



COMMUNITY PLANNING, DEVELOPMENT & INNOVATION

Development Services Division

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HB-701 (16.13 MCA) WHITE PAPER

CURRENT PLANNING — ZONING REGULATIONS — RECREATIONAL MARIJUANA LAND USE

Introduction

The recent state legislation, House Bill 701 and 16.13 MCA, legalized the cultivation, processing, transport, retail, and possession of adult-use marijuana and marijuana products. The Montana State Department of Revenue will begin accepting applications from existing businesses licensed for medical marijuana to convert to adult-use marijuana business licensure on January 1, 2022. In anticipation of this date, this white paper informs proposed amendments to the City of Missoula Title 20 Zoning Ordinance. New adult-use marijuana business licenses will not be available from the state until July 1, 2023. This white paper examines the history of legalization, the impacts of marijuana related uses on the public health, welfare, and safety, and recommendations for local land use regulations to facilitate the safe implementation of the newly adopted Montana State Legislation legalizing adult use marijuana. Staff recommend that the proposed regulation revisions be applied to both medical marijuana and adult-use marijuana.

Background

Since medical marijuana was legalized in 2004, the City's Title 20 Zoning Ordinance has classified medical marijuana 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 marijuana 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.

HB-701 provides for new marijuana related license and business types. The City of Missoula acknowledges that the change from medical marijuana to a slate of uses, including retail dispensaries and tiers for cultivation and manufacturing, currently are not adequately addressed in the Title 20 Zoning Ordinance. The change in state definitions for marijuana uses prompts the need to revise the Title 20 Zoning Ordinance based on research of potential impacts to neighborhoods, public health and safety, and urban form. The City of Missoula will prioritize equitable quality of life for all citizens when determining appropriate locations for marijuana related uses.

History, National (Stewart, 2019)

The cannabis plant has historically been used in two main capacities: hemp for material goods and marijuana as a recreational drug and an alternative pain management approach. Much of marijuana's contemporary history has been highly contentious, influenced heavily by the War on Drugs and fight to control narcotic abuse. Marijuana's medicinal benefits were not recognized until the 1996 legalization of medical marijuana in California. In 2012, Washington and Colorado were the first states to permit retail sale of recreational marijuana. They were followed by Alaska, Oregon, and Washington D.C. in 2014, California, Nevada, Maine, and Massachusetts in 2016, and Vermont and Michigan in 2018.

Local History, Context (ref. MPP)

Montana first legalized medical marijuana in 2004. The initial medical marijuana regulation in Montana was highly restricted, with providers often lacking clear guidance for navigating state and federal regulations. By 2011 there was widespread agreement to revise and clarify regulations, with some private and public officials pushing to repeal medical legalization. The repeal was vetoed and a new bill, SB 423, was proposed. This bill included strict measures limiting access to and compensation for medical providers. SB 423 was challenged in the State Court leading to a five-year legal

battle which ended with the courts ruling in favor of the restrictive law in February, 2016. In November of 2016, I-182 was approved which repealed some of the most restrictive characteristics of SB 423.

HB 701 was approved in November of 2020, legalizing recreational, adult-use marijuana within the state. Local jurisdictions must begin accepting adult-use license applications from existing medical providers and cultivators on January 1, 2022. On July 1, 2023 local jurisdictions shall begin accepting adult-use license applications from new businesses. The City of Missoula has recorded sixty-nine (69) active medical-marijuana business licenses as of August, 2021. Current medical marijuana business licenses include retailers, cultivators, and other production methods. Though Missoula's current Zoning Ordinance does not explicitly mention marijuana, licenses have been issued by applying use classifications best describing the business activities.

The City's *Our Missoula Growth Policy: 2035* will be considered during the development of this ordinance, including the following goals and actions:

Goals

- L5: Neighborhoods should have easy accessibility to amenities and local services to meet the needs of an expanding diverse population.
- L12: The unique identity of downtown will be maintained by preserving the historic and cultural elements that define the area and ensure that future development is compatible and appropriate.
- E6: Support strategic economic development efforts that broaden, expand, and/or diversify the base economy.
- Econ8: Recognize the unique challenges faced by local businesses and entrepreneurs in competing with national and regional chains and franchises.
- CD2: Support future development that enhances the unique character of Missoula.

Actions

- 1.16: Identify best practices for implementing crime prevention through environmental design.
- 5.21: Support home businesses, telework and mixed-use development.
- 6.26: Develop a clear direction and process to maintain the quality, development and history of the downtown historic district.
- 10.13: Identify appropriate locations for industrial uses and actively recruit manufacturing businesses.

