



COMMUNITY PLANNING, DEVELOPMENT & INNOVATION

Development Services Division

435 RYMAN | MISSOULA. MT 59802-4297 | 406.552.6630 | FAX 406.552.6053

MEMORANDUM

TO:

Jim Nugent / City Attorney
Marty Rehbein / City Clerk
Dax Fraser, Adam Sebastian / City Fire Department
Shannon Therriault / Health Department
Ben Schmidt / Air Quality Division
Missoula Valley Water Quality District
Donna Gaukler, Neil Miner, and Grant Carlton / City Parks Department

Nate Gordon / Wastewater Treatment Plant
Jaeson White, Ryan Kamura, Richard Stepper / City Police Department
Jeremy Keene, Troy Monroe, Logan McInnis, Ross Mollenhauer / Public Works & Mobility
Corey Aldridge, Colin Woodrow / Urban Transportation District
Ellen Buchanan / MRA

CC:

John Engen, Mayor
City Council Members
Dale Bickell, City CAO
Sean McCoy, Chair, Planning Board
Brandon Prinzing, Chair, Design Review Board
Hans Hoffman, Chair, City Board of Adjustment
Missoula County REALTORS Association

Chamber of Commerce
Missoula Building Industry Association
Office of Neighborhoods
Interested citizens
Jim McDonald, Chair, Historic Preservation Commission
Downtown Missoula Partnership, Linda McCarthy
Missoula Economic Partnership

FROM: Cassie Tripard, Permits and Land Use Supervisor (CPDI)

DATE: October 7, 2021

RE: Seeking comment for the proposed Cannabis regulations, Title 20 – Missoula City Zoning Ordinance

The 2020 State Legislative session adopted new industry standards pertaining to the Cannabis/Marijuana industry. These changes specifically address state-wide recreational (adult-use) cannabis and legalized the cultivation, processing, transport, retail, and possession of recreational cannabis and cannabis products. The Montana State Department of Revenue will begin accepting applications from existing businesses licensed for medical cannabis to convert to adult-use cannabis business licensure on January 1, 2022. In anticipation of this date staff has drafted a set of regulations to address state changes and help regulate the industry locally. The proposed regulation revisions will be applied to both medical cannabis and recreations (adult-use) cannabis.

Title 20 Zoning Ordinance has classified medical cannabis in two ways: cultivation as an industrial manufacturing use and dispensaries as a commercial retail use. The retail use classification currently allows medical dispensaries to operate in all business,

commercial, and industrial zoning districts (B, C and M districts). Medical cannabis cultivation and production, classified as manufacturing, is permitted in commercial and industrial districts. Cultivation and production uses may also be permitted in the B zoning districts if the use is small in scale (Artisan manufacturing in B3) or approved through the conditional use process.

Proposed amendments to Title 20 include:

- Amending the allowed uses tables in the Business and Commercial Districts section as well as the Industrial and Manufacturing Districts section;
- Creation of Use- and Building Specific Standards for Cannabis in Section 20.40;
- Prohibiting the commercial cultivation of cannabis as a home occupation;
- Including specific definitions in the Terminology section; and,
- Amending the Commercial and Industrial Use Groups to address cannabis uses in these areas.

The attached document includes a general description, provides amendment language, and an explanation for each suggested amendment. Amendments are shown as strike-through and underline. For reference, the City zoning code (Title 20) can be viewed online at MuniCode:

https://library.municode.com/mt/missoula/codes/code_of_ordinances?nodeId=TIT20ZO

Information and amendments regarding these proposed regulations can also be found at Recreational Cannabis Land Use Regulation Update located on Engage Missoula here: <https://www.engagemissoula.com/recreational-cannabis-land-use-regulation-update>

Agency and interested citizen comments are needed to refine the proposed amendments. Comments received by Thursday, October 21, 2021 will be included in an informational packet to the Planning Board prior to their public hearing. Comments will continue to be taken by Planning Board after this time until the public hearing is closed. Written comments received by noon on Monday, November 1, 2021 will be forwarded under separate cover to Planning Board prior to their meeting.

