

Chapter 18.91
CANNABIS INDUSTRY LAND USE

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18.91.010 Purpose.

The purpose of this chapter is to define where cannabis industry as a land use can be located within the identified zoning districts as called out in the land use table in MSMC 18.91.030. For zoning districts not called out in the table it shall be presumed that the industry is expressly prohibited within that zoning district. (Ord. CCO-17-07 § 1, 2017)

18.91.020 Intent.

The intent of this section shall be to ensure that cannabis industry facilities are operated in such a manner as to ensure the public health and safety of the residents and businesses of the City of Mt. Shasta. (Ord. CCO-17-07 § 1, 2017)

18.91.030 Zoning Criteria

(A) Land Use Table. The land use table shall be used to determine whether a cannabis industry is permitted (P), not permitted (NP), and permitted with a conditional use permit (CP). If a zoning district in this title is not listed in the land use table in this section, then the use is prohibited, unless specifically addressed in a specific plan, downtown enhancement district, or special district regulation.

Use Type	Land Use Class	Permit Type Required by Zoning Code					
		R1	R2	C1	C2	EC	P-D
Cultivator	Type 1, Up to 5,000 Sq. Ft.	NP	NP	CP	P	P	P
	Type 2, 5,001 to 10,000 Sq. Ft.	NP	NP	CP	P	P	P
Dispensary/Collective	Retail Dispensary	NP	NP	P	P	P	P
Distributor	Warehouse/Distributor	NP	NP	CP	P	P	P
Manufacturer	Manufacturing/Processing (Nonvolatile)	CP	CP	CP	P	P	P
	Manufacturing/Processing, Food-Based	CP	CP	CP	P	P	P
Nursery	In Building (Industry)	NP	NP	CP	P	P	P
	Outdoor (Industry)	NP	NP	CP	P	P	P
Testing	Laboratory	NP	NP	CP	P	P	P
Transporter	Freight/Transport	NP	NP	CP	CP	P	P

Zoning Code	Zoning Definition
R1	Low Density Residential
R2	Medium Density Residential
C1	Downtown Commercial
C2	General Commercial
EC	Employment Center
P-D	Planned Development

P – Permitted (Use by Right)

CP – Conditional Use Permit

NP – Not Permitted

(Ord. CCO-17-07 § 1, 2017)

(B) Cannabis industry uses permitted through a conditional use permit in R1 and R2 zones must comply with Chapter 18.40 “Business in the Home” requirements and conditions.

18.91.040 Definitions.

The definitions listed here are applicable throughout the Municipal Code where cannabis is referenced. All definitions are intended to comply with those in the City of Mt. Shasta Municipal Code, State regulations, Business and Professions Code, and in the State of California Health and Safety Code, and as they may be amended.

(A) “Accessory structure” means a detached building subordinate to and located on the same parcel as a residence, the use of which is incidental to that of the residence. Accessory structure does not include a tent, trailer, recreational vehicle, or other vehicle, or any building designed or used for habitation.

(B) “Address of record” means the permanent address of an individual or organization.

(C) “Applicant” shall mean a person who is required to file an application for a permit or license under this chapter.

(D) “Batch” or “harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using State approved pesticides and other agricultural chemicals.

(E) “Bureau” means the Bureau of Cannabis Control, previously named the Bureau of Medical Cannabis Regulation and Bureau of Medical Marijuana Regulation.

(F) “Cannabis” means all parts of the plant Cannabis sativa Linnaeus, Cannabis Indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. For the purposes of this section the terms “cannabis” and “marijuana” shall have the same meaning.

(G) “Cannabis Concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. For purposes of this chapter,

“cannabis concentrate” includes, but is not limited to, the separated resinous trichomes of cannabis, tinctures, capsules, suppositories, tablets, extracts, vape cartridges, and inhaled products (such as dab, shatter, and wax).

(H) “Cannabis dispensary” means a premise where cannabis, cannabis products, or devices for the use of nonmedical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to relevant California State regulations, cannabis and cannabis products as part of a retail sale. For the purpose of this section the terms “cannabis dispensary” and “cannabis retail facility” shall have the same meaning.