Additional guidance and direction comes from goals contained in the *City Strategic Plan*:

Safety and Wellness

- Design and create programs, facilities and spaces that promote equity.

Community Design and Livability

- Create understandable and reasonable regulation that supports sustainable and equitable development.

Several of the 5 Big Ideas in the *2019 Downtown Master Plan* provides guidance specific to the greater downtown area and the Hip Strip:

Downtown needs to be more than one 'postcard' view.

- Improve urban design off of Higgins Avenue.
- Help the Hip Strip stay unique and be the next great downtown neighborhood.
- Make every Downtown neighborhood a complete neighborhood.

Stay original, stay authentic, be green, and create opportunity.

- Stay a place where people are physically happy, emotionally satisfied, and mentally at ease.
- Support local businesses.

Various guiding principles that are the foundation of the *Design Excellence Overlay* inform how we might evaluate this use within that overlay area.

Design for Missoula

- Missoula is a unique city with a strong sense of place. The City's special identity is part of what people love about it and that's what attracts people. A key part of this sense of place is the built environment. Each project in Downtown and the commercial Corridors should contribute to Missoula's strong sense of place by connecting, supporting and protecting its distinctive qualities. These include its natural resources, a vibrant, diverse community, distinct neighborhoods and the Downtown.

Encourage Architectural Diversity

- Architectural diversity is an important part of design in Missoula. This reflects decades of development and creativity. The design guidelines support this unique character, and reflect best practices in urban design.

Engage the Public Realm

- Development in Missoula must respect and engage the public realm to foster pedestrian activity and enhance the aesthetics of the Corridors and Downtown. The City Growth Policy urges projects to consider ways to address how development looks and interacts with the street system, while accommodating higher density housing on Corridors and promoting urban design that de-emphasizes the automobile and instead emphasizes pedestrian scale development.

Impacts of Marijuana-Related Uses

Neighborhood Character	Urban Form	Public Health and Safety
Improper mix of marijuana related uses and residential character	Saturation of dispensaries leading to a lack of diverse uses in a neighborhood	Carbon dioxide (CO ₂), Carbon monoxide (CO)
Odor and conversion of homes to marijuana related businesses	State requirement to obscure processes and products deactivating storefronts	IAQ (Volatile organic compounds) Pesticides, extractants, and fertilizer impacts on air quality, water quality and utility infrastructure Ventilation, mold, and odor Potential electrical and building code violations Noise related to mechanical equipment and alarms

Other Cities' Related Regulations

Everett, WA	<ul style="list-style-type: none"> Limited Zoning Options (Producers & processors: industrial only) (retail in business, mixed use, industrial) Higher Tiers prohibited within City Maximum of 8 marijuana retailers in the city Proximity buffering, 1,000 ft: Residential zones / Elementary or secondary schools / Playgrounds / Recreation center & facility / Child Care Center / Public Park / Public Transit Center / Library Game Arcade Proximity buffering, 2,500ft: other marijuana retailers No retailer on parcels containing residential use (exceptions apply)
Spokane, WA	<ul style="list-style-type: none"> growing not permitted as home occupation three license types: grow, process, retail -- can combine up to 2, NOT 3 Growing and processing -- industrial and one commercial zone State limits number of retail operations within jurisdictions Proximity buffering, 1,000ft: school-owned parcels, library-owned parcels
Renton, WA	<ul style="list-style-type: none"> no home occupation limited to 5 retail in city proximity buffer, 1,000ft: school, same as Everett no cultivation or manufacturing permitted within City
Fort Collins, CO	<ul style="list-style-type: none"> no home occupation mirror liquor for zones and locations no 'standalone' retail cultivations, must be associated with another license type mirror state law as much as is possible proximity buffering
Denver, CO	<ul style="list-style-type: none"> Location caps (451) Location lottery R&D License (permitting marijuana cultivation/manufacturing/transport for research and development) Equity programs
Kalispell, MT	<ul style="list-style-type: none"> No med within city limits Dispensaries (B-commercial) and Industrial zones Cultivation/Manufacturing in industrial zones <ul style="list-style-type: none"> o administrative conditional use permit Will probably allow home occupations Regulating like casinos and liquor stores
Helena, MT	<ul style="list-style-type: none"> cultivation = industrial Dispensaries = regulated like pharmacy
Arvada, CO	<ul style="list-style-type: none"> Complete prohibition within city limits

Recommendations

Overview

City staff have identified four (4) primary impacts of marijuana related uses that can be mitigated through Title 20 Zoning Ordinance revisions to protect public health and safety, neighborhood character, and urban form. These are: Use Classifications, Home Occupation, Diverse Mix of Uses, and Non-Transparent Glass. Staff recommend code amendments to align state definitions with zoning use classifications. Alignment of definitions ensures all marijuana business types are properly classified, regulated based on the specific business activities, and allowed to operate in appropriate zoning districts. Staff recommend marijuana cultivation home occupations be prohibited at this point in time to protect the character of residential areas and buildings. Lastly, code revisions should ensure the increase in marijuana business applications does not result in a lack of diverse uses and street frontage activation across the urban setting. All recommendations apply to both medical and adult-use marijuana.

