

Council Communication

December 1, 2015, Business Meeting

Public Hearing on an Ordinance Amending Title 18 Land Use of the Ashland Municipal Code for Homegrown Marijuana and Marijuana-Related Businesses

FROM:

Maria Harris, Planning Manager, harrism@ashland.or.us

SUMMARY:

The Planning Commission recommended approval of proposed land use ordinance amendments for homegrown marijuana and marijuana-related businesses at the October 17, 2015, meeting. The amendments create standards for the allowable size, scale, and location of marijuana grown in conjunction with a residential dwelling unit and for the location and manner of operation of marijuana-related businesses and allow up to four plants to be grown outdoors on a residential property, whether for medical or recreational use. The proposed amendments require Council approval, and are scheduled for a public hearing. If the Council decides to move forward, the ordinance amendments are scheduled for first reading on December 15, 2015, and second reading on January 5, 2016.

BACKGROUND:

The attached Planning Commission Report includes detail regarding the Commission's recommendation on the proposed amendments. The goal of the proposed amendments is to balance the rights of individuals to grow, access, process, and sell marijuana and marijuana products with the enjoyment, peace, safety, and general welfare of residential neighborhoods and the overall function of city facilities.

The Commission held a public hearing and deliberations on the proposed amendments on October 27, 2015. Prior to the public hearing, the Commission held study sessions on June 23 and August 25. The Planning Commission forwarded its report on this ordinance at its November 24, 2015, meeting.

The proposed land use ordinance amendments are intended to address the new personal use and business allowances for recreational marijuana that were included in Ballot Measure 91 and approved by Oregon voters in November 2014. Measure 91 allows households with one or more persons 21 years or older to grow, store, and process limited amounts of marijuana and provides for a variety of marijuana-related businesses through a state licensing system. In addition, the proposed amendments for homegrown marijuana are intended to address nuisance issues from growing marijuana in a residential setting. The City has received code compliance complaints over the last two summers related to the odor produced by marijuana grown outdoors. This proposed ordinance would allow a household in a residential zone to grow four marijuana plants outdoors, whether for medical or recreational use, subject to setback and other requirements.

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. The Oregon Liquor Control



Commission (OLCC) will administer the state licensing system for marijuana-related businesses and begins accepting license applications for processing, production, testing, retail, and wholesale operations on January 4, 2016.

In July 2014, the City Council passed an ordinance amending the Ashland land use ordinance to allow medical marijuana dispensaries in the C-1, E-1, and M-1 zones. There are four medical marijuana dispensaries in Ashland that were approved by the City and are registered with the Oregon Health Authority (OHA). A more detailed state and local legislative history is included in the staff report in the attached record.

The attached map shows the locations of the approved medical marijuana dispensaries in Ashland. In addition, the map shows the eligible locations for future marijuana retail sales in the green and green striped areas. The marijuana retail sales use in the proposed ordinance includes medical marijuana and recreational marijuana retail sales.

FISCAL IMPLICATIONS:

N/A

STAFF RECOMMENDATION AND REQUESTED ACTION:

Staff recommends moving forward with first reading of the land ordinance amendments for homegrown marijuana and marijuana-related businesses.

SUGGESTED MOTION:

I move to direct staff to proceed with first reading of the land use ordinance amendments for homegrown marijuana and marijuana-related businesses.

I move to direct staff to make the following changes to the land use ordinance amendments for first reading (list changes).

ATTACHMENTS:

1. Planning Commission Report
2. Proposed Land Use Ordinance Amendments for Homegrown Marijuana and Marijuana-Related Businesses
3. Map – Marijuana Retail Establishments Eligible Areas
4. Record for Planning Action 2015-01677



Planning Commission Report

DATE: November 24, 2015
TO: Ashland City Council
FROM: Ashland Planning Commission
RE: Planning Commission Recommendation
Ordinance Amendments for Homegrown Marijuana and Marijuana-Related
Businesses (PL#2015-01677)

Summary

The Planning Commission recommends approval of the proposed amendments to the land use ordinance for homegrown marijuana and marijuana-related businesses (PL# 2015-01677). The Commission held a public hearing and deliberations on the proposed amendments on October 27, 2015. Prior to the public hearing, the Commission held study sessions on June 23 and August 25.

Recommendation

The Commission understands that Ashland voters supported Measure 91 which allows households with one or more persons 21 years or older to grow, store, and process limited amounts of marijuana and provides for a variety of marijuana-related businesses through a state licensing system. At the same time, the Commission recognizes the legalization of marijuana is a new practice that will require a period of adjustment in the community both functionally and culturally. Specifically, the practical aspects of growing (homegrown and commercial), selling, testing, processing, and distributing marijuana and marijuana products may have anticipated and unanticipated impacts on the health, safety, and welfare of existing and future residents and neighborhoods.

For the above mentioned reasons, the Commission believes there is a need to balance the rights of individuals to grow, access, process, and sell marijuana and marijuana products with the enjoyment, peace, safety, and general welfare of residential neighborhoods and the overall function of city facilities such as the transportation system. Therefore, the Commission recommends amendments to the land use ordinance to include standards for the location, manner of operation, access to, and potential nuisance issues for homegrown marijuana and marijuana-related businesses. In addition, the Commission recommends initially taking a somewhat conservative approach in the regulations with the possibility of relaxing the standards in the future as the impacts of growing, selling, testing, producing, and distributing marijuana and

marijuana products are better understood. A summary of the proposed land use ordinance amendments and the Commission's discussions and deliberations follows.

Homegrown Marijuana

Homegrown marijuana is defined in the proposed amendments as growing and harvesting marijuana for personal consumption by a person 21 years or older, whether for medical or non-medical purposes, or for a medical marijuana card holder.

The draft ordinance amendments allow homegrown marijuana cultivation as a special use in the residential zones including the North Mountain Neighborhood, the Health Care Services District, and the C-1, E-1, M-1, and CM zones. Homegrown marijuana is allowed in the non-residential zones because dwelling units are permitted in some of these areas as part of a mixed-use development. In addition, there are examples of pre-existing nonconforming single-family residences in the C-1, E-1, and M-1 zones (e.g., the homes on the south side of A St.).

Staff reported routine odor complaints due to individuals growing marijuana outdoors in private yard space. Neighbor complaints include not being able to enjoy backyards and open windows in the summer and early fall because of the strong odor produced by marijuana grown on adjacent property. In addition, complaints 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 involved outdoor grows including a large number of plants for multiple medical marijuana card holders and using garages and/or portions of the home for indoor cultivation.

The Planning Commission discussed a variety of issues during the development of the standards for homegrown marijuana. The Commission agrees that the primary focus of the proposed standards is to balance the allowances in state law for the personal growing of recreational and medical marijuana with the nuisance and safety impacts to residential neighborhoods.

The Commission believes it is important to allow individuals to grow plants outside to take advantage of natural light and precipitation. In converse, the Commission feels forcing individuals to grow plants inside can result in increased energy and water use which is inconsistent with Comprehensive Plan policies regarding conservation of resources. At the same time, the Commission discussed the fact that growing marijuana, whether outdoors or indoors, is an agricultural use and that agricultural uses in residential neighborhoods need to be at a scale and intensity consistent with residential living.

The Commission discussed the importance of maintaining residential zones in those uses that are typically seen and associated with residential neighborhoods. In particular, there is concern about significant parts of residential structures potentially being used for the indoor cultivation of marijuana and the potential impacts to neighboring residences and neighborhoods in general. As



a result, a standard is included that prohibits a dwelling unit from primarily being used as a place to cultivate marijuana and prohibits vacant or uninhabited units for marijuana cultivation.

The Commission found the primary land use tool for controlling the nuisance impacts is to limit the location and size of outdoor growing. As a result, a 10-foot setback from property lines and 20-foot setback from adjacent residences is included as well as requiring the grow area to be located closer to the resident grower's dwelling unit. The Commission considered increasing the setbacks but after a review of newer subdivisions in the R-1 zone decided larger setbacks would eliminate the possibility of outdoor growing in those areas with smaller lot sizes. The Commission recognized that the proposed setbacks would eliminate outdoor growing in developments with the smallest private yard areas (e.g., attached townhome development).

In terms of size of outdoor grow area, the number of marijuana plants is limited to four plants which corresponds to the number of plants allowed under state law for recreational marijuana. The proposed amendments include up to 50 square feet for the cultivation area and up to 10 feet in height for the marijuana plants. The Commission feels the ability to grow four plants outdoors was more than adequate for personal use. Because the marijuana plant is vigorous and can be large in diameter and height, the Commission feels it is important to include limitations on the scale of the outdoor grow area for compatibility with the scale of a residential setting.

The marijuana plant is known for being particularly odiferous. The Commission acknowledges that regulating the location and size of outdoor grows will not eliminate the odor. However, the Commission believes placing limitations on the outdoor grow area size and requiring thoughtful placement of the grow area will likely reduce the impacts to neighbors and the surrounding neighborhood.

Marijuana-Related Businesses

Marijuana-related businesses are those enterprises allowed by state law and licensed by the State including production (growing), processing, retail sales, testing (laboratories), and wholesale storage and distribution. The state laws and rules for recreational and medical marijuana operations are overlapping, administered by two separate agencies, and at times somewhat confusing. Ultimately the Planning Commission believes the impacts of marijuana-related businesses are likely similar whether the business is involved in recreational or medical marijuana.

There is limited information on the potential impacts of marijuana-related businesses because the legal marijuana industry is relatively new. For this reason, the Commission recommends initially taking a somewhat conservative approach in the land use standards for growing, processing, selling, testing, and storage and distribution of marijuana and marijuana products. The Commission believes the standards could be reviewed and possibly relaxed in the future when the impacts of marijuana-related businesses are more fully understood.



The primary topics of Planning Commission discussion were the appropriate zones for marijuana-related businesses, the shift from medical marijuana dispensaries to recreational and medical marijuana retail sales, and the appropriateness of using employment lands for commercial growing operations.

The draft ordinance amendments allow marijuana retail sales as a special and conditional use in the Retail Commercial (C-1) and Employment (E-1) zones and allow growing, processing, testing, and wholesale operations as special permitted uses in the E-1, Industrial (M-1), and Croman Mill (CM) zones.

The Commission feels it is important to preserve the C-1 zone for retail commercial uses (e.g., stores, restaurants, offices). Therefore, the growing, processing, testing, and wholesale storage and distribution uses are limited to the E-1, M-1, and CM zones. This approach is comparable to the existing land uses allowed in the E-1, M-1, and CM zones such as manufacturing, warehouses, and distribution. The exception is marijuana growing. Currently, the land use ordinance does not permit agricultural uses in the E-1, M-1, or CM zones.

The current regulations for location and operation of medical marijuana dispensaries are carried forward to apply to all marijuana retail sales outlets. Marijuana retail sales as a use is broadened to include recreational as well as medical marijuana sales.

Marijuana retail sales establishments that are located on a boulevard continue to be a special use that must meet the special use standards in 18.2.190.B. If the marijuana retail sales establishment will not be located on a boulevard but is 200 feet or more from a residential zone, marijuana retail sales continue to require a conditional use permit. Marijuana retail sales also remain prohibited in the Downtown Design Standards Overlay. The attached dispensary map shows the locations of the approved medical marijuana dispensaries and eligible areas for future marijuana retail sales.

Several days before the Planning Commission public hearing, the State adopted rules for recreational marijuana and the licensing of marijuana business. The new rules prohibit any of the recreational marijuana-related businesses from being in the same location or address as medical marijuana grow sites, medical marijuana processing sites, medical marijuana dispensaries, and liquor stores (OAR 845-025-1230). The Commission acknowledged that this rule would prohibit medical and recreational sales from being in the same location.

The Commission recommends that a spacing standard of 1,000 feet between marijuana retail sales establishments be included in the land use standards. While the City has not received complaints regarding the four medical marijuana dispensaries in Ashland that were established in the past year, the Commission feels the potential impacts from retail sales, whether medical or



recreational marijuana, are likely similar and still somewhat unknown. For this reason, the Commission had concerns about the cumulative effect of adjacent marijuana retail sales outlets on a surrounding neighborhood. In particular, the Commission believes the issues identified in the development of the land use standards for marijuana dispensary in 2014 continue to be applicable.

The Commission believes marijuana retail sales are most appropriately located on streets where other high volume uses are located to address potential security and traffic impacts. The Commission believes that locating marijuana retail sales on the larger capacity streets with continuous traffic provides additional security and natural surveillance. In addition, the potential vehicle trips generated by marijuana retail sales can then be directed to these higher order streets. The projected number of vehicle and the trips generated by marijuana retail sales is not available.

The Commission recommends that growing, processing, and laboratory operations be required to locate 200 feet or more from residential zones. Because the legal marijuana industry is new, there is limited information available about the impacts from marijuana-related businesses and whether the growing, processing, and testing uses create different or additional impacts (e.g., noise, odor, energy use, water use) compared to other general manufacturing uses.

The final topic of discussion was allowing commercial growing operations in Ashland's employment lands. The Commission recommends a square footage limitation of 5,000 square feet of gross floor area for indoor commercial growing. The Commission feels this allows a reasonable size for commercial marijuana production while at the same time preserving employment lands for a variety of uses and uses with higher employment densities. The limitation is consistent with the State's rules for recreational marijuana which include a 5,000 to 10,000 square foot maximum on indoor commercial grow sizes.

The Commission feels that commercial grow sites are most appropriate in agriculturally zoned lands and questions using limited supplies of employment lands within the city limits for what appears to be a land intensive use with low employment generation. In addition, the Commission expressed concern regarding the electricity and water use of indoor grow operations. According to the City's 2007 Economic Opportunity Analysis (EOA), the employment land supply is projected to be sufficient through 2027 but begin to experience some deficits in the 2028-2057 time period. The average employment densities in Ashland are 17.2 employees per acre while reports from other states describe 100,000 square foot (2.3 acres) indoor grow operations with a few employees.



ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTERS 18.2.2, 18.2.3, 18.2.5, 18.3.2, 18.3.3, 18.3.5 AND 18.6.1 OF THE ASHLAND LAND USE ORDINANCE RELATING TO HOMEGROWN MARIJUANA CULTIVATION AND MARIJUANA-RELATED BUSINESSES INCLUDING PRODUCTION, PROCESSING, RETAIL SALES, TESTING, AND WHOLESALE.

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **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, the Legislature passed four laws relating to medical and marijuana in the 2015 legislative session including House Bill 2400 amending the Oregon Medical Marijuana Act (OMMA) and Measure 91; 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, House Bill 3400 provides that cities may impose reasonable regulations including hours of operation, manner of operation, public’s access to, and location on five types of recreational licenses and medical marijuana grow sites, processing sites, and dispensaries; 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 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 October 27, 2015; and

WHEREAS, the City Council of the City of Ashland conducted a duly advertised public hearing on the amendments to the Ashland Municipal Code and Land Use Ordinances on December 1, 2015; 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 | See Keeping of Livestock and Bees standards in 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>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>Sec. 18.2.3.190</u> <u>See 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 |

² 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 |
| 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 |

³ 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 |
| 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 |

⁴ 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 |
| 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 Per Sec. 18.2.3.190, marijuana retail sales are limited to the C-1 and E-1 zones and located on a boulevard or 200 feet or more from any residential zone, See 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 | N | N | N | N | CU+ | N | N | N | N | Sec. 18.2.3.070 |

⁵ 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 |
| Sand, Gravel, Stone, Loam, Dirty or Other Earth Products | | | | | S | | | | | |
| 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 Laboratory, Processing, and Production</u> | N | N | N | N | N | N | N | <u>P or S</u> | <u>P or S</u> | <u>In E-1 and M-1 zones, marijuana laboratory, processing, and production are a special use. See Sec. 18.2.3.190</u> <u>See 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 | N | N | N | N | N | N | CU | CU | P | |

⁶ 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 |
| Equipment associated with an allowed use | | | | | | | | | | |
| 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> <u>In E-1 and M-1 zones, marijuana wholesale is a special use, See Sec. 18.2.3.190</u> |
| 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 | | | | | | | | | |

⁷ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

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

18.2.3.150 Home Occupation

A. Purpose and Intent. The purpose of this section is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture are appropriate in scale and impact to be operated within a residence. Home occupations are recognized for their contribution in reducing the number of vehicle trips often generated by conventional businesses. It is the intent of this chapter that home occupations not infringe upon the right of neighboring residents to enjoy the peaceful and safe occupancy of their homes.

B. Conduct of Home Occupation – Standards. Home occupations are permitted pursuant to the following standards. Where a home occupation use does not comply with one or more of the following requirements, the Staff Advisor may find the subject use is no longer permitted.

1. Appearance of Residence.

- a. The home occupation shall be restricted to the dwelling unit, accessory structure, or yard area not visible from the public right-of-way and be conducted in such a manner as not to give an outward appearance of a business.
- b. The home occupation shall not result in any structural alterations or additions to the dwelling or accessory structure that will change its primary use.
- c. No display of products and or equipment produced or used by the home occupation may be displayed so as to be visible from outside the dwelling or accessory structure.

2. Storage.

- a. Outside storage, visible from the public right-of-way, or adjacent properties, is prohibited.
- b. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond that normally incidental to residential use is prohibited.
- c. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in the dwelling or accessory structure.

3. Employees.

- a. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one full time equivalent employee, and no more than one employee at any given time. As used in this chapter, the term "home occupation site" means the lot on which the home occupation is conducted.
- b. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work at the home.
- c. The home occupation site shall not be routinely used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

4. Advertising and Signage. No signs shall be permitted on a home occupation site.

5. Automobiles, Parking, and Traffic.

- a. One commercial automobile associated with the home occupation is allowed at the home occupation site. Such automobile shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.
- b. There shall be no excessive commercial vehicle deliveries from or to the home occupation site. Excessive deliveries are defined as more than three per day, during the hours of 7 a.m. to 7 p.m. There shall be no commercial vehicle deliveries during the hours of 7 p.m. to 7 a.m.
- c. There shall be no more than one client or customer's automobile at any one time and no more than eight per day at the home occupation site.

6. Clients or customers are permitted at the home occupation from 7 a.m. to 7 p.m. only.

C. Prohibited Uses. The following uses are prohibited as home occupations.

1. Any activity that produces radio or television interference, noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state, or federal standards.
2. Any activity involving on-site retail sales, except as allowed in the Historic District Overlay or items that are incidental to the occupational use, such as the sale of beauty products from salons, lesson books or sheet music for music teachers, or computer software for computer consultants.
3. Any of the following uses, and uses with similar objectionable impacts because of automobile traffic, noise, glare, odor, dust, smoke, or vibration.
 - a. Ambulance service.
 - b. Ammunition or firearm sales.
 - c. Ammunition reloading business.
 - d. Animal hospital, veterinary services, kennels, or animal boarding.
 - e. Auto and other vehicle repair, including auto painting.
 - f. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, or large equipment on-site.
 - g. ~~Medical marijuana dispensary~~ **Marijuana-related business.**

D. Permit Required – Application

1. No person shall conduct a home occupation without first obtaining a home occupation permit from the Planning Department and a valid business license as required under AMC title 6.
2. The home occupation permit shall include such information as is necessary to determine the location and type of business, and the manner in which it will be conducted. If the Staff Advisor finds that the proposed home occupation complies with the requirements of this chapter, the Staff Advisor shall issue a permit.
3. The home occupation permit is valid only to the person named on the permit and for the

business to be conducted at the location stated on the permit. The permit is not transferable to another location or to another applicant.

4. Issuance of a home occupation permit under this chapter shall not relieve the applicant from the duty and responsibility to comply with all other rules, regulations, ordinances, or other laws governing the use of the premises and structures thereon, including, but not limited to, the specialty codes defined in AMC [15.04](#), the fire code standards defined in AMC [15.28](#), or any private restrictions relative to the property.
5. The Staff Advisor may visit and inspect the site of a home occupation permitted in this chapter periodically to insure compliance with all regulations and conditions to which the permit is subject, during normal business hours, and with reasonable notice.

SECTION 3. Chapter 18.2.3 [Special Use Standards-Medical Marijuana Dispensary] 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. Primary Residence. The resident grower must live on the property where the cultivation of homegrown marijuana is located and that same property must be the primary residence of the resident grower.**
- 2. Related Activities. Any drying, keeping, storage, or processing of homegrown marijuana shall be located within the dwelling unit or an accessory structure and shall not be located outdoors.**
- 3. Homegrown marijuana cultivation and any related activities must meet all applicable Oregon Revised Statutes and Oregon Administrative Rules.**
- 4. Outdoor Cultivation. Up to four marijuana plants per lot are allowed to be grown outdoors. Outdoor homegrown marijuana cultivation shall meet all of the following requirements.**
 - a. Locate marijuana plants so the plants are not visible from a public place, public street or any area that the general public has 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 or masonry wall. Any access points to the cultivation area must be secured at all times to prevent unauthorized access. For fence and wall design requirements, see section 18.4.4.060.**
 - c. Dimensional Standards. Marijuana plants grown in outdoor cultivation areas shall meet all of the following dimensional standards including Table 18.2.3.190.c.**

- i. Locate cultivation area closer to the primary residence of the resident grower than to dwellings on adjoining properties or to dwellings in the same multifamily development.
- ii. Marijuana plants may be located in one cultivation area or in separate cultivation areas throughout a yard.

