

Note: Anyone wishing to speak at any Planning Commission meeting is encouraged to do so. If you wish to speak, please rise and, after you have been recognized by the Chair, give your name and complete address for the record. You will then be allowed to speak. Please note that the public testimony may be limited by the Chair and normally is not allowed after the Public Hearing is closed.

**ASHLAND PLANNING COMMISSION
STUDY SESSION
AUGUST 25, 2015
AGENDA**

- I. **CALL TO ORDER:** 7:00 PM, Civic Center Council Chambers, 1175 E. Main Street

- II. **ANNOUNCEMENTS**

- III. **AD-HOC COMMITTEE UPDATES**

- IV. **PUBLIC FORUM**

- V. **DISCUSSION ITEMS**
 - A. **Discussion of Ordinance Amendments for Homegrown Recreational Marijuana.**

- VI. **ADJOURNMENT**

**CITY OF
ASHLAND**



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development office at 541-488-5305 (TTY phone is 1-800-735-2900). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title 1).

Memo

DATE: August 25, 2015

TO: Ashland Planning Commission

FROM: Maria Harris, Planning Manager

RE: Discussion of Draft Ordinance for Recreational and Medical Marijuana

SUMMARY

The Planning Commission reviewed and discussed draft ordinance language addressing growing marijuana in residential neighborhoods at the June 23, 2015 Planning Commission meeting http://www.ashland.or.us/SIB/files/2015-06-23_PC_Packet_Web.pdf. The attached draft is updated and includes additional development standards for commercial operations that are permitted under the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act (Measure 91).

Six issues are indentified for discussion of **“homegrown” marijuana cultivation** (i.e., in conjunction with a dwelling unit) including: 1) counting mature and immature plants, 2) limiting the total number of plants for a property, 3) allowing more marijuana plants to be grown outside on larger lots, 4) basing the number of homegrown marijuana plants on lots or households and addresses, 5) outdoor plants sizes and grow times, and 6) setback and area requirements. Three issues are indentified for discussion of **commercial marijuana businesses** including: 1) requiring processing (manufacturing) and production (commercial growing) uses to be setback from residential zones, 2) limiting marijuana production size, and 3) adding separation requirements to the local code. **Questions for the Planning Commission and staff's comments are inserted in the draft ordinance and highlighted in red text.**

BACKGROUND

1. Summary of Amendments

Medical marijuana dispensaries were added to the land use ordinance as a special and conditional use in the commercial (C-1) and Employment (E-1) zones in July 2014. Currently, section 18.2.3.190 includes the special use standards for dispensaries. The attached draft ordinance amendments update and reformat the dispensary standards to include provisions for homegrown marijuana and commercial operations. The amendments are concentrated on pages 4-19 in the draft ordinance language. A summary of the amendments is below.

- **Table 18.2.2.030 – Uses Allowed by Zone**

- Homegrown marijuana cultivation is added under agricultural uses as a special use in all zones. In order to be considered homegrown marijuana, the cultivation has to occur on a lot



- occupied solely by one or more dwelling units (see definition of homegrown marijuana on page 20 of attached draft).
- Medical marijuana dispensary is changed to medical marijuana retail sales and now includes both medical marijuana and adult recreational marijuana retail sales outlets.
 - Marijuana processing and production is added to general manufacturing use as a special use in the employment (E-1) and industrial (M-1) zones.
 - Marijuana wholesale added to existing wholesale storage and distribution use as a special use in the E-1 and M-1 zones.
- **18.2.3.190.A Homegrown Marijuana.** The draft language is similar to the previous version discussed at the June Planning Commission meeting. The changes are as follows.
 - The total number of plants per lot is increased from four to 12.
 - A sliding scale is added that allows larger lots to grow more plants outside.
 - Greenhouses are added as an option to limit view and access to outdoor plants.
 - The area limitation for four outdoor plants is reduced to 50 feet, more than four plants are limited to 100 square feet, and additional setbacks were added to outdoor grow sites with more than four plants.
 - A requirement is added to shield lighting systems and windows to prevent glare from grow light systems.
 - **18.2.3.190.B Marijuana Businesses.** The previous language for medical marijuana dispensaries was reformatted to cover the range of marijuana businesses allowed under state law.
 - 18.2.3.190.B.1
 - Subsections a, b, c, and g currently are applicable to medical marijuana dispensaries. Staff recommends these standards be applied to all marijuana businesses. These include locating in a building, not allowing outdoor cultivation or storage, reiterating the requirement for Site Design Review for building modifications, not allowing security bars or grates, securing disposal of marijuana remnants, and having any required license from the state.
 - Subsections d and e are added to address shielding lights for commercial operations, specifically continuous use of grow lights, and meeting applicable building code requirements.
 - Subsection f is added to address potential changes in future federal enforcement of federal law pertaining to marijuana.
 - Marijuana processing and production (18.2.3.190.B.2) are required to be located 200 feet or more from residential zones and marijuana production facilities are limited to 20,000 of gross leasable floor space per lot.
 - Marijuana retail sales (18.2.3.190.B.3) applies the current dispensary regulations to all retail sales including medical and adult recreational marijuana.

2. History

In November 2014, voters passed the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act (Measure 91) into law. The law provides for personal growing, possession, and use of limited amounts of non-medical marijuana, and directs the Oregon Liquor Control Commission (OLCC) to administer a licensing system for the processing, production, wholesale, and retail sale of adult recreational marijuana.



The homegrown personal possession provisions of Measure 91 began on July 1, 2015, and persons 21 years or age or older may grow up to four marijuana plants per household. In addition, the households may process, keep, and store limited amounts of homegrown marijuana and homemade marijuana products.

The commercial components of Measure 91 begin when the Oregon Liquor Control Commission (OLCC) begins accepting license applications for processing, production, wholesale, and retail marijuana operations. OLCC is working on a licensing regimen for the four types of permitted operations, but that structure is not expected to be in place until the latter half of 2016. Medical marijuana grow sites are administered by the Oregon Health Authority (OHA) and are currently in operation.