Use Classifications

Title 20 Zoning Ordinance does not currently include specific language regarding both adult-use and medical marijuana uses. Instead, staff have applied the use classifications most similar to the marijuana use per Title 20, Section 20.105.010.D. In order to provide clarity and direction through the Zoning Ordinance, staff recommend updating the definitions and use types to better align with the recently adopted state regulations. The proposed updates to Title 20 are, for the most part, consistent with how staff have historically classified marijuana business. However, the newly recommended classifications consider the scale of the business and impacts of different marijuana business activities to adjacent properties.

In short, marijuana businesses can be classified into the following three use types and broken down further by state license type:

1. Cultivation:

The growing of marijuana in a state approved facility. This includes harvesting, trimming, and drying of raw material.

Cultivation is proposed to be a manufacturing use, scaled based upon square footage. Medical cultivation has historically been called a manufacturing use based on the perceived impacts of the business on adjacent property. While the implementation of cultivation as a manufacturing use would not change, the definitions of the use would be clarified to include cultivation. The revisions would also take the scale of the operation into account when applying the appropriate manufacturing use classification type. Artisan, Limited and General manufacturing uses are permitted in the B and C commercial zoning districts to varying extents. The B and C commercial districts also permit multi-dwelling residential densities up to 43 dwelling units per acre.

There are four classes of manufacturing in Title 20: artisan, limited, general, and intensive. Cultivation would be divided across three of the manufacturing classifications based on cultivation canopy area classifications in state law. A goal of the strategic plan is to “create understandable and reasonable regulation that supports sustainable and equitable development”. The recommended revisions ensure the appropriate scale of cultivation is permitted in zoning districts that also allow for residential uses. This protects residences from perceived public health and safety impacts.

Artisan Manufacturing limits manufacturing operations to 3,500 square feet and prohibits any outdoor activity related to the business. Staff recommend classifying grow operations meeting Tier 1 (1,000 sq. ft. maximum) or less requirements in State Law as artisanal manufacturing. The B3 Business Mixed Use, C1 Neighborhood Commercial, C2 Community Commercial, CBD Central Business District, M1R Limited Industrial-Residential, M1 Limited Industrial, and M2 Heavy Industrial zoning districts permit artisan

manufacturing and would therefore permit cultivation up to the Tier 1 limit. The B1 Neighborhood Business and B2 Community Business zoning districts permit Artisan Manufacturing as a conditional use.

Tier 2 (2,500 sq. ft. maximum) Marijuana cultivation would be considered Limited Manufacturing and would be permitted in the following zones: C1 Neighborhood Commercial, C2 Community Commercial, CBD Central Business District, M1R Limited Industrial-Residential, M1 Limited Industrial, and M2 Heavy Industrial. The B3 Business Mixed-Use zoning district permits Limited Industrial as a conditional use. Marijuana cultivation Tier 3 (5,000 sq. ft. max.), Tier 4 (7,500 sq. ft. max), and Tier 5 (10,000 sq. ft.) and higher would be classified as General Manufacturing and would only be permitted in the M1 Limited Industrial and M2 Heavy Industrial zoning districts.

2. Retail Dispensary:

Currently dispensaries are treated as general retail. Staff recommend continuation of classifying dispensaries as a general retail use. Staff recommend adding marijuana sales as a defined subtype under the retail sales definition. This approach would allow dispensaries in the following zoning districts: B1 Neighborhood Business, B2 Community Business, B3 Business Mixed-Use, C1 Neighborhood Commercial, C2 Community Commercial, CBD Central Business District, M1R Limited Industrial-Residential, M1 Limited Industrial, and M2 Heavy Industrial. These zoning districts also permit liquor stores (Food and Beverage sales) which have similar impacts to neighboring properties.

Staff recommend including a new section under Use- and Building- Specific Standards (Title 20, Section 20.40) for marijuana dispensaries. This code section allows staff to regulate the design and mitigate impacts of specific uses on neighborhood character. The use specific standards for dispensaries would implement the need to limit non-transparent glass and promote a diverse mix of uses described in the recommendations below. Dispensaries approved prior to implementation of code revisions shall be considered legal non-conforming and allowed to continue operating as they were originally approved and will be subject to the non-conforming use chapter (Title 20.80.040).