Table 18.2.3.190.3.c Outdoor Cultivation Dimensional Standards for Homegrown Marijuana¹

| <u>Number of Marijuana Plants</u> | <u>Maximum Cultivation Area Allowed²</u> | <u>Maximum Marijuana Plant Height³</u> | <u>Minimum Setback from Any Property Line</u> | <u>Minimum Setback from Dwellings on Adjoining Properties⁴</u> |
|-----------------------------------|---|---|---|---|
| <u>4 or fewer plants</u> | <u>50 square feet</u> | <u>10 Feet</u> | <u>10 feet</u> | <u>20 feet</u> |

¹Contiguous lots under single ownership shall be considered one lot for the purpose of calculating the dimensional standards for homegrown marijuana.

²All parts of a marijuana plants that are visible above the ground level shall be contained within the perimeter of the cultivation area. Where plants are located separately, the combined total of the individual cultivation areas shall not exceed the maximum cultivation area.

³Marijuana plants shall not exceed ten feet in height from the top of the average surrounding grade.

⁴Marijuana plants must also be located the setback distance from any multifamily dwelling unit within a multifamily development.

d. Multi-Family Development. Homegrown marijuana may be cultivated outdoors on a lot containing multi-family dwellings in conformance with the requirements of subsection 18.2.3.190.A and provided all of the following requirements are met.

i. The property owner provides written notification to all residents of the development and to the City that verifies the cultivation of marijuana plants will comply with the requirements of 18.2.3.190.A. 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. 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 outdoor cultivation of marijuana including the maximum number of plants per lot and the requirements of subsection 18.2.3.190.A.**

5. Indoor Cultivation.

a. Building Code. Any structure, accessory structure, electrical service, plumbing, 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. Vacant or uninhabited dwelling units shall not be used for marijuana cultivation.

B. Marijuana-Related Businesses.

1. Marijuana-related 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-related businesses are allowed. See definition of marijuana-related businesses in part 18.6. Marijuana-related businesses shall meet all of the following requirements.

- a. The business must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor marijuana cultivation or storage of merchandise, raw materials, or other material associated with the business is prohibited.
- b. Any modifications to the subject site or exterior of a building housing the business must be consistent with the Site Design Use Standards, and obtain Site Design Review approval if required by section 18.5.2.020. Security bars or grates on windows and doors are prohibited.
- c. The 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, plumbing, or mechanical equipment (e.g., lighting, fans, heating and cooling systems) associated with a business shall satisfy the Building Code requirements and obtain all required building permits prior to installation.
- f. The property owner shall record a declaration which waives any claim or right to hold the City liable for damages they or a tenant may suffer from state or federal enforcement actions for activities the City permits as a result of its approval of the proposed use or development once such approval is granted. Furthermore, the owner and 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 section 18.2.3.190.

g. A marijuana-related business must obtain an approved license or registration from the State of Oregon and meet all applicable Oregon Revised Statutes and Oregon Administrative Rules.

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

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

b. Marijuana production shall be limited to 5,000 square feet of gross leasable floor area per lot.

3. Marijuana Retail Sales. In addition to the standards described above in subsection 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.**
- iv. Marijuana retail sales must not be located within 1,000 feet of another marijuana retail sales outlet. For the purposes of determining the distance between a retail sales outlet and another retail sales outlet "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from the closest point anywhere on the premises of an approved retail sales outlet to the closest point anywhere on the premises of a proposed retail sales outlet. If any portion of the premises of a proposed retail sales outlet is within 1,000 feet of an approved retail sales outlet it may not be approved. For the purpose of this section, premises is all public and private enclosed areas within a building at the location that are used in the business operation, including offices, kitchens, rest rooms and storerooms.**

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

SECTION 4. 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 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.

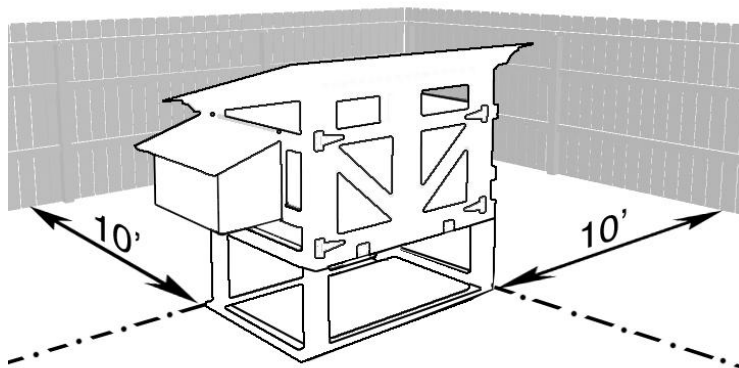


Figure 18.2.5.040.E.2
Micro-Livestock Enclosure/Minimum Setback to Property Line

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 5 Chapter 18.3.2 [Croman Mill District] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.3.2.040 Allowed Uses

- A. Uses Allowed in Croman Mill Zones.** Allowed uses include those that are permitted, permitted subject to special use standards, and allowed subject to a conditional use permit. Where Table 18.3.2.040 does not list a specific use and part 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 Similar Uses. Uses not listed in Table 18.2.2.030 and not found to be similar to an allowed use are prohibited. 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 Determination of Review Procedure.
- B. Uses Regulated by Overlay Zones.** Notwithstanding the provisions of chapter 18.2.2 Base Zones, 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](#).
- C. 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.

| Table 18.3.2.040 – Croman Mill District Uses Allowed by Zone ⁸ | | | | | |
|---|---|-----------------|-----------------|-----------------|-----------------|
| | Croman Mill District Zones ⁹ | | | | |
| | NC | MU | OE | CI | OS |
| A. Residential | | | | | |
| Residential Uses | S | S | N | N | N |
| <u>Agricultural Uses, except Keeping of Livestock</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> |

⁸Key: P = Permitted Uses; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.
⁹ Zones: NC = Neighborhood Commercial; MU = Mixed Use; OE = Office Employment; CI = Compatible Industrial; OS = Open Space.

| Table 18.3.2.040 – Croman Mill District Uses Allowed by Zone ⁸ | | | | | |
|--|---|----------------------|----------------------|----------------------|-----------------|
| | Croman Mill District Zones ⁹ | | | | |
| | NC | MU | OE | CI | OS |
| <u>Keeping of Bees, Micro-Livestock and Livestock</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> |
| <u>Marijuana Cultivation, Homegrown</u> | <u>S</u> | <u>S</u> | <u>N</u> | <u>N</u> | <u>N</u> |
| Temporary Employee Housing | N | N | S | S | N |
| B. Commercial | | | | | |
| Stores, restaurants, and shops less than 3,000 sq. ft., excluding fuel sales, automobile sales and repair | P | N | N | N | N |
| Limited stores, restaurants, and shops, excluding fuel sales, automobile sales, and repair, <u>including marijuana retail sales</u> | N | <u>S or C</u> | <u>S or C</u> | <u>S or C</u> | N |
| Professional, financial, business, and medical offices | N | P | P | S | N |
| Administrative or research and development establishments | N | P | P | P | N |
| Child or day care centers | P | S | S | S | N |
| Fitness, recreations sports, gym or athletic club | P | N | N | N | N |
| Ancillary employee services (e.g., cafeteria, fitness area) | N | S | S | S | N |
| Kennels (indoor) and veterinary clinics | N | N | S | S | N |
| Motion picture, television or radio broadcasting studios | N | P | P | P | N |
| Temporary uses | C | C | C | C | C |
| C. Industrial | | | | | |
| Manufacturing, assembly, fabrication or packaging including manufacturing of food products | N | P | S | P | N |
| Limited manufacturing affiliated with a retail use | S | N | N | N | N |
| <u>Marijuana laboratory, processing, and production</u> | <u>N</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>N</u> |
| Rail freight loading dock facilities | N | N | N | P | N |
| Rail or rapid transit passenger facilities | P | P | P | P | N |
| Warehouse and similar storage facilities, <u>including marijuana wholesale</u> | N | S | S | S | N |
| Limited outdoor storage | N | S | S | S | N |
| Wireless communication facilities attached to an existing structure pursuant to 18.72.180 | C | C | P | P | N |
| Freestanding wireless communication support structures pursuant to 18.72.180 | C | C | C | C | N |
| D. Public and Institutional | | | | | |
| Public service or community buildings with office or space used directly by the public | P | C | C | C | P |
| Public service or community buildings without office or space used directly by the public | C | C | C | C | C |
| Public and quasi public utility facilities | S | S | S | S | S |

| Table 18.3.2.040 – Croman Mill District Uses Allowed by Zone ⁸ | | | | | |
|---|---|----|----|----|----|
| | Croman Mill District Zones ⁹ | | | | |
| | NC | MU | OE | CI | OS |
| enclosed in a building | | | | | |
| Oregon Department of Transportation (ODOT) maintenance facility and yard | S | N | N | N | N |
| Private school, college, trade school, technical school or similar school | C | C | C | C | N |
| Electrical substations | N | N | C | C | N |

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

²Zones: NC = Neighborhood Commercial; MU = Mixed Use; OE = Office Employment; CI = Compatible Industrial; OS = Open Space.

D. Special Permitted Uses. The following uses and their accessory uses are special permitted uses as listed in the Land Use Table and are subject to the requirements of this section and the requirements of chapter 18.5.2 Site Design Review.

1. Residential Uses. Residential uses provided all of the following standards are met.
 - a. The ground floor area shall be designated for permitted or special permitted uses, excluding residential.
 - b. Residential densities shall not exceed the densities in section Dimensional Regulations. For the purposes of density calculations, units of less than 500 square feet of gross habitable floor area shall count as 0.75 of a unit.
 - c. Residential uses shall execute a hold harmless covenant and agreement stating they shall not protest impacts from commercial and industrial uses within the district.

2. Marijuana Cultivation, Homegrown. Subject to the standards in section 18.2.3.190.

23. Temporary Employee Housing. Residential units for use by persons employed within the facility and their families when all of the following standards are met.

- a. Employee housing densities shall not exceed two units per acre. For the purposes of density calculations, units of less than 500 square feet of gross habitable floor area shall count as 0.75 of a unit.
- b. The employee housing shall be in conjunction with a permitted or special permitted use on the property.
- c. Units shall be restricted by covenant to be occupied by persons employed by a business operating on the property.

Stores, restaurants, and shops less than 3,000 sq. ft., excluding fuel sales, automobile sales and repair, **including marijuana retail sales**

34. Limited Commercial Services and Retail. Stores, restaurants, shops, child/day care facilities, and ancillary employee services, when all of the following standards are met.

- a. In the CI, MU, and OE zones, a maximum of 15 percent of the gross floor area in a building may be used for any or a combination of the following special permitted uses when the

standards in this section are met: limited stores, restaurants, and shops; child or day care facilities; and ancillary employee services.

- b. *Limited Stores, Restaurants and Shops.* In the MU zone, the floor area shall be limited to retail uses in conjunction with a permitted use.
- c. *Child or Day Care Facilities.* Primary program activities are integrated into the interior of the building.
- d. *Ancillary Employee Services.* Developments may include ancillary employee services such as cafeterias, fitness areas, or other supportive services generally intended to support the needs of employees when the following standards are met.
 - i. The use is integrated into the interior of the building.
 - ii. The ancillary employee services shall be in conjunction with a permitted or special permitted use on the property.

e. *Marijuana Retail Sales.* Marijuana retail sales are subject to the standards in 18.2.3.190.

45. Professional, Financial, Business and Medical Offices in CI Zone. Developments in the CI zone may include ancillary office uses to support the operations of a permitted use on-site provided the maximum floor area dedicated for office uses shall not exceed 50 percent of the ground floor area.

56. Kennels. Kennels when all of the following standards are met.

- a. Kennels shall be located at least 200 feet from the nearest residential dwelling.
- b. All animals shall be boarded within a building at all times.
- c. No noise or odor shall emanate outside the walls of the building used as a kennel.
- d. A disposal management plan shall be provided demonstrating all animal waste will be disposed of in a sanitary manner.

67. Manufacture, Assembly, Fabrication, and Packaging in OE Zone. Developments in the OE zone may include ancillary manufacturing, assembly, fabrication, and packaging uses to support the operations of a permitted or special permitted use on-site when all of the following standards are met.

- a. The maximum floor area dedicated to manufacturing, assembly, fabrication, and packaging shall be 50 percent of the ground floor area.
- b. No outside space shall be used for the manufacturing, assembly, fabrication, and packaging processes.

78. Limited Manufacturing Affiliated with a Retail Use. Manufacturing, assembly, fabrication, or packaging contiguous to and associated with a retail space, provided the maximum floor area dedicated to manufacturing occupies 1,000 square feet, or ten percent of ground floor area, whichever is less.

9. Marijuana Laboratory, Processing, and Production.

a. Marijuana laboratory, processing, and production are subject to the standards for marijuana-related businesses in 18.2.3.190.

b. In the OE zone, marijuana laboratory, processing, and production are subject to subsection 18.3.2.040.D.7, above.

810. Warehouse and Similar Storage Facilities. Warehouse and similar storage facilities when all of the following standards are met.

- a. The maximum floor area dedicated for use as warehouse or similar storage uses in the OE and MU zones shall be 50 percent of the ground floor area.
- b. Warehouse and storage facilities shall be provided only in conjunction with, and for the exclusive use by, a permitted or special permitted use on the property.
- c. Self-service mini-warehouses are prohibited.
- d. No outside space shall be used for storage, unless approved as a limited outdoor storage area.

e. Marijuana Wholesale. A marijuana wholesale storage and distribution operation shall limit deliveries and shipments to 7:00 a.m. to 9:00 p.m. within 200 feet of a residential zone and are subject to the standards for marijuana-related businesses in 18.2.3.190.

911. Limited Outdoor Storage. Limited outdoor storage associated with a permitted or special permitted use when all of the following standards are met.

- a. The maximum area dedicated to outdoor storage shall be 1,000 sq. ft. in the OE and MU zone; and 2,500 sq. ft. in the CI zone, or 50 percent of the ground floor area of the building housing the associated permitted or special permitted use, whichever is greater.
- b. The outdoor storage shall be located behind or on the side of buildings, and shall be located so the outdoor storage is the least visible from the street that is reasonable given the layout of the site.
- c. The outdoor storage shall be screened from view by placement of a solid wood or metal fence, or a masonry wall from five to eight feet in height.
- d. The associated permitted use shall obtain a minimum of 50 percent of the employment density targets for the Croman Mill District.

1012. Public and Quasi-Public Utility Service Buildings. Public and quasi-public utility service buildings when all of the following standards are met.

- a. Facilities and structures that are accessory to a public park in the OS zone, including but not limited to maintenance equipment storage, enclosed picnic facilities, and restrooms.
- b. Public and quasi-public utility service building relating to receiving and transmitting antennas and communication towers are subject to the applicable provisions of 18.4.10.
- c. Public and quasi-public utility service building shall demonstrate all of the following.
 - i. The need for the facility, present or future; and how the facility fits into the utility's master plan.

- ii. The facility utilizes the minimum area required for the present and anticipated expansion.
- iii. Compatibility of the facility with existing surrounding uses and uses allowed by the plan designation.

1113. Oregon Department of Transportation Maintenance Facility and Storage Yard. For the Oregon Department of Transportation Ashland maintenance facility and storage yard located on property within the NC zone, all the following shall apply.

- a. Buildings may be enlarged or replaced subject to Basic Site Review Standards.
- b. Are exempt from the Dimensional Regulations per [18.3.2.050](#) with the exception of minimum side and rear yard setbacks abutting a residential district and maximum height.
- c. Are exempt from the requirements of part 18.4 Site Development and Design Standards, and the requirements of [18.3.2.060](#) Croman Mill District Site Development and Design Standards.

SECTION 6 Chapter 18.3.3 [Health Care Service District] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.3.3.030 Permitted Uses

The following uses and their accessory uses are permitted outright.

- A.** Residential **and agricultural** uses, subject to the requirements of the R-2 zone.
- B.** Home occupations.
- C.** Offices or clinics for a dentist or doctor or allied health care providers, including, but not limited to, nurse practitioner, midwives, dietitians, psychologists, opticians, physical and occupational therapists, substance abuse counselors, chiropractors, and wellness centers, including nutritional counseling, health maintenance, and rehabilitation services.
- D.** Ambulance and paramedic service.
- E.** Medical laboratories.
- F.** Sales or rentals of durable medical goods.
- G.** Congregate care facilities, assisted living facilities, residential care facilities, and nursing homes.
- H.** Any use, located on City owned property, that is specifically allowed by the Ashland Community Hospital Master Facility Plan adopted by the City by ordinance.

SECTION 7 Chapter 18.3.5 [North Mountain Neighborhood District] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.3.5.050 Allowed Uses

- A. Uses Allowed in North Mountain Neighborhood Zones.** Allowed uses include those that are permitted, permitted subject to special use standards, and allowed subject to a conditional use permit. Where Table 18.3.5.050 does not list a specific use and part 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 Similar Uses. Uses not listed in Table 18.2.2.030 and not found to be similar to an allowed use are prohibited. 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 Determination of Review Procedure.

- C. Uses Regulated by Overlay Zones.** Notwithstanding the provisions of chapter 18.2.2 Base Zones, 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.
- C. 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.

| Table 18.3.5.050 – North Mountain Neighborhood Uses Allowed by Zone ¹⁰ | | | | | |
|---|---|-----------------|-----------------|-----------------|-----------------|
| | North Mountain Neighborhood Zones ¹¹ | | | | |
| | NM-R-1-7.5 | NM-R-1-5 | NM-MF | NM-C | NM-Civic |
| A. Residential | | | | | |
| Residential Uses, subject to density requirements in Table 18.3.5.050 | P | P | P | P | N |
| Accessory Residential Units | S | S | N | P | N |
| Agricultural Uses | P | P | P | P | S |
| Home Occupations | P | P | P | P | N |
| <u>Agricultural Uses, except Keeping of Livestock</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>S</u> |
| <u>Keeping of Micro-Livestock and Bees</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>N</u> | <u>S</u> |
| <u>Keeping of Livestock</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> |
| <u>Marijuana Cultivation, Homegrown</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>N</u> |
| B. Public and Institutional Uses | | | | | |
| Community Services | N | S | N | S | P |
| Parks and Open Spaces | P | P | P | P | P |
| Public Parking Lots | N | N | N | CU | N |
| Religious Institution, Houses of Worship | N | N | N | S | N |
| Utility and Service Building, Public and Quasi-Public, excluding outdoor storage and electrical substations | N | N | N | S | N |
| B. Commercial | | | | | |
| Neighborhood Clinics | N | N | N | P | N |
| Neighborhood Oriented Retail Sales and Services | N | N | N | P | N |
| Offices, Professional | N | N | N | P | N |
| Restaurants | N | N | N | P | N |
| Temporary uses | N | N | N | CU | N |
| C. Industrial | | | | | |
| Manufacturing, Light | N | N | N | S | N |

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

² Zones: NC = Neighborhood Commercial; MU = Mixed Use; OE = Office Employment; CI = Compatible Industrial; OS = Open Space.

D. Special Permitted Uses. The following uses and their accessory uses are special permitted uses as listed in the Land Use Table and are subject to the requirements of this section and the requirements of chapter 18.5.2 Site Design Review.

1. Accessory Residential Units.

- a. Accessory residential units are not subject to the density requirements of the zone and are not included in the base density calculations.
- b. One accessory residential unit is allowed per lot, and the maximum number of

¹⁰ Key: P = Permitted Uses; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

¹¹ Zones: NC = Neighborhood Commercial; MU = Mixed Use; OE = Office Employment; CI = Compatible Industrial; OS = Open Space.

dwelling units must not exceed two per lot.