After agency and public input, the Planning Board will review and provide recommendations to the City Council for their final review, recommendation, and decision. The Planning Board will hold a Special Presentation on Tuesday, October 19, 2021 beginning at 6:00 p.m., and a **public hearing on Tuesday, November 2, 2021** beginning at 6:00 p.m. Both presentations will be virtual. Should you wish to view and participate in the meeting please refer to the Citizen Participation Guide which is included with this notice.

Please forward your comments to Cassie Tripard, TripardC@ci.missoula.mt.us. Send a notice of *no comment* if you have none so the Planning Board and City Council are

aware of your participation. If you have problems viewing the document or have questions, please contact me via email or telephone at 406-552-6673.

Attachment

Proposed Cannabis regulations
Citizen Participation Guide



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Please provide any comments you may have by using the comment tab on the Recreational Cannabis Land Use Regulation Update page on the Engage Missoula

website. If you have problems viewing the document or have questions, please contact me via email or telephone at 406-552-6673.

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DRAFT: ORDINANCE (10-6-21)

A City of Missoula initiated ordinance generally amending Title 20, Missoula Municipal Code, the City Zoning Ordinance, to incorporate revisions in the following chapters: 20.10 Business and Commercial Districts, 20.15 Industrial and Manufacturing Districts, 20.40 Use- and Building-Specific Standards, 20.45 Accessory Uses and Structures, 20.100 Terminology, and 20.105 Use Classifications to incorporate regulations concerning legislative changes in the cannabis industry.

Be it ordained that Section 20.10.020 Table 20.10-1, Section 20.15.020 Table 20.15-1, Section 20.45.050E.11., Section 20.100.010, Section 20.105.040W, and Section 20.105.050D be amended as follows, and creation of Section 20.40.083.

20.10 – Business and Commercial Districts

20.10.020 – Allowed Uses

Table 20.10-1 Uses Allowed in Business and Commercial Districts

Use Category ^L specific use type	B1	B2	B3	C1	C2	CBD	Standards
COMMERCIAL							
....Table continues	P	P	P	P	P	P	20.40.170
Research Service	-	P	P	P	P	P	20.40.170
Retail Sales	P	P	P	P	P	P	20.40.170
^L Cannabis Dispensary	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>20.40.083</u>
Sports and Recreation, Participant (except as noted below)	-	-	-	P	P	P	
^L Casino	-	-	-	C	C	C	20.40.040 20.40.170
Table continues....							

Explanation:

In 2021, the State of Montana Legislature adopted language permitting and regulating recreational cannabis businesses. In response, local jurisdictions were encouraged to update any existing regulations to be in step with the State. For Missoula, this includes adding the use cannabis dispensary and noting the zoning districts and any additional regulations the use is subject to. The term dispensary will apply to both medical and recreational cannabis sales.

20.15 – Industrial and Manufacturing Districts**20.15.020 – Allowed Uses****Table 20.15-1 Uses Allowed in Industrial Districts**

Use Category ^L specific use type	M1R	M1	M2	Standards
COMMERCIAL				
....Table continues	P	P	P	20.40.170
Research Service	P	P	P	20.40.170
Retail Sales	P	P	P	20.40.170
^L Cannabis dispensary	<u>P</u>	<u>P</u>	<u>P</u>	<u>20.40.083</u>
Sports and Recreation, Participant (except as noted below)	P	P	P	
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Explanation:

In 2021, the State of Montana Legislature adopted language permitting and regulating recreational cannabis businesses. In response, local jurisdictions were encouraged to update any existing regulations to be in step with the State. For Missoula, this includes adding the use cannabis dispensary and noting the zoning districts and any additional regulations the use is subject to. The term dispensary will apply to both medical and recreational cannabis sales.

20.40 – Use- and Building-Specific Standards

20.40.083 – Cannabis

A. Applicability

These regulations apply to any cannabis use (medical or recreational), new or existing unless specifically exempted.