3. Manufacturing:

Marijuana products, those created from the raw materials of marijuana production, often require the use of solvents and/or other industrial processes. Manufacturing marijuana derived products often involves the use of flammable chemicals under pressure. The production of marijuana derived products would be most similar to general industrial uses including textile mills, textile product mills, apparel manufacturing, leather and allied product manufacturing, wood product manufacturing, paper manufacturing, chemical manufacturing, and plastics and rubber products manufacturing. Staff recommend adding manufacturing of marijuana derived products to the definition of the general manufacturing use classification. General Manufacturing is permitted in the M1 Limited Industrial and M2 Heavy Industrial zoning districts which do not permit residential development.

4. Testing, Other:

The State legislation has included other license types beyond those addressed above including testing and transportation. Staff did not identify special circumstances related to the transport or testing of marijuana that would not apply to the transport or testing of other products. Marijuana testing and transportation uses can be classified using existing Title 20 use classifications without revisions to zoning code.

The transport license type as outlined in legislation conforms within the use type of "Warehousing, Wholesaling and Freight Movement" which is permitted in C1 Neighborhood Commercial, C2 Community Commercial, CBD Central Business District, M1R Limited Industrial-Residential, M1 Limited Industrial, and M2 Heavy Industrial. The state transport license approves businesses that transport marijuana and marijuana products from one marijuana business to another marijuana business, or to and from a testing

laboratory, and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises.

The testing use type outlined in state legislation is intended to regulate the necessary facilities to test marijuana and marijuana products, in order to comply with the standards imposed by the state on the strength, and quality of marijuana produced by cultivators. The use and the associated facilities will operate a range of equipment to test the products. This license type will fit within the "Research Services" use classification and would be permitted within the B2 Community Business, B3 Business Mixed Use, C1 Neighborhood Commercial, C2 Community Commercial, CBD Central Business District, M1R Limited Industrial-Residential, M1 Limited Industrial, and M2 Heavy Industrial zoning districts.

Home Occupation

The current zoning regulations governing home occupations are intended to ensure that home occupations 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 regulations recognize that many types of work can be done in a residential dwelling unit with little or no effect on the surrounding neighborhood.

City staff spoke with nine (9) comparable communities and municipalities throughout the Mountain West Region that have enacted legislation legalizing the cultivation, manufacturing, and sale of marijuana. Only one (1) municipality has allowed home occupations for the cultivation of marijuana. The infrastructure and improvements required to mitigate the related impacts in a home occupation are considerable. Title 20, Section 20.45.050.E.2 regarding home occupations states; "there may be no external structural alterations or construction that would change the residential character of the property upon which the home occupation is located". If cultivation home occupations were permitted, documented evidence would need to be provided to demonstrate that adequate mitigation provisions were installed without altering the residential character of the property. Title 20, Section 20.45.050.E.1 states; "home occupations may not, for example, produce light, noise, vibration, odor, parking demand, traffic or any exterior activity that is inconsistent with the character of a residential area". To comply with this code, staff would need to ensure the cultivation space is constructed as to not produce odor, light, or noise. The use intensity is such that to ensure conformance, a robust use and building standard for home occupation cultivation would be necessary. When considering the combined impacts, it is apparent that marijuana cultivation is outside the scope of the intent of the Home Occupation standards of Title 20, Section 20.45.050.

Small medical marijuana cultivation home occupations have been permitted in the past as long as they do not violate the provisions of the home occupation standards in zoning code. Building and Planning staff inspect the cultivation home occupations prior to approval. Historically, the City has cited building code and electrical violations upon inspection of home cultivation operations. The necessary impact mitigation measures are not suited for residential structures.

The combination of the above-mentioned factors has led staff to recommend prohibiting cultivations as home occupations. The recommended code revision would add marijuana cultivation to the uses prohibited as home occupations section under Title 20, Section 20.45.050.E.11. The measures necessary to safely and adequately address the known impacts associated with marijuana cultivation are beyond those typically associated with home-based businesses. The review, inspection, and enforcement of marijuana cultivation home occupations would result in longer review times and a need for additional staff capacity. Current medical marijuana cultivation home occupations would be considered legal non-conforming and allowed to continue operating until the use is abandoned per Title 20, Section 20.40.080.A.1.

If there is a desire to continue to allow home occupations for the cultivation of marijuana, staff would recommend limiting the area of the grow beyond the state mandated tier classes. In addition, staff would recommend creating or mandating existing safety requirements that standardize the facility requirements for a home occupation.

