



## Planning Commission Staff report

**To:** Planning Commission      **Meeting Date:** May 14, 2019  
**From:** Carolyn Johnson, Community Development Administrator  
**Subject:**      **Agenda Item 3B.**  
Amending CBMC Title 17 to expand regulations for growing of marijuana and update other marijuana regulations.

As shared with the Commission on April 9, 2019, the City Council seeks marijuana tax revenue funds in the very near future, requiring land use regulation amendments to allow indoor growing of marijuana. Once the City has the appropriate regulations in place, quarterly tax revenues from the Oregon will be available to Coos Bay. To secure the state marijuana business tax revenue of approximately \$45,000 - \$60,000 a year, the City must adopt regulations for marijuana growing. Additionally, the City's marijuana land use regulations for processing and retail/wholesale sales should also be updated to reflect current state requirements.

The draft modified Title 17 regulations attached would:

- 1) Define and identify the variety of marijuana type businesses in the City with a modification of a number of definitions.
- 2) Allow indoor growing of marijuana in the City's Industrial Commercial area as a permitted use with development standards and criteria for staff use in assessment of applications. Outdoor marijuana growing is not compatible with the City's urban setting and would be prohibited.
- 3) Specify a 1,000-foot distance between any type of marijuana business and a limit on the business size of no more than 5,000 square feet.
- 4) Require site plan review by staff.
- 5) Require light and glare mitigation, building code compliance, compliance with State requirements and a prohibition of outdoor storage would be required.
- 6) Specify that a property owner would be required to sign a waiver of any claim to hold the City responsible for any impact of state or federal enforcement action.
- 7) Assure marijuana sales could not include those in a drive-up facility or use.

**17.150      Definitions      new text      ~~deleted text~~**

~~**Agricultural uses** – The use of the land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and wineries, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of normal agricultural activities; and provided further, that the above uses shall not include slaughterhouses and meat packing or commercial feeding of animals.~~

**Agricultural indoor uses** – The indoor use of soil or water for the growing of plants that can be harvested for profit or subsistence.

**Agricultural outdoor uses** – Except for growing of marijuana, the outdoor use of soil or water for the organic growing of plants that can be harvested for profit or subsistence.

~~Marijuana processing – As defined under ORS 475B.015(25)(a) – Cannabis.~~

Marijuana. The plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and marijuana seeds.

Marijuana Related Businesses:

Marijuana processor. A commercial entity that processes marijuana by the compounding or conversion of marijuana into cannabinoid products, concentrates or extracts.

Marijuana producer. A commercial entity who manufactures, cultivates, grows and/or harvests marijuana indoors.

Marijuana retail sales. A commercial entity who sells marijuana

Marijuana wholesaler. A commercial entity that purchases marijuana products in Oregon for resale to a person or persons other than a consumer.

Organic – the production of plants without the use of pesticides, synthetic fertilizers, sewage sludge, genetically modified organisms, or ionizing radiation.

## **17.350 Supplemental standards**

### **17.335.080 Indoor Marijuana-Related Businesses.**

1. Marijuana-related businesses may be operated indoors only and shall meet all of the following requirements:

a. Location. The business must be located in a permanent building in the Industrial Commercial zone and may not be located in a trailer, cargo container, motor vehicle, recreational vehicle, manufactured home, greenhouse, building designed and defined by the Building Code as a residence, nor within 1,000 feet of any residential use in any zone of the City nor within 1,000 feet of another marijuana related business of the same type.

For the purposes of determining the distance between a marijuana related-business and another marijuana-related business and a marijuana business and a residential use, “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 marijuana related- business to the closest point anywhere on the premises of a proposed marijuana-related business of the same type. If any portion of the premises of a proposed marijuana related-business is within 1,000 feet of an approved marijuana related business of the same type, it may not be approved. For the purpose of this section, premises

are 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. Outdoor Storage. Outdoor storage for merchandise or any material associated with a marijuana business is prohibited.

c. Site Plan review consistency. Modifications to the subject site or exterior of a building housing the business must be consistent with Zoning Code Section 17.365, Site Plan review.

d. Design criteria for processing and production facilities are subject to the following site and building design criteria:

1. Security bars or grates on windows and doors are prohibited.
2. Building frontage on Highway 101 / Bayshore Drive shall include exemplary design and is subject to review by the Design Assistance Team.

e. Disposal. 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.

f. Light and Glare. For production of marijuana, shield lighting systems and use window coverings are required to confine light and glare from light systems so as to confine light and glare to the interior of the structure.

g. 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.

h. Property owner claim waiver requirement. The property owner of a structure in which an indoor marijuana business is to be located 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 agree 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 in CBMC Title 17 Table 17.235.020-I-C.

i. 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.

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

k. Drive-up Use. A marijuana retail sales outlet shall not include a drive-up facility or use.

Revise use table in the Industrial Commercial zone 17.235.020-I-C uses as follows:

**Table 17.235.020 – I-C Uses**

<b>Use</b>	
<b>Manufacturing</b>	
<u>Marijuana-related businesses subject to the requirements of Section 17.335.080</u>	<u>P</u>
<del>Marijuana processing</del>	
<b>Other Uses</b>	
<u>Agricultural uses indoors</u>	<u>P</u>
<u>Agricultural uses outdoors</u>	<u>C</u>
<del>Agricultural uses</del>	<del>X</del>

Revise use table in the Commercial Districts

**Table 17.230.020 - Uses**

<b>Use</b>	<b>C</b>	<b>MX</b>
<b>Services – Personal</b>		
<u>Marijuana retail sales subject to the requirements of Section 17.335.080</u>	<u>P</u>	<u>P</u>
<del>Marijuana processing</del>		