(I) “Cannabis manufacturing site” means the premises that produces, prepares, propagates, or compounds manufactured cannabis or cannabis products, directly or indirectly, by nonvolatile extraction methods, and is owned and operated by a licensee for these activities.

(J) “Cannabis Product” as used in this chapter means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical cannabis product containing cannabis or concentrated cannabis and other ingredients.

(K) “Cannabis testing facility” means a public or private laboratory licensed and certified or approved by the Bureau of Cannabis Regulation or any other regulatory body controlling testing facilities, to conduct research and analyze cannabis, cannabis products, and cannabis concentrate for contaminants and potency.

(L) “Cannabis waste” means waste that is not hazardous waste, as defined in Cal. Pub. Res. Code, that contains cannabis and that has been made unusable and unrecognizable in the manner prescribed in State regulation.

(M) “Canopy” means the following:

- (1) The designated area(s) at a licensed premise that will contain mature plants at any point in time;
- (2) Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries;
- (3) Canopy may be noncontiguous, but each unique area included in the total canopy calculation shall be separated by an identifiable boundary such as an interior wall or by at least 10 feet of open space;
- (4) If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

(N) “Cannabis industry” includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, delivery, or sale of cannabis, medical cannabis or a cannabis or medical cannabis product.

(O) “Commercial-grade, non-residential door lock” means a lock manufactured for commercial use.

(P) “Commercial vehicle” means a vehicle as defined in Cal. Veh. Code § 260.

(Q) “Comingling” means the physical aggregation of harvest batches or nonmanufactured cannabis products by a licensee.

(R) “Cultivation” and/or “cultivate” shall mean an activity involving the planting, growing, harvesting, drying, processing, or storage of one or more cannabis plants or any part thereof.

(S) “Cultivation site” means a location where commercial cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.

(T) “Daycare Center” means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers.

(U) “Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products.

(V) “Delivery employee” means an individual employed by a licensed dispensary who delivers medical cannabis goods from the licensed dispensary premises to a medical cannabis patient or primary caregiver at a physical address.

(W) “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensed entities.

(X) “Distributor” means a person licensed to engage in the business of purchasing cannabis from a licensed cultivator, or cannabis products from a licensed manufacturer, for sale to a licensed dispensary and as defined by California State law.

(Y) “Dried flower” means all dead cannabis that has been harvested, dried, cured or otherwise processed, excluding leaves and stems.

(Z) “Edible cannabis product” means a cannabis product intended to be used orally, in whole or in part, for human consumption. For purposes of this chapter, “edible cannabis product” includes cannabis products that resemble conventional food or beverages and cannabis products that dissolve or disintegrate in the mouth but does not include any product otherwise defined as “cannabis concentrate.”

(AA) “Employee” shall mean any person (whether paid or unpaid) who provides regular labor or regular services for a cannabis business, including but not limited to the location of a cannabis dispensary business.

(BB) “Extraction” means a process by which cannabinoids are separated from cannabis plant material through chemical or physical means.

(CC) “Finished product” means a cannabis product in its final form to be sold at a retail premise.

(DD) “Flowering” means that a cannabis plant has formed a mass of pistils measuring greater than one-half inch wide at its widest point.

(EE) “Free sample” means any amount of cannabis goods provided to an individual, medical cannabis patient, or primary caregiver without cost or payment or exchange of any other thing of value.

(FF) “Harvest Batch” means a specifically identified quality of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals.

(GG) “Immature plant” means a cannabis planting not flowering.

(HH) “Indoor cultivation facility” shall mean a facility which is licensed by the City of Mt. Shasta and the State of California for the growing of cannabis within an enclosed structure using artificial light, at a rate greater than 25 watts per square foot, and for the purposes of wholesale of cannabis to cannabis manufacturing facilities or cannabis dispensaries.

(II) “Infusion” means a process by which cannabis, cannabinoids, or cannabis concentrates are directly incorporated into a product formulation to produce a cannabis product.

(JJ) “Ingredient” means any substance that is used in the manufacture of a cannabis product and that is intended to be present in the product’s final form.