Diverse Mix of Uses

Staff have identified the potential for marijuana retail dispensaries to concentrate in one area. Goal L5 and LII of the Our Missoula City Growth Policy 2035 promote accessibility to amenities and a diverse mix of businesses. Marijuana dispensaries cater to a narrow group of consumers; thus, a concentration of dispensaries may result in areas of town without a mix of businesses to serve nearby residents. Areas such as the Central Business District, Hip Strip, and Brooks Corridor are home to a mix of uses that create an active and welcoming environment for Missoulians and tourists. Furthermore, the Strategic Plan, Growth Policy, Design Excellence, Downtown Master Plan, and other City plans aim to make commercial areas more accessible to all Missoulians. In order to ensure the City is working toward policy goals, staff recommend implementing regulations that limit the frequency of dispensaries within a particular distance.

For this report, staff researched myriad of strategies adopted by municipalities across the country. As a result of this research staff recommend dispensaries not be allowed within a five-hundred (500) foot radius of each other. The State legislature has implemented a buffer of 500 feet between schools and places of worship, and medical and adult use dispensaries as a model for setting buffers. There is significant precedence across the county of using the buffering methodology to avoid the overconcentration of marijuana dispensaries. With finite commercial area available, the buffer recommendation naturally limits the number of dispensaries permitted within city limits.

The buffer requirements will be applied at the customer entrance of the dispensaries, and this distance must be measured in a straight line from the center of the customer entrance to the surrounding dispensaries. Prospective business owners can reach out to the zoning desk to inquire after specific properties and identify nearby dispensaries. The map will be maintained as each new dispensary is licensed. Existing dispensaries that are within the 500-foot radius of each other will be considered legal non-conforming, and will be subject to the non-conforming use chapter (Title 20.80.040).

As an alternative to a radius buffer for dispensaries, there have been some suggestions for a cap on the number of dispensaries. Currently, Bozeman, Montana has implemented a cap of twenty (20) dispensaries within the city. Staff has not identified a methodology for determining how many adult use marijuana dispensaries would be appropriate for Missoula.

Non-Transparent Glass, Passive Interaction, and Street Frontage Activation

Montana marijuana businesses are prohibited from advertising marijuana and marijuana products; this includes displaying or otherwise having products visible from the public right-of-way. In response to state requirements, many marijuana businesses install frosted or otherwise non-transparent storefront windows which prevent visual connection between the building public space. Crime Prevention through Environmental Design (CPTED) standards describe the importance of passive interaction between the public street and private business. Passive interaction allows patrons of the business to witness activity on the street which prevents crime. Staff are concerned that frequent installation of opaque glass will inhibit passive interaction between public and private spaces. Additionally, transparent windows activate street frontages by providing visual interest along a block. In key areas such as the Design Excellence Downtown Subdistrict, pedestrian interaction and engagement are high priority. The inclusion of non-transparent ground floor windows is counter-productive to the street frontage activation goals of '*Our Missoula*' City Growth Policy, Design Excellence and Crime Prevention Through Environmental Design best practices.

Design excellence requires a visible light transmittance (transparency) of at least 60% and limits external reflectance to 20% or less. In order to better advise local businesses to meet state visibility requirements while satisfying the transparency requirement of Design Excellence, staff will develop a list of recommended storefront treatment alternatives. Currently, there are no window transparency standards outside of the Design Excellence Overlay. The

Design Excellence window transparency standards could be expanded to other parts of town by regulating the design of marijuana dispensaries in the Use- and Building- Specific Standards section (Title 20, Section 20.40).

Summary and Next Steps

The upcoming introduction of adult-use recreational marijuana uses in Montana has prompted staff to examine the City of Missoula's Title 20 Zoning Ordinance and forecast some of the possible land-use regulation changes that will aid in the orderly implementation of these new businesses within the City of Missoula. The recommended changes include: (1) code amendments to align state definitions with zoning use classifications, (2) the prohibition of marijuana cultivation home occupations at this point in time, (3) the introduction of a 500-foot buffer between marijuana dispensaries, and (4) promotion of alternatives to non-transparent glass within Design Excellence and potentially across the City.

Staff recommends Land Use and Planning Committee direct Community Development Planning and Innovation to prepare an ordinance amending Title 20, the City of Missoula's Zoning Code, in alignment with the presented "HB-701 (MCA 16.13) WHITE PAPER". Staff will move forward with the public process by adjusting recommendations based on Land Use and Planning Committee feedback. Staff will gather input from community members, stakeholders, and experts. Staff will then draft an ordinance to amend the applicable sections of the Title 20 Zoning Ordinance. Once drafted, the ordinance will be presented to the Missoula City County Planning Board for a recommendation. Staff will present the ordinance to the City Council shortly after meeting with Planning Board. City Council will then review the proposed ordinance and make a final decision.

