316
>
> -----Original Message-----
> From: Clarkie [<mailto:clarkie@realskate.com>]
> Sent: Friday, July 17, 2015 10:30 AM
> To: Matt Brinkley

> Subject: Regulations concerning legal marijuana grows

>

> 7/17/15

>

> Re: Restrictions on legal residential marijuana growing

>

> Dear Planning and City Council:

>

> I am writing to oppose any further city restrictions of legal rights state voters have granted residents pursuant to Measure 91.

>

> I question the validity of the "problems" to which you feel solutions are needed. No ban is a solution. I am primarily addressing the rights of individuals to grow 4 plants (recreational) and 6 plants (medical) on their own property. This should be separated from issues of larger grows as a business. I am suggesting further research is needed to back the assumption that marijuana growing outdoors is a nuisance and "health, safety and welfare" of neighborhoods. I have researched only to find no studies on this claim. Marijuana has been illegal in so many states for so long there has not been grants to study its affects on humans only from using it. I have never heard of any claim that the occasional smell is harmful or a nuisance to anyone. There are a lot of natural smells we deal with every day which intensify seasonally. Fortunately, they are short lived. Concerning "health, safety, and welfare" you think is a problem if plants are grown outdoors, have you considered then the "health, safety, and welfare" of families who want to use marijuana pursuant to 91 but will be forced to grow indoors? Wouldn't their health be more compromised in an inclosed artificial atmosphere they will be turning their living quarters into? As ridiculous the unfounded claim that growing 4 natural plants in a garden is unsafe and unhealthy, is the suggestion that people modify their homes to accommodate a plant that needs outdoor elements.

>

> Using Arcadia as an example is not accurate. Arcadia has a problem with ILLEGAL grows in neighborhoods and yes they are causing problems. Not even similar to what is being imagined here in Phoenix, however. Indoor grows even small ones are horrible, with lights, fans, dehydrators, etc.

> Growing outdoors is nothing compared to the odors. I had one on my street in California. I lived near another outdoor grow and there was no smell at all that I could detect.

>

> As to the one documented supporter of banning growing outdoors for fear of developing allergy, the plants grown for both recreational and medicinal are female plants which do not bear pollen. In fact, male plants which are only used for producing seed need to be kept far from females. Again, there have been no scientific studies that marijuana causes allergy. In 2000, there was a report concerning very large

> (acres) of commercial grows in Nebraska in which surrounding residents complained of allergy. But again, it was due to the production of male plants.

>

> I do not feel it is reasonable for the city to get involved and interfere with our rights under 91. It is micro managing, unresearched, almost seemingly hysterical and fearful. I don't believe a city can enforce nuisance complaints between individuals, at least not in California you can't. Neighborhood nuisance complaints among residents are a civil matter as long as they are not illegal. Making something illegal to protect a minority of residents from fear is not professional nor practical.

>

> I strongly suggest the city of Phoenix stand back and let the new Measure 91 hold as is and wait and see if problems arise. If the city of Phoenix feels the state needs to go back to the drawing board, then fine that would be appropriate to go through state level channels. There is not enough known to jump ahead with "what if" laws. This is just one more thing that makes Phoenix appear ridiculous and lacking in experience to be in a position of governing a small community of very educated, intelligent folks from what I've observed.

>

> I wrote a quick note to Senator Alan Bates concerning this and here is his reply:

>

> "Hi Clarkie, We discovered indoor grows are energy intensive and costly, however outdoor grows in residential neighborhoods can be just as costly in social damages. I would like to see a balanced approach that provides growers areas conducive to their needs while protecting the neighborhoods and relationships that make our communities strong. I believe we can do both."

>

> I agree and I suggest studies, workshops with experts in the field, and a strong effort to involve the majority of the community. Thank you for accepting my input.

>

>

From: [Steve Schulman](mailto:Steve.Schulman@charter.net)
To: [Matt Brinkley](mailto:matt.brinkley@phoenixoregon.gov)
Subject: Re: Indoor/outdoor
Date: Friday, July 17, 2015 5:38:43 PM

Matt. I don't want to belabor a point, but complaints to council are anecdotal at best unless there is a corresponding written complaint to the police. And you know full well that if you were going to complain to council, that you would embellish the problem. In reality, a full backyard would be known by half the city. Now, I attended nearly every council meeting last summer and fall and I never heard the complaints you talk about. Plus if I wasn't there Mike Stitt was. We never reported anything like full backyards. As for the folks running for reelection, they ran on a no pot platform. Once again it's anecdotal. The complaint is either formalized to the police or it doesn't count. As to the robberies, it's a problem. However, other businesses get broken into and there is no rush to ban them. Purple Parrott and Flamingo come to mind as prime examples. Thanks again.
-----Steve

Sent from my iPad

> On Jul 17, 2015, at 5:05 PM, Matt Brinkley <matt.brinkley@phoenixoregon.gov> wrote:
>
> Steve,
>
> As I recall, we had 3 complainants come to City Council meetings last summer and fall when the odor would have been worst. They all came from folks who live directly next door to a grow. According to testimony, these weren't small operations supplying cannabis to a resident grower; they were larger operations where a backyard was filled with plants.
>
> More recently we've had complaints from a resident about an indoor grow in a residence with an absentee landlord. The grow vents directly into his sideyard. He has talked to his neighbor in the past and asked if something could be done about the odor. The truth is, something could be done. The filtration technology exists, and it's not expensive. But rather than behave in a neighborly fashion and consider the request, the grower simply asserted that he had a right to grow. I wasn't witness to this interaction, but that's what I know about it so far.
>
> In terms of the attractive nuisance that an outdoor grow can create, I know that a grow on Main Street (one of only two that is actually registered with the state) has been robbed at least twice. On one of those occasions, the burglars accessed the site through a neighbor's backyard. Fortunately no one was there, and there wasn't a confrontation between the burglars and any bystanders.
>
> Several City Councilors who were running for election last year reported that they received negative feedback about outdoor growing.
>
>
> Matt Brinkley, AICP CFM
> Planning Director
> City of Phoenix
> 112 W. 2nd Street
> PO Box 330
> Phoenix, OR
> 97535
> Direct: 541-535-2050 ext. 316
>
>
> -----Original Message-----
> From: Steve Schulman [<mailto:ssschulman541@charter.net>]
> Sent: Friday, July 17, 2015 4:41 PM
> To: matt.brinkley@phoenixoregon.gov
> Subject: Indoor/outdoor

>

> Matt. One last question. How many documented complaints has the city received regarding the smell of cannabis? By documented I mean a formal complaint filled with the police department. The last time I checked, and it's been about six months ago, there was one formal complaint. As far as I'm concerned, just going to a council meeting and saying "it stinks" doesn't count. Neither do anecdotal tales relayed by the Bartells. Thanks for your help.

> -----Steve Schulman

>

> Sent from my iPad

>

**CITY OF PHOENIX
PHOENIX, OREGON
ORDINANCE NO. _____**

AN ORDINANCE AMENDING CHAPTER 2 OF THE PHOENIX LAND DEVELOPMENT CODE, ALSO KNOWN AS LDC15-01, ESTABLISHING SPECIAL STANDARDS REGULATING TIME, MANNER, AND PLACE OF CANNABIS CULTIVATION IN ALL LAND USE DISTRICTS IN THE CITY OF PHOENIX.

WHEREAS, the cultivation of cannabis is, under certain conditions and circumstances, recognized as a lawful activity by the laws and administrative regulations of the State of Oregon; and

WHEREAS, the cultivation of cannabis may be undertaken as a commercial enterprise according to these laws and administrative regulations; and

WHEREAS, the cultivation of cannabis has been found to have secondary impacts that can negatively affect quality of life and the integrity of residential neighborhoods; and

WHEREAS, the cultivation of cannabis for commercial purposes can influence local real estate markets in a way that does not support the goal of a diverse local economy; and

WHEREAS, the City has an obligation established by the Economic Element of its Comprehensive Plan to provide for diverse economic opportunities for individuals and commercial enterprises within the City; and

WHEREAS, the City of Phoenix intends to reduce conflicts between incompatible land uses and the activities conducted within Land Use Districts throughout the City ; and

WHEREAS, the City of Phoenix wishes to respect the rights of individuals afforded to them by state law to cultivate cannabis for personal use; and

WHEREAS, the City of Phoenix wishes to maintain the predominately residential character of neighborhoods and properties within Residential Land Use Districts; and

WHEREAS, the City wishes to protect public safety by eliminating attractive nuisances and potential targets for criminal activities including theft and vandalism.

NOW THEREFORE, the City of Phoenix ORDAINS as follows:

Section 1. The Land Development Code of the City of Phoenix is hereby amended as proposed in Exhibit A, and the Findings and Conclusions of Law as described in Exhibit B are hereby affirmed.

Section 2. Effective Date: This ordinance shall become effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof on this 20th day of July, 2015.

ATTEST:

Mayor

Recorder

Proposed Medford ordinance would fine pot grows that fail sniff test.



Proposed rules would limit the height of marijuana plants grown in Medford yards to no taller than the property's fence. Mail Tribune / Bob Pennell illustration

By Damian Mann
Mail Tribune
OR_Medford

Smelly pot gardens could face fines of up to \$250 a day if the Medford City Council decides to approve a draft ordinance to head off neighborhood complaints once cannabis becomes legal on July 1.

"I would be in favor of it," Councilor Tim Jackle said.

He said he and other councilors have received many calls from residents annoyed at the pungent smell of medical marijuana plants.

On July 1, Ballot Measure 91 takes effect, allowing a resident 21 or older to grow up to four marijuana plants for recreational use and to possess up to eight ounces of dried cannabis flowers. Voters approved Measure 91 last November.

The new ordinance will be considered by the City Council on Thursday and would require pot growers to prevent odors from emanating outside their backyards.

The ordinance would require 7- to 8-foot fences around marijuana gardens, and the plants themselves couldn't grow any taller than the height of the fence. The city would require a permit be obtained from the Building Department prior to construction of the fence. A locking mechanism would need to be installed on the gate leading into the enclosure.

The enclosure can be made of chain link, wood, masonry, metal, stonewall or a combination of materials. If chain link is used, the ordinance states any opening cannot be larger than 1 ¼ inches.

Any production or processing of marijuana would have to be screened from public viewing, according to the proposed ordinance. Fabrics, tarps or shade screens cannot be used to obscure the marijuana, the proposed ordinance states.

Violations of the fence ordinance or the screening ordinance also carries a \$250-a-day fine.

Jackle said he likens a marijuana odor regulation to a noise ordinance.

"Like any other nuisance, you have to make the argument that the smell has risen to the point of being a nuisance," Jackle said.