(KK) “Leaves” means the leafy part of the cannabis plant which contains no flowers. Can also be referred to as “duff.”

(LL) “Licensee” means a person issued a State and local license to engage in commercial cannabis activities.

(MM) “Limited Access Area” means an area in which cannabis or cannabis products are stored or held and is only accessible to licensee and authorized personnel.

(NN) “Lot” means a batch, or a specifically identified portion of a batch.

(OO) “Manager” shall mean an employee responsible for management and/or supervision of a cannabis dispensary business.

(PP) “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

(1) The term “manufacture” includes the following processes:

- a. Extraction
- b. Infusion
- c. Packaging or repackaging of cannabis products; and
- d. Labeling or relabeling the packages of cannabis products

(2) The term “manufacture” does not include the following

- a. The repacking of cannabis products from a bulk shipping container by a distributor or retailer where the product's original packaging and labeling is not otherwise altered;
- b. The preparation of pre-rolls by a licensed distributor in accordance with the requirements of the state specified in the California Code of Regulations;
- c. The collection of the resinous trichomes that are dislodged or sifted from the cannabis plant incident to cultivation activities by a license's cultivator in accordance³ with California Department of Food and Agriculture and the California Code of Regulations;
- d. The processing of non-manufactured cannabis products, as defined by the California Code of Regulations, by a licensed cultivator in accordance with the California Department of Food and Agriculture and the California Code of Regulations.

(QQ) "Manufacturing" or "manufacturing operation" means all aspects of the extraction process, infusion process, and packaging and labeling processes, including processing, preparing, holding, and storing of cannabis products. Manufacturing also includes any processing, preparing, holding, or storing of components and ingredients.

(RR) "Mature plant" means a cannabis plant that is flowering, see "Flowering" above.

(SS) "Mixed light cultivation facility" means cultivation using a combination of natural and supplemental artificial lighting, below a rate of 25 watts per square foot, in a permanent facility.

(TT) "Nonmanufactured cannabis product" means dried flower, shake, leaf, and pre-rolls intended to be sold for use by cannabis users.

(UU) "Nonvolatile manufacturing" means any solvent used in the extraction process that is not a volatile solvent. A nonvolatile solvent includes carbon dioxide used for extraction.

(VV) "Nonvolatile solvent" means any solvent used in the extraction process that is not a volatile solvent. For purposes of this chapter, "Nonvolatile solvents" include carbon dioxide and ethanol.

(WW) "Nursery" means a commercial cannabis licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

(XX) "Outdoor cultivation facility" shall mean a facility which is licensed by the City of Mt. Shasta and the State of California for the growing of cannabis without the use of light deprivation and/or artificial lighting in the canopy area. Supplemental low intensity lighting is permissible only to maintain immature plants as a source for propagation and for the purposes of wholesale of cannabis to cannabis manufacturing facilities or cannabis dispensaries and shall have the same meaning as defined by California State law.

(YY) "Premises" means the designated structure(s) and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

(ZZ) “Pre-roll” means only dried flower rolled in paper prior to retail sale.

(AAA) “Primary caregiver” shall have the same meaning as set forth in the Cal. Health and Safety Code § 11362.7(f).

(BBB) “Propagate” means to cultivate immature plants from cuttings or seeds.

(CCC) “Publicly owned land” means any building or real property that is owned by a city, county, state, Federal, or other government entity.

(DDD) “Public View” means within normal visual range by a person on a public street or sidewalk adjacent to real property

(EEE) “Residential area” means an area that is within 600 feet of any single-family or multifamily residence, other than commercial hotels, motels, and similar establishments.

(FFF) “Qualified patient” shall have the same meaning as set forth in the Cal. Health and Safety Code § 11362.7(f).

(GGG) “School” means any public or private school providing instruction in kindergarten or grades one to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

(HHH) “Security monitoring” means the continuous and uninterrupted attention to potential alarm signals that can be transmitted from a security alarm system for the purpose of summoning law enforcement.