Current Applicable Laws

	Intn'l Fire Code	Intn'l Building Code	TITLE 12	HB-701	TITLE 20
Manufacturing	Currently uses 2012 2018, Chapter 39 A/Z/I/R (Closed Loop)			<p>Cannot engage in hemp-related activities</p> <p>Solvent-based extractions must be done with: water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department of Ag</p> <p>No portion of the property may be shared with or rented/leased to another marijuana licensee</p> <p>May not be consumed on premises</p> <p>May contract/arrange for another licensed party to process into marijuana product and return product for sale</p> <p>Prepare product at licensed premises exclusively</p> <p>Activity must not be visible from street / public area</p>	<p><u>20.105.050 - Industrial Use Group.</u> <u>D. Manufacturing, Production and Industrial Services</u></p> <p><u>3. General.</u></p> <p>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. Also includes 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.</p> <p>b. Industrial service firms engaged in the repair or servicing of industrial or commercial machinery, equipment, products or by-products. Typical uses include: welding shops; machine shops; industrial tool repair; fuel oil distributors; solid fuel yards; laundry, dry-cleaning and carpet cleaning plants; and photofinishing laboratories. Excludes uses classified as "repair or laundry services."</p>
Cultivation		Required separation in occupancy		cannot engage in hemp-related activities	<p><u>Title 20: Accessory Uses and Structures</u></p> <p>[1. Home Occupations]</p>

				<p>TIERS</p> <table> <tbody> <tr><td>Micro:</td><td>250 s.f.</td></tr> <tr><td>Tier 1:</td><td>1,000 s.f.</td></tr> <tr><td>Tier 2:</td><td>2,500 s.f.</td></tr> <tr><td>Tier 3:</td><td>5,000 s.f.</td></tr> <tr><td>Tier 4:</td><td>7,500 s.f.</td></tr> <tr><td>Tier 5:</td><td>10,000 s.f.</td></tr> <tr><td>Tier 6:</td><td>13,000 s.f.</td></tr> <tr><td>Tier 7:</td><td>15,000 s.f.</td></tr> </tbody> </table> <p>may only advance one tier at a time after June 30, 2023 (\leq 3,000 s.f.)</p> <p>outdoor growing must have been licensed before November 3, 2020</p> <p>No portion of the property may be shared with or rented/leased to another marijuana licensee</p> <p>May not be consumed on premises</p> <p>May operate adult-use dispensaries</p> <p>May engage in manufacturing</p> <p>May contract/arrange for another licensed party to process into marijuana product and return product for sale</p> <p>Activity must not be visible from street / public area</p> <p>After October 1, 2023, a hoop house is no longer considered an</p>	Micro:	250 s.f.	Tier 1:	1,000 s.f.	Tier 2:	2,500 s.f.	Tier 3:	5,000 s.f.	Tier 4:	7,500 s.f.	Tier 5:	10,000 s.f.	Tier 6:	13,000 s.f.	Tier 7:	15,000 s.f.	<p>[2. ZCPs for Accessory Structures > 120 f² and >12' tall]</p> <p><u>20.15.010 - General, B. Purposes.</u> allow residential uses in the M1R district, and limit the encroachment of unplanned residential and other non-industrial development into M1- and M2-zoned areas.</p> <p><u>20.105.050 - Industrial Use Group.</u> <u>D. Manufacturing, Production and Industrial Services</u></p> <p><u>1. Artisan.</u> Occupying no more than 3,500 square feet of gross floor area . Typical uses include woodworking and cabinet shops, 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.</p> <p><u>2. Limited Manufacturing --</u> manufacturing and production establishments that typically have very few, if any, negative external impacts on surrounding properties. Also includes "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.</p> <p><u>3. General.</u></p> <p><u>a. Manufacturing</u> 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</p>
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				indoor cultivation facility.	<p>mineral product manufacturing; transportation equipment manufacturing; primary metal manufacturing; and fabricated metal product manufacturing. Also includes 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.</p> <p>b. Industrial service firms engaged in the repair or servicing of industrial or commercial machinery, equipment, products or by-products. Typical uses include: welding shops; machine shops; industrial tool repair; fuel oil distributors; solid fuel yards; laundry, dry-cleaning and carpet cleaning plants; and photofinishing laboratories. Excludes uses classified as "repair or laundry services.</p>
Retail				<p>Cannot engage in hemp-related activities</p> <p>Adult-use and Med may operate out of the same location as long as the owner is the same</p> <p>Medical may not sell to non-registered consumers</p> <p>May not be consumed on premises</p> <p>Must have a single-secured entrance for patrons</p> <p>May not operate between 8pm and 9am daily</p> <p>May not permit anyone under 21 unless registered</p>	<p><u>20.105.040 - Commercial Use Group.</u> The commercial use group includes uses that provide a business service or involve the selling, leasing or renting of merchandise to the general public.</p> <p><u>20.105.040.W - Retail Sales Use Classification:</u> 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 and apparel stores.</p>