B. Dispensary

1. Location

Cannabis dispensaries shall be located a minimum distance of 500' from other cannabis dispensaries. Distances shall be measured from parcel line to parcel line and apply to ground floor dispensary businesses only.

2. Glazing

Glazed area requirements shall apply to that area of the ground floor building façade facing a public street, up to the finished ceiling height of the ground floor building façade. This section does not apply to parcels with a Design Excellence Overlay.

- a. Incorporate glazing including; windows, doors and other transparencies to encompass at least 30% of the ground floor building façade.
- b. Window and door glass meeting the following transparency standards counts as glazed area :
 - i. Visible light transmittance of 60% or more.
 - ii. External reflectance of 20% or less.
- c. Display windows that do not provide views into the interior of the building may be counted towards satisfying up to 50% of the minimum glazed area requirements, provided that they are internally illuminated and are at least two feet in depth.
- d. Security gates may obstruct a maximum of 25% of window area for any individual window counting toward glazed area.
- e. Darkly tinted, mirrored or highly reflective glazing or doors with less than 50% glass may not be counted toward minimum glazed area requirements.
- f. Interior walls and other interior visual obstructions are prohibited within six feet of any facade area counting toward glazed area. This distance is measured perpendicularly from the exterior face of the glazed area.

g. In the event that an existing structure does not meet the 30% glazing requirements, any existing glazing must be maintained.

h. In the event that these minimum glazed area requirements conflict with city building (energy) code requirements, the building (energy) code governs.

3. Exemptions

Ordinary maintenance and repair of existing structures shall be exempt from the requirements of this section. Ordinary maintenance does not include the replacement, modification, or addition of glazing.

Explanation:

Existing medical cannabis businesses have attempted to comply with State regulations prohibiting the visibility of product by covering the business windows, most commonly with tinting. This action has effect on the surrounding business district by creating “dead” zones for pedestrian interaction. The intent of this section is to have businesses comply with the State regulations by using different methods than window coverings/tinting; thereby promoting active building frontages, creating connection between public and private space, and implementing crime prevention through environmental design best practices.

Additionally, these regulations should allow a structure to go through a change of use and continue to use the existing glazing without being required to add glazing or increase the transparency of existing glazing. Some methods for obscuring products may not be easily reversed. For example, if the existing glazing was tinted, the new business will not be required to remove the existing tinting, but could not decrease the opacity further.

20.45 – Accessory Uses and Structures

20.45.050 – Home Occupations

E. Standards

11. The following uses are expressly prohibited as home occupations :

- f. Restaurants;
- g. Funeral or interment services; ~~and~~
- h. Animal boarding businesses; and
- i. Commercial cannabis cultivation or manufacturing.

Explanation:

The intent of prohibiting cannabis cultivation and manufacturing as home occupation businesses is to ensure that impacts of cannabis businesses in residential zoning districts will not adversely affect the character and livability of the surrounding residential neighborhood. The regulations are also intended to ensure that the home occupation remains subordinate to the primary residential use, and that the residential viability of the dwelling is maintained.

The prohibition would apply only to new licenses for commercial cultivation and manufacturing businesses. Small medical cannabis cultivation and manufacturing home occupations have been permitted in the past. As long as they do not violate the provisions of the home occupation standards in the zoning code they will be considered legal non-conforming and allowed to continue operating until the use is abandoned.

20.100 – Terminology

20.100.010 – General Terms

Cannabis

A term used in this zoning code replacing the term “marijuana” used in state statutes and defined by the State of Montana (MCA §16-12-102). The term does not include hemp as defined in state law (MCA § 16-12-102).

Cannabis, Canopy

The total amount of square footage dedicated to live plant production at a registered premise consisting of the area of the floor, platform, or means of support or suspension of the plant.

Cannabis, Cultivation

The growing, harvesting, and curing of cannabis.

Cannabis, Dispensary

A retail facility where cannabis, and cannabis products are sold.