(III) “Sell,” “sale,” and “to sell” include any transaction whereby, for any consideration, title to cannabis is transferred from one person to another, and includes the delivery of medical cannabis goods pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis goods by a licensee to the licensee from whom such cannabis goods were purchased.

(JJJ) “Stems” means highly fibrous material of the cannabis plant which stabilizes the plant and allows leaves and buds to grow.

(KKK) “Strain” means a hybrid or variety of cannabis with similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

(LLL) “Transporter” means a person who holds a license by the Bureau of Cannabis Regulation to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the bureau between licensees that have been issued a license pursuant to this chapter.

(MMM) “Trim” means the leftover cannabis leaf material after the act of trimming that can be used for cooking or extraction.

(NNN) “Volatile solvent” means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include but are not limited to butane, hexane, and propane.

(OOO) “Wholesale” means the sale of cannabis goods to a distributor for resale to one or more dispensaries. (Ord. CCO-17-07 § 1, 2017)

(PPP) “Youth center” means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

18.91.060 Personal garden tags.

(A) All personal gardens are required to obtain a personal garden tag with the City of Mt. Shasta.

(B) Personal gardens are allowed for single-family residences. Personal gardens are not allowed for any other use unless a Conditional Use Permit is obtained as per Chapter 18.29 of the Mt. Shasta Municipal Code.

(C) All personal gardens must be located out of public view and meet the following setbacks:

(1) Rear: 10 feet.

(2) Side: five feet on each side.

(3) Front: personal gardens prohibited in front of buildings and in public view.

(D) Personal garden tag applicants can request a setback exemption written petition to the Planning Department.

(E) Personal garden tag setback exemption can be granted if the following findings can be made:

(1) The proposed garden would not have an adverse effect on the neighboring properties.

(2) The petitioner can show that an exemption is needed due to circumstance beyond their control.

(F) Denied personal garden tag setback exemptions can appeal the Planning Department’s decision as per Chapter 18.32 MSMC.

(G) The setbacks for gardens will be measured from the property line to the canopy of the garden.

(H) All personal garden tag holders must follow Planning Department policies and standards at all times. Violations of policies and standards may be penalized as per MSMC 18.91.080. (Ord. CCO-17-07 § 1, 2017)

(I) At any point a personal garden is reported as a nuisance, the Planning Department holds the right to amend the Personal Garden approval with conditions or recommend revocation to the Planning Commission. Conditions may be appealed as per Chapter 18.32 MSMC.

18.91.060 Development standards.

Commercial cannabis retail and industry facilities shall meet all of the standards for the zoning district in which they are allowed and located. They shall meet the other development

requirements as referenced in that zoning district and found elsewhere in the Municipal Code. (Ord. CCO-17-07 § 1, 2017)

18.91.070 Permits.

All commercial cannabis industry facilities and businesses allowed as shown in MSMC 18.91.020 are required to obtain a business license as required by MSMC Title 5, Business Regulations and Licenses, and a regulatory license as required by Chapter 5.70 MSMC, Cannabis Retail Licenses and Standards, and Chapter 5.80 MSMC, Cannabis Industry Licenses and Standards. (Ord. CCO-17-07 § 1, 2017)

18.91.080 Penalties and enforcement.

(A) Violation of this chapter shall constitute an infraction, and shall be punished in the manner as specified, at the time of violation, in Cal. Gov't Code § 36900, or any successor statute which specifies the penalties of infractions.

(B) Except as otherwise provided, enforcement of this chapter is at the sole discretion of the City. Nothing in this chapter shall create a right of action in any person against the City or its agents to compel public enforcement of this chapter against private parties.

(C) Nothing herein shall prevent a person who violates this chapter from, in the alternative, being charged with and convicted of a misdemeanor or felony under any other applicable provision of the California Penal Code or other local, County, State, or Federal law or regulation.

(D) Additionally, as a nuisance per se, any violation of this chapter shall be subject to injunctive relief, revocation of the business's cannabis retail and/or industry license, revocation of a personal garden tag, disgorgement, and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and State laws for any violations committed by the cannabis business and persons related or associated with the cannabis business. (Ord. CCO-17-07 § 1, 2017)