				<p>cardholder</p> <p>Medical operations that stay medical may stay on premises</p> <p>Medical operations that apply for an adult-use license must adhere to HB-701 rules</p> <p>may not sell or otherwise transfer hemp or alcohol from premises</p>	
Personal Use				<p>unlicensed</p> <p>unregistered adults: 2 mature, 4 seedlings</p> <p>cardholders: 4 mature, 4 seedlings</p> <p>must be locked on private residence</p> <p>not more than twice the number of marijuana plants permitted may be cultivated in or on the grounds of a single private residence simultaneously</p> <p>No consumption in public</p>	
Transport				<p>May contract with multiple businesses</p> <p>May not make deliveries to individual consumers</p> <p>cannot engage in hemp-related activities</p> <p>May not be consumed</p>	

				on premises	
Testing				<p>Cannot engage in hemp-related activities</p> <p>May not be consumed on premises</p>	
Combined Use				<p>Cannot engage in hemp-related activities</p> <p>Allows for combo of Tier 1 canopy and 1 dispensary license; must be located on same licensed premises</p> <p>must be within 150 air miles of tribal area</p> <p>May not be consumed on premises</p>	
Advertising / Signage				Advertising prohibited, in any medium (including electronic media)	Chapter 20.75 - Signs
Screening / Buffering		Fences Buffer (R) Greenhouse Fencing 12.28.110 Visibility obstructions		<p>Proximity Buffer: 500 feet from places of worship and schools (measured as straight line from entrances)</p>	<u>Design Excellence Overlay Standards</u> 5. Facade Design. a. Glazed Area. (1) Definition The amount of transparent glass on ground and upper floor street-facing building facades. (2) Standards (i) Visible light transmittance of 60% or more. (ii) External reflectance of 20% or less. (c) Interior walls and other interior visual obstructions are not allowed within 6 feet of any facade area counting toward glazed area. This distance is measured perpendicularly from the exterior face of the glazed area. (d) Interior security gates and window displays may obstruct a

					maximum of 25% of window area for any individual window counting toward glazed area.
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Montana Code Annotated, Definition Reference

Adult-use dispensary 16-12-102 MCA	means a registered premises from which a licensed adult-use provider or adult-use marijuana-infused products provider is approved by the department to dispense marijuana or marijuana-infused products to a consumer.
Adult-use provider 16-12-102 MCA	means a person licensed by the department to cultivate and process marijuana for consumers as allowed by this chapter.
Canopy 16-12-102 MCA 50-46-302 MCA	means the total amount of square footage dedicated to live plant production at a registered licensed premises consisting of the area of the floor, platform, or means of support or suspension of the plant.
Chemical manufacturing 50-46-302 MCA	means the production of marijuana concentrate.
Consumer 16-12-102 MCA	means a person 21 years of age or older who obtains or possesses marijuana or marijuana products for personal use from a licensed dispensary, but not for resale.
Cultivator 16-12-102 MCA	means a person licensed by the department [of revenue] to: plant, cultivate, grow, harvest, and dry marijuana; and package and relabel marijuana produced at the location in a natural or naturally dried form that has not been converted, concentrated, or compounded for sale through a licensed dispensary.
Department 16-12-102 MCA	means the department of revenue provided for in 2-15-1301.
Dispensary 15-64-101 MCA	means an adult-use dispensary or a medical marijuana dispensary.
Indoor cultivation facility 16-12-102 MCA	means an enclosed area used to grow live plants that is within a permanent structure using artificial light exclusively or to supplement natural sunlight. The term may include: a greenhouse; a hoop house (UNTIL OCT, 2023); or a similar structure that protects the plants from variable temperature, precipitation, and wind.
Licensee 15-64-101 MCA	means a licensee operating an adult-use dispensary or a medical marijuana dispensary
Licensed premises 16-12-102 MCA	means all locations related to, or associated with, a specific license that is authorized under this chapter and includes all enclosed public and private areas at the location that are used in the business operated pursuant to a license, including offices, kitchens, restrooms, and storerooms.

Local government 16-12-102 MCA	means a county, a consolidated government, or an incorporated city or town.
Manufacturer 16-12-102 MCA	means a person licensed by the department [of revenue] to convert or compound marijuana into marijuana products, marijuana concentrates, or marijuana extracts and package, repackage, label, or relabel marijuana products as allowed under this chapter [16-12-102].
Marijuana 16-12-102 MCA	means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination. The term does not include hemp, including any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or commodities or products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products* *Not considered Ag / Not considered food or drug
Marijuana business 16-12-102 MCA	means a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, combined-use marijuana licensee, testing laboratory, marijuana transporter, or any other business or function that is licensed by the department [of revenue] under this chapter [16-12-102].
Marijuana concentrate 16-12-102 MCA	means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.
Marijuana derivative 16-12-102 MCA	means any mixture or preparation of the dried leaves, flowers, resin, and byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-infused products.
Marijuana-infused product 16-12-102 MCA	means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking. The term includes but is not limited to edible products, ointments, and tinctures.
Marijuana-infused products provider 50-46-302 MCA	means a person licensed by the department to manufacture and provide marijuana-infused products for a registered cardholder. The term does not include the cardholder's treating or referral physician.
Marijuana product 16-12-102 MCA	means a product that contains marijuana and is intended for use by a consumer by a means other than smoking. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, and marijuana concentrates.
Marijuana transporter 16-12-102 MCA	means a person that is licensed to transport marijuana and marijuana products from one marijuana business to another marijuana business, or to and from a testing laboratory, and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but is not authorized to sell marijuana or marijuana products to consumers under any circumstances.
Mature marijuana plant 50-46-302 MCA	means a harvestable female marijuana plant that is flowering.

Medical marijuana dispensary 16-12-102 MCA	means the location from which a registered cardholder may obtain marijuana or marijuana products.
Outdoor cultivation 16-12-102 MCA	means live plants growing in an area exposed to natural sunlight and environmental conditions including variable temperature, precipitation, and wind.
Person 15-64-101 MCA	means an individual, firm, partnership, corporation, association, company, committee, other group of persons, or other business entity, however formed.
Postsecondary school 20-5-402 MCA	means a community college, a unit of the Montana university system, or a private university or college.
Preschool 20-5-402 MCA	means a place or facility that provides, on a regular basis and as its primary purpose, educational instruction designed for children 5 years of age or younger and that: serves no child under 5 years of age for more than 3 hours a day; and serves no child 5 years of age for more than 6 hours a day.
Property 45-2-101 MCA	means a tangible or intangible thing of value. Property includes but is not limited to: real estate; money; commercial instruments; admission or transportation tickets; written instruments that represent or embody rights concerning anything of value, including labor or services, or that are otherwise of value to the owner; things growing on, affixed to, or found on land and things that are part of or affixed to a building; electricity, gas, and water; birds, animals, and fish that ordinarily are kept in a state of confinement; food and drink, samples, cultures, microorganisms, specimens, records, recordings, documents, blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, prototypes, or models thereof; other articles, materials, devices, substances, and whole or partial copies, descriptions, photographs, prototypes, or models thereof that constitute, represent, evidence, reflect, or record secret scientific, technical, merchandising, production, or management information or a secret designed process, procedure, formula, invention, or improvement; and electronic impulses, electronically processed or produced data or information, commercial instruments, computer software or computer programs, in either machine- or human-readable form, computer services, any other tangible or intangible item of value relating to a computer, computer system, or computer network, and copies thereof.
Purchaser 15-64-101 MCA	means a person to whom a sale of a marijuana product is made.
Registered premises 16-12-102 MCA	means the location at which a provider or marijuana-infused products provider: has indicated that marijuana will be cultivated, chemical manufacturing will occur, or marijuana infused products will be manufactured for registered cardholders; or has established a dispensary for sale of marijuana or marijuana-infused products to

	registered cardholders.
School 20-5-402 MCA	means a place or institution for the teaching of individuals, the curriculum of which is composed of the work of: any combination of kindergarten through grade 12; a postsecondary school; or a preschool.
Seedling 16-12-102 MCA	means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.
Testing laboratory 50-46-302 MCA	means a qualified person, licensed by the department, who meets the requirements of 50-46-311 and: provides testing of representative samples of marijuana and marijuana-infused products; and provides information regarding the chemical composition, the potency of a sample, and the presence of molds, pesticides, or other contaminants in a sample.
Usable marijuana 50-46-30 MCA	means the dried leaves and flowers of the marijuana plant and any marijuana derivatives that are appropriate for the use of marijuana by an individual with a debilitating medical condition. The term does not include the seeds, stalks, and roots of the plant.

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