Cannabis, Manufacturing

The converting or compounding of cannabis into cannabis products, cannabis concentrates, or cannabis extracts.

Cannabis, Products

Products containing THC, derived from cannabis, for consumption. The term does not include hemp as defined in State law (MCA § 16-12-102).

Cannabis, recreational

A term used in this zoning code replacing the term “adult-use” used in state statutes and defined by the State of Montana (MCA §16-12-102).

Cannabis, Tier

The canopy square footage allotted by the State of Montana based on state guidelines found in MCA § 50-46-305.

Explanation:

The inclusion of cannabis uses in the zoning code requires the addition of new definitions pertaining to the industry.

20.105 – Use Classifications

20.105.040 – Commercial Use Group

W. —Retail Sales

Businesses involved in the sale, lease or rent of new or used products, merchandise to consumers. Typical uses include drug stores, grocery stores, department stores, apparel stores, and cannabis dispensaries.

Explanation:

Currently, dispensaries are treated as general retail and staff is recommending the inclusion of this business under the commercial use group as clarifying language allowing them to continue in these areas.

20.105.050 – Industrial Use Group

D. Manufacturing, Production and Industrial Services

1. Artisan

On-site production of goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment in a completely enclosed building with no outdoor operations or storage, and occupying no more than 3,500 square feet of gross floor area . Typical uses include woodworking and cabinet shops, cannabis cultivation (With a canopy area up to Tier 1, MCA § 50-46-305), ceramic studios, jewelry manufacturing, food manufacturing, and similar types of arts and crafts or very small-scale manufacturing uses that have no negative external impacts on surrounding properties.

2. Limited

Manufacturing of finished parts or products, primarily from previously prepared materials. Typical uses include: catering establishments, printing and related support activities; machinery manufacturing; food manufacturing; computer and electronic product manufacturing/assembly; electrical equipment, appliance, component manufacturing/assembly; furniture and related product manufacturing/assembly; and other manufacturing and production establishments that typically have very few, if any, negative external impacts on surrounding properties. Also includes cannabis cultivation (With a canopy area up to Tier 2, MCA § 50-46-305) and "artisan manufacturing/production" type uses that do not comply with the enclosed building, floor area and/or outside operations/storage criteria that apply to artisan manufacturing/production uses.

Commentary: Businesses with approved State Cannabis licenses will be allowed to split grow areas between multiple locations as long as the combined canopy area square footage of all locations does not exceed the maximum canopy area permitted in the applicable state licensing tier. Locally, the canopy square footage can be distributed on the ground to any number of parcels so long as the canopy area on a single parcel does not exceed the square footage maximum allowed by the zoning district, and does not exceed the State license requirements.

3. General

- a. Manufacturing of finished or unfinished products, primarily from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials. Typical uses include: textile mills; textile product mills; apparel manufacturing; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; chemical manufacturing; plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; transportation equipment manufacturing; primary metal manufacturing; ~~and~~ fabricated metal product manufacturing; and manufacturing of cannabis products. Also includes cannabis cultivation, medical, scientific or technology-related research establishments that produce odors, dust, noise, vibration or other external impacts that are detectable beyond the property lines of the subject property.

Explanation:

Cannabis cultivation and manufacturing are proposed to be manufacturing uses, scale based upon square footage. Medical cultivation and manufacturing have historically been called manufacturing uses based on the perceived impacts of the business on adjacent property. While the implementation of cultivation and manufacturing as a manufacturing use would not change, the definitions of the use will be clarified to include cultivation and manufacturing. The revisions would also take the scale of the operation into account when applying the appropriate manufacturing use classification type.

Codification instructions: Please remove all Explanation paragraphs prior to codification.

Effective date. The provisions of this ordinance shall be effective in 30 days after adoption.

Severability. If any selection, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

PASSED by a ___Ayes, ___Nays, Abstain and ___absent vote and
APPROVED by the Mayor this ___ day of ___, 2021.

ATTEST:

APPROVED:

Martha L. Rehbein

City Clerk

(SEAL)

John Engen

Mayor