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**CHAPTER 11 MARIJUANA PRODUCTION, PROCESSING, WHOLESALING, AND
RETAILING**

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CHAPTER 11 **MARIJUANA PRODUCTION, PROCESSING, WHOLESALING, AND RETAILING**

SECTION 11.010 **PURPOSES**

This chapter describes the requirements for establishing marijuana businesses, including all medical and recreational marijuana production, processing, wholesaling, and retail uses in Wasco County. The goals of this chapter are to:

- Establish reasonable time, manner and place requirements for new business that produce, process, wholesale or retail marijuana.
- Provide clear and objective standards for marijuana businesses;
- Minimize conflict with other permitted uses in underlying zones;
- Protect resources identified in the Wasco County Comprehensive Plan; and
- Protect the public health, safety, and general welfare of the citizens of Wasco County.

SECTION 11.020 **APPLICABILITY**

- A. Marijuana production, processing, wholesaling and retailing uses are only allowed if they are specifically listed as an allowed use in Chapter 3 under the zoning section that directly applies to the subject (legally created) property(ies).
- B. Marijuana production, processing, wholesaling, and retailing are prohibited uses in all Wasco County Residential or Rural Residential zones (R-R (2), R-R (5), R-R (10), RC-TV-R, RC-Wam-R2, and RC-Wam-R5), Farm Forest zones (F-F) and Agriculture Recreation zones (A-R).
- C. Marijuana production, processing, wholesaling and retailing are prohibited as a home occupation in any zone.
- D. Marijuana production in the Exclusive Farm Use zone (A-1) must comply with all provisions of Chapter 11.

SECTION 11.030 **PROCEDURES**

Marijuana uses are allowed as specified in the applicable zone.

SECTION 11.040 **MARIJUANA PRODUCTION AND MARIJUANA PROCESSING**

Marijuana production and marijuana processing shall be subject to the following standards and criteria:

- A. **Minimum Yard Depth.** No land area or structure used for marijuana production or marijuana processing shall be located closer than 200 feet from any lot line.
- B. **Access.** The subject property shall have frontage on, and direct access from, a constructed public, county, or state road, or take access on an exclusive road or easement serving only the subject property. If property takes access via a private road

or easement which also serves other properties, evidence must be provided by the applicant, in the form of a petition, that all other property owners who have access rights to the private road or easement agree to allow the specific marijuana production or marijuana processing described in the application. Such evidence shall include any conditions stipulated in the agreement.

- C. **Security Cameras.** If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with licensing requirements of the Oregon Liquor Control Commission or registration requirements of the Oregon Health Authority.
- D. **Odor.** A building used for marijuana production or marijuana processing shall be equipped with a carbon filtration system for odor control.
 - 1. The system shall consist of one or more fans and filters.
 - 2. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the square footage of the building floor space (i.e., one CFM per square foot of building floor space).
 - 3. The filter(s) shall be rated for the applicable CFM.
 - 4. The filtration system shall be maintained in working order and shall be in use.
 - 5. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.
- E. **Lighting.** Lighting shall be regulated as follows:
 - 1. Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
 - 2. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
 - 3. Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall not spill onto adjacent lots.
- F. **Water.** The applicant shall submit proof of a legal water source for the proposed marijuana production or marijuana processing. Proof could include, but is not limited to, a copy of a water right that serves the proposed use or a letter from the irrigation district, municipal water provider or the Watermaster.
- G. **Waste Management.** Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the licensee.

SECTION 11.050 MARIJUANA RETAILING

Marijuana retailing shall be subject to the following standards and criteria:

- A. **Hours.** A marijuana retailer may only sell to consumers between the hours of 8:00 a.m. and 10 p.m. and may only permit consumers to be present in the building space occupied by the marijuana retailer between the hours of 8:00 a.m. and 10 p.m.
- B. **Odor.** A building used for marijuana retailing shall be equipped with a carbon filtration system for odor control.
 - 1. The system shall consist of one or more fans and filters.
 - 2. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to one-third of the square footage of the building floor space (i.e., one CFM per three square feet of building floor space).
 - 3. The filter(s) shall be rated for the required CFM.
 - 4. The filtration system shall be maintained in working order and shall be in use.
 - 5. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.
- C. **Window Service.** The use shall not have a walk-up window or drive-thru window service.
- D. **Waste Management.** Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the licensee.
- E. **Minors.** No one under the age of 21 shall be permitted to be present in the building space occupied by the marijuana retailer, except as allowed by state law.
- F. **Co-Location of Related Activities and Uses.** Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.
- G. **Minimum Separation Distances.** Minimum separation distances shall apply as follows:
 - 1. The use shall be located a minimum of:
 - a. 1,000 feet from a public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.020, including any parking lot appurtenant thereto and any property used by the school; or a private or parochial elementary or secondary school, teaching children as described in

- ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
- b. 1,000 feet from a public park, public playground, government-owned recreational use, public library, licensed treatment center, or multifamily dwelling owned by a public housing authority.
 - c. 1,000 feet from a licensed daycare facility or licensed preschool, including any parking lot appurtenant thereto and any property used by the daycare facility or preschool;
 - d. 1,000 feet from an established church, including church schools;
 - e. 200 feet from any residentially zoned property; however, this provision shall not apply if the subject property has street frontage on a principal interstate, principal expressway, principal arterial, or major arterial.
2. If the use is licensed by the Oregon Liquor Control Commission (OLCC) pursuant to [insert reference from Oregon Laws], it shall be located a minimum of 1,000 feet from any other marijuana retailer so licensed by the OLCC.
 3. If the use is registered with the Oregon Health Authority (OHA) pursuant to [insert reference from Oregon Laws], it shall be located a minimum of 1,000 feet from any other marijuana retailer so registered with the OHA.
 4. For purposes of Subsection 11.050(G)(1), distance shall be measured from the lot line of the affected property (e.g., a school) to the closest point of the building space occupied by the marijuana retailer. For purposes of Subsections 11.050(G)(2) and (3), distance shall be measured from the closest point of the building space occupied by one marijuana retailer to the closest point of the building space occupied by the other marijuana retailer.
 5. A change in use (including a zone change) to another property to a use identified in Subsection 11.050(G) after a complete application for marijuana retailing has been filed, shall not result in the marijuana retailer being in violation of Subsection 11.050(G).
 6. Subsection 11.050(G) does not apply to:
 - a. Any marijuana retailer that applied for a registration with the Oregon Health Authority and has subsequently obtained full, unconditional approval on or before the adoption date of this ordinance (Chapter 11).
 - b. Any marijuana retailer operating in a building space that was approved for operation by the Oregon Health Authority on or before the adoption date of this ordinance (Chapter 11) and where approved marijuana retailing activities have been continuously occurring in that building space since approval.
 7. In case of a conflict under Subsection 11.050(G)(2) or (3), any person who has received approval of a land use permit for marijuana retailing, shall be deemed to have established marijuana retailing at the approved location, so long as the

marijuana retailer begins operation within two years of the date of the County's final decision on land use permit application. If more than one application is in process with the County at one time, the County shall issue decisions in the order in which complete applications were filed.

SECTION 11.060 APPROVAL PERIOD

- A. Approval of a permit under Chapter 11 is valid for two (2) years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this two-year period, the approval shall be implemented, or the approval will become void.
 - 1. Implemented for production and processing means all major development permits shall be obtained and maintained for the approved conditional use. If no major development permits are required to complete the development contemplated by the approved conditional use, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained. A major development permit is:
 - a. A building permit for a new primary structure that was part of the approved development; or
 - b. A permit issued by the County for parking lot or road improvements required by the approved development.
- B. Approval of a permit under Subsection 11.050 (retailing) is valid for two years from the date of the County's final decision. During this two-year period, the approval shall be implemented, or the approval will become void. Implemented means that the marijuana retailer has begun operation and is open for consumer business. Notwithstanding this two-year implementation period, a complete application for a marijuana retailing license shall be filed with the Oregon Liquor Control Commission, or a complete application for a medical marijuana dispensary registration shall be filed with the Oregon Health Authority, within three months of the date of the County's final decision, or the approval will become void.