- c. The proposal must comply with the lot coverage and setback requirements of the underlying zone.
 - d. The maximum gross habitable floor area (GHFA) of the accessory residential unit must not exceed 50 percent of the GHFA of the primary residence on the lot, and must not exceed 750 square feet GHFA, except that second story accessory residential units constructed above a detached accessory building must not exceed 500 square feet GHFA.
 - e. Additional parking shall be provided in conformance with the off-street parking provisions for single-family dwellings in section 18.4.3.040.
2. Agricultural Uses.
 - a.—In the NM-Civic zone, agriculture may include community garden space.
 3. **Keeping of Micro-Livestock and Bees. Subject to the standards in section 18.2.3.160.**
 4. **Marijuana Cultivation, Homegrown. Subject to the standards in section 18.2.3.190.**
 3. Community Services.
 - a. In the NM-R-1-5 zone, each building may be up to a maximum of 2,500 square feet of gross floor area.
 - b. In the NM-C zone, each building may be up to a maximum of 3,500 square feet of gross floor area.
 4. Manufacturing, Light.
 - a. The light manufacturing use shall occupy 600 square feet or less.
 - b. The light manufacturing use shall be contiguous to the permitted retail outlet that operates in conjunction with and sells the manufactured items produced by the light manufacturing use.
 5. Neighborhood Clinics. Each building may be up to a maximum of 3,500 square feet of gross floor area.
 6. Neighborhood Oriented Retail Sales and Services. Each building may be up to a maximum of 3,500 square feet of gross floor area.
 7. Offices, Professional. Each building may be up to a maximum of 3,500 square feet of gross floor area.
 8. Religious Institution, Houses of Worship. The same use cannot be located on a contiguous property, and there must be no more than two such uses in a given zone.
 9. Utility and Service Building, Public and Quasi-Public. Each building may be up to a maximum of 3,500 square feet of gross floor area

SECTION 8 Chapter 18.6.1 [Definitions] of the Ashland Land Use Ordinance is hereby amended to read as follows:

Greenhouse. A building or structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of fragile or out-of-season plants for personal enjoyment or for subsequent sale.

Homegrown Marijuana. Marijuana plants planted, cultivated, grown, and harvested by a person 21 years of age or older for personal consumption, whether for medical or non-medical purposes, or for a medical marijuana card holder. Medical marijuana grow sites located in residential zones 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.

- **Cultivation Area.** The area within which marijuana plants are grown on a lot. The cultivation area is the total of the individual areas of the marijuana plants at maturity. The individual area of a marijuana plant is calculated based on an imaginary vertical line extending downward from the outermost tips of the marijuana plants branches to the ground.
- **Resident Grower.** An individual engaged in the cultivation of homegrown marijuana for personal consumption, whether for medical or non-medical purposes, or for a medical marijuana card holder.

Marijuana. The plant Cannabis, family Cannabaceae, or any part or seed of the plant. It does not include industrial hemp.

- **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 and facilities with the Oregon Health Authority (OHA).
- **Recreational Marijuana.** Marijuana used for personal consumption by a person 21 years of age or older.

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

Marijuana-Related Businesses. Marijuana-related businesses licensed by the Oregon Liquor Control Commission (OLCC) or registered by the Oregon Health Authority (OHA). Marijuana-related businesses are organized into the following categories.

- **Laboratory.** A laboratory that tests marijuana and marijuana items.

- Processing. Processing, compounding, or conversion of marijuana into cannabinoid products, concentrates, or extracts.
- Production. Planting, cultivating, growing, harvesting, or drying marijuana. Medical marijuana grow sites located in non-residential zones that do not meet the definition of Homegrown Marijuana shall be considered production for the purpose of this ordinance.
- Retail. A business that sells marijuana and marijuana products to the consumer.
- Wholesale. An operation that handles and distributes marijuana and marijuana products for the purpose of resale.

~~—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 9. 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 10. 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 11. 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



Marijuana Retail Establishments Eligible Locations

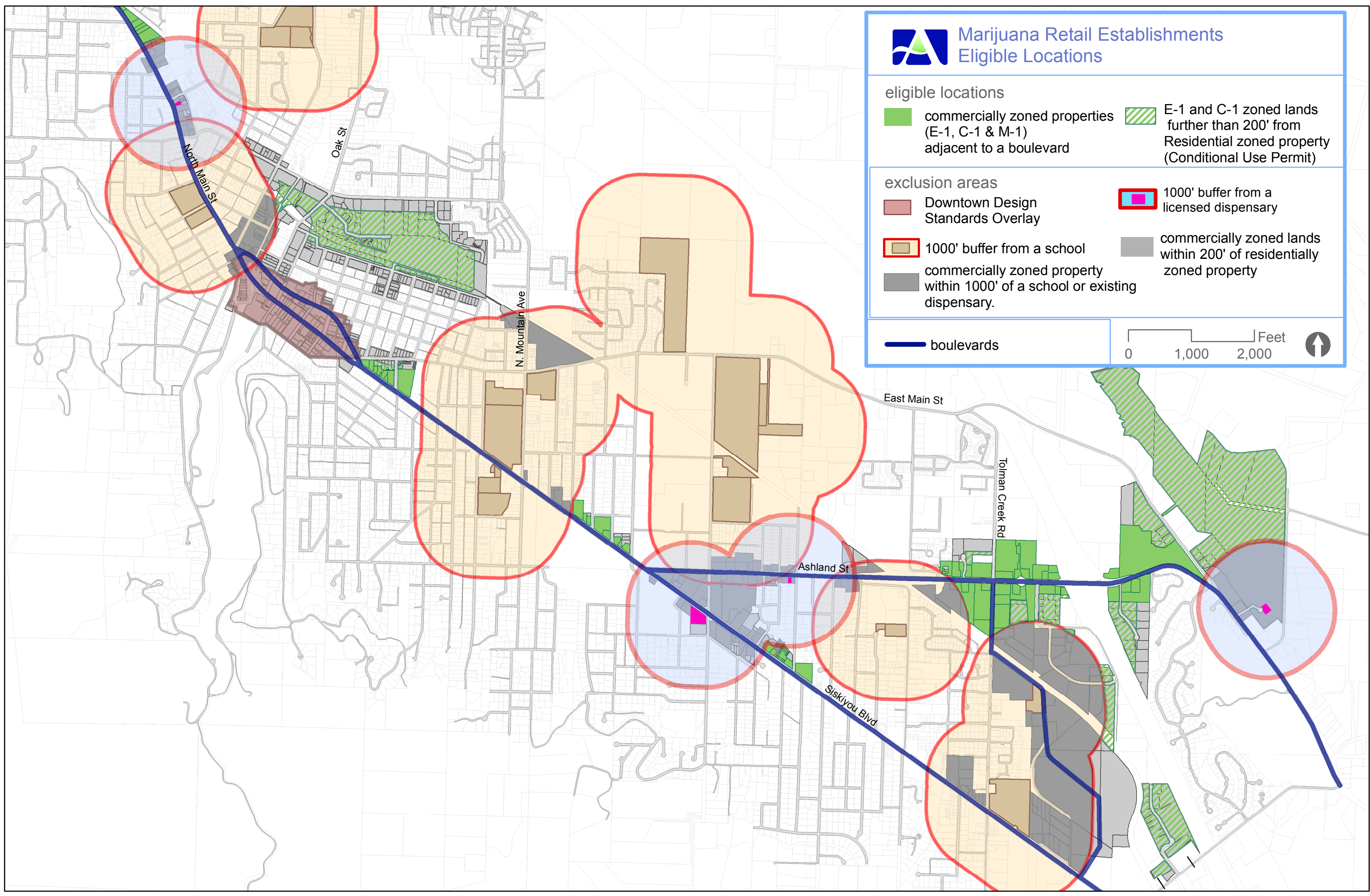
eligible locations

- commercially zoned properties (E-1, C-1 & M-1) adjacent to a boulevard
- E-1 and C-1 zoned lands further than 200' from Residential zoned property (Conditional Use Permit)

exclusion areas

- Downtown Design Standards Overlay
- 1000' buffer from a school
- commercially zoned property within 1000' of a school or existing dispensary.
- 1000' buffer from a licensed dispensary
- commercially zoned lands within 200' of residentially zoned property

boulevards



**CITY OF
ASHLAND**

RECORD FOR PLANNING ACTION #2015-01677

DESCRIPTION: An ordinance amending chapters 18.2.2, 18.2.3, 18.2.5, 18.3.3, 18.3.5 and 18.6.1 of the Ashland Land Use Ordinance relating to homegrown marijuana cultivation and marijuana-related businesses including production, processing, retail sales, testing, and wholesale.

| <u>DATE</u> | <u>ITEM</u> | <u>PAGE #</u> |
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**CITY OF
ASHLAND**
ASHLAND PLANNING COMMISSION
SPECIAL MEETING
MINUTES
OCTOBER 27, 2015

CALL TO ORDER

Chair Melanie Mindlin called the meeting to order at 7:00 p.m. in the Civic Center Council Chambers, 1175 East Main Street.

Commissioners Present:

Troy J. Brown, Jr.
Michael Dawkins
Debbie Miller
Melanie Mindlin
Haywood Norton
Roger Pearce
Lynn Thompson

Staff Present:

Bill Molnar, Community Development Director
Maria Harris, Planning Manager
April Lucas, Administrative Supervisor

Absent Members:

None

Council Liaison:

Greg Lemhouse, absent

ANNOUNCEMENTS & AD HOC COMMITTEE UPDATES

Community Development Director Bill Molnar updated the commission on the Normal Neighborhood Plan. He stated the City Council has held two meetings and approved first reading of two of the three ordinances. The Council made a minor amendment to reduce the size of the neighborhood commercial overlay and the ordinances have been continued to November 17, 2015. Mr. Molnar requested the commission check their holiday schedules and stated it is likely either the November or December study session will be cancelled.

PUBLIC FORUM

No one came forward to speak.

LEGISLATIVE PUBLIC HEARING

A. PLANNING ACTION: PL-2015-01677

DESCRIPTION: An ordinance amending chapters 18.2.2, 18.2.3, 18.2.5, 18.3.3, 18.3.5 and 18.6.1 of the Ashland Land Use Ordinance relating to homegrown marijuana cultivation and marijuana- related businesses including production, processing, retail sales, testing, and wholesale.

Planning Manager Maria Harris reviewed the draft ordinance and noted the ordinance addresses both homegrown marijuana and marijuana related businesses. She explained the following changes have been made to the ordinance since the commission's last review:

- Laboratories were added as an eligible use in the E-1 and M-1 zones.
- Marijuana related businesses were added to the list of prohibited uses for a home occupation.
- The limitation on the number of indoor plants was deleted.
- Removed the sliding scale for number of plants allowed on larger lots.
- Removed language prohibiting homemade marijuana extracts.
- Added language to ensure outdoor grows are secured at all times.
- Added 1,000 ft. separation requirement for retail outlets.
- Added language that prohibits vacant dwelling units for being use for marijuana cultivation.

Ms. Harris identified the following items for commission deliberations:

Cultivation Area Location

Ms. Harris stated the draft ordinance includes a requirement for residents to locate the cultivation area closer to their primary residence than to dwellings on adjoining properties or to dwellings in the same multifamily development. However, staff has some concerns about this. Ms. Harris explained this would be a fairly complicated standard for a resident grower to figure out and would likely require review of aerial maps to determine distances. This requirement would also be more difficult for staff to administer and enforce.

Maximum Plant Height

Ms. Harris stated the current draft sets a 10 ft. maximum height, however staff has suggested coordinating this with the 6.5 ft. maximum fence height.

Setbacks

Ms. Harris stated the draft ordinance establishes a 10 ft. setback from property lines and 20 ft. from residences. If the commission changed this to 20 ft. from property lines and 30 ft. from residences it would adversely impact many of the homes in the R-1.5 zoning district, as well as smaller lots and townhouses throughout town. Ms. Harris stated on larger lots the setback is not an issue, but smaller lots would not have an area eligible for outdoor growing.

Southern Oregon University & Croman Mill Districts

Ms. Harris clarified the need to add a provision for homegrown marijuana in the Southern Oregon University and Croman Mill zoning districts. She noted this was an oversight and should have been included in the original draft.

Questions of Staff

Commissioner Dawkins expressed concern with the cultivation space requirements and stated he is not clear why this limitation is needed or whether 50 sq.ft. is enough space. He also recommended the measurement of the setback be taken from the center of the plant's base. Comment was made that the restrictions are there to limit odor. Dawkins countered that residents are already limited to four plants. Community Development Director Bill Molnar explained the intent was to limit the size of the planting area and associated odor, and stated a single marijuana plant can grow to 25 sq.ft.

Commissioner Thompson suggested the ordinance include a reference to the limitations set by the state law. Ms. Harris stated staff did discuss this with the city's attorney and came to the conclusion to not reference all of the state's laws and rules since they are constantly evolving. Commission Thompson requested the ordinance include a statement similar to *"In addition to the requirements contained in..."* so that people are aware that there are other requirements that apply.

Commissioner Pearce commented on section 18.2.3.190.A.3 and asked how this ordinance would apply to someone who owned multiple lots. Ms. Harris stated if someone owns multiple lots on a contiguous piece of property staff would treat this as a single lot; however, she stated she would look into this further.

Request was made to amend the Homegrown Marijuana definition (pg. 36) to read: *"...for personal consumption, whether for medical or non-medical purposes, or for a medical marijuana card holder."* Amendment request was also made to change 18.2.3.190.4.B.1.a to read: *"Outdoor marijuana cultivation or storage of merchandise, raw materials, or other material associated with the business is prohibited."* A typo was noted at the top of page 36; it should be corrected to read: *"...cultivation of fragile or out-of-season plants for personal enjoyment or for subsequent use."*

Staff was asked whether limiting the height would reduce odors. Ms. Harris explained the 6.5 ft. height limitation was suggested to address visibility issues from other residences as well as security concerns. She stated if people can't see it hopefully they won't try to access it. Comment was made that using the fence height is an easy marker for homeowners to know where they need to top their plants.

Comment was made expressing concern with the term "limiting view" and it was questioned if the ordinance should say "prohibit view" instead. Ms. Harris stated you can't completely limit the view from a two-story residence, but if you go with the fence height limitation neighbors won't be able to see the plants from yard level.

Staff was asked how the noise created by fans will be addressed. Ms. Harris clarified the legal department will be updating the nuisance section of the municipal code to address this.

Staff was asked if a minimum setback would present the same problems as requiring residents to locate grow areas closer to their residence than adjacent residences. Ms. Harris stated the setback is a bit more manageable because it is a set figure that applies to everyone.

Staff was asked why the plant height would be limited if they are not visually unappealing and it was noted other plants (tomatoes, etc.) do not have a height limitation. Ms. Harris explained staff has received concerns from residents with children who live next door to grows and this would limit the potential for children to access the plants.

Staff was asked to explain the removal of the indoor growing limitation. Ms. Harris stated the city cannot legally enter a person's home and therefore any city limitation on the number of indoor plants would be unenforceable. It was noted, however, that the state does limit the total number of plants allowed. If you have four or less plants total, you are not subject to the state's licensing requirements, but if you have more than four plants you must adhere to the state's regulations.

Commissioner Dawkins noted that retail establishments cannot be both medical and recreational; they have to be registered as one or the other under state law.

Commission Deliberations

Commissioner Mindlin stated she is not in favor of limiting height and stated marijuana is now legal and people's attitudes will eventually change about seeing it. She added limiting the height could create a hardship for someone attempting to grow a plant and could kill it. However, she stated she is very concerned with odor and voiced support for the restriction on the size of the cultivation area, even if this means people can't grow four large plants outdoors.

Commissioner Norton voiced support for Dawkins' idea to use the base of the plant when measuring where it sits in the 50 ft. cultivation area.

Commissioner Brown stated he would prefer to be more restrictive starting out and agreed that the community's attitude will change over time. He voiced support for the 6.5 height limit and stated this will help with security. He added if down the road they find 6.5 ft. is not working it can be increased. The setbacks could also be changed to be more lenient in the future if it's deemed appropriate.

Commissioner Pearce voiced support for the larger setbacks and keeping the language that states the cultivation area needs to be closer to the residence than neighboring residences. Commissioner Miller disagreed and stated this is too subjective. She added the city has setbacks for chickens, and goats, and everything else and believes this would work fine. She noted she is also in favor of the larger setbacks, even though this won't work for townhouses and smaller lots.

Commissioner Dawkins stated he is not in favor of the cultivation area. He stated growing marijuana is a big job and most people won't find satisfaction in it. And by legalizing it, there will be a much wider selection available at retail stores. He added if the ordinance is too restrictive it will push people to grow indoors and people should be allowed to use our climate for this.

The commission discussed reducing commercial sites from 10,000 sq.ft to a maximum of 5,000 sq.ft. Comment was made that they should not be encouraging commercial sites in the city and these should be located in agricultural areas instead. Statement was made that if the maximum size was reduced this would push these uses out to where they really belong. General agreement was voiced to lower the maximum commercial site size to 5,000 sq.ft.

Commissioners Dawkins/Thompson m/s to restrict commercial sites to 5,000 sq.ft. Voice Vote: all AYES. Motion passed unanimously.

Commissioners Brown/Dawkins m/s to include the Southern Oregon University and Croman Mill zoning districts to the ordinance. Voice Vote: all AYES. Motion passed unanimously.

Ms. Harris clarified she would correct the minor word-smithing items raised during deliberations and would include a reference in the homegrown section to the state law requirements.

Commissioners Pearce/Dawkins m/s to recommend approval of PL-2015-01677 as amended. Roll Call Vote: Commissioners Dawkins, Thompson, Brown, Norton, Miller, Pearce, and Mindlin. Roll Call Vote: all AYES. Motion passed unanimously.

ADJOURNMENT

Meeting adjourned at 8:25 p.m.

*Submitted by,
April Lucas, Administrative Supervisor*

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
SPECIAL MEETING
OCTOBER 27, 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. **LEGISLATIVE PUBLIC HEARING**
 - A. **PLANNING ACTION: PL-2015-01677**
DESCRIPTION: An ordinance amending chapters 18.2.2, 18.2.3, 18.2.5, 18.3.3, 18.3.5 and 18.6.1 of the Ashland Land Use Ordinance relating to homegrown marijuana cultivation and marijuana-related businesses including production, processing, retail sales, testing, and wholesale.

- 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).

**ASHLAND PLANNING DIVISION
STAFF REPORT**

October 27, 2015

PLANNING ACTION: #2015-01677

APPLICANT: City of Ashland

ORDINANCE REFERENCES:

| | |
|-------------------|--------------------------------------|
| AMC 18.2.2 | Base Zones and Allowed Uses |
| AMC 18.2.3 | Special Use Standards |
| AMC 18.2.5 | Standards for Residential Zones |
| AMC 18.3.3 | Health Care Services District |
| AMC 18.3.5 | North Mountain Neighborhood District |
| AMC 18.6.1 | Definitions |

REQUEST: Amendments to the Ashland Municipal Code creating standards for cultivation of homegrown marijuana and permitting marijuana-related businesses as allowed by state law in the Commercial (C-1), Employment (E-1), and Industrial (M-1) zones.

I. Relevant Facts

A. Background

In 1998, Oregon voters approved Ballot Measure 67, the Oregon Medical Marijuana ACT (OMMA) (ORS 475.300-475.346). Since that time, the Legislature amended OMMA on a number of occasions. In 2013, the Oregon Legislature passed House Bill 3460 that provided a system for registration and regulation of medical marijuana dispensaries (“dispensaries”). The law went into effect on March 1, 2014. The Oregon Health Authority (OHA) administers the state medical marijuana program including registration of medical marijuana grow sites and dispensaries.

In 2014, the Oregon Legislature approved Senate Bill 1531 granting local jurisdictions the authority to establish local restrictions for dispensaries and the ability to put into effect a temporary dispensary moratorium to allow cities and counties additional time to enact restrictions. The additional regulations went into effect March 19, 2014.

In July 2014, the City Council passed an ordinance amending the Ashland land use ordinance to allow medical marijuana dispensaries in the C-1, E-1, and M-1 zones. The attached dispensary map shows the locations of the approved medical marijuana dispensaries in Ashland.

In November 2014, Oregon voters approved Ballot Measure 91, legalizing the growing, distribution, possession, and use of marijuana in certain amounts for non-medical personal use by persons 21 years of age or older. Measure 91 also designated the Oregon Liquor Control Commission (OLCC) as the agency charged with licensing and regulating the growing, processing, and sale of recreational marijuana.

In 2015, the Oregon Legislature passed a series of bills, including House Bill 3400, that made reforms to OMMA and Measure 91. OMMA was amended in a number of ways including limiting the number of plants allowed at a medical marijuana grow site and allowing medical marijuana growers to apply for a recreational grow license. Measure 91 was also amended in a number of ways including allowing for personal making, processing or storing homemade marijuana concentrates and directing OLCC to adopt restriction on the size of recreational marijuana grows.

SB 460 allowed the sales of recreational marijuana by medical marijuana dispensaries on October 1, 2015. The bill also allowed 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.

The homegrown personal possession provisions of Measure 91 began on July 1, 2015, and persons 21 years of 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.

OLCC begins accepting license applications for processing, production, testing, retail and wholesale operations on January 4, 2016. There are three medical marijuana dispensaries in Ashland that are approved by the City and registered with OHA and one dispensary approved by the City and pending approval by OHA.

