



CITY OF MILWAUKIE

"Dogwood City of the West"

Ordinance No. 2134

An ordinance of the City Council of the City of Milwaukie, Oregon to amend Title 19 Zoning to regulate marijuana businesses. (File #ZA-2016-001).

WHEREAS, during the 2015 legislative session, the Oregon State Legislature passed a series of bills addressing marijuana businesses, including House Bill 3400, which expands upon the framework of Measure 91 (the voter-approved act legalizing recreational marijuana);

WHEREAS, the Oregon State Legislature has charged the Oregon Liquor Control Commission with regulating the recreational marijuana industry in Oregon and the OLCC is currently in the process of issuing licenses for marijuana businesses;

WHEREAS, the City of Milwaukie adopted regulations for medical marijuana dispensaries on April 7, 2015 but is in need of additional regulations to address recreational marijuana businesses and businesses supplying medical marijuana to dispensaries;

WHEREAS, on January 5, 2016 and January 19, 2016, the City Council discussed code concepts and provided general direction for development of a set of regulations for marijuana businesses;

WHEREAS, on January 26, 2016, the Planning Commission held a work session regarding code concepts and on April 26, 2016, the Planning Commission reviewed an initial set of draft zoning text amendments and provided suggested refinements;

WHEREAS, the Planning Commission held a duly-advertised public hearing on the zoning text amendments on May 24, 2016, with notice provided per the requirements of the Milwaukie Municipal Code and the Oregon Revised Statutes, and recommended approval; and

WHEREAS, the City Council held a duly-advertised public hearing with notice provided per the requirements of the Milwaukie Municipal Code and the Oregon Revised Statutes. The initial hearing was held on July 19, 2016 with continuations to meetings held on August 16, 2016, September 6, 2016, and September 20, 2016.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of fact in support of the proposed amendments to Title 19 are attached as Exhibit A.

Section 2. Amendments. Title 19 Zoning is amended as described in Exhibit B (underline/strikeout version) and Exhibit C (clean version).

Read the first time on 9/20/16, and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 9/20/16.

Signed by the Mayor on 9/20/16.



Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC



Pat DuVal, City Recorder



City Attorney

Findings in Support of Approval
File ZA-2016-001, Zone Text Amendments to Regulate Marijuana Businesses

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision regarding this application.

1. The applicant, the Milwaukie Planning Director, has applied for a zoning ordinance text amendment (File ZA-2016-001) to regulate marijuana businesses in the following zones:
 - Low Density Residential Zones: R-10, R-7, and R-5
 - Medium and High Density Residential Zones: R-3, R-2.5, R-2, R-1, and R-1-B
 - Limited and General Commercial Zones: C-L and C-G
 - Community Shopping Commercial Zone: C-CS
 - Mixed Use Zones: GMU, NMU, and DMU
 - Manufacturing Zone: M
 - Tacoma Station Area Manufacturing Zone: M-TSA
 - Business Industrial Zone: B-I
2. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.902 Amendments to Maps and Ordinances
 - MMC Section 19.1000 Review Procedures
3. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. A public hearing before the Planning Commission was held on May 24, 2016 as required by law. The initial public hearing before the City Council was held on July 19, 2016. The hearing was continued to August 16, 2016, September 6, 2016, and September 20, 2016.
4. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. The City finds that these requirements have been met as follows.
 - a. MMC Subsection 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Director, or any individual.

The amendment is proposed by the City of Milwaukie and was initiated by the City Planning Director on April 19, 2016.
 - b. MMC Section 19.1008 establishes requirements for Type V review.
 - (1) MMC Subsection 19.1008.3.A.1 requires opportunity for public comment and review. Opportunity for public comment and review has been provided. Public notice in the form of email to the Neighborhood District Associations, posted notices, and information on the City website have publicized the Planning Commission's hearing on the proposed amendment to encourage comment by any interested party. In addition, an article was placed in the Pilot providing notice of the hearing.
 - (2) MMC Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public. A notice of the Planning Commission's May 24, 2016, hearing was posted at City Hall, the Ledding Library, the Public Service Building, and the City's Johnson Creek Building Offices.

- (3) MMC Subsection 19.1008.3.A.2 requires notice be sent to individual property owners if the proposal affects a discrete geographic area. The Planning Director has determined that the proposal affects a large geographic area. Notice to individual property owners was provided only to owners and businesses in the City's industrial zones. Notice to residential, commercial, and mixed-use property owners was not provided.
- (4) MMC Subsection 19.1008.3.B and C require notice of a Type V application to be sent to Metro and to the Department of Land Conservation and Development prior to the first evidentiary hearing. This notice was sent April 19, 2016.
- (5) MMC Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the application would affect the permissible uses of land for those property owners. Given that the proposal will expand the range of uses permitted within each of the zones rather than place limits on existing permitted uses, no Measure 56 notices were sent.
- (6) MMC Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application. The Planning Commission held a public hearing on May 24, 2016, and passed a motion recommending that the City Council approve the zoning ordinance text amendment. The City Council held a public hearing on July 19, 2016, and approved the text amendment.

5. MMC Section 19.902 Amendments to Maps and Ordinances

- a. MMC 19.902.5.A establishes the review process for zoning text amendments.

The code states that changes to Title 19 shall be subject to Type V review per MMC 19.1008.

- b. MMC 19.902.5.B establishes five criteria (listed below) for approval of changes to the zoning ordinance text. The City Council finds that the approval criteria have been met for the reasons listed below each of the criterion.

- (1) The proposed amendment is consistent with other provisions of the Milwaukie Municipal Code.

The proposed code amendments allow recreational marijuana stores to locate under the same standards that currently apply to medical marijuana dispensaries. With the exception of processing sites in the BI-Business Industrial Zone, the amendments allow marijuana warehousing and processing uses to locate in the industrial areas subject to the same standards as other similar industrial uses except that these marijuana-related businesses must also meet additional security and odor control standards. Processing use in the BI zone would be subject to the conditional use process. The amendments allow marijuana testing and research facilities in commercial, mixed-use, and industrial zones that currently allow offices uses. The testing and research uses will be required to provide a higher level of security and odor control than other general use offices. The amendments allow medical grow sites indoors in residential areas provided security and odor control standards are met. The amendments allow medical and recreational production/grow sites in the M-Manufacturing zone and by conditional use in the B-I zone and the M-TSA zone. All production/grow sites will be subject to specific security and odor control standards to manage impacts. In addition, the production sites in the North Milwaukie Industrial Area will be subject to separation buffers.

No conflicts with other City code provisions are anticipated. All other code provisions can operate and be enforced with these amendments.

- (2) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan.

Only the goals, objectives, and policies of Comprehensive Plan that are listed below are found to be relevant to the proposed text amendment.

Relevant goals, objectives, and policies include:

- The Goal Statement of the Economic Base and Industrial/Commercial Land Use Element reads as follows:

To continue to support and encourage the development of a broad industrial base in the City, and to encourage the expansion of service facilities in the community.

- Objective #2 - Employment Opportunity states:

To continue to support a wide range of employment opportunities for Milwaukie citizens.

- Policy 4 of Objective #2 - Employment Opportunity states:

The City will support home occupations (income-producing activities in the home) as long as these activities do not detract from the residential character of the area.

- Objective #4 – Industrial Land Use states:

To encourage new industries to locate within the three major industrial areas of the City, in order to take maximum advantage of existing access and public facilities serving industry.

- Policy 3 of Objective #4 – Industrial Land Use states:

Lands designated for industrial use as shown on Map 7, Land Use, should be reserved for industrial, manufacturing, distribution, and supporting land uses, except where otherwise indicated in the Tacoma Station Area Plan.

- Objective #5 – Industrial Impacts states:

To minimize the adverse impacts of industrial and employment center development and operation on surrounding areas.

- Objective #6 – Commercial Land Use states:

To encourage new commercial uses to locate within designated commercial areas of the City, in order to take maximum advantage of existing access and public facilities serving these areas.

- Objective #8 – Commercial Land Use – Community Center states:

To provide the weekly and comparison goods shopping needs of the City's and surrounding areas' residents.

- Policy 4 under Objective #8 Commercial Land Use – Community Center reads:

The Center will increase comparative and one-stop shopping services, thereby reducing vehicle trips outside the City, and providing better shopping services to the area.

- Objective #10 – Commercial Land Use – Convenience Centers states:
To limit intrusion of commercial uses into neighborhood areas, while providing easy accessibility to residents.
- Policy 3 under Objective #10 Commercial Land Use – Convenience Centers reads:
Local convenience centers will be designed to minimize the impacts on adjacent properties through visual screening, lighting controls, etc.
- Policy 1 under Objective #12 Town Center reads:
Downtown Milwaukie, and specifically those lands designated as Town Center on Map 7, will be considered a Town Center, serving area-wide needs as well as the needs of local residents.

The relevant goals, objectives, and policies are satisfied for the following reasons:

There are no specific Comprehensive Plan policies or objectives that provide clear guidance regarding whether the list of permitted uses for a given zone should be expanded to include a use that is not listed elsewhere in the code. Rather, the policies and objectives speak generally about broad objectives for economic development and the protection of zone districts for their intended uses.

The proposed text amendments provides a community benefit by allowing marijuana businesses to locate in commercial and industrial zones within the City, thereby increasing economic activity and enhancing convenience and accessibility for Milwaukie residents. For this reason, the following goals, policies, and objectives are satisfied by the proposal:

- Goal Statement of the Economic Base and Industrial/Commercial Land Use Element
- Objective #2 – Employment Opportunity
- Objective #4 – Industrial Land Use
- Objective #6 – Commercial Land Use
- Objective #8 – Commercial Land Use – Community Center
- Policy 4 of Objective #8 Commercial Land Use – Community Center
- Objective #10 – Commercial Land Use – Convenience Centers
- Policy 1 of Objective #12 Town Center

Policy 4 of Objective#2 – The amendments allow medical grow operations as home occupations within residential districts. The proposal limits impacts by requiring that grow operations be indoors and utilize odor control equipment.

Policy 3 of Objective #4 – Industrial Land Use appears to present a conflict with the proposal that marijuana retail facilities be allowed in the M-Zone given that the policy states “industrial lands should be reserved for industrial purposes.” The M-zone currently allows a wide range of retail uses provided that at least 25% of the development site is developed for manufacturing or industrial purposes. Because a portion of any development site is reserved for manufacturing or industrial use and because similar non-industrial (office and limited retail) uses are currently allowed in the zone, the proposed amendment does not conflict with Policy 3.

Policy 3 under Objective #10 Commercial Land Use – Convenience Centers addresses neighborhood compatibility. The proposed amendments manage impacts on neighborhoods by limiting the hours of operation and by regulating the display of products for retail marijuana sales.

Objective #5 – Industrial Impacts – The amendments satisfy the objective through the incorporation of new development standards that require processing, production, warehousing, research and testing facilities to utilize odor control equipment.

In conclusion, all relevant goals, objectives and policies are satisfied by the proposed amendments for the reasons stated above.

- (3) The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendments were sent to Metro for comment. Metro did not identify any inconsistencies with the Metro Urban Growth Management Functional Plan or relevant regional policies.

- (4) The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. DLCD did not identify any inconsistencies with relevant State statutes or administrative rules.

The proposed amendments are found to be consistent with the Transportation Planning Rule for the following reason. The proposed text amendment does not impact the transportation system given that it does not create the opportunity for any more vehicle trips than are currently allowed by other similar uses in each respective zone: i.e., retail stores and offices in commercial zones and warehousing, processing, offices, and production facilities in industrial zones.

- (5) The proposed amendment is consistent with relevant federal regulations.

Relevant federal regulations are those that address land use, the environment, or development in the context of local government planning. Typically, regulations such as those set forth under the following acts may be relevant to a local government land use process: the Americans with Disabilities Act, the Clean Air Act, the Clean Water Act, the Endangered Species Act, the Fair Housing Act, the National Environmental Policy Act, the Religious Land Use and Institutionalized Persons Act, and the Resource Conservation and Recovery Act. None of these acts include regulations that impact the subject proposal or that cannot be met through normal permitting procedures. Therefore the proposal is found to be consistent with federal regulations that are relevant to local government planning.

6. In response to the Planning Commission's recommendation and testimony provided at the July 19, 2016 and August 16, 2016 public hearings, the City Council added special code provisions related to the operation and location of production facilities in the North Milwaukie Industrial Area (NMIA) and the M-Manufacturing zone. The City, in partnership with Clackamas County and Metro, has recently initiated a year-long study of the North

Milwaukie Industrial Area with the intent of adopting a new ancillary plan document that outlines a redevelopment strategy for the area. The NMIA includes all of the City property in the M-TSA (Tacoma Station Area Manufacturing) zone and a portion of the property in the M (Manufacturing) zone. The remainder of the property in the M zone is located along Johnson Creek Boulevard.

On August 16, 2016, the Council discussed the option of prohibiting marijuana production in the NMIA but concluded that operational and locational limits could be employed to manage the use. The City Council agreed with the Planning Commission that it was appropriate to require a conditional use process for production facilities in the M-TSA zone. They considered and rejected the concept of requiring a conditional use process for production facilities on properties in the M zone.

The Council chose to utilize development standards in order to place limitations on production sites in the NMIA as well as property located in the M zone elsewhere in the City. This direction was confirmed at the September 6, 2016 meeting. The Council directed staff to add standards that required the following in the M-TSA and M zones:

- 1) Limit the mature marijuana grow canopy size of any production operation to the 10,000 sq ft, Tier 2, size limitation set forth in state administrative rules.
- 2) Limit the number of buildings used for marijuana production through a required 1,500 ft separation buffer between buildings used for production.

These limitations were established with the recognition that the North Milwaukie Industrial Area planning process had just begun and there was concern that a high level of investment in marijuana production may negatively impact future redevelopment of the area, depending on what the external impacts of the use turn out to be. In addition, Councilors recognized that given the uncertainty regarding off-site impacts of production sites, it was prudent to place limitations on sites used for production on property in the M zone along Johnson Creek Boulevard. The 1500 foot separation buffer is intended to limit the number of buildings that could be used for production in the area because of uncertainty regarding the potential external impacts of this use. As a completely new land use, which no Oregon jurisdiction has had any experience with, the Council finds that at this time the legislative record is lacking in adequate information to support the conclusion that the use can be permitted without limitation.

Underline/Strikeout Amendments

Zoning Ordinance

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

"Agriculture" means the tilling of the soil, the raising of crops, dairying, or animal husbandry; but not including the keeping or raising of fowl, pigs, or furbearing animals unless the keeping of animals is clearly incidental to the principal use of the property for the raising of crops.

"Production-related office" means offices that are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the development, testing, research, production, processing, packaging, or assembly of goods and products. Examples include: software and internet content development and publishing; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; call centers; and medical and dental labs.

"Medical marijuana facility" means a business that dispenses medical marijuana in accordance with the regulations set forth by ORS Chapter 475B and related Oregon Administrative Rules. State-registered grow sites are not considered to be medical marijuana facilities and are instead classified as "marijuana production" for purposed of this Code ~~not permitted under the City of Milwaukie's medical marijuana facility regulations.