In 2015, the state Legislature made reforms to the medical and recreational marijuana regulations and adopted four bills. SB 460 allows the sales of recreational marijuana by medical marijuana dispensaries on October 1, 2015. The bill also allows a city or county to prohibit the sale of recreational marijuana at medical marijuana dispensaries by adopting an ordinance to that effect. The City Council discussed the option of preparing an ordinance to prohibit the early sale of recreational marijuana at the July 21, 2015 meeting and decided not to move forward with a prohibition.

ATTACHMENTS

1. Draft Amendments to Land Use Ordinance



ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTERS 18.2.2, 18.2.3, 18.2.5 AND 18.6.1
OF THE ASHLAND LAND USE ORDINANCE RELATING TO
HOMEGROWN MARIJUANA CULTIVATION AND RELATED
ACTIVITIES, AND COMMERCIAL MARIJUANA PRODUCTION,
PROCESSING, WHOLESALE, AND RETAIL.**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are **bold lined through** and additions are **bold underlined**.

WHEREAS, Oregon voters passed Measure 91, known as the Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act, in November 2014 which allows households with one or more persons 21 years age and older to have up to four marijuana plants at a household and process, keep, and store limited amounts of homegrown marijuana and homemade marijuana products. In addition, Measure 91 requires the Oregon Liquor Control Commission to develop and implement a licensing process for commercial marijuana facilities including processing, production, wholesale, and retail; and

WHEREAS, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City. 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, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop 20 Or. App. 293; 531 P 2d 730, 734 (1975); and

WHEREAS, under Oregon law, local governments may regulate the operation and location of certain types of uses within their jurisdiction limits except when such action has been specifically preempted by state statute; and

WHEREAS, Measure 91 allows cities and counties to adopt reasonable time, place, and manner regulations of the nuisance aspects of marijuana facilities and specifies that the authority granted to cities and counties by Measure 91 “is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of the state;” and

WHEREAS, the City Council determined it is necessary to establish rules and regulations ensuring that both safe access to marijuana and land use compatibility are maintained; and

WHEREAS, the City Council determined there has been an increase in marijuana cultivation, specifically in residential neighborhoods, because of an increase in medical marijuana grows allowed by state law; and

WHEREAS, the City Council finds that the increase in marijuana cultivation resulted in an increase in code compliance complaints regarding odor related to outdoor marijuana cultivation as well as adverse impacts related to noise from mechanical equipment and continuous lighting related to indoor marijuana cultivation in accessory structures such as greenhouses; and

WHEREAS, the City Council determined it is necessary to establish rules and regulations for marijuana cultivation and commercial marijuana facilities, while preserving the peace, safety and general welfare of residential neighborhoods and neighboring properties; and

WHEREAS, the Planning Commission of the City of Ashland conducted a duly advertised public hearing on the amendments to the Ashland Municipal Code and Land Use Ordinances on _____; and

WHEREAS, the City Council of the City of Ashland, following the close of the public hearing and record, deliberated and conducted first and second readings approving adoption of the Ordinance in accordance with Article 10 of the Ashland City Charter; and

WHEREAS, the City Council of the City of Ashland has determined that in order to protect and benefit the health, safety and welfare of existing and future residents of the City, it is necessary to amend the Ashland Municipal Code and Land Use Ordinance in the manner proposed, that an adequate factual base exists for the amendments, the amendments are consistent with the comprehensive plan and that such amendments are fully supported by the record of this proceeding.

THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:

SECTION 1. Chapter 18.2.2 [Base Zones and Allowed Uses] of the Ashland Land Use Ordinance is hereby amended as follows:

18.2.2.030 Allowed Uses

A. Uses Allowed in Base Zones. Allowed uses include those that are permitted, permitted subject to special use standards, and allowed subject to approval of a conditional use permit. Where Table 18.2.2.030 does not list a specific use and chapter 18.6 does not define the use or include it as an example of an allowed use, the City may find that use is allowed, or is not allowed, following the procedures of section 18.1.5.040. Uses not listed in Table 18.2.2.030 and not found to be similar to an allowed use are prohibited. For uses allowed in special districts CM, HC, NM, and SOU, and for regulations applying to the City's overlays zones, refer to part 18.3.

B. Permitted Uses and Uses Permitted Subject to Special Use Standards. Uses listed as "Permitted (P)" are allowed. Uses listed as "Permitted Subject to Special Use Standards (S)" are allowed, provided they conform to chapter 18.2.3 Special Use Standards. All uses are

subject to the development standards of zone in which they are located, any applicable overlay zone(s), and the review procedures of part 18.5. See section 18.5.1.020.

- C. Conditional Uses.** Uses listed as “Conditional Use Permit Required (CU)” are allowed subject to the requirements of chapter 18.5.4.
- D. Prohibited Uses.** Uses not listed in Table 18.2.2.030 and not found to be similar to an allowed use following the procedures of section 18.1.5.040 are prohibited. Prohibited uses are subject to the violations, complaints, and penalties sections in 18-1.6.080, 18-1.6.090, and 18-1.6.100.
- E. Uses Regulated by Overlay Zones.** Notwithstanding the provisions of chapter 18.2.2, additional land use standards or use restrictions apply within overlay zones. An overlay zone may also provide for exceptions to some standards of the underlying zone. For regulations applying to the City’s overlays zones, please refer to part 18.3.
- F. Accessory Uses.** Uses identified as “Permitted (P)” are permitted as primary uses and as accessory uses. For information on other uses that are customarily allowed as accessory, please refer to the description of the land use categories in part 18.6 Definitions.
- G. Mixed-Use.** Uses allowed in a zone individually are also allowed in combination with one another, in the same structure or on the same site, provided all applicable development standards and building code requirements are met.
- H. Temporary Uses.** Temporary uses require a Conditional Use Permit under chapter 18.5.4; except as follows:
 - 1. Short-Term Events. The Staff Advisor may approve through Ministerial review short-term temporary uses occurring once in a calendar year and lasting not more than 72 hours including set up and take down. Activities such as races, parades, and festivals that occur on public property (e.g., street right-of-way, parks, sidewalks, or other public grounds) require a Special Event Permit pursuant to AMC 13.03.
 - 2. Garage Sales. Garage sales shall have a duration of not more than two days and shall not occur more than twice within any 365-day period. Such activity shall not be accompanied by any off-premises advertisement. For the purpose of this ordinance, garage sales meeting the requirements of this subsection shall not be considered a commercial activity.
 - 3. Temporary Buildings. Temporary occupancy of a manufactured housing unit or similar structure may be permitted for a period not to exceed 90 calendar days upon the granting of a permit by the Building Official. Such occupancy may only be allowed in conjunction with construction on the site. Said permit shall not be renewable within a six-month period beginning at the first date of issuance, except with approval of the Staff Advisor.
- I. Disclaimer.** Property owners are responsible for verifying whether a proposed use or development meets the applicable standards of this ordinance.

Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
A. Agricultural Uses¹										
Agriculture and Farm Use, except <u>Keeping of Bees, Livestock and Micro-Livestock, and Marijuana Cultivation and Production</u>	P	P	P	P	P	P	N	N	N	Animal sales, feed yards, keeping of swine, commercial compost, or similar uses not allowed
Keeping of Bees	S	S	S	S	S	S	S	N	N	<u>See Keeping of Livestock and Bees standards in</u> Sec. 18.2.3.160
Keeping of Livestock	S	N	N	N	S	S	N	N	N	
Keeping of Micro-Livestock	S	S	S	S	S	S	N	N	N	
<u>Marijuana Cultivation, Homegrown</u>	<u>S</u>	<u>Sec. 18.2.3.190</u> <u>See also General Industrial, Marijuana Production</u>								
B. Residential Uses										
Single-Family Dwelling	P	P	P	P	P	P	S	S	N	See Single-Family standards in Sec. 18.2.5.090 Sec. 18.2.3.130 for C-1 zone and E-1 zone Dwellings and additions in Historic District Overlay, see Sec. 18.2.3.120 and 18.2.5.070
Accessory Residential Unit	S	S	S	S	S	N	N	N	N	Sec. 18.2.3.040
Duplex Dwelling	S	P	P	P	N	N	S	S	N	Sec. 18.2.3.110 Duplex Dwelling
Manufactured Home on Individual Lot	S	S	S	S	N	N	N	N	N	Sec. 18.2.3.170 and not allowed in Historic District Overlay
Manufactured Housing Development	N	S	CU+S	N	N	N	N	N	N	Sec. 18.2.3.180
Multifamily Dwelling	N	P	P	P	N	N	S	S	N	Sec. 18.2.3.130 for C-1 zone and E-1 zone Dwellings and additions in Historic District Overlay, see Sec. 18.2.3.120

¹ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
										and 18.2.5.070
B. Residential Uses² <i>(continued)</i>										
Rental Dwelling Unit Conversion to For-Purchase Housing	N	N	S	S	N	N	N	N	N	Sec. 18.2.3.200
Home Occupation	S	S	S	S	S	S	S	S	N	Sec. 18.2.3.150
C. Group Living										
Nursing Homes, Convalescent Homes	CU	CU	CU	CU	CU	CU	N	N	N	See chapter 18.3.3 Health Care Services
Residential Care Home	P	P	P	P	P	P	N	N	N	Subject to State licensing requirements
Residential Care Facility	CU	P	P	P	CU	CU	N	N	N	Subject to State licensing requirements
Room and Boarding Facility	N	P	P	P	N	N	N	N	N	
D. Public and Institutional Uses										
Airport										See chapter 18.3.7 Airport Overlay
Cemetery, Mausoleum, Columbarium	N	N	N	N	CU	N	N	N	N	
Child Care Facility	CU	CU	CU	CU	CU	CU	P	P	P	Family Child Care Home exempt from planning application procedure pursuant to ORS 329A.440, see part 18.6 for definition Subject to State licensing requirements
Club Lodge, Fraternal Organization	CU	CU	CU	CU	CU	CU	P	CU	CU	
Community Service, includes Governmental Offices and Emergency Services (e.g., Police, Fire); excluding Outdoor Storage	CU	CU	N	N	CU	CU	P	P	P	
Electrical Substation	N	N	N	N	N	N	CU	CU	P	
Hospitals	CU	CU	CU	CU	CU	N	N	N	N	See chapter 18.3.3 Health Care Services

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Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
D. Public and Institutional Uses <i>(continued)</i> ³										
Governmental Offices and Emergency Services (e.g., Police, Fire); excluding Outdoor Storage	CU	CU	N	N	CU	CU	P	P	P	
Mortuary, Crematorium	N	N	N	N	CU	N	P	P	P	
Public Park, Open Space, and Recreational Facility, including playgrounds, trails, nature preserves, athletic fields, courts, swim pools, similar uses	P	P	P	P	P	P	N	N	N	
Public Parking Facility	N	N	N	N	N	N	P	N	N	
Public Works/Utilities Storage Yard; includes vehicle and equipment, maintenance, repair	N	N	N	N	N	N	N	P	P	
Recycling Depot	N	N	N	N	N	N	N	P	P	Not allowed within 200 ft of a residential zone
Religious Institution, Houses of Worship	CU	CU	CU	CU	CU	CU	CU	CU	CU	
School, Private (Kindergarten and up)	CU	CU	CU	CU	CU	CU	N	N	N	
School, Public (Kindergarten and up)	P	P	P	P	P	CU	N	N	N	
School, Private College/Trade/Technical School	N	N	N	N	N	N	N	CU	P	
Utility and Service Building, Yard and Structure, Public and Quasi-Public, excluding underground utilities and electrical substations	CU	CU	N	N	CU	CU	P	P	P	Yards not allowed in the C-1 zone
Wireless Communication Facility	CU	CU	CU	CU	CU	CU	<u>P</u> -or- <u>CU</u>	<u>P</u> -or- <u>CU</u>	<u>P</u> -or- <u>CU</u>	Sec.18.4.10
E. Commercial Uses										
Amusement/Entertainment, includes theater, concert hall, bowling alley, miniature golf, arcade; excluding drive-up uses	N	N	N	N	N	N	P	CU	P	
Automotive and Truck Repair, or Service; includes fueling station, car wash, tire sales and repair/replacement, painting, and other	N	N	N	N	N	N	S or CU	S or CU	P	Sec. 18.2.3.050 In C-1 zone, fuel sales and service

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Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
repair for automobiles, motorcycles, aircraft, boats, RVs, trucks, etc.										limited to Freeway Overlay, see chapter 18.3.8 In E-1 zone, fuel sales requires CU permit
E. Commercial Uses (continued) ⁴										
Automotive Sales and Rental, except within the Historic Interest Area; includes motorcycles, boats, RVs, and trucks	N	N	N	N	N	N	CU	CU	P	Except not allowed within Historic District Overlay
Bakery, except as classified as Food Processing	N	N	N	N	N	N	P	P	P	
Commercial Laundry, Cleaning, and Dyeing Establishment	N	N	N	N	N	N	S	S	P	Sec. 18.2.3.080
Commercial Recreation, includes country club, golf course, swimming club, and tennis club; excluding intensive uses such as driving range, race track, or amusement park	CU	CU	N	N	CU	CU	N	N	N	
Commercial Retail Sales and Services, except Outdoor Sales and Services	N	N	CU+S	N	N	N	P	S	S	In R-2 zone, uses limited to personal and professional services, except see Sec. 18.2.3.210 for retail uses allowed in Railroad Historic District In E-1 zone, Retail limited to 20,000 sq ft of gross leasable floor space per lot. In M-1 zone, uses limited to serving persons working in zone <u>See Marijuana Retail Sales</u>
Drive-Up Use	N	N	N	N	N	N	S	N		Per Sec. 18.2.3.100, Drive-Up uses are limited to area east of Ashland St at intersection of Ashland St/Siskiyou Blvd
Hostel	N	N	CU	CU	N	N	CU*	N	N	*In C-1 zone, requires annual Type I review for at least the first three years, after which time the Planning Commission may approve a permanent facility through the Type II procedure

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	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
E. Commercial Uses (continued) ⁵										
Hotel (See also Hostel and Traveler's Accommodation)	N	N	N	N	N	N	CU	CU	P	
Kennel (See also Veterinary Clinic)	N	N	N	N	N	N	S	S	CU	No animals kept outside within 200 feet of a residential zone
Limited Retail Uses in Railroad Historic District	N	CU	CU	CU	N	N	N	N	N	Sec. 18.2.2.210 for Retail Uses Allowed in Railroad Historic District
Lumber Yard and Similar Sales of Building or Contracting Supplies, or Heavy Equipment	N	N	N	N	N	N	N	CU	P	
Medical Marijuana Dispensary-Retail Sales, includes sale of medical and recreational marijuana	N	N	N	N	N	N	S or CU	S or CU	S	Sec. 18.2.3.190
Nightclub, Bar	N	N	N	N	N	N	S	CU	P	Not allowed within the Historic District Overlay unless located in C-1-D
Office (See also Commercial Services)	N	N	CU	CU	N	N	P	P	P	
Outdoor Storage of Commodities or Equipment associated with an allowed use	N	N	N	N	N	N	CU	CU	P	
Plant Nursery, Wholesale, except Marijuana Cultivation and Production	N	N	CU	CU	N	N	N	N	N	
Self-Service Storage, Commercial (Mini-Warehouse)	N	N	N	N	N	N	N	CU	P	
Traveler's Accommodation (See also Hostels and Hotels)	N	N	CU+S	CU+S	N	N	N	N	N	Sec. 18.2.3.220
Veterinary Clinic	N	N	N	N	N	N	P	P	P	
F. Industrial and Employment Uses										
Cabinet, Carpentry, and Machine Shop, and related Sales, Services, and Repairs	N	N	N	N	N	N	N	S or CU	P	In the E-1 zone, uses within 200 feet of a residential zone require CU permit
Commercial Excavation and Removal of Sand, Gravel, Stone, Loam, Dirty or Other Earth Products	N	N	N	N	CU+S	N	N	N	N	Sec. 18.2.3.070

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	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
F. Industrial and Employment Uses <i>(continued)</i> ⁶										
Concrete or Asphalt Batch Plant	N	N	N	N	N	N	N	N	CU	
Dwelling for a caretaker or watchman	N	N	N	N	N	N	N	CU	CU	
Food Products Manufacture/Processing/Preserving, including canning, bottling, freezing, drying, and similar processing and preserving.	N	N	N	N	N	N	S	S	P	In the C-1 zone, manufacture or assembly of items sold is a permitted use, provided such manufacturing or assembly occupies 600 square feet or less, and is contiguous to the permitted retail outlet In the E-1 zone, See Sec. 18.2.3.140
Manufacture, General, <u>includes Marijuana Processing and Production</u>	N	N	N	N	N	N	N	<u>P or S</u>	<u>P or S</u>	<u>Sec. 18.2.3.190</u> <u>See also Marijuana Cultivation, Homegrown</u>
Manufacture, Light; excluding saw, planing or lumber mills, or molding plants.	N	N	N	N	N	N	S	P	P	Requires assembly, fabricating, or packaging of products from previously prepared materials such as cloth, plastic, paper, cotton, or wood In the C-1 zone, manufacture or assembly of items sold in a permitted use, provided such manufacturing or assembly occupies 600 square feet or less, and is contiguous to the permitted retail outlet
Outdoor Storage of Commodities or Equipment associated with an allowed use	N	N	N	N	N	N	CU	CU	P	
Television and Radio Broadcasting Studio	N	N	N	N	N	N	N	P	P	
Wholesale Storage and Distribution, <u>includes Marijuana Wholesale</u>	N	N	N	N	N	N	N	<u>NS</u>	<u>PS</u>	Distribution uses <u>Deliveries and shipments limited to 7AM-9PM</u> within 200 feet of a residential zone <u>limited to 9PM-7AM</u>

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										Sec. 18.2.3.190
F. Industrial and Employment Uses <i>(continued)</i>										
Wrecking, Demolition, and Junk Yards	N	N	N	N	N	N	N	N	CU	
G. Other Uses⁷										
Temporary Tree Sales	N	N	N	N	N	N	P	N	N	Allowed from November 1 to January 1
Temporary Use	CU, except uses lasting less than 72 hours are subject to Ministerial review, per Sec. 18.2.2.030.H									

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SECTION 2. Chapter 18.2.3 [Special Use Standards] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.2.3.190 ~~Medical Marijuana Dispensary~~ Marijuana-Related Uses.

A. Homegrown Marijuana Cultivation. Where homegrown marijuana cultivation is allowed, it shall meet all of the following requirements. See definition of homegrown marijuana cultivation in part 18-6.

1. Total Number of Plants.

State law for recreational marijuana allows up to four marijuana plants per household and for medical marijuana allows up to 12 mature plants per address in residential zones and up to 48 plants per address in all other zones. Recreational marijuana is permitted at households with persons 21 years of age and older and medical marijuana is permitted for medical marijuana cardholders. State law does not distinguish between outdoor and indoor cultivation.

Question: Should mature and immature marijuana plants be included in the limits for homegrown marijuana in residential situations?

The draft is written so that the maximum number of plants includes both immature and mature plants. State law at times but not consistently distinguishes between immature and mature plants. Recreational marijuana is limited to four plants per household while medical marijuana limits specifically reference mature plants.

a. Up to 12 marijuana plants may be grown per lot through a combination of indoor and outdoor cultivation.

Question: Should the total number of plants that can be grown on a property be limited?

Staff recommends considering a limit to the total number of plants that can be grown on a lot. This total would include both indoor and outdoor cultivation. The draft includes 12 as the total for consistency with the recent state legislation that limits the number of medical marijuana plants to 12 mature plants per address in residential zones.

The total number is intended to limit the scale and intensity of marijuana cultivation on a residential property and within a residential structure. Limiting the scale and intensity maintains the residential use of a dwelling unit and the associated yard area as the primary use of residential properties and could help limit the use of electricity and water especially for indoor cultivation.

As discussed at the previous meeting, the cultivation of marijuana in the city limits appears to have increased over the past few years because of an increase in medical marijuana grows allowed under state law. As a result, the City began receiving nuisance-type complaints related to the odor produced by marijuana plants grown outdoors. In addition, complaints have involved impacts from light, glare, and noise from mechanical equipment (e.g., lights systems, fans) related to indoor cultivation and odor from processing (e.g., drying) plants in garages and accessory structures.

Though not numerous, the more extreme cases have involved using garages and/or portions of the home for indoor cultivation. Larger scale indoor cultivation in residential situations can consume electricity nearing commercial levels and potentially can be a safety issue.

b. Outdoor Cultivation.

- i. Up to four marijuana plants may be grown outdoors on lots that are 5,000 square feet or less in size. See definition of marijuana plant in part 18.6.**
- ii. Lots greater than 5,000 square feet in size are allowed one additional marijuana plant for each 2,500 square feet of lot area in excess of 5,000 square feet and up to a maximum of eight marijuana plants.**

Question: Should larger lots be allowed to grow more marijuana plants outside?

The draft is written to allow up to four marijuana plants cultivated outdoors for lots 5,000 square feet or less in size and in conjunction with a dwelling unit. For lots larger than 5,000 square feet in size, one plant can be added for each additional 2,500 square feet in lot size up to maximum of eight plants cultivated outdoors. The sliding scale would allow lots 15,000 square feet and larger to have eight plants grown outdoors. The methodology is based on 18.2.3.160 the keeping of livestock and bees ordinance. The sliding scale for larger lots was discussed at the June meeting.

Question: Should the number of plants allowed as “homegrown” marijuana cultivation (i.e., in conjunction with a dwelling unit) be based on lots or households/addresses?

The draft language is more restrictive than state law because it ties the maximum number of marijuana plants to lots and lot size while state law allows plants based on a household or address. If the lot language is used, lots with multiple dwellings on the same property would be limited to four plants outdoors and 12 total, and would not be allowed to increase the number of plants based on dwelling units. See below for examples.

Number of Units/Lot Size	State Law – Total Number of Plants Allowed		Draft Ordinance – Number of Plants Allowed
	Recreational @ 4 per household	Medical @ 12 per address	
1 unit 5,000 sq. ft.	4	12	4 outside/12 total
2 units 15,000 sq. ft.	8	24	8 outside/12 total
3 units 15,000 sq. ft.	12	36	8 outside/12 total

If the allowed number of plants is based on number of households/addresses, the number of allowed marijuana plants on a property generally increases. In reality, the setback and area requirements will likely be more difficult to meet, especially on smaller

properties and/or properties with multiple dwellings on the same lot. The code compliance complaints received by the City thus far have been single-family dwelling situations with one dwelling unit on one lot.

Household is defined in Measure 91 as " means a housing unit, and includes any place in or around the housing unit at which the occupants of the housing unit are producing, processing, keeping, or storing homegrown marijuana or homemade marijuana products." Housing unit is defined in Measure 91 as "means a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied as a 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."

- 2. Primary Residence. Marijuana plants grown outdoors or in an accessory structure must be located on the site of the primary residence of the person or household that cultivates and owns the plants.**
- 3. Related Activities. Any drying, keeping, storage, or processing of homegrown marijuana shall be within the dwelling unit or accessory structure and shall not be located outdoors.**
- 4. Homemade Marijuana Extracts. No person may produce, process, keep, or store homemade marijuana extracts pursuant to section 57 of the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act.**
- 5. All medical marijuana grow sites must be registered with and have all applicable licenses from the State of Oregon, and meet the requirements of the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act and the Oregon Medical Marijuana Act (ORS 475.300 – ORS 475.346).**
- 6. Outdoor Cultivation.**
 - a. Locate marijuana plants so the plants are not visible from a public street or any area that the general public can access (e.g., schools, playgrounds, parks, commonly-owned open space, pedestrian and bicycle paths and trails). Marijuana plants shall not be located in a front yard.**
 - b. Screen marijuana plants to limit view and access from adjacent residential properties with a solid wood fence, masonry wall, or greenhouse. For fence and wall design requirements, see section 18.4.4.060 and for greenhouse requirements, see section 18.2.5.040.**

Question: Should greenhouses be allowed to limit view and access to outdoor marijuana plants instead of a fence or wall?

Greenhouses were added to the list of options for screening options for outdoor marijuana plants. This issue was raised at the June meeting. In addition, this draft requires screening "to limit view and access..." Both issues were discussed at the June meeting, but the previous version said "to limit view..."

Outdoor Plant Sizes and Grow Time

The issues of potentially limiting the allowed height of marijuana plants that are grown outdoors and the time period the plants are allowed to be grown outside were discussed at the June meeting. The information about growing marijuana outdoors appears to vary. The general consensus seems to be that the plants are highly adaptable and the plant size can be controlled by the grower. The height was described as being 3-5 feet for plants in poor soil and an average of 7-8 feet for plants grown in reasonable soil. The growing season outdoors is described in the three to six-month range.

c. Dimensional Standards. Marijuana plants grown outdoors shall meet the dimensional standards in Table 18.2.3.190.c.

Table 18.2.3.190.3.c Outdoor Cultivation Dimensional Standards for Homegrown Marijuana			
<u>Number of Marijuana Plants</u>	<u>Maximum Yard Area Allowed¹</u>	<u>Setback from Any Property Line</u>	<u>Setback from Dwellings on Adjoining Properties²</u>
<u>4 or fewer plants</u>	<u>50 square feet</u>	<u>10 feet</u>	<u>20 feet</u>
<u>5 to 8 plants³</u>	<u>100 square feet</u>	<u>20 feet</u>	<u>30 feet</u>

¹ **The area that may be used for outdoor cultivation of marijuana plants is limited to the maximum yard area. Related activities including drying, keeping, storage, or processing of homegrown marijuana shall not be located outdoors.**

² **Marijuana plants must also be located the setback distance from any multifamily dwelling unit within a multifamily development.**

³ **Where more than four marijuana plants are allowed, plants may be located separately in groups of four or less. See subsection 18.2.3.190.A.1.b for number of plants allowed to be grown outdoors.**

Question: Should the homegrown marijuana plants be required to be setback from neighboring properties and limited to an area size?

Since the previous draft, a setback was added for grow areas of five plants or more including 20 feet to property lines and 30 feet from dwellings on adjacent residences. The allowed grow area was reduced to 50 square feet for four plants on lots less than 5,000 square feet in size and a grow area of 100 square feet is included for five or more plants. The setbacks are based on 18.2.3.160 Keeping of Livestock and Bees. The information about growing marijuana outdoors appears to vary greatly. The general consensus seems to be that the plants need between nine and 16 square feet per plant.

The purpose of a setback and yard area limitation for outdoor marijuana cultivation is to limit the location, size, and scale of the grow area and therefore, reduce adverse impacts to neighboring properties. However, based on staff's experience with past code compliance cases the suggested setback may mitigate but will not prevent odor from reaching neighboring properties.

d. Multi-family Development. Marijuana plants may be grown on lots containing multi-family dwellings in conformance with the requirements of section 18.2.3.190 and provided all of the following requirements are met.

i. The property owner provides written notification to all residents of the multi-family complex and to the City that verifies the cultivation of marijuana plants will comply with the requirements of part 18.2 Zoning Regulations. The written notification shall include the following information.

1. Property owner, property manager, or home owner association representative contact information including the name, address, and phone number(s).

2. Twenty-four-hour emergency contact information for an onsite resident designated as the primary responsible party for the marijuana plants and maintenance. Contact information shall include the name, address, and phone number of the responsible party.

3. The City requirements for the cultivation of marijuana including the maximum number of plants per lot and the requirements of section 18.2.3.190.

7. Indoor Cultivation.

a. Building Code. Any structure, accessory structure, electrical service, or mechanical equipment (e.g., lighting, fans, heating and cooling systems) associated with marijuana cultivation shall satisfy the Building Code requirements and obtain all required building permits prior to installation. See section 18.2.5.040 Accessory Buildings and Structures.

b. Light and Glare. Shield lighting systems and use window coverings to confine light and glare from light systems associated with indoor cultivation to the interior of the structure.

c. No dwelling unit shall be used primarily as a place to cultivate marijuana.

The intent of this provision is to limit the scale of indoor cultivation in a residential setting. The language may not be necessary if a total number of marijuana plants per lot is included.

B. Marijuana Businesses.

1. Marijuana businesses may require Site Design Review under chapter 18.5.2 or a Conditional Use Permit under Chapter 18.5.4. See Table 18.2.2.030 – Uses Allowed by Zone for zones where marijuana businesses are allowed. Marijuana businesses shall meet all of the following requirements. See definition of marijuana businesses in part 18.6.

a. The marijuana business must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor cultivation and storage of merchandise, raw materials, or other material associated with the marijuana business is prohibited.

b. Any modifications to the subject site or exterior of a building housing the marijuana business must be consistent with the Site Design Use Standards.

and obtain Site Review approval if required by section 18.5.2.020. Security bars or grates on windows and doors are prohibited.

- c. The marijuana business must provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the business' exterior refuse containers.
- d. Light and Glare. Shield lighting systems and use window coverings to confine light and glare from light systems associated with indoor cultivation so as to confine light and glare to the interior of the structure. Grow light systems within a greenhouse are prohibited.
- e. Building Code. Any structure, accessory structure, electrical service, or mechanical equipment (e.g., lighting, fans, heating and cooling systems) associated with marijuana businesses shall satisfy the Building Code requirements and obtain all required building permits prior to installation. See section 18.2.5.040 Accessory Buildings and Structures.
- f. The property owner shall record a declaration which acknowledges that it or the tenant is responsible to ensure that business operations are in compliance with state and federal law where applicable and that they waive any claim or right to hold the City liable for damages they may suffer from state or federal enforcement actions for activities the City permits as a result of its approval of the owner's proposed use or development once such approval is granted. Furthermore, the owner or tenant agrees not to unreasonably disobey the City's order to halt or suspend business if state or federal authorities order or otherwise subject the City to enforcement to comply with laws in contradiction to the continued operations of the business as permitted under this section.
- g. All marijuana businesses must be registered with and have all applicable licenses from the State of Oregon, and meet the requirements of the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act and the Oregon Medical Marijuana Act (ORS 475.300 – ORS 475.346).

2. Marijuana Processing and Production. In addition to the standards described above in section 18.2.3.190.B.1, marijuana processing and production shall meet the following requirements. See definition of marijuana processing and production in part 18.6.

- a. Marijuana processing and production shall be located 200 feet or more from residential zones.

Question: Should the marijuana processing (manufacturing) and production (commercial growing) be required to be located at least 200 feet from residential zones?

Currently, medical marijuana dispensaries must be located at least 200 feet from residential zones. The draft is written so that the commercial processing and production operations would also have to meet this requirement. The existing code requires automobile and truck repair, auto body repair or painting, and kennels with animals housed outside to be at least 200 feet from residential zones.

Cabinet, carpentry and machines shops can be located within 200 feet of a residential zone but are a conditional use. Wholesale distribution is allowed as a special permitted use within 200 feet of residential as long as the hours of deliveries and shipments occur between 9:00 a.m. and 7:00 p.m.

Because the legal marijuana industry is new, there is limited information available about commercial marijuana processing and production creates different or additional impacts (e.g., noise, odor, energy use, water use) compared to other general manufacturing uses. Typically, uses are required to be setback from residential zones if there are obvious impacts such as odor from auto body painting or dogs barking outside at a kennel.

b. Marijuana production shall be limited to 20,000 square feet of gross leasable floor space per lot.

Question: Should marijuana production (commercial growing) operations be limited in size?

States such as Colorado have had commercial grow operations in warehouse structures. Reported problems include high square footage needs with relatively few employees, continuous lighting, and inflated light industrial or warehouse rents. While none of the information is definitive, it may be prudent to initially limit the indoor grow operations so that employment lands are preserved for a variety of uses and employment intensities..

According to the City's 2007 Economic Opportunity Analysis (EOA), approximately 15% of Ashland's employment is in the industrial or manufacturing sector. The average employment density for the City's commercial, health care, employment, industrial zones is 17.2 employees per acre with more specifically an average of 9.2 employees per acre in the E-1 zone and 12.1 in the M-1 zone. Based on the average of 17.2 employees per acre, the employment land supply is projected to be sufficient through 2027, but begin to experience some deficits in the 2028-2057 time period.

The existing code limits retail establishments in the E-1 zone to 20,000 square feet in size. The intent of this code provision is to retain a sufficient amount of E-1 land for light industrial uses. The limitation on commercial grows operations would be similar. The square foot limitation per lot would allow what appears to be a land intensive use with low employee numbers. At the same time, the square footage limitation would preserve employment lands for different uses and potentially uses with higher employee per acre ratios. Examples of buildings in this size range are the Modern Fan buildings at 705 and 709 Washington Street which are each approximately 18,000 square feet in size.

3. Marijuana Retail Sales. In addition to the standards described above in section 18.2.3.190.B.1, marijuana retail sales shall meet the following requirements. See definition of marijuana retail sales in part 18.6.

A. ~~Boulevard Location. Medical marijuana dispensaries are permitted subject to all of the following design standards.~~

1. ~~The dispensary must be located on a property with a boundary line~~

~~adjacent to a boulevard, except that dispensaries are not permitted in the Downtown Design Standards zone.~~

- ~~2. The dispensary must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor storage of merchandise, raw materials, or other material associated with the dispensary is prohibited.~~
- ~~3. Any modifications to the subject site or exterior of a building housing the dispensary must be consistent with the Site Design Use Standards, and obtain Site Review approval if required by section 18.5.2.020. Security bars or grates on windows and doors are prohibited.~~
- ~~4. The dispensary establishment must not have a drive-up use.~~
- ~~5. The dispensary must provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the dispensary's exterior refuse containers.~~
- ~~6. The dispensary is registered with the Oregon Health Authority under the state of Oregon's medical marijuana facility registration system under ORS 475.300 — ORS 475.346, and meets the requirements of OAR Chapter 333 Division 8 Medical Marijuana Facilities.~~

~~B. Other Locations. Medical marijuana dispensaries, except as allowed in section 18.2.3.190.A, are subject to a Conditional Use Permit under chapter 18.5.4 and shall meet all of the following requirements.~~

- ~~1. The dispensary must be located 200 feet or more from a residential zone, except that dispensaries are not permitted in the Downtown Design Standards zone.~~
- ~~2. The dispensary must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor storage of merchandise, raw materials, or other material associated with the dispensary is prohibited.~~
- ~~3. Any modifications to the subject site or exterior of a building housing the dispensary must be consistent with the Site Design Use Standards, and obtain Site Review approval if required by section 18.5.2.020. Security bars or grates on windows and doors are prohibited.~~
- ~~4. The dispensary must not have a drive-up use.~~
- ~~5. The dispensary must provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the dispensary's exterior refuse containers.~~
- ~~6. The dispensary is registered with the Oregon Health Authority under the state of Oregon's medical marijuana facility registration system under ORS 475.300 — ORS 475.346, and meets the requirements of OAR Chapter 333 Division 8 Medical Marijuana Facilities.~~

a. Location.

- i. Marijuana retail sales are allowed if located on a property with a boundary line adjacent to a boulevard.**
- ii. Marijuana retail sales, except as allowed above in subsection 18.2.3.190.B.3.a.i, must be located 200 feet or more from a residential zone and are subject to a Conditional Use Permit under chapter 18.5.4 and shall meet all of the following requirements.**
- iii. Marijuana retail sales are not permitted in the Downtown Design Standards Zones.**

Medical Marijuana Dispensaries Separation Requirements

The Commission may want to consider adding separation requirements in the City's code. State law currently requires a 1,000-foot separation between medical marijuana dispensaries and schools and between dispensaries. The existing code requires all dispensaries to meet state law.

The Oregon Liquor Control Commission (OLCC) is working on a licensing regimen for the four types of permitted operations, but that structure is not expected to be in place until the latter half of 2016. As a result, it is unknown at this point whether marijuana retail sales outlets will be required by state law to have the same separation requirements as medical marijuana dispensaries.

- b. Drive-up Use. The marijuana retail sales outlet must not include a drive-up use.**

SECTION 3. Chapter 18.2.5 [Standards for Residential Zones] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.2.5.040 Accessory Buildings and Structures

Accessory buildings and structures shall comply with all requirements for the principal use, except where specifically modified by this ordinance, and shall comply with the following limitations:

- A. Setback Yard Exceptions.** See subsection 18.2.5.060.B.2.
- B. Guesthouse.** A guesthouse may be maintained accessory to a single-family dwelling provided there are no kitchen cooking facilities in the guesthouse.
- C. Greenhouse or Hothouse.** A greenhouse or hothouse may be maintained accessory to a dwelling in a residential zone. **See section 18.2.3.190 for homegrown marijuana cultivation and marijuana production requirements.**
- D. Livestock Structures.** Except as provided for micro-livestock in subsection 18.2.5.040.E, below, barns, stables, and other structures shall be located a minimum of 50 feet from any property line, and structures housing large livestock shall be more than 100 feet from dwellings on adjoining properties.

E. Micro-Livestock Enclosure. An enclosure housing micro-livestock may be maintained in a residential district, pursuant to section 18.2.3.160. Enclosures shall be constructed as follows:

1. The structure shall not be located in a required front yard.
2. The structures shall be setback a minimum of ten feet from abutting properties as illustrated in Figure 18.2.5.040.E.2.
3. The structures shall be at least 20 feet from dwellings on adjoining properties. Within a multifamily complex, structures must also be located at least 20 feet from any dwelling within the complex.
4. The structures shall not exceed six feet in height.
5. Chicken coops and rabbit hutches shall not exceed 40 square feet in area, or four square feet per animal, whichever is greater.
6. Chicken and rabbit runs, as enclosed outdoor structures, shall not exceed 100 square feet in area, or ten square feet per animal, whichever is greater.

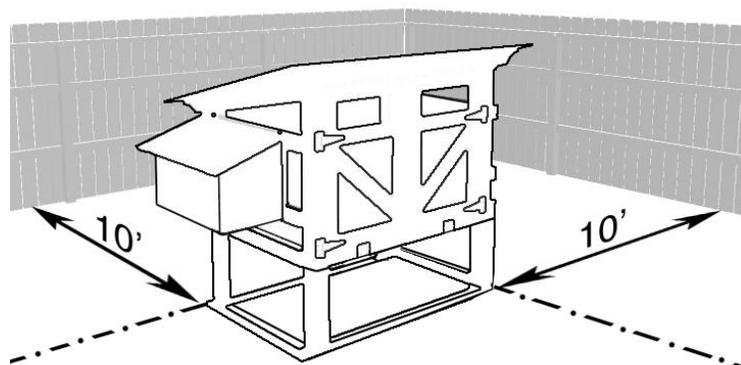


Figure 18.2.5.040.E.2
Micro-Livestock Enclosure/Minimum Setback to Property Line

F. Rain Barrels. Rain barrels may be located within required side or rear yards provided such installation and operation is consistent with other provisions of this ordinance or the Ashland Municipal Code, and meet the all of the following requirements:

1. Rain barrels shall not exceed six feet in height.
2. Rain barrels shall be located so that a minimum clear width of three feet is provided and maintained between the barrel and property line.
3. Rain barrels shall be secured and installed on a sturdy and level foundation, or platform, designed to support the rain barrel's full weight.
4. Every attempt shall be made to place rain barrels so that they are screened from view of adjacent properties and public streets.

SECTION 4 Chapter 18.6.1.030 [Definitions] of the Ashland Land Use Ordinance is hereby amended to read as follows:

Homegrown Marijuana. Recreational or medical marijuana plants planted, cultivated, grown, and harvested by a household on any lot occupied solely by one or more dwelling units as permitted by the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act and the Oregon Medical Marijuana Act (ORS 475.300 – ORS 475.346). Medical marijuana grow sites located in residential zones and registered with the Oregon Health Authority shall be considered homegrown marijuana for the purpose of this ordinance.

Homegrown Marijuana Cultivation. The cultivation of homegrown marijuana and related activities such as processing, keeping, or storage of homegrown marijuana.

Marijuana Businesses. Persons with an approved license for marijuana processing, production, wholesale, or retail by the Oregon Liquor Control Commission (OLCC) under the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act or person with an approved license for a medical marijuana facility or registered grow site by the Oregon Health Authority (OHA) under the Oregon Medical Marijuana Act (ORS 475.300 – ORS 475.346).

Marijuana Plant. Immature and mature plants of the plant Cannabis family Moraceae.

Marijuana Processing. Marijuana processing is defined by the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act and includes activities such as packaging marijuana items, labeling or relabeling any package or container of marijuana items, and processing or converting marijuana into marijuana products. Marijuana processors are licensed by the Oregon Liquor Control Commission (OLCC) under the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act.

Marijuana Production. Marijuana production is defined by the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act and includes activities such as the planting, cultivation, growing, or harvesting of marijuana for commercial purposes. Marijuana producers are licensed by the Oregon Liquor Control Commission (OLCC) under the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act. Medical marijuana grow sites located in non-residential zones and registered with the Oregon Health Authority shall be considered marijuana production for the purpose of this ordinance.

Marijuana Retail Sales. Marijuana retail sales is defined by the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act and includes selling marijuana items to a consumer. Marijuana retailers are licensed by the Oregon Liquor

Control Commission (OLCC) under the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act and by the Oregon Health Authority (OHA) for medical marijuana sales under the Oregon Medical Marijuana Act (ORS 475.300 – ORS 475.346).

Marijuana Wholesale. Marijuana wholesale is defined by the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act and includes activities such as purchasing marijuana items in Oregon for resale to a person other than a consumer in Oregon. Marijuana producers are licensed by the Oregon Liquor Control Commission (OLCC) under the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act.

Medical Marijuana. Marijuana used to mitigate the symptoms or effects of a medical condition and regulated by the Oregon Medical Marijuana Act (ORS 475.300 – ORS 475.346). Grown and sold by registered persons with the Oregon Health Authority (OHA).

Medical Marijuana Dispensary. Any facility registered by the Oregon Health Authority under ORS 475.300 to 475.346 that dispense marijuana pursuant to ORS 475.314.

SECTION 5. Savings. Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinances(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 6. 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 7. 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 another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 6-7) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the ____ day of _____, 2015, and duly PASSED and ADOPTED this ____ day of _____, 2015.

Barbara M. Christensen, City Recorder

SIGNED and APPROVED this ____ day of _____, 2015.

John Stromberg, Mayor

Reviewed as to form:

David H. Lohman, City Attorney