The Planning Commission held study session discussions on draft standards for personal or "homegrown" marijuana grow sites and for marijuana-related businesses on June 23, 2015 http://www.ashland.or.us/SIB/files/2015-06-23_PC_Packet_Web.pdf and August 25, 2015 http://www.ashland.or.us/Files/2015-08-25_PC_Packet_Web2.pdf.

B. Ordinance Amendments

The proposed amendments to the land use ordinance are attached. The amendments are intended to balance the allowances for recreational and medical marijuana in state law with the mitigation of potential nuisance and safety impacts to residential neighborhoods from growing marijuana on residential properties and from marijuana-related businesses.

Changes or additions to the draft made since the August 25, 2015 Planning Commission study session are **highlighted**.

The proposed amendments address two areas – personal or homegrown marijuana and marijuana-related businesses. The existing special use standards for medical marijuana dispensaries in 18.2.3.190 have been revised to incorporate the proposed amendments to address the two areas.

Homegrown Marijuana

Homegrown marijuana is defined in the proposed amendments as growing and harvesting marijuana for personal consumption by a person 21 years or older, whether for medical or non-medical purposes, or for another medical marijuana card holder. Medical marijuana grow sites located in residential zones are considered homegrown marijuana for the purpose of the City's ordinance. The resident grower is defined as the person cultivating the homegrown marijuana.

The draft ordinance amendments allow homegrown marijuana cultivation as a special use in the residential zones including the North Mountain Neighborhood, the Health Care Services District, and the C-1, E-1, and M-1 zones. Homegrown marijuana is allowed in the non-residential zones because dwelling units are permitted in some of these areas as part of a mixed-use development. In addition, there are examples of pre-existing nonconforming single-family residences in the C-1, E-1, and M-1 zones (e.g., the homes on the south side of A St.).

As a special use, homegrown marijuana cultivation is subject to the special use standards in 18.23.190.A (see page 14-16 of attached draft). The proposed amendments address outdoor and indoor homegrown marijuana cultivation and are summarized below.

- The resident grower must live on the property and the property must be the primary residence of the resident grower.
- Drying, storage, or processing of homegrown marijuana has to be located in the dwelling unit or an accessory structure and cannot be located outdoors.
- Up to four homegrown marijuana plants are allowed to be grown outdoors meeting the following requirements.
 - Plants cannot be located in the front yard and cannot be visible from a public place, public street, or any area that the general

- public has access such as schools, playgrounds, parks, open space, paths, and trails.
- Plants must be screened to limit view and access from adjacent residential properties with a wood fence or masonry wall. Access points have to be secured at all times to prevent unauthorized access.
 - An area up to 50 square feet in size is allowed for outdoor cultivation.
 - The cultivation are must be located closer to the resident grower's primary residence than to dwellings on adjoining properties and a minimum of 20 feet from dwellings on adjoining properties and 10 feet from any property line.
 - The maximum plant height is 10 feet.
- Indoor homegrown marijuana cultivation must meet the following requirements.
 - Lighting systems associated with indoor cultivation must be shielded and windows covered to confine light and glare to the interior of the structure.
 - Any structure, electric service, plumbing, or mechanical equipment must satisfy Building Code requirements and obtain require building permits prior to installation.
 - Vacant or uninhabited dwelling units cannot be used for marijuana cultivation. No dwelling unit can primarily be used as a place to cultivate marijuana.

Discussion of Homegrown Marijuana Proposed Amendments

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. State law does not distinguish between outdoor and indoor cultivation.

Household is defined in Measure 91 as “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 “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.”

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. Neighbor complaints

include not being able to enjoy their backyard and not being able to open their windows because of the strong odor produced by the marijuana grown on adjacent property.

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.

The purpose of setbacks, a height limit, and a maximum cultivation area for outdoor marijuana cultivation is to limit the location, size, and scale of the grow area. The intent of limiting the location, size, and scale of the grow area is to reduce adverse impacts to neighboring properties and maintain the dwelling unit and the associated yard area as the primary use of residential properties. Based on staff's experience with past code compliance cases the suggested setback may mitigate but will not prevent odor from reaching neighboring properties.

One thing to note is that any setback or area requirements will be more difficult to meet 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.

Marijuana-Related Businesses

Marijuana-related businesses are those enterprises allowed by state law and licensed by the State including processing, production (growing), retail sales (medical and recreational), testing (laboratories), and wholesale storage and distribution.

The draft ordinance amendments allow marijuana retail sales as a special and conditional use in the C-1 and E-1 zones and allow processing, production, testing, and wholesale as special permitted uses in the E-1 and M-1 zones.

The previous standards for medical marijuana dispensaries are carried forward and some of those previous requirements are applied to all of the marijuana-related businesses. **Marijuana-related businesses** must meet the following requirements.

- The business must be located in a permanent building. Outdoor storage and cultivation is prohibited.
- Any modifications of the site or building must obtain Site Design Review if required. Security bars and grates on windows and doors are prohibited.
- Marijuana remnant or byproducts shall have secure disposal.

- The business must obtain an approved license or registration from the State of Oregon and meet all applicable state laws and administrative rules.
- Lighting systems associated with indoor cultivation must be shielded and windows covered to confine light and glare to the interior of the structure. Grow light systems within a greenhouse are prohibited.
- Any structure, electric service, plumbing, or mechanical equipments must satisfy Building Code requirements and obtain require building permits prior to installation.
- The property owner must record a declaration which waives the right to hold the City liable for damages from state or federal enforcement actions for activities the City permits under the new code.

Marijuana retail sales continue to be prohibited in the Downtown Design Standards Overlay. There are two approval routes for retail sales depending on the proposed location. If the establishment will be located on a boulevard, marijuana retail sales continue to be a special use that must meet the special use standards in 18.2.190.B. If the establishment will not be located on a boulevard but is 200 feet or more from a residential zone, marijuana retail sales continue to require a conditional use permit. The attached dispensary map shows the locations of the approved medical marijuana dispensaries in Ashland.

Marijuana retail sales must meet the standards required for marijuana-related businesses (described above on page 4) and the following standards.

- Retail sales must be not be located within 1,000 feet of another marijuana retail sales outlet.
- The retail sales outlet may not include a drive-up use.

Marijuana laboratories, processing, and production must meet the standards require for marijuana-related business and the following standards.

- Production facilities are limited to 10,000 square feet of gross leasable floor area per lot.
- Laboratories, processing, and production facilities must be located 200 feet or more from residential zones.

Discussion of Marijuana-Related Businesses

The proposed amendments limit **marijuana production** facilities to 10,000 square feet of gross leasable floor area per lot. Outdoor cultivation associated with marijuana production is prohibited. OLCC recently released draft rules covering general requirements applicable to all marijuana licenses for the marijuana-related businesses. The draft rules limit canopy sizes to 5,000 to 10,000 feet for indoor production.

States such as Colorado have allowed 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 the size of production operations would be similar. The square footage limitation would allow indoor marijuana production of a reasonable size while preserving employment lands for different uses and potentially uses with higher employee per acre ratios.

Currently, medical marijuana dispensaries must be located at least 200 feet from residential zones. The draft is written so that the processing, production, retail, and testing operations would also have to meet this requirement.

Because the legal marijuana industry is new, there is limited information available about the impacts from marijuana laboratories, processing, and production and whether the uses create 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 impacts such as odor from auto body painting or noise such as heavy machinery operation.

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.

Changes to Draft

Changes or additions to the draft made since the August 25, 2015 Planning Commission study session are highlighted. Several changes are not highlighted

because previous wording was removed from the proposed amendments. A summary of the changes with references to the page numbers in the ordinance is below.

- **Laboratory** (page 10) – Laboratory was added as an eligible use in the E-1 and M-1 zones. The State recently added laboratories to the type of eligible licenses for marijuana-related businesses. Laboratories are for testing marijuana and marijuana-related products.
- **Home Occupation** (page 13) – Marijuana-related business was added to the list of prohibited uses for a home occupation. Previously, medical marijuana dispensary was a prohibited home occupation.
- **Total Number of Plants** – The limitation of the total number of plants on a property including both indoor and outdoor locations was deleted. In discussions with other departments, it appears that this provision would be difficult to enforce. Instead, emphasis is placed on the correct installation of electric, plumbing, and other mechanical equipment and maintaining the residential use of the property.
- **Sliding Scale** – The allowance to increase the number of plants on residential properties for every 2,500 square feet of additional lot area was deleted based on the Planning Commission discussion.
- **Primary Residence** (page 14) – For homegrown marijuana in section 18.2.3.190.A, the wording regarding primary residence was edited to make it clear that the resident grower must live on the property and the property must be the resident grower's primary residence.
- **Homemade Marijuana Extracts** – The prohibition of homemade marijuana extracts was deleted. The recent legislation allows personal making, processing, or storing of up to 16 ounces of homemade marijuana concentrates.
- **Access** (page 14) – Language was added requiring outdoor cultivation areas to be secured at all times to prevent unauthorized access. Also, previous language regarding greenhouses was deleted.
- **Cultivation Area Location** (page 14) – Language added requiring an outdoor cultivation area to be located closer to the resident grower's residence than to a neighboring dwelling. Also, language added allowing outdoor cultivation area to be in separate cultivation areas.
- **Plant Height** (page 15) – Language added requiring plants to not exceed ten feet in height.
- **Plumbing** (page 15 and 16) – Plumbing added to the list of items for indoor grows that must meet Building Code and obtain any necessary building permits.
- **Vacant Dwellings** (page 16) – Language added prohibiting vacant or uninhabited dwelling units from being used for marijuana cultivation.
- **Federal Law** (page 16) – 18.2.3.190.B.f reworded for clarity.
- **State Law and Rule References** – Specific ORS and OAR citations were removed. The state laws and rules are rapidly evolving and it is difficult to

continually update the references in the local code. Staff consulted with the Legal Department on this issue.

- **Retail Sales Separation** (page 18) – Language was added requiring 1,000 feet between retail sales outlets.
- **Health Care Services District** (page 20) – Language added allowing residences in the Health Care Services District to have homegrown marijuana. For example, much of the area round the hospital is residential and has the right to residential uses subject to the requirement of the R-2 zone.
- **North Mountain Neighborhood Zone** (page 22) – Language added allowing residences in the North Mountain Neighborhood zone to have homegrown marijuana as well as other agricultural uses allowed in the residential zones.
- **Definitions** (page 23) – A variety of definitions were edited for clarity and several definitions were added. For example, the licensed marijuana-related businesses were edited and consolidated in one grouping.

II. Procedural

18.5.9.020 Applicability and Review Procedure

Applications for Plan Amendments and Zone Changes are as follows:

B. Type III. It may be necessary from time to time to make legislative amendments in order to conform with the Comprehensive Plan or to meet other changes in circumstances or conditions. The Type III procedure applies to the creation, revision, or large-scale implementation of public policy requiring City Council approval and enactment of an ordinance; this includes adoption of regulations, zone changes for large areas, zone changes requiring comprehensive plan amendment, comprehensive plan map or text amendment, annexations (see chapter 18.5.8 for annexation information), and urban growth boundary amendments. The following planning actions shall be subject to the Type III procedure.

1. Zone changes or amendments to the Zoning Map or other official maps, except where minor amendments or corrections may be processed through the Type II procedure pursuant to subsection 18.5.9.020.A, above.
2. Comprehensive Plan changes, including text and map changes or changes to other official maps.
3. Land Use Ordinance amendments.
4. Urban Growth Boundary amendments.

III. Conclusions and Recommendations

If the Commission recommends approval of the attached ordinance, staff will prepare a formal recommendation to the Council for the Commission's review. The public hearing is scheduled at the Council on November 17, 2015.

Attachments:

- Draft Ordinance
- Dispensary Map
- Written Public Comments Received to Date

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTERS 18.2.2, 18.2.3, 18.2.5, 18.3.3, 18.3.5 AND 18.6.1 OF THE ASHLAND LAND USE ORDINANCE RELATING TO HOMEGROWN MARIJUANA CULITVATION AND MARIJUANA-RELATED BUSINESSES INCLUDING PRODUCTION, PROCESSING, RETAIL SALES, TESTING, AND WHOLESALE.

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **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, the Legislature passed four laws relating to medical and marijuana in the 2015 legislative session including House Bill 2400 amending the Oregon Medical Marijuana Act (OMMA) and Measure 91; 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, House Bill 3400 provides that cities may impose reasonable regulations including hours of operation, manner of operation, public’s access to, and location on all four types of recreational licenses and medical marijuana grow sites, processing sites, and dispensaries; 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 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 October 27, 2015; and

WHEREAS, the City Council of the City of Ashland conducted a duly advertised public hearing on the amendments to the Ashland Municipal Code and Land Use Ordinances on November 17, 2015; 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:

Ordinance No. _____

Page 2 of 25

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 Sec. 18.2.3.160</u> |
| 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>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>Sec. 18.2.3.190</u> <u>See 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+ | 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 |
|---|-----|---------|-----|-----|----|----|-------------|-----|-----|--|
| B. Residential Uses² <i>(continued)</i> | | | | | | | | | | and 18.2.5.070 |
| 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 |
| Club Lodge, Fraternal Organization | CU | CU | CU | CU | CU | CU | P | CU | CU | Subject to State licensing requirements |
| 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 |

² 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 |
|--|-----|---------|-----|-----|----|----|----------------------|----------------------|----------------------|--|
| 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 | P ¹ or CU | P ¹ or CU | P ¹ or CU | 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 |

³ 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 |
|--|-----|---------|----------|-----|----|----|-------------|-----|-----|--|
| 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 See Marijuana Retail Sales |
| 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 |

⁴ 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 |
|---|-----|---------|-------|-------|-------|----|-------------|----------------|-----|---|
| 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 | N | N | N | N | N | N | N | N | N | |
| 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 <u>or</u> 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 |

⁵ 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 |
|---|-----|---------|-----|-----|----|----|-------------|--------|--------|---|
| 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 |
| Manufacture, General, includes Marijuana Laboratory, Processing, and Production | N | N | N | N | N | N | N | P or S | P or S | In the E-1 zone, See Sec. 18.2.3.140 Sec. 18.2.3.190 See Marijuana Cultivation, Homegrown |
| Manufacture, Light; excluding saw, planning 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, includes Marijuana Wholesale | N | N | N | N | N | N | N | NS | PS | Distribution-uses Deliveries and shipments limited to 7AM-9PM within 200 feet of a residential zone limited to 9PM-7AM |

⁶ 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 |
|--|---|---------|-----|-----|----|----|-------------|-----|-----|--------------------------------------|
| F. Industrial and Employment Uses <i>(continued)</i> | | | | | | | | | | <u>Sec. 18.2.3.190</u> |
| 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 | | | | | | | | | |

⁷ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

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

18.2.3.150 Home Occupation

A. Purpose and Intent. The purpose of this section is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture are appropriate in scale and impact to be operated within a residence. Home occupations are recognized for their contribution in reducing the number of vehicle trips often generated by conventional businesses. It is the intent of this chapter that home occupations not infringe upon the right of neighboring residents to enjoy the peaceful and safe occupancy of their homes.

B. Conduct of Home Occupation – Standards. Home occupations are permitted pursuant to the following standards. Where a home occupation use does not comply with one or more of the following requirements, the Staff Advisor may find the subject use is no longer permitted.

1. Appearance of Residence.

- a. The home occupation shall be restricted to the dwelling unit, accessory structure, or yard area not visible from the public right-of-way and be conducted in such a manner as not to give an outward appearance of a business.
- b. The home occupation shall not result in any structural alterations or additions to the dwelling or accessory structure that will change its primary use.
- c. No display of products and or equipment produced or used by the home occupation may be displayed so as to be visible from outside the dwelling or accessory structure.

2. Storage.

- a. Outside storage, visible from the public right-of-way, or adjacent properties, is prohibited.
- b. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond that normally incidental to residential use is prohibited.
- c. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in the dwelling or accessory structure.

3. Employees.

- a. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one full time equivalent employee, and no more than one employee at any given time. As used in this chapter, the term "home occupation site" means the lot on which the home occupation is conducted.
- b. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work at the home.
- c. The home occupation site shall not be routinely used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

4. Advertising and Signage. No signs shall be permitted on a home occupation site.

5. Automobiles, Parking, and Traffic.

- a. One commercial automobile associated with the home occupation is allowed at the home occupation site. Such automobile shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.
- b. There shall be no excessive commercial vehicle deliveries from or to the home occupation site. Excessive deliveries are defined as more than three per day, during the hours of 7 a.m. to 7 p.m. There shall be no commercial vehicle deliveries during the hours of 7 p.m. to 7 a.m.
- c. There shall be no more than one client or customer's automobile at any one time and no more than eight per day at the home occupation site.

6. Clients or customers are permitted at the home occupation from 7 a.m. to 7 p.m. only.

C. Prohibited Uses. The following uses are prohibited as home occupations.

1. Any activity that produces radio or television interference, noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state, or federal standards.
2. Any activity involving on-site retail sales, except as allowed in the Historic District Overlay or items that are incidental to the occupational use, such as the sale of beauty products from salons, lesson books or sheet music for music teachers, or computer software for computer consultants.
3. Any of the following uses, and uses with similar objectionable impacts because of automobile traffic, noise, glare, odor, dust, smoke, or vibration.
 - a. Ambulance service.
 - b. Ammunition or firearm sales.
 - c. Ammunition reloading business.
 - d. Animal hospital, veterinary services, kennels, or animal boarding.
 - e. Auto and other vehicle repair, including auto painting.
 - f. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, or large equipment on-site.

g. Medical marijuana dispensary Marijuana-related business

D. Permit Required – Application

1. No person shall conduct a home occupation without first obtaining a home occupation permit from the Planning Department and a valid business license as required under AMC title 6.
2. The home occupation permit shall include such information as is necessary to determine the location and type of business, and the manner in which it will be conducted. If the Staff Advisor finds that the proposed home occupation complies with the requirements of this chapter, the Staff Advisor shall issue a permit.
3. The home occupation permit is valid only to the person named on the permit and for the

business to be conducted at the location stated on the permit. The permit is not transferable to another location or to another applicant.

4. Issuance of a home occupation permit under this chapter shall not relieve the applicant from the duty and responsibility to comply with all other rules, regulations, ordinances, or other laws governing the use of the premises and structures thereon, including, but not limited to, the specialty codes defined in AMC [15.04](#), the fire code standards defined in AMC [15.28](#), or any private restrictions relative to the property.
5. The Staff Advisor may visit and inspect the site of a home occupation permitted in this chapter periodically to insure compliance with all regulations and conditions to which the permit is subject, during normal business hours, and with reasonable notice.

SECTION 3. Chapter 18.2.3 [Special Use Standards-Medical Marijuana Dispensary] 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. Primary Residence. The resident grower must live on the property where the cultivation of homegrown marijuana is located and that same property must be the primary residence of the resident grower.**
- 2. Related Activities. Any drying, keeping, storage, or processing of homegrown marijuana shall be located within the dwelling unit or an accessory structure and shall not be located outdoors.**
- 3. Outdoor Cultivation. Up to four marijuana plants per lot are allowed to be grown outdoors. Outdoor homegrown marijuana cultivation shall meet all of the following requirements.**
 - a. Locate marijuana plants so the plants are not visible from a public place, public street or any area that the general public has 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 or masonry wall. Any access points to the cultivation area must be secured at all times to prevent unauthorized access. For fence and wall design requirements, see section 18.4.4.060.**
 - c. Dimensional Standards. Marijuana plants grown in outdoor cultivation areas shall meet all of the following dimensional standards including Table 18.2.3.190.c.**
 - i. Locate cultivation area closer to the primary residence of the resident grower than to dwellings on adjoining properties or to dwellings in the same multifamily development.**

- ii. Marijuana plants may be located in one cultivation area or in separate cultivation areas throughout a yard.

| <u>Number of Marijuana Plants</u> | <u>Maximum Cultivation Area Allowed¹</u> | <u>Maximum Marijuana Plant Height²</u> | <u>Minimum Setback from Any Property Line</u> | <u>Minimum Setback from Dwellings on Adjoining Properties³</u> |
|-----------------------------------|---|---|---|---|
| <u>4 or fewer plants</u> | <u>50 square feet</u> | <u>10 Feet</u> | <u>10 feet</u> | <u>20 feet</u> |

¹ All parts of a marijuana plants that are visible above the ground level shall be contained with the perimeter of the cultivation area. Where plants are located separately, the combined total of the individual cultivation shall not exceed the maximum cultivation area.

² Marijuana plants shall not exceed ten feet in height from the top of the average surrounding grade.

³ Marijuana plants must also be located the setback distance from any multifamily dwelling unit within a multifamily development.

d. Multi-Family Development. Homegrown marijuana may be cultivated outdoors on a lot containing multi-family dwellings in conformance with the requirements of subsection 18.2.3.190.A and provided all of the following requirements are met.

i. The property owner provides written notification to all residents of the development and to the City that verifies the cultivation of marijuana plants will comply with the requirements of 18.2.3.190.A. 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 outdoor cultivation of marijuana including the maximum number of plants per lot and the requirements of subsection 18.2.3.190.A.

4. Indoor Cultivation.

- a. Building Code. Any structure, accessory structure, electrical service, plumbing, 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. Vacant or uninhabited dwelling units shall not be used for marijuana cultivation.

B. Marijuana-Related Businesses.

1. Marijuana-related 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-related businesses are allowed. See definition of marijuana-related businesses in part 18.6. Marijuana-related businesses shall meet all of the following requirements.

- a. The business must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor marijuana cultivation and storage of merchandise, raw materials, or other material associated with the business is prohibited.
- b. Any modifications to the subject site or exterior of a building housing the business must be consistent with the Site Design Use Standards, and obtain Site Design Review approval if required by section 18.5.2.020. Security bars or grates on windows and doors are prohibited.
- c. The 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, plumbing, or mechanical equipment (e.g., lighting, fans, heating and cooling systems) associated with a business shall satisfy the Building Code requirements and obtain all required building permits prior to installation.
- f. The property owner shall record a declaration which waives any claim or right to hold the City liable for damages they or a tenant may suffer from state or federal enforcement actions for activities the City permits as a result of its approval of the proposed use or development once such approval is granted. Furthermore, the owner and 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 section 18.2.3.190.
- g. A marijuana-related business must obtain an approved license or registration from the State of Oregon and meet all applicable Oregon Revised Statutes and Oregon Administrative Rules.

2. Marijuana Laboratories, Processing, and Production. In addition to the standards described above in subsection 18.2.3.190.B.1, marijuana laboratories, processing, and

production shall meet the following requirements. See definition of marijuana processing and production in part 18.6.

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

b. Marijuana production shall be limited to 10,000 square feet of gross leasable floor area per lot.

3. Marijuana Retail Sales. In addition to the standards described above in subsection 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.
- iv. Marijuana retail sales must not be located within 1,000 feet of another marijuana retail sales establishment. For the purposes of determining the distance between a retail sales establishment and another retail sales establishment "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from the closes point anywhere on the premises of an approved retail sales establishment to the closest point anywhere on the premises of a proposed retail sales establishment. If any portion of the premises of a proposed retail sales establishment is within 1,000 feet of an approved retail sales establishment it may not be approved.

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

SECTION 4. 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.

Ordinance No. ____

Page 18 of 25

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 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.

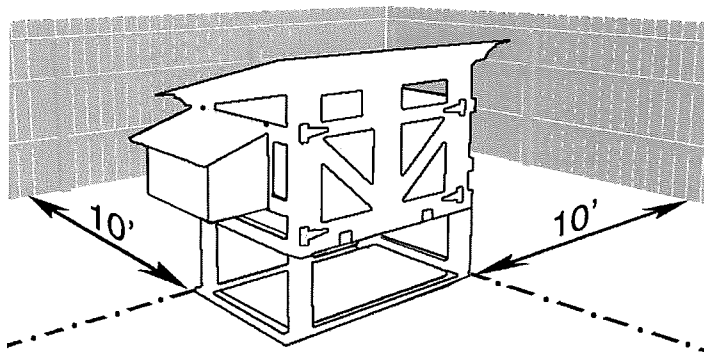


Figure 18.2.5.040.E.2
Micro-Livestock Enclosure/Minimum Setback to Property Line

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 5 Chapter 18.3.3 [Health Care Service District] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.3.3.030 Permitted Uses

The following uses and their accessory uses are permitted outright.

- A. Residential and agricultural uses, subject to the requirements of the R-2 zone.
- B. Home occupations.
- C. Offices or clinics for a dentist or doctor or allied health care providers, including, but not limited to, nurse practitioner, midwives, dieticians, psychologists, opticians, physical and occupational therapists, substance abuse counselors, chiropractors, and wellness centers, including nutritional counseling, health maintenance, and rehabilitation services.
- D. Ambulance and paramedic service.
- E. Medical laboratories.
- F. Sales or rentals of durable medical goods.
- G. Congregate care facilities, assisted living facilities, residential care facilities, and nursing homes.
- H. Any use, located on City owned property, that is specifically allowed by the Ashland Community Hospital Master Facility Plan adopted by the City by ordinance.

SECTION 6 Chapter 18.3.5 [North Mountain Neighborhood District] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.3.5.050 Allowed Uses

- A. **Uses Allowed in North Mountain Neighborhood Zones.** Allowed uses include those that are permitted, permitted subject to special use standards, and allowed subject to a conditional use permit. Where Table 18.3.5.050 does not list a specific use and part 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 Similar Uses. Uses not listed in Table 18.2.2.030 and not found to be similar to an allowed use are prohibited. 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 Determination of Review Procedure.
- C. **Uses Regulated by Overlay Zones.** Notwithstanding the provisions of chapter 18.2.2 Base Zones, 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.

Ordinance No. ____

Page 20 of 25

C. **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.

| Table 18.3.5.050 – North Mountain Neighborhood Uses Allowed by Zone ⁸ | | | | | |
|---|--|----------|----------|----------|----------|
| | North Mountain Neighborhood Zones ⁹ | | | | |
| | NM-R-1-7.5 | NM-R-1-5 | NM-MF | NM-C | NM-Civic |
| A. Residential | | | | | |
| Residential Uses, subject to density requirements in Table 18.3.5.050 | P | P | P | P | N |
| Accessory Residential Units | S | S | N | P | N |
| Agricultural Uses | P | P | P | P | S |
| Home Occupations | P | P | P | P | N |
| Agricultural Uses | P | P | P | P | S |
| Keeping of Livestock and Bees | S | S | S | S | S |
| Marijuana Cultivation, Homegrown | S | S | S | S | N |
| B. Public and Institutional Uses | | | | | |
| Community Services | N | S | N | S | P |
| Parks and Open Spaces | P | P | P | P | P |
| Public Parking Lots | N | N | N | CU | N |
| Religious Institution, Houses of Worship | N | N | N | S | N |
| Utility and Service Building, Public and Quasi-Public, excluding outdoor storage and electrical substations | N | N | N | S | N |
| B. Commercial | | | | | |
| Neighborhood Clinics | N | N | N | P | N |
| Neighborhood Oriented Retail Sales and Services | N | N | N | P | N |
| Offices, Professional | N | N | N | P | N |
| Restaurants | N | N | N | P | N |
| Temporary uses | N | N | N | CU | N |
| C. Industrial | | | | | |
| Manufacturing, Light | N | N | N | S | N |

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

² Zones: NC = Neighborhood Commercial; MU = Mixed Use; OE = Office Employment; CI = Compatible Industrial; OS = Open Space.

D. Special Permitted Uses. The following uses and their accessory uses are special permitted uses as listed in the Land Use Table and are subject to the requirements of this section and the requirements of chapter 18.5.2 Site Design Review.

1. Accessory Residential Units.

- a. Accessory residential units are not subject to the density requirements of the zone and are not included in the base density calculations.
- b. One accessory residential unit is allowed per lot, and the maximum number of dwelling units must not exceed two per lot.

⁸ Key: P = Permitted Uses; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

⁹ Zones: NC = Neighborhood Commercial; MU = Mixed Use; OE = Office Employment; CI = Compatible Industrial; OS = Open Space.

- c. The proposal must comply with the lot coverage and setback requirements of the underlying zone.
 - d. The maximum gross habitable floor area (GHFA) of the accessory residential unit must not exceed 50 percent of the GHFA of the primary residence on the lot, and must not exceed 750 square feet GHFA, except that second story accessory residential units constructed above a detached accessory building must not exceed 500 square feet GHFA.
 - e. Additional parking shall be provided in conformance with the off-street parking provisions for single-family dwellings in section 18.4.3.040.
2. Agricultural Uses.
- a.—In the NM-Civic zone, agriculture may include community garden space.
- 3. Keeping of Livestock and Bees. Subject to standards in section 18.2.3.160.**
- 4. Marijuana Cultivation, Homegrown. Subject to standards in section 18.2.190.**
3. Community Services.
- a. In the NM-R-1-5 zone, each building may be up to a maximum of 2,500 square feet of gross floor area.
 - b. In the NM-C zone, each building may be up to a maximum of 3,500 square feet of gross floor area.
4. Manufacturing, Light.
- a. The light manufacturing use shall occupy 600 square feet or less.
 - b. The light manufacturing use shall be contiguous to the permitted retail outlet that operates in conjunction with and sells the manufactured items produced by the light manufacturing use.
5. Neighborhood Clinics. Each building may be up to a maximum of 3,500 square feet of gross floor area.
6. Neighborhood Oriented Retail Sales and Services. Each building may be up to a maximum of 3,500 square feet of gross floor area.
7. Offices, Professional. Each building may be up to a maximum of 3,500 square feet of gross floor area.
8. Religious Institution, Houses of Worship. The same use cannot be located on a contiguous property, and there must be no more than two such uses in a given zone.
9. Utility and Service Building, Public and Quasi-Public. Each building may be up to a maximum of 3,500 square feet of gross floor area

SECTION 7 Chapter 18.6.1 [Definitions] of the Ashland Land Use Ordinance is hereby amended to read as follows:

Greenhouse. A building or structure whose roof and sides are made largely of glass or

other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of fragile or out-of-season plants for personal enjoyment or for subsequent sale.

Homegrown Marijuana. Marijuana plants planted, cultivated, grown, and harvested by a person 21 years of age or older for personal consumption, whether for medical or non-medical purposes, or for another medical marijuana card holder. Medical marijuana grow sites located in residential zones 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.

- Cultivation Area. The area within which marijuana plants are grown.
- Resident Grower. An individual engaged in the cultivation of homegrown marijuana for personal consumption, whether for medical or non-medical purposes, or for another medical marijuana card holder.

Marijuana. The plant Cannabis, family Cannabaceae, or any part or seed of the plant. It does not include industrial hemp.

- 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 and facilities with the Oregon Health Authority (OHA).
- Recreational Marijuana. Marijuana used for personal consumption by a person 21 years of age or older.

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

Marijuana-Related Businesses. Marijuana-related businesses licensed by the Oregon Liquor Control Commission (OLCC) or registered by the Oregon Health Authority (OHA). Marijuana-related businesses are organized into the following categories.

- Laboratory. A laboratory that tests marijuana and marijuana items.
- Processing. Processing, compounding, or conversion of marijuana into cannabinoid products, concentrates, or extracts.
- Production. Planting, cultivating, growing, harvesting, or drying marijuana. Medical marijuana grow sites located in non-residential zones that do not meet the definition of Homegrown Marijuana shall be considered production for the purpose of this ordinance.

- **Retail. A business that sells marijuana and marijuana products to the consumer.**
- **Wholesale. An operation that handles and distributes marijuana and marijuana products for the purpose of resale.**

~~—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 8. 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 9. 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 10. 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.

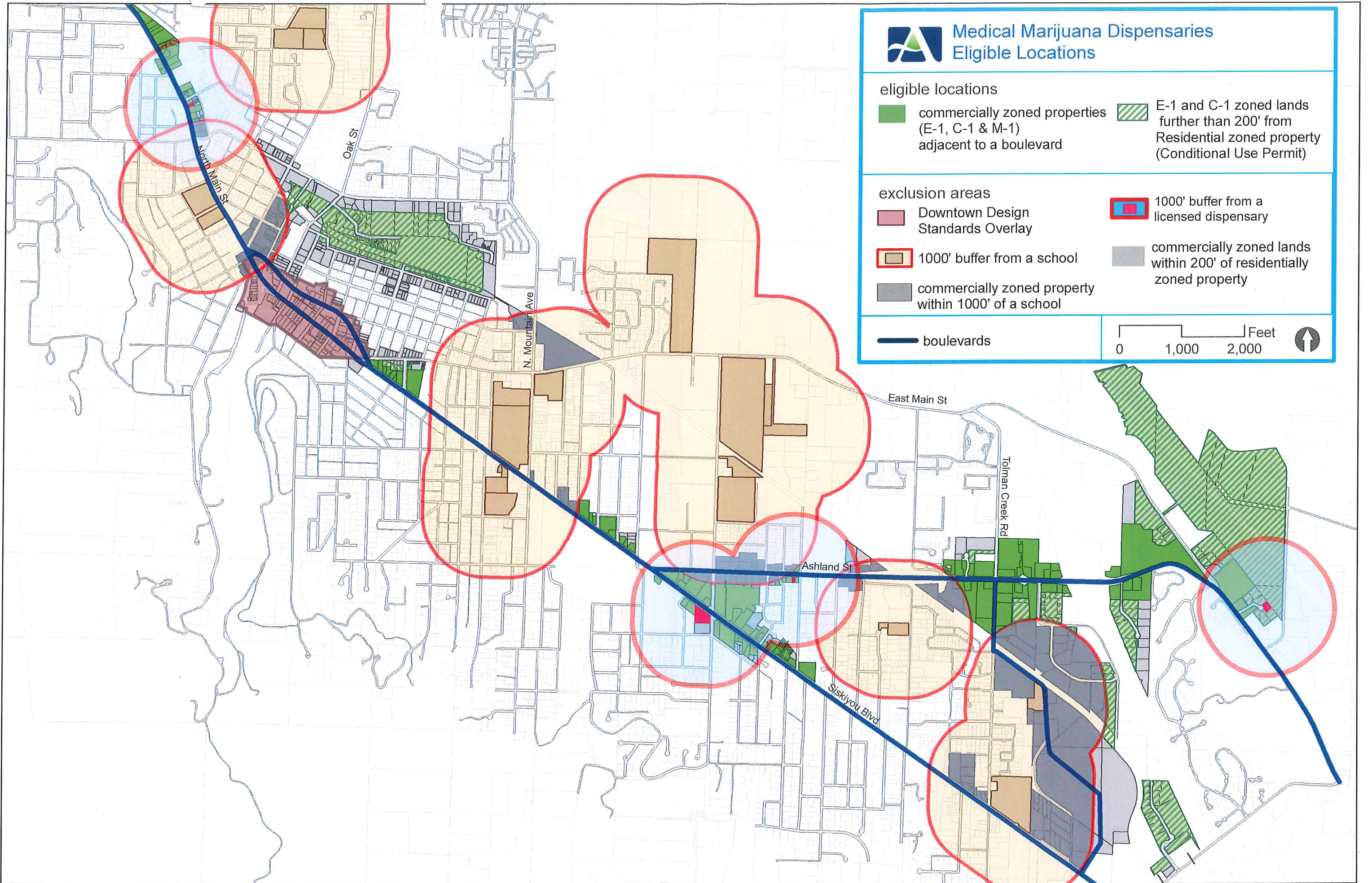
Barbara M. Christensen, City Recorder

SIGNED and APPROVED this ____ day of _____, 2015.

John Stromberg, Mayor

Reviewed as to form:

David H. Lohman, City Attorney



April Lucas

From: Bill Molnar [molnarb@ashland.or.us]
Sent: Tuesday, September 15, 2015 9:23 AM
To: April Lucas
Cc: Maria Harris
Subject: Fwd: Sent to all City Council Members

RECEIVED
SEP 15 2015

Please include a copy in the file for the recreational marijuana code amendments

From: "Kevin Flynn" <flynnk@ashland.or.us>
To: "Maria Harris" <Maria.harris@ashland.or.us>
Cc: "Bill Molnar" <molnarb@ashland.or.us>
Sent: Tuesday, September 15, 2015 9:13:12 AM
Subject: FW: Sent to all City Council Members

Negative impacts of MJ

Kevin Flynn
Code Compliance Specialist

City of Ashland, Planning Division
51 Winburn Way, Ashland, OR 97520
Phone: (541) 552-2424 TTY (800) 735-2900

This email transmission is official business of the City of Ashland and it is subject to Oregon Public Records Law for disclosure and retention. If you have received this message in error, please contact me at (541) 552-2424. Thank you.

From: englund meads [mailto:englundmeads@hotmail.com]
Sent: Tuesday, September 15, 2015 9:08 AM
To: flynnK@ashland.or.us; keetonK@ashland.or.us
Subject: Sent to all City Council Members

Ashland City Council Members,

We are writing this letter to address the noxious odor and health risks of a legal cannabis crop on the other side of our property line on Willow Street. The grow is mere feet from our 16 year old daughter's window, and the odor fills her bedroom, waking her at night. The issue beyond the noxious odor is that our daughter is epileptic, and her seizures are triggered by fatigue. At minimum, she has experienced migraine headaches from waking and from the odor. In an effort to reduce the occurrence of seizures, we have had to keep her window and blinds closed, and keep on the air conditioner even during cool days. Thus, this legal grow has affected our daughter's health and quality of life, and our family's economics and environmental compromise by running the air conditioner all day and night.

Last week, CSO Kip Keeton responded professionally to our need for investigation and resolution regarding the noxious smell and effects on our daughter, who implored us to "do something" about the smell, the interruption of her sleep, and her headaches. CSO Keeton located and identified the grow, and contacted the owners, a real estate attorney and an active Ashland Soroptomist. The owners apologetically contacted us, admitting they "didn't know what they were doing," that the "project was a 'lark,'" and that they would not be growing again after this harvest season.

Though we are grateful to Officer Keeton and Code Compliance Specialist Kevin Flynn for helping us resolve this issue, this is a poor use of our city's public safety resources.

If Ashland had imposed earlier and tighter (or any) regulations on grows, residents such as our immediate neighbors would have had guidelines by which to grow. And our daughter would be healthier and happier.

For 18 years, our family has worked to keep our kids away from the dangers of marijuana. Now here it is, three steps from our daughter's bed.

We ask that the City of Ashland hear the effects of legal grows on our community's children -- on their sleep, their health, their quality of life. The legalization of marijuana grows has negatively impacted our family, and we're disappointed in our city's supporting it.

Sincerely,

Jennifer Englund
Ashland

April Lucas

From: Diana Shplet [shplet@ashland.or.us]
Sent: Wednesday, March 25, 2015 1:52 PM
To: 'Carol Voisin'; 'Dave Kanner'; 'Greg Lemhouse'; 'John Stromberg'; 'Michael Morris'; 'Pam Marsh'; 'Rich Rosenthal'; stefani seffinger
Cc: 'Bill Molnar'; 'April Lucas'; Khiller@nwlink.com
Subject: FW: Let Us Know Submitted

Council, I am forwarding this message to you, which was received via our website. -Diana

Diana Shplet, Executive Assistant
City of Ashland, Administration Department
20 East Main Street, Ashland, OR 97520
541-552-2100 or 541-488-6002, TTY 800-735-2900

This email transmission is official business of the City of Ashland, and is subject to Oregon Public Records law for disclosure and retention. If you have received this message in error, please contact me. Thank you.

From: City of Ashland, Oregon [mailto:ann@ashland.or.us]
Sent: Wednesday, March 25, 2015 1:28 PM
To: administration@ashland.or.us
Subject: Let Us Know Submitted

*** FORM FIELD DATA ***

email: Khillier@nwlink.com

Name: **Karen Hiller**

Report a Problem: **We are owners of 980 Ivy Lane and would like to say, in the strongest terms, that there must be very strict laws on where marijuana is allowed to be grown in Ashland. One cannot use this outdoor areas nor sell their home if marijuana is grown in the vicinity. I believe the 4 plants for personal use must be grown indoors and no outdoor growth should be allowed. Karen Hiller 425-891-6434**

*** USER INFORMATION ***

SubscriberID: -1
SubscriberUserName:
SubscriberEmail:
SessionID: 361574038
RemoteAddress: 66.55.92.75
RemoteHost: 66.55.92.75
RemoteUser:

April Lucas

From: Diana Shiplet [shipletd@ashland.or.us]
Sent: Tuesday, March 24, 2015 9:55 AM
To: AdrienneSiPDX@gmail.com
Cc: 'Bill Molnar'; 'April Lucas'; 'Ann Seltzer'; 'Carol Voisin'; 'Dave Kanner'; 'Greg Lemhouse'; 'John Stromberg'; 'Michael Morris'; 'Pam Marsh'; 'Rich Rosenthal'; stefani seffinger
Subject: FW: Let Us Know Submitted

Adrienne,

Thank you for your comments. I am forwarding them to the city council, as well as our community development department. -Diana

Diana Shiplet, Executive Assistant
City of Ashland, Administration Department
20 East Main Street, Ashland, OR 97520
541-552-2100 or 541-488-6002, TTY 800-735-2900

This email transmission is official business of the City of Ashland, and is subject to Oregon Public Records law for disclosure and retention. If you have received this message in error, please contact me. Thank you.

From: City of Ashland, Oregon [mailto:ann@ashland.or.us]
Sent: Tuesday, March 24, 2015 9:34 AM
To: administration@ashland.or.us
Subject: Let Us Know Submitted

*** FORM FIELD DATA ***

email: AdrienneSiPDX@gmail.com

Name: **Adrienne Simmons**

Report a Problem: **I know this isn't the right place to provide this input, but I want to express my support for restrictions on growing marijuana outside. I wouldn't have had an opinion on this if I hadn't lived in a house that backed up to someone who had medical marijuana. When the plants were near time for harvest, the skunk smell was so unpleasant we couldn't sit outside on the patio (and that's when the weather is good, and you want to be able to sit outside). The terrible smell also makes it very difficult to sell a house if you have someone in close proximity to outdoor marijuana. If it didn't have a terrible smell I wouldn't care. But it does. We have ordinances about barking dogs, loud parties, and other nuisances. The smell is also a nuisance. Thanks for asking for public input.**

*** USER INFORMATION ***

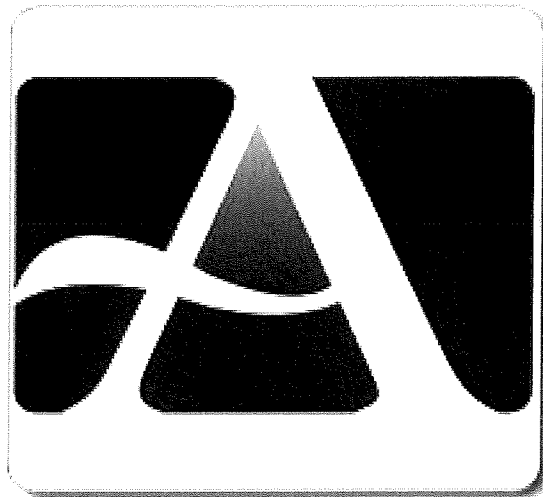
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SubscriberUserName:
SubscriberEmail:
SessionID: 184616247
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RemoteHost: 66.241.73.187
RemoteUser:

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

All On Forum Responses sorted chronologically

As of October 9, 2015, 9:07 AM



As with any public comment process, participation in Open City Hall is voluntary. The responses in this record are not necessarily representative of the whole population, nor do they reflect the opinions of any government agency or elected officials.

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

As of October 9, 2015, 9:07 AM, this forum had:

| | |
|--------------------------|-----|
| Attendees: | 148 |
| On Forum Responses: | 15 |
| All Responses: | 27 |
| Hours of Public Comment: | 1.4 |

This topic started on August 24, 2015, 10:30 AM.

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Responses

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

Answered 15

Skipped 0

000 10 **4** allowed average does four grow growing house
household like limit lot lots medical more much number
one other outdoor oz people per plant plants reasonable
recreational residential s sqft state t than they two use users what

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

Answered 14

Skipped 1

30 **all** around chemicals dwelling **from growing** line lot outdoor plants property
reasonable requirement restrictions **seems setback setbacks** several size small
smell so suggest **they** through what

How do you feel about the limitation on allowable growing area?

Answered 13

Skipped 2

- all **area ashland average** forcing grow **growing** indoor limiting limits
needs neighbors off ordinance outdoor **plants residents s** small space sufficient **unfair**
what **your**

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Are there other elements of the ordinance you would like to see added, amended or removed?

Answered 13

Skipped 2

- **4 91** become complain **could** do enforcement evil from garden go growers **growing** hoa just keep law like marijuana measure neighbor **neighbors** ordinance **plant** plants problem reasonable see **smell** something **t** think use **way** weed **what** why within **your**

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Gabe Roland inside Ashland

September 30, 2015, 6:38 PM

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

That seem reasonable, but recent State laws have addressed this, limiting grows within city limits to 12 plants. Perhaps that's a bit much for the average residential lot, I can understand that SOU is probably weary about their perceived college atmosphere... But then again, it's a relatively safe plant that statistically shows a decrease in alcohol and pharmaceutical dependence among users... If the City of Ashland is absolutely set on additional ordinances above and beyond state statute, I'd suggest a maximum of 10 outdoor. One medical card and 4 recreational is a fair compromise. What if a legitimate patient lives in a house of recreational users? That patient deserves cheap access to medicine and the opportunity to grow his/her 6 plants!

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

A 10-20ft setback requirement seems reasonable at first glance. But after some thought, this requirement effectively prohibits residents from growing their 4 - which is a prominent reason why our community voted for measure 91. I'd hate to see "prohibition through regulation." What about apartment complexes? Trailer parks? Even small lots? Every residence, regardless of lot size, deserves the opportunity to plant a seed. Surely Portland isn't purposing such strict alterations.

How do you feel about the limitation on allowable growing area?

This is what bothers me most about the purposed ordinance. Dave Canner and other involved city officials - step off your high horse and stop pretending that you represent the needs of Ashland residents! Our community voted 78% in favor of measure 91 and a sole city administrator has no right to drastically alter our voice! Fifty square feet is not sufficient to meet the needs of the average recreational household - or more importantly medical! Remember that fear mongering article about indoor growers forcing up the price of electricity for all Ashland residents? Your ordinance is effectively forcing Ashland residents to do exactly that. Indoor growing is incredibly energy intensive and your outdoor growing restriction is not congruent with the environmental stewardship of Ashland residents.

Are there other elements of the ordinance you would like to see added, amended or removed?

Just please be reasonable. All the restriction, oversight and enforcement sounds like a great way for the city to waste resources - another reason why we, the community, voted for measure 91. We've already wasted \$100,000 of taxpayer money on a purposed local tax that was clearly against measure 91 guidelines. Why don't we focus on more important issues, until this actually becomes an issue?

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Ryan Marks inside Ashland

September 14, 2015, 10:19 AM

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

No. State has given everyone 4, that is sufficient for recreational. Medical should be left alone since its MEDICAL. I feel this way because you will be taking away from patients who need it. Many patients rely on growers to grow theirs for a number of reasons; they don't have the means, time, knowledge.

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

No the setbacks are absurd. I would suggest not looking at what you have for livestock seeing that we are talking about plants, not animals or bees. Also 20' from a property line and 30' from a dwelling is eliminating alot of homes in Ashland. What is the average lot size? 30' wide? Lose the property line set back and revise the spacing from a dwelling. 10' from dwellings...

How do you feel about the limitation on allowable growing area?

Limiting the grow area is too hard..you have not given sufficient space for each plant. When this is combined with the set back you have become unfair and unreasonable. 50sq' and 100sq' should be looked at again, what was your previous numbers in the first draft? Why were they increased?Limiting the grow area will not diminish any odor the plants put off.

Are there other elements of the ordinance you would like to see added, amended or removed?

If you, the mayor, decides to sign off on this you should most certainly remove any smell ordinance related to the growing of marijuana.

Revise the use of grow lights within a greenhouse. That should be allowed.

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Andrew Kubik inside Ashland

September 12, 2015, 12:39 PM

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

No outdoor growing

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

No outdoor growing

How do you feel about the limitation on allowable growing area?

No outdoor growing

Are there other elements of the ordinance you would like to see added, amended or removed?

No outdoor growing

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Russ Silbiger inside Ashland

September 3, 2015, 9:18 AM

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

4 plants, per voter approved state law. Not sure about medical.

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

The proposed setbacks are far to exclusionary, and will unfairly limit planting.

How do you feel about the limitation on allowable growing area?

Not sure what the point of that is at all

Are there other elements of the ordinance you would like to see added, amended or removed?

Keep it simple, allow 4 plants.

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Doug MacDonell inside Ashland

September 3, 2015, 8:35 AM

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

Four plants should be enough. I think even a mediocre grower should be able to get a pound per plant. Four plants X 16 Oz per plant = 64 oz of bud, which works out to $64/52 = 1.23$ oz. per week.

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

I recognize the need for setbacks, and while I have nothing against pot and its cultivation, the smell can be obnoxious. I would suggest patches be planted to maximize setback in the lot, whatever that distance may be.

How do you feel about the limitation on allowable growing area?

No Response

Are there other elements of the ordinance you would like to see added, amended or removed?

This is probably crazy but how about a community pot garden? It could be card locked and video monitored, and the location could be such that the maximum distance to residences is maximized. People could be charged a few bucks a month to cover costs.

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Diana Trygg inside Ashland

August 31, 2015, 12:57 PM

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

Current plant limitation is fine.

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

Seem fair.

How do you feel about the limitation on allowable growing area?

No opinion.

Are there other elements of the ordinance you would like to see added, amended or removed?

No Response

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Joan Drager inside Ashland

August 26, 2015, 2:41 PM

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

The number of plants should be limited to what the state has legally determined. Each property in a residential area should only be allowed to grow per household the legal amount, not a multiple by the number of residents in household. In other words no more than 4 or 6 plants per residence.

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

No Response

How do you feel about the limitation on allowable growing area?

No Response

Are there other elements of the ordinance you would like to see added, amended or removed?

If there is a stink how long? or should a neighbor have to endure it? if their neighbor is growing their plants outdoors. No one should have to live or breathe in a stench. What recourse does a person have?

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Mary Curtis inside Ashland

August 26, 2015, 11:57 AM

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

Outdoor growing, both for medical or personal use, in a residential zone should definitely have a limit on the number of plants. 4 seems like a reasonable number per household, but I would prefer it to be zero. We used to have a medical grow house in our neighborhood that grew for 13 licenses. Their plants were in a garage with no air filter and the smell in the late summer and fall still blew up the street with the prevailing afternoon winds right into my front door. It was sickening, pervasive, and constant for three months. There's a house down the street that has a huge grow lot in their backyard and I can hardly walk by it during the summer and fall without gagging. My dog doesn't even like walking past their house! I'm not against people using weed recreationally or medically, but it should not infringe on other people's quality of life. No other garden plant puts out the stink that cannabis does. No one's backyard barbecue affects other people's ability to enjoy their outdoor space for the length of time that maturing cannabis does. Even when people smoke a joint, the smell is temporary. I think 4 plants is generous.

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

If you have to build a structure (like a dome?) around it to contain the smell, there are setback restrictions that are reasonable. If these setback restrictions accommodate potential structures around the growing area, then they are reasonable.

How do you feel about the limitation on allowable growing area?

In residential areas, there should be strict limits on growing controlled substances. There are limits on the number of chickens and beehives, and area for those activities in neighborhoods. Same should be true for pot gardens.

Are there other elements of the ordinance you would like to see added, amended or removed?

I would like to see something about enforcement added to the ordinance. There is an ordinance regarding nuisance barking - neighbors complain to neighbors first, and if the offender doesn't do something to alleviate the problem, there are consequences. The same type of enforcement element should be included in this ordinance. For example, if your neighbor ignores your request to move their plants or modify their garden situation because the smell is repulsive in your yard, you should be able to complain to the City. Multiple complaints should render progressive fines that become a deterrent. There should also be a way to enforce the "4 plant" and "allowable growing area" rules. What's the point of the rule if you don't have a way to enforce it?

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Ellen Campbell inside Ashland

August 26, 2015, 10:01 AM

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

The limit should be no plants outdoors. The odor of the plants

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

I would suggest no plants outdoors

How do you feel about the limitation on allowable growing area?

I feel it would be asking the neighbors to tolerate smell and it's unfair. Growing marijuana is a business and should not bother the neighbors

Are there other elements of the ordinance you would like to see added, amended or removed?

No Response

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Name not shown inside Ashland

August 25, 2015, 9:17 PM

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

I don't want marijuana growing anywhere near my house. But I cannot control that now. It does not seem fair to limit how many plants someone can grow on their land based on how much house and land they can afford. But there should be a reasonable limit to person usage. Unless the Brady Bunch are all blazing up together, someone does not need 12 plants in one household. 1-2 plants per person or 3-4 plants per household seems reasonable.

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

This is again going to favor Ashlanders that have more wealth than not. But the proposal seems appropriate. Should at least reduce the harm of all the chemicals they spray all over their plants. I doubt many people grow organic non-gmo weed. Rather they inhale chemicals that they would never consume if it were coated on their food from the Co-op.

How do you feel about the limitation on allowable growing area?

It is a larger space than the average raised bed for home gardening. Would prefer something smaller that would allow the cultivation of few plants.

Are there other elements of the ordinance you would like to see added, amended or removed?

What about HOA rights? I assume that would violate state law but be within federal law. What happens when an HOA challenges the law? Not that home owners could afford that battle.

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Name not shown inside Ashland

August 25, 2015, 6:02 PM

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

Yes, limit the number of plants. In the urban growth boundary, the number of allowed plants should be limited to:
0 plants for lots less than 8,000 sqft
2 plants for lots 8,001 to 10,000 sqft
additional plants allowed 1 plant / 1000 sqft for lots 10,000 sqft to 15,000 sqft.

Outdoor cultivation is extremely odorous. It is unlike almost every other plant grown. It is extremely strong, much like a skunk spray. This odor can last for up t eight weeks as the plant matures.

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

No. increase the setbacks.

No plants should be grown within 150 of neighbors home.

How do you feel about the limitation on allowable growing area?

limit the growth.

Are there other elements of the ordinance you would like to see added, amended or removed?

provide a means for neighbors of plants to protect themselves from invasive weed growers stinking up the neighborhood and surrounding homes.

Do not let ashland become overrun by weed growers. it will be a detriment to the town.

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Ronald Little inside Ashland

August 25, 2015, 10:44 AM

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

Four outdoor plants in a residential neighborhood seems reasonable.

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

They are sufficient.

How do you feel about the limitation on allowable growing area?

It's OK

Are there other elements of the ordinance you would like to see added, amended or removed?

I think your proposal seems reasonable. In reality, once retail cannabis is made available to adults (21+), there will be very little marijuana being grown by individuals. It will be much easier to just go purchase it rather than go to the hassle and expense of "growing your own." I applaud the city council for not over reacting to a problem that, at least for now, is only theoretical.

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Name not shown outside Ashland

August 25, 2015, 9:43 AM

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

I live within City limits and have read the draft ordinance.

I see no information regarding weights... Marijuana is normally talked about in oz or lbs. Google search shows average plant can produce 17 oz. That is more than one lb.

Google search shows average use of one joint per day = 1 lb. per year.

Heavy users (serious medical needs) show use of 3-5 joints per day = 3.25 lbs. pr year.

Therefore 2 plants for a household of two recreational adult users and 3-4 plants for a household of two adult heavy use medical card holders seem like the more appropriate quantities. Any more than that is excessive and unnecessary.

What is happening now is that people are growing more than they can use personally and there is an abundance. Because many folks don't want to risk selling it and getting caught, they are giving it away and many teens have access to free pot.

Larger lots should not be allowed MORE growing capability, it is still just a single household and only two adult users should be contemplated unless, of course, the City wants to allow commercial sales in residential zones (not desirable). So why should a 10k sf lot owner be allowed to grow more than the what average users can consume?

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

The smell travels for long distances so any setback seems too small. We had a neighbor down the hill from us and several several blocks away and we could smell it through the fall harvest season so 10-20 ft is meaningless separation. This is a tough one if you are allowing outdoor growing at all.

How do you feel about the limitation on allowable growing area?

Small patch for small crop makes sense.

Are there other elements of the ordinance you would like to see added, amended or removed?

A plant is a plant, new or mature, I think counting this way makes sense if you have to use plants as your measure.

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Name not shown inside Ashland

August 25, 2015, 8:38 AM

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

Limit the number of outdoor plants to 4 no matter what size the lot because a strong smell travels and can ruin my ability to enjoy my own yard.

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

yes

How do you feel about the limitation on allowable growing area?

It should match the growing room needed for 4 plants.

Are there other elements of the ordinance you would like to see added, amended or removed?

Limit the total number of plants to 4 no matter what size the lot is.

Draft Ordinance Growing Marijuana in Ashland

What do you think of the parameters for outdoor growing?

Phyllis Brown inside Ashland

August 25, 2015, 5:55 AM

Should outdoor grows of marijuana for personal use (whether recreational or medical) be limited per number of plants? How many plants would you suggest? Why do you feel that way?

four. Enough is enough.

Are the proposed setback requirements in the draft ordinance sufficient? What would you suggest?

Yes.

How do you feel about the limitation on allowable growing area?

Good enough.

Are there other elements of the ordinance you would like to see added, amended or removed?

See no evil, smell no evil, count no evil. That should do it to keep the 8th graders from hopping your fence.

**CITY OF
ASHLAND**
ASHLAND PLANNING COMMISSION
STUDY SESSION
MINUTES
August 25, 2015

CALL TO ORDER

Chair Melanie Mindlin called the meeting to order at 7:00 p.m. in the Civic Center Council Chambers, 1175 East Main Street.

Commissioners Present:

Debbie Miller
Troy J. Brown, Jr.
Michael Dawkins
Melanie Mindlin
Haywood Norton
Roger Pearce
Lynn Thompson

Staff Present:

Bill Molnar, Community Development Director
Maria Harris, Planning Manager
April Lucas, Administrative Supervisor

Absent Members:

None

Council Liaison:

Greg Lemhouse, absent

ANNOUNCEMENTS & AD HOC COMMITTEE UPDATES

Community Development Director Bill Molnar reminded the group of the commissioner appreciation event August 30 at Oak Knoll Golf Course. He also announced the city council's public hearing on the Normal Neighborhood Plan is Tuesday, September 1.

Commissioner Mindlin announced Toby Hemenway will be speaking on permaculture Wednesday, September 16 at Southern Oregon University.

Commissioner Dawkins provided an update on the Downtown Beautification Committee and stated they are working with a consultant designing three new welcome signs. Dawkins stated the drawings will be presented at the October Public Arts Commission meeting for review.

PUBLIC FORUM

No one came forward to speak.

DISCUSSION ITEMS

A. Discussion of Ordinance Amendments for Recreational Marijuana.

Planning Manager Maria Harris explained the objectives of the ordinance are to: 1) balance the allowances for recreational and medical marijuana under the new state laws and mitigate the nuisance and safety impacts, and 2) streamline the code so it is easy to understand and enforceable. Ms. Harris stated the draft presented tonight is a starting point for discussion purposes and explained one of the main questions before the commission is how many plants can you grow outdoors before it creates a nuisance? The draft ordinance proposes a sliding scale with the maximum number of outdoor plants set at 8, and a total allowance of 12 (indoor and outdoor). Ms. Harris displayed several examples depicting the allowable grow areas on different sized lots and asked the commission to consider whether larger lots should be allowed to grow more, whether the proposed setbacks are sufficient, and whether 12 total plants is appropriate. Ms. Harris noted the state has adopted separate provisions for medical marijuana and recreational marijuana, but this ordinance is intended to cover both.

Ms. Harris commented on commercial operations, which will be licensed by the Oregon Liquor Control Commission. She explained the OLCC is accepting applications now; however they will not be issued until spring 2016. Regarding the draft

ordinance, the following three questions were posed for the commission to consider: 1) Should processing and production be at least 200 ft. from residential zones, 2) Should marijuana production buildings be limited in size, and 3) Should the separation requirement for retail sites be included in the local ordinance?

Commission Discussion

The commissioners shared their comments on the draft ordinance, including:

Number of permitted plants:

- Four plants is a lot of marijuana, both in terms of usage and smell. The city could keep the numbers low and still allow for this change to occur.
- The point of the law is to allow this for personal use and four plants should be ample. If they allow more than that they are recognizing the grow is going beyond the use of the homeowner.
- A limit of four plants will keep the odor nuisance down.
- The draft ordinance is overly lenient. The city should be stricter at the beginning since it would be difficult to make it more restrictive later on.
- To keep it simple, the 4 plant limit should be regardless of size and should include starters and cuttings.

Indoor vs. Outdoor Growing:

- If they drive this activity indoors, water and electrical use will be an issue.
- The city should not allow indoor commercial growing since this could bump the city up to the next power usage tier.
- Indoor plants should be allowed but only up to a certain size.
- Growers can only harvest once a year. If residents want a continuous supply they will be more likely to grow their plants indoors.

Ms. Harris commented that there are a number of lots in the multifamily residential zone that are smaller than the examples shown. She added this may be one reason to allow some level of indoor growing.

Setbacks:

- Residents should have to comply with the more aggressive setback requirements.
- Grow sites should be located closer to the grower's residence than the neighbor's.
- The ordinance should say the grow location cannot be closer to the neighbor's house than it is your own.
- They should mitigate the effects on neighbors by requiring a minimum setback but recommending they locate the plants as far away from the neighbors as possible.
- If using an outdoor structure or greenhouse, the setbacks should be the same as an outdoor grow.

Commercial Growing:

- Why would the city want this here?
- If we are not allowing other agriculture uses in the city, commercial marijuana grows should not be allowed either.
- Ms. Harris clarified if the city prohibits any of the uses they won't get to keep the tax money that is collected. She also clarified before the state will issue a commercial license they are requiring paperwork that verifies the city's approval and establishes parameters.
- It would be best to start out stricter and loosen up over time if necessary.
- 20,000 sq.ft is too large of a building.
- The ordinance should indicate 10,000 sq.ft. as the maximum.

Other Comments:

- The ordinance should be clearer that the grower needs to live there, not just that the house's primary use is residential.
- The ordinance language regarding retail sites should incorporate the same restrictions as medical marijuana dispensaries (distance from schools, distance from each other, and elimination from the downtown overlay).
- The ordinance should refer to the house bill number.
- "Ensure" should be removed from item F on page 16 of the ordinance.

- Ms. Harris clarified there is the potential for a rate structure change that would charge a higher rate to customers who consume large amounts of power. She added this is still being discussed at the staff level.

Staff was directed to bring the ordinance back for a public hearing; no additional study session discussions are necessary.

ADJOURNMENT

Meeting adjourned at 8:50 p.m.

*Submitted by,
April Lucas, Administrative Supervisor*

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 identified 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 identified 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 CULITVATION 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 it charter and the statues 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 [REDACTED]; 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 Keeping of Bees, Livestock and Micro-Livestock, and Marijuana Cultivation and Production | P | P | P | P | P | P | N | N | N | Animal sales, feed yards, keeping of swine, commercial compost, or similar uses not allowed See Keeping of Livestock and Bees standards in Sec. 18.2.3.160 | |
| Keeping of Bees | S | S | S | S | S | S | S | N | N | | |
| 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 | | |
| Marijuana Cultivation, Homegrown | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | Sec. 18.2.3.190 See also General Industrial, Marijuana Production | |
| 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 |

² KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

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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 | P -or CU | P -or CU | P -or CU | 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 |

³ 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 |
| 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 See Marijuana Retail Sales |
| 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 |

⁴ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

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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 |
| 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 |

⁵ 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 |
|---|-----|---------|-----|-----|----|----|-------------|---------------|---------------|---|
| 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> | <u>Distribution uses Deliveries and shipments limited to 7AM-9PM within 200 feet of a residential zone limited to 9PM-7AM</u> |

⁶ 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 |
| | | | | | | | | | | <u>Sec. 18.2.3.190</u> |
| 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 | | | | | | | | | |

⁷ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

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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 10,000 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 10,000 sq. ft. | 8 | 24 | 8 outside/12 total |
| 3 units 10,000 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 generally 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.

4. — 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.

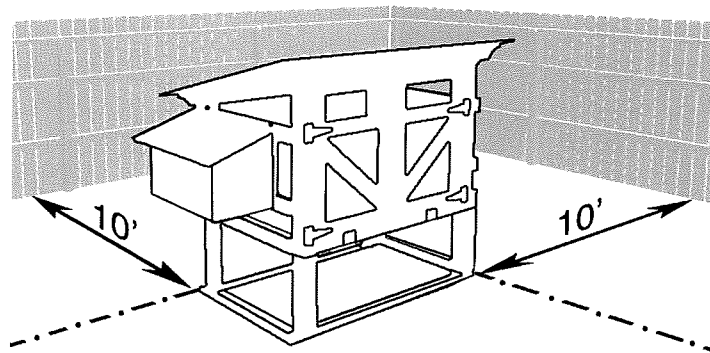


Figure 18.2.5.040.E.2
Micro-Livestock Enclosure/Minimum Setback to Property Line

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 on 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

Questions of Staff

Staff was asked to clarify which area will be a community park. Mr. Molnar identified the area acquired by the Parks Department but noted the Parks Commission has not made a determination on how the park land will be used. It is their land to plan and it could be a dog park, active fields, etc.

Staff was asked if the affordable housing element is a criteria in this application. Mr. Molnar stated supporting affordable housing is a broader policy decision of the city. He added a key consideration is criteria #4 that states *"nothing in this section shall require that the residential density be reduced below the permitted density allowed by the zone."* He stated the commission needs to determine how to apply this, and whether permitted density means the minimum, base, or maximum density permitted. He added this is a difficult decision and stated "permitted density" is not defined in the code.

Applicant's Rebuttal

Dave Kanner/Emphasized that the Parks Department has already stated that they are not interested in this property as park land or a community garden. Additionally, they are not interested in swapping their parcel with the city. Mr. Kanner stated this property was acquired in 2008 and there have been six and a half years to find an alternative. He stated the degree to what level people love the tree is not a criteria and stated this application meets the criteria in the code. He stated its removal would not have a negative impact on erosion, soil stability, etc.; the removal would not significantly impact tree densities within 200 ft.; and though this tree is unique to our area it is not a unique tree. The issue is whether or not they can meet the minimum, base, or maximum density of the zone and this is what the commission needs to determine. Mr. Kanner stated the city is not trying to make money off this land and stated the city would make far more money if it sold the parcel at market value. He stated the amount of affordable housing would have to be reduced in order save the tree, and stated he does not agree with this approach when all of the criteria have been met.

Deliberations & Decision

Commissioners Dawkins/Miller m/s to deny PA-2015-00934. DISCUSSION: Dawkins stated while he supports restricting the urban growth boundary he has repeatedly questioned the city's infill policy and believes they should be growing from the center out. He added he does not support any more development on Clay Street until there is a safe way to cross Ashland Street. Miller agreed with Dawkins on the issue of traffic on Clay Street. She added she does not believe criteria #3 and #4 have been met and would like to see other alternatives explored. Brown disagreed and stated the application meets the criteria in the code. He stated any potential traffic concerns would be addressed when a development proposal comes forward, and this application is about the tree and affordable housing. Brown stated personal preferences are not part of this decision and stated the application clearly meets the requirements in the code. Norton stated he does not support the motion to deny. He stated if the tree stays it will need room to continue to grow, and if you shoehorn in the development it will impact the health of the residents. He added he cannot support keeping the tree if it means the housing will not be adequately designed. Miller cited criteria #3 and stated a reasonable alternative does exist and if they define permitted density as minimum or base density this development could move forward with the tree staying. Brown noted the tree will continue to be preserved until an adequate plan is presented and at that time they can discuss traffic, number of units, etc. Mindlin stated affordable housing and its value it not an approval criteria and stated she does not believe the application satisfies the criteria in the code. Mindlin stated criteria #3 has not been met and regarding criteria #4 she does not believe this means they have to allow someone to build the maximum density without considering the other factors. She added she does not support pre-approving the tree removal before seeing alternate plans. **Roll Call Vote: Commissioners Dawkins, Miller and Mindlin, YES. Commissioners Brown and Norton, NO. Motion passed 3-2.**

DISCUSSION ITEMS

A. Discussion of Ordinance Amendments for Homegrown Recreational Marijuana.

Planning Manager Maria Harris presented language that could be used as a starting point for regulations on recreational marijuana. She explained starting July 1, 2015 people are allowed to have up to four marijuana plants and explained the city has had some code compliance issues with marijuana grows, mostly on odor, lights and fans. Ms. Harris reviewed the draft language that would place limitations on outdoor grows and stated the intent it to minimize adverse impacts to neighbors. She requested the commission provide input on the number of plants that should be allowed, whether this should be per lot or per household, and whether requiring setbacks is the right direction to go. She noted the state will begin accepting licenses for commercial sale sites in January 2016, and clarified tonight's discussion is only about residences.

Commission Discussion

Commissioner Brown asked if state law allows the city to restrict the number of plants and Ms. Harris replied that staff believes so, however they are not allowed to increase the number. It was asked how tall the plants can grow and Ms. Harris explained they can get up to 8-10 ft. tall. Brown suggested they consider limiting the height of the plants, since at this height they would be clearly visible over a fence.

Ms. Harris stated there are two moving parts and explained medicinal marijuana is loosely regulated by the state and allows six plants per card holder, however people have started growing for other card holders. She explained this ordinance would limit outdoor growing regardless of whether it is for medicinal or recreational use.

Commissioner Dawkins expressed concern with rental units being taken out of the housing stock and used as grow houses, and questioned if they should use electric bills to detect where indoor grows are happening.

Commissioner Mindlin asked if greenhouses would meet the screening requirements and staff indicated they could address this in the ordinance as a possible screening alternative.

City Administrator Dave Kanner addressed the commission and stated his recommendation is to place a limitation on the number of plants grown outdoors, and stated they may run into problems with legislation if they try to limit the number grown indoors. Regarding the height concern, he stated as long as it is not visible from any public place he is not concerned if the plants are visible over the top of a backyard fence. Mr. Kanner stated his main concern is regarding large grow sites consisting of 20 or more plants and explained the odor of a grow this size impacts entire neighborhoods. He explained he has spoken with the city's code compliance officer and his opinion was that four plants would create an odor, but it would not be so obnoxious that neighbors can't enjoy their outdoor spaces. He stated he is not concerned with whether they are growing for recreational or medicinal uses, but if they want to grow more than four plants they need to do it inside. He stated the electrical use component is interesting and stated while they cannot single out one type of business for higher rates, the city can establish excess of peak use charges and apply it to all commercial businesses. Regarding Dawkins concern, Mr. Kanner stated it is very expensive to rent a house in Ashland and there is a shortage of available rental properties, and he does not believe it will be worth someone's while to establish a grow operation in Ashland when there are far less expensive options elsewhere.

Commissioners Brown/Dawkins m/s to direct staff to initiate the amendments and prepare an ordinance. Roll Call Vote: all AYES. Motion passed unanimously.

ADJOURNMENT

Meeting adjourned at 9:30 p.m.

*Submitted by,
April Lucas, Administrative Supervisor*

**Planning Commission
Speaker Request Form**

- 1) Complete this form and return it to the Secretary prior to the discussion of the item you wish to speak about.
- 2) Speak to the Planning Commission from the table podium microphone.
- 3) State your name and address for the record.
- 4) Limit your comments to the amount of time given to you by the Chair, usually 5 minutes.
- 5) If you present written materials, please give a copy to the Secretary for the record.
- 6) You may give written comments to the Secretary for the record if you do not wish to speak.
- 7) Speakers are solely responsible for the content of their public statement.

Name Helene De Martinez
(please print)
Address (no P.O. Box) 321 Clay St. #6A
Phone 482 5410 Email none
Tonight's Meeting Date Marijuana

Regular Meeting

Agenda item number _____ OR Topic for public forum (non agenda item) _____

For: _____ Land Use Public Hearing Against: Hawing Marijuana

Challenge for Conflict of Interest or Bias

If you are challenging a member (planning commissioner) with a conflict of interest or bias, please write your allegation complete with supporting facts on this form and deliver it to the clerk immediately. The Chair will address the written challenge with the member. Please be respectful of the proceeding and do not interrupt. You may also provide testimony about the challenge when you testify during the normal order of proceedings.

Written Comments/Challenge: Hawing watched PBS Shows

about areas that have had problems with growing this Marijuana as an agriculture in large mass or private have created problems we are totally unable to deal with. Please do not permit this for

The Public Meeting Law requires that all city meetings are open to the public. Oregon law does not always require that the public be permitted to speak. The Ashland Planning Commission generally invites the public to speak on agenda items and during public forum on non-agenda items unless time constraints limit public testimony. No person has an absolute right to speak or participate in every phase of a proceeding. Please respect the order of proceedings for public hearings and strictly follow the directions of the presiding officer. Behavior or actions which are unreasonably loud or disruptive are disrespectful, and may constitute disorderly conduct. Offenders will be requested to leave the room.

our Ashland City Too costly to regulate or deal with especially with the odor it permits. Thank you

Comments and statements by speakers do not represent the opinion of the City Council,

-City Officers or employees or the City of Ashland.

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
SPECIAL MEETING
JUNE 23, 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. **TYPE II PUBLIC HEARING**
 - A. **PLANNING ACTION:** PA-2015-00928
SUBJECT PROPERTY: 380 Clay Street
OWNER/APPLICANT: City of Ashland
DESCRIPTION: A request for a Tree Removal Permit to remove a 72-inch diameter at breast height (d.b.h.) Fremont Cottonwood tree from the property located at 380 Clay Street. (*This tree was previously identified to be preserved and protected as part of Planning Action #2009-00043.*)
COMPREHENSIVE PLAN DESIGNATION: Low Density Multi-Family Residential; **ZONING:** R-2;
ASSESSOR'S MAP: 39 1E 11C; **TAX LOT:** 2500.

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

- VII. **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: June 23, 2015

TO: Ashland Planning Commission

FROM: Maria Harris, Planning Manager

RE: Discussion of New State Rules on Recreational Marijuana

SUMMARY

The homegrown personal possession provisions of the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act (Measure 91) begin 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.

Staff has been asked to develop ordinance language to address growing marijuana, specifically in residential neighborhoods. 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 lighting and noise from mechanical equipment (e.g., fans) related to growing plants in greenhouses and other accessory structures.

The attached draft ordinance language is intended as a starting point for the discussion. Three primary issues are indentified for discussion including the number of plants that should be allowed in conjunction with a dwelling unit, whether the number of plants allowed for outdoor cultivation should be calculated base on a lot or dwelling units, and what type of setback and area allowances are appropriate in residential settings. **Staff's comments are inserted in the draft ordinance and highlighted in red text.**

BACKGROUND

The potential code amendments are concentrated in Section 2 on pages 11-15 in the attached draft ordinance language. Section 18.2.3.190 Medical Marijuana Dispensaries in the existing land use ordinance is amended to include draft standards for homegrown marijuana. Section A is new and addresses homegrown marijuana. Section B is a placeholder for Commercial Marijuana Production – this section could include requirements for the commercial cultivation of marijuana within the city limits. Finally, section C is the existing special use standards for medical marijuana dispensaries.

The standards for cultivating homegrown marijuana outdoors are modeled after the requirements for keeping of animals in 18.2.3.160 and preliminary research on requirements in other jurisdictions. The



attached draft ordinance language is limited to addressing homegrown marijuana plants and includes three primary components.

- **Outdoor Cultivation.** The draft language creates setbacks from plants grown outdoors to property lines and residences on adjoining properties, and limits the size of the area that can be used for growing marijuana plants and any associated outdoor activities. Plants cannot be visible from a street or area with general public access (this provision is included in state law) and must be screened from view with a fence or wall.
- **Indoor Cultivation.** The draft language requires individuals to obtain the appropriate building permits for the installation of any electric service and mechanical equipment (e.g., fans, heating and cooling systems). This typically would be to install lights and other mechanical equipment necessary to grow plants in an accessory structure such as a garage, greenhouse, or shed. In discussion with the Building Official, an ongoing problem reported throughout the state is the installation of electric serviced and other mechanical equipment to grow plants indoors without the sizing and safety provisions required by the building code.
- **Nuisances.** The main complaint the City receives is the odor produced by marijuana plants grown outdoors in the back yards of residential properties. The odor produced by the plants is particularly strong in late summer. Neighbor complaints include not being able to enjoy their backyard and not being able to open their windows because of the strong odor produced by the marijuana grow on the adjacent property. In addition, complaints have involved impacts from lighting and noise from mechanical equipment related to growing plants in greenhouses and other accessory structures in side or rear yards of residential homes. These complaints primarily focus on the duration of lighting and noise from mechanical equipment because the systems operate 24 hours a day and every day of the week. The draft language on nuisances is preliminary and staff is working with the Legal Department on this portion of code. This section will likely be located in Ashland Municipal Code (AMC) 9.08 Nuisances.

Other ordinance amendments included in the attached draft are adding Marijuana Cultivation, Homegrown (page 4) and Marijuana Production, Commercial (page 9) to the “Uses Allowed by Zone” table. A cross reference to the marijuana cultivation requirements is added in the accessory structures section for greenhouses (page 16). Finally, definitions of homegrown and commercial marijuana cultivation are included to distinguish between residential and state licensed growing operations.

In November 2014, voters passed 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 production, processing, wholesale, and retail sale of non-medical marijuana (see attached FAQs Recreational Marijuana).

The commercial components of Measure 91 begin in January 2016 when the Oregon Liquor Control Commission begins accepting license applications for commercially growing, processing, and operating wholesale or retail marijuana operations. The ability to buy marijuana at a retail outlet is not expected to start until the fall of 2016.

The information in this memo and attached draft ordinance language is limited to addressing homegrown marijuana plants. The Commission may want to consider beginning initial discussions on



whether to regulate the commercial activities. Staff will be prepared with further research on the commercial uses at a future meeting.

ATTACHMENTS

1. Marijuana Cultivation, Draft Amendments to Land Use Ordinance
2. FAQs Recreational Marijuana, OLCC



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 CULITVATION 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 production, processing, 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</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 Sec. 18.2.3.160</u> |
| 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> | S | S | S | S | S | S | S | S | S | <u>Sec. 18.2.3.190</u> <u>See also Marijuana Production, Commercial</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 |
|---|-----|---------|-----|-----|----|----|-------------|-----|-----|--|
| B. Residential Uses² <i>(continued)</i> | | | | | | | | | | and 18.2.5.070 |
| 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 |
| Club Lodge, Fraternal Organization | CU | CU | CU | CU | CU | CU | P | CU | CU | Subject to State licensing requirements |
| 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 |

² 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 |
|--|-----|---------|-----|-----|----|----|-------------|---------|-------|--|
| 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 | P/ CU | P/ CU | P/ CU | 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 |

³ 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 |
|--|-----|---------|------|-----|----|----|-------------|-----|-----|---|
| 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 |
| 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 |

⁴ 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 |
|---|-----|---------|-------|-------|-------|----|-------------|---------|-----|---|
| 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 | 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 | 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/ 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 |

⁵ 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 |
|---|----------|----------|----------|----------|----------|----------|-------------|----------|----------|---|
| 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 |
| Manufacture, General | N | N | N | N | N | N | N | P | P | In the E-1 zone, See Sec. 18.2.3.140 |
| Manufacture, Light; excluding saw, planning 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 |
| Marijuana Production, Commercial | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>2</u> | <u>2</u> | <u>2</u> | <u>Sec. 18.2.3.190</u> <u>See also Marijuana Cultivation, Homegrown</u> |
| 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 | N | N | N | N | N | N | N | N | P | Distribution uses within 200 feet of an residential zone limited to 9PM-7AM |

⁶ 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 |
|--|---|---------|-----|-----|----|----|-------------|-----|-----|--------------------------------------|
| 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 | | | | | | | | | |

⁷ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.
Ordinance No. _____

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 section 18.6.1.030.

1. Total Number. Up to four marijuana plants are allowed per lot.

Issue 1 Number of Plants: State law for recreational marijuana allows up to four marijuana plants per household and for medical marijuana allows up to six mature plants per cardholder.

Some other code options available for the local land use ordinance are to reduce the number of plants that are allowed (e.g., three, two, or one plants) or to prohibit outdoor cultivation entirely.

Issue 2 Limit by Lot or Household: The draft language is more restrictive than state law because it ties the maximum number of marijuana plants to a lot while state law allows plants based on a household. If the lot language is used, lots with multiple dwellings on the same property (e.g., a single-family residence and an accessory residential unit, an apartment building with four units) would be limited to four plants and would not be allowed to have four plants per dwelling. For example, a lot containing a single-family residence and an accessory residential unit would be allowed up to four plants under the draft language because both dwellings are located on the same lot, whereas state law allows up to eight plants or four plants per household.

One thing to note is that any setback or area requirements (see 3. Outdoor Cultivation below) will likely be more difficult to meet 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. 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. 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.

Limiting the visibility of marijuana plants from any area with general public access is a requirement of Measure 91.

- b. Screen marijuana plants to limit view from adjacent residential properties with a solid wood fence or masonry wall. For fence and wall design requirements, see section 18.4.4.060.
- c. Locate marijuana plants at least ten feet from any property line.
- d. Locate marijuana plants at least 20 feet from dwellings on adjoining properties. Plants must also be located at least 20 feet from any multifamily dwelling within a multifamily development.
- e. A maximum of 100 square feet of yard area may be used for growing marijuana plants and any processing, keeping, or storage of homegrown marijuana that occurs outside of a dwelling or accessory structure.

***Issue 3 Setbacks and Area:** As a starting point for discussion, staff used the setbacks that are required for enclosures for housing micro-livestock in a residential district in 18.2.5.040.E. In addition, staff included a square footage requirement for the maximum yard area allowed for outdoor cultivation, processing, keeping, or storage of homegrown marijuana.*

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

Examples of required setbacks to marijuana plants in land use ordinances appear to primarily be in county situations. In general, the minimum lot sizes in counties are substantially larger than in cities. A sample of some of the setback requirements is included in the table below.

| Local Jurisdiction | Lot Size OR # of Plants | Total Cultivation Area Allowed | Setback from Property Lines | Setback from Adjacent Residences |
|---------------------------|---|---------------------------------------|------------------------------------|---|
| Central Point, OR | Outdoor cultivation prohibited and marijuana cultivation, production, processing, or possession must be conducted in a fully enclosed area (adopted May 28, 2015) | | | |
| Jacksonville, OR | Outdoor cultivation prohibited and marijuana cultivation, production, processing, or possession must be conducted in a | | | |

| Local Jurisdiction | Lot Size OR # of Plants | Total Cultivation Area Allowed | Setback from Property Lines | Setback from Adjacent Residences |
|---------------------|---|--------------------------------|-----------------------------|----------------------------------|
| | fully enclosed area (ordinance going to City Council for vote at time of writing) | | | |
| Shasta County, CA | less than 1 acre | 60 square feet | 15 | 30 |
| | 1 to under 2 acres | 100 square feet | 50 | 75 |
| | 2 to under 5 acres | 150 square feet | 100 | 75 |
| Siskiyou County, CA | 3 or fewer plants | NA | 20 | NA |
| | 4 to 6 plants | NA | 30 | NA |
| | 7 to 9 plants | NA | 40 | NA |
| | 10-12 plants | NA | 50 | NA |
| | More than 12 plants | NA | 150 | NA |

4. Indoor Cultivation. Any structure, accessory structure, electrical service, or mechanical equipment (e.g., 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
5. 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.
- a. The property owner or designated property manager 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.
- i. Property owner, property manager, or home owner association representative contact information including the name, address, and phone number(s).
- ii. 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.

iii. 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.

b. The area in which marijuana plants are grown shall be continuously maintained regardless of any change of building tenancy or property ownership.

6. 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.

7. Marijuana cultivation must 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).

8. Nuisances.

This section would likely be located in Ashland Municipal Code (AMC) 9.08 Nuisances. Staff is working with the Legal Department to coordinate this portion of any upcoming ordinance amendments.

a. Homegrown marijuana cultivation shall not cause or create any odor, light, or noise which is so harsh, prolonged, or unusual in time or place as to cause unreasonable discomfort to any persons or their guests in any adjacent dwelling unit or property.

b. Standard. The standard for judging odor, light, and noise nuisances resulting from growing marijuana shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the following factors.

i. The character of the neighborhood in which the nuisance occurs.

ii. The proximity of the odor, light, or noise to sleeping facilities.

iii. The time of day or night the odor, light, or noise occurs.

iv. The duration of the odor, light, or noise.

v. Whether the odor, light, or noise is recurrent, intermittent, or constant.

vi. The land use, nature, and zoning of the area from which the nuisance emanates and the where it is received or perceived.

B. Commercial Marijuana Production. [Placeholder]

C. Medical Marijuana Dispensary.

A1. Boulevard Location. Medical marijuana dispensaries are permitted subject to all of the following design standards.

1a. 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.

2b. 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.

- 3c.** 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.
- 4c.** The dispensary must not have a drive-up use.
- 5d.** 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.
- 6e.** 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~~ the Oregon Medical Marijuana Act (ORS 475.300 – ORS 475.346), and meets the requirements of OAR Chapter 333 Division 8 Medical Marijuana Facilities.

B2. 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.

- 1a.** 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.
- 2b.** 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.
- 3c.** 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.
- 4d.** The dispensary must not have a drive-up use.
- 5e.** 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.
- 6d.** 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~~ the Oregon Medical Marijuana Act (ORS 475.300 – ORS 475.346), and meets the requirements of OAR Chapter 333 Division 8 Medical Marijuana Facilities.

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 marijuana cultivation 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.

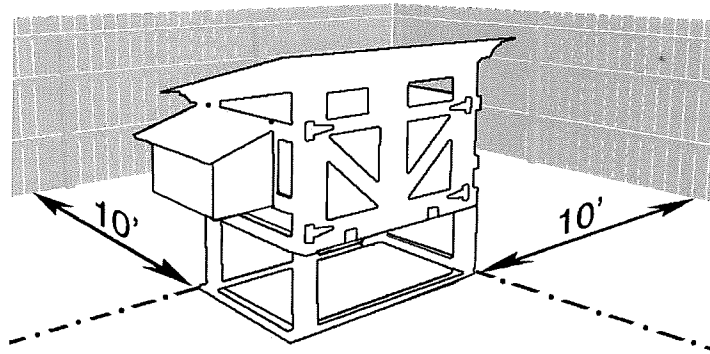


Figure 18.2.5.040.E.2
Micro-Livestock Enclosure/Minimum Setback to Property Line

- 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:

Commercial Marijuana Cultivation. An activity related to the planting, cultivation, growing, or harvesting of marijuana for commercial purposes and licensed as a marijuana producer under the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act or permitted as a medical marijuana grower under the Oregon Medical Marijuana Act (ORS 475.300 – ORS 475.346).

Homegrown Marijuana. Recreational or medical marijuana plants planted, cultivated, grown, and harvested by a household on any lot occupied solely by one on more dwelling units as permitted by the Oregon Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act or the Oregon Medical Marijuana Act (ORS 475.300 – ORS 475.346)

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

The definitions above are based on the definitions and language in Measure 91.

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

FAQs

Recreational Marijuana



Recreational Marijuana in General

Q: What is the purpose of legalizing recreational marijuana?

A: As stated in Measure 91, the purpose of the Act is to:

- Eliminate the problems caused by the prohibition and uncontrolled manufacture, delivery, and possession of marijuana within this state;
- Protect the safety, welfare, health, and peace of the people of this state by prioritizing the state's limited law enforcement resources in the most effective, consistent, and rational way;
- Permit persons licensed, controlled, regulated, and taxed by this state to legally manufacture and sell marijuana to persons 21 years of age and older, subject to the provisions of this Act;
- Ensure that the State Department of Agriculture issues industrial hemp licenses and agricultural hemp seed production permits in accordance with existing state law;
- Establish a comprehensive regulatory framework concerning marijuana under existing state law.

Q: What does Measure 91 do?

A: Measure 91 allows Oregonians to grow limited amounts of marijuana on their property and to possess limited amounts of recreational marijuana for personal use beginning July 1, 2015 under Oregon law. The measure also gives OLCC authority to tax, license and regulate recreational marijuana grown, sold, or processed for commercial purposes. The OLCC does not regulate the home grow/personal possession provisions of the law. The OLCC will begin accepting applications for growers, wholesalers, processors and retail outlets on January 4, 2016

Q. When will Measure 91 go into effect?

A. The home grow/personal possession provisions of the measure start on July 1, 2015. However, the OLCC won't begin accepting license applications from those who want to commercially grow, process, wholesale or operate retail marijuana outlets until January 4, 2016. The ability to buy marijuana at a retail outlet is not expected to start until the fall of 2016.

Q. Who will implement the initiative?

A. The initiative designates the Oregon Liquor Control Commission as the state agency that will regulate the commercial growing and selling of recreational marijuana. It also gives the OLCC authority to tax, license and regulate commercial recreational marijuana operations. The OLCC has no authority to regulate or enforce the home grow/personal possession provisions of the law.

Q: How can I get a job with OLCC in the new marijuana program?

A: OLCC posts job opportunities on the www.Oregonjobs.org website. Interested applicants can fill out a [Job Interest Card](#) to receive email alerts about job openings at OLCC. You can also sign up for email alerts about OLCC job opportunities through our [website](#).

Q: Can Measure 91 be changed?

A: Yes. Since the measure is a statutory one instead of constitutional, any of its provisions can be changed by the Oregon Legislature, which is currently in session and will be until July 11, 2015. The measure cannot be changed by the OLCC's rule making process.

Q: Where can I get more information?

A: As updates occur and information is available, we will share that information with you on this website. To keep up to date, [click here](#)

Q: What if I have additional questions?

A: Please send additional questions to marijuana@oregon.gov

Medical Marijuana

Q. What impact does Measure 91 have on the current Medical Marijuana Program?

A. None. Measure 91 states that the "Act may not be construed ... to amend or affect in any way the Oregon Medical Marijuana Act."

Q. Should I get a new OMMP card or renew my existing Card?

A. Only you as an individual can answer that question. The OLCC cannot advise you on this matter.

Q: What is the difference between recreational marijuana and medical marijuana?

A: Medical marijuana is for patients with qualifying medical conditions. Recreational marijuana, whether grown at a residence or obtained from a licensed retail outlet, is for personal use for adults 21 years of age or older. For more information on medical marijuana see www.mmj.oregon.gov

Personal Use

Q: When can I smoke/use recreational marijuana?

A: Starting July 1, 2015, Measure 91 allows Oregonians to grow up to four plants on their property, possess up to eight ounces of usable marijuana in their homes and up to one ounce on their person. Recreational marijuana cannot be sold or smoked in public. Until then, current marijuana laws in Oregon remain in place. Measure 91 requires OLCC to begin accepting license applications by January 4, 2016 for commercial growers, processors, wholesalers and retailers.

Q: Where and when can I buy marijuana?

A: Marijuana will be available for purchase through retail stores licensed by the OLCC sometime in the third quarter of 2016.

Q: Where and when can I buy edibles and extracts?

A: The OLCC has made the decision to take extra time to make sure that it gets the availability of edibles and extracts right. They will eventually be available at retail outlets licensed by the OLCC, but probably not at the same time that the stores are expected to open in the third quarter of 2016.

Q: How much marijuana can I have?

A: Beginning July 1, 2015, recreational marijuana users can possess up to eight ounces of useable marijuana and four plants per residence in Oregon. An individual can carry up to one ounce in public, but using marijuana in public is prohibited.

Q: What is meant by “useable” marijuana?

A: Useable marijuana refers to dried marijuana flowers or leaves. In other words, marijuana that is ready to smoke.

Q: Can I grow marijuana at home and when?

A: Yes, with limits. The act allows home grow of up to four plants per residence beginning July 1, 2015, regardless of how many people live in the residence. Four adults in one residence does not mean 16 plants. The limit is four per residence.

Q: Where can I obtain marijuana seeds or starts after July 1, 2015?

A: The OLCC can provide no guidance on that issue.

Q. Can a landlord tell tenants not to grow recreational marijuana or smoke it rental units?

A. Measure 91 does not affect existing landlord/tenant laws.

Q: What if an employer requires drug testing?

A: Measure 91 does not affect existing employment law. Employers who require drug testing can continue to do so.

Q: Can I smoke marijuana in a bar/restaurant?

A: No. Marijuana cannot be smoked or used in a public place.

Q: What is the definition of a public place?

A: Measure 91 defines a public place as “a place to which the general public has access and includes, but is not limited to, hallways, lobbies, and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.”

Q: Who can smoke recreational marijuana? What is the minimum age?

A: As of July 1, 2015, anyone 21 years of age and old and consume recreational marijuana in Oregon. Marijuana use or possession of recreational marijuana by anyone under 21 years of age is illegal. That includes home consumption.

Q: Who will enforce recreational marijuana laws?

A: Enforcement of the home grow/personal possession provisions of Measure 91 will be at the discretion of local jurisdictions, the state police and possibly other law enforcement agencies. The OLCC is responsible for enforcement actions against businesses that the OLCC licenses to grow, process, wholesale and sell recreational marijuana and related products.

Q: How much will recreational marijuana cost?

A: The retail price of recreational marijuana will be determined through a competitive marketplace.

Q: Can Oregon recreational marijuana be taken to the state of Washington where it is also legal?

A: No. Taking marijuana across state lines is a federal offense.

Q: How will children be protected from recreational marijuana and marijuana products?

A: Measure 91 prohibits the sale of recreational marijuana to anyone under the age of 21. The act also gives OLCC authority to regulate or prohibit advertising. In writing the rules necessary to implement the new law, the OLCC may also regulate packages and labels to ensure public safety and prevent appeal to minors.

Q: Can I get a DUII while under the influence of marijuana?

A: Yes. Current laws for DUII have not changed. Driving under the influence of intoxicants (DUII) refers to operating a motor vehicle while intoxicated or drugged, including impairment from the use of marijuana. In addition, Measure 91 requires OLCC to examine, research and present a report to the Legislature on driving under the influence of marijuana. The OLCC will do this in conjunction with the Department of Justice Criminal Investigation Division and Oregon State Police.

Q: Can I lose my job for using marijuana?

A: Passage of measure 91 does not change existing employment law in Oregon.

Q: Where will marijuana stores be located?

A: Measure 91 does not address siting requirements. Location of commercial recreational marijuana businesses will be determined by legislative action, local action or through the OLCC rule-making process. To keep up to date, [click here](#)

Q: Who collects the tax on recreational marijuana?

A: Under the provisions of Measure 91, the OLCC is required to collect the tax on recreational marijuana at the grower level.

Q: How is Washington state's recreational marijuana law different than Oregon's?

A: See [Oregon/Washington/Colorado Comparison](#)

Licensing

Q: What licenses will be available?

A: The measure lists four types of recreational marijuana licenses: Producer, Processor, Wholesaler, and Retail. A producer is also known as the grower. A processor is a business that will transform the raw marijuana into another product or extract. Processors are also responsible for packaging and labeling of recreational marijuana. A wholesaler is a business that buys in bulk and sells to resellers rather than to consumers. A retailer is a business that sells directly to consumers.

Q: When will the OLCC begin accepting license applications?

A: The measure requires OLCC to begin accepting license applications for recreational marijuana by January 4, 2016.

Q. How will OLCC decide to grant or deny license applications?

A. Undetermined at this point. The OLCC is in the process of writing the rules necessary to implement Measure 91. The agency has appointed an advisory committee that will write the rules and send its recommendations to the Commission sometime this fall for approval.

Q: If I want to apply for a recreational marijuana license, what should I do now?

A: Be patient. The OLCC won't be accepting applications until January 4, 2016. In the meantime, to keep up to date on process, [click here](#)

Q: How much are the licensing fees?

A: Measure 91 establishes an annual license fee of \$1,000 plus a non-refundable application fee of \$250 per license application.

Q: How many licenses can I have?

A: A licensee may hold multiple licenses and multiple license types.

Q: Can an out-of-state resident hold an Oregon recreational marijuana license?

A: Measure 91 does not specifically address this question. However, the issue of residency may be addressed by either the Oregon Legislature or by the OLCC through the rule-making process.

Q: Who will be eligible for a marijuana license?

A: Anyone over 21 years of age and older will be eligible for a recreational marijuana license if they meet certain conditions outlined in section 29 of Measure 91. Under those conditions, the OLCC may refuse a license if it believes the applicant:

- Is in the habit of using alcoholic beverages, habit-forming drugs, marijuana, or controlled substances to excess.
- Has made false statements to the commission.
- Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.
- Has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license.
- Has maintained an insanitary establishment.
- Is not of good repute and moral character.
- Did not have a good record of compliance with sections 3 to 70 of this Act or any rule of the commission adopted pursuant thereto.
- Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business which have not been disclosed.
- Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.
- Is unable to understand the laws of Oregon relating to marijuana or the rules of the commission.

Q: What if my city/county wants to go "dry?"

A: Measure 91 states that local governments may not prohibit licenses in their jurisdiction except with a vote at a general election. Measure 91 allows local governments to adopt reasonable time, place and manner restrictions to regulate public nuisance.

Q: What kinds of testing will OLCC require?

A: Undetermined at this point. Under Measure 91, the OLCC has the authority to set testing requirements, but this is a policy question that will be determined during the rule-making process, including legislative and public input.

Retail Stores

Q: When will marijuana stores be open?

A: Undetermined at this point, but the most likely time is during the third quarter of 2016.

Q: Will the OLCC distribute marijuana out of a central warehouse?

A: No. Measure 91 clearly states that the OLCC “has no authority to purchase, own, sell or possess any marijuana items.” The OLCC’s primary responsibility is to collect taxes and to license and regulate producers, processors, wholesalers, and retailers.

Q: Will there be a quota for how many retail outlets will be allowed?

A: The measure does not specifically address the number of retail outlets allowed. Specifics for licensing retail outlets will be part of the rule-making process that is currently underway.

Q: What will OLCC be doing to get ready for marijuana-related businesses?

A: The OLCC has held listening sessions throughout the state to gain a better understanding of what Oregonians expect in the implementation of Measure 91. In addition to getting legislative approval of the marijuana budget for 2015-17 and preparing to hire staff for the program, the OLCC has also selected a vendor to build the online application process and finding a second vendor for the traceability (seed-to-sale) system to track recreational marijuana. The OLCC has appointed an advisory committee to help write the rules necessary to implement Measure 91 and several subgroups to address specific issues. The goal is have the rules adopted by October or November of this year, after which the agency will hold seminars around the state to familiarize people with the application process in advance of accepting applications on January 4, 2016.

Taxes

Q: How much are the taxes?

A: Measure 91 provides for an excise tax that is paid by the producer (grower) of \$35 per ounce for flowers, \$10 per ounce for leaves, \$5 per immature plant.

Q: How much money will marijuana bring in taxes?

A: In its 2015-17 requested budget for the marijuana program, the OLCC estimated revenue for the two-year period to \$18.4 million. That revenue would come from application and licensing fees and the sale of recreational marijuana.

Q: Where will the tax money go?

A: Measure 91 provides distribution of revenue after costs to the following:

- 40 percent to Common School Fund
- 20 percent to Mental Health Alcoholism and Drug Services
- 15 percent to State Police
- 10 percent to Cities for enforcement of the measure
- 10 percent to Counties for enforcement of the measure
- 5 percent to Oregon Health Authority for alcohol and drug abuse prevention

April Lucas

From: Diana Shiplet [shipletd@ashland.or.us]
Sent: Wednesday, March 25, 2015 1:52 PM
To: 'Carol Voisin'; 'Dave Kanner'; 'Greg Lemhouse'; 'John Stromberg'; 'Michael Morris'; 'Pam Marsh'; 'Rich Rosenthal'; stefani seffinger
Cc: 'Bill Molnar'; 'April Lucas'; Khiller@nwlink.com
Subject: FW: Let Us Know Submitted

Council, I am forwarding this message to you, which was received via our website. -Diana

Diana Shiplet, Executive Assistant
City of Ashland, Administration Department
20 East Main Street, Ashland, OR 97520
541-552-2100 or 541-488-6002, TTY 800-735-2900

This email transmission is official business of the City of Ashland, and is subject to Oregon Public Records law for disclosure and retention. If you have received this message in error, please contact me. Thank you.

From: City of Ashland, Oregon [<mailto:ann@ashland.or.us>]
Sent: Wednesday, March 25, 2015 1:28 PM
To: administration@ashland.or.us
Subject: Let Us Know Submitted

*** FORM FIELD DATA ***

email: Khillier@nwlink.com

Name: **Karen Hiller**

Report a Problem: **We are owners of 980 Ivy Lane and would like to say, in the strongest terms, that there must be very strict laws on where marijuana is allowed to be grown in Ashland. One cannot use this outdoor areas nor sell their home if marijuana is grown in the vicinity. I believe the 4 plants for personal use must be grown indoors and no outdoor growth should be allowed. Karen Hiller 425-891-6434**

*** USER INFORMATION ***

SubscriberID: -1

SubscriberUserName:

SubscriberEmail:

SessionID: 361574038

RemoteAddress: 66.55.92.75

RemoteHost: 66.55.92.75

RemoteUser:

April Lucas

From: Diana Shiplet [shipletd@ashland.or.us]
Sent: Tuesday, March 24, 2015 9:55 AM
To: AdrienneSiPDX@gmail.com
Cc: 'Bill Molnar'; 'April Lucas'; 'Ann Seltzer'; 'Carol Voisin'; 'Dave Kanner'; 'Greg Lemhouse'; 'John Stromberg'; 'Michael Morris'; 'Pam Marsh'; 'Rich Rosenthal'; stefani seffinger
Subject: FW: Let Us Know Submitted

Adrienne,

Thank you for your comments. I am forwarding them to the city council, as well as our community development department. -Diana

Diana Shiplet, Executive Assistant
City of Ashland, Administration Department
20 East Main Street, Ashland, OR 97520
541-552-2100 or 541-488-6002, TTY 800-735-2900

This email transmission is official business of the City of Ashland, and is subject to Oregon Public Records law for disclosure and retention. If you have received this message in error, please contact me. Thank you.

From: City of Ashland, Oregon [<mailto:ann@ashland.or.us>]
Sent: Tuesday, March 24, 2015 9:34 AM
To: administration@ashland.or.us
Subject: Let Us Know Submitted

*** FORM FIELD DATA ***

email: AdrienneSiPDX@gmail.com

Name: **Adrienne Simmons**

Report a Problem: **I know this isn't the right place to provide this input, but I want to express my support for restrictions on growing marijuana outside. I wouldn't have had an opinion on this if I hadn't lived in a house that backed up to someone who had medical marijuana. When the plants were near time for harvest, the skunk smell was so unpleasant we couldn't sit outside on the patio (and that's when the weather is good, and you want to be able to sit outside). The terrible smell also makes it very difficult to sell a house if you have someone in close proximity to outdoor marijuana. If it didn't have a terrible smell I wouldn't care. But it does. We have ordinances about barking dogs, loud parties, and other nuisances. The smell is also a nuisance. Thanks for asking for public input.**

*** USER INFORMATION ***

SubscriberID: -1

SubscriberUserName:

SubscriberEmail:

SessionID: 184616247

RemoteAddress: 66.241.73.187

RemoteHost: 66.241.73.187

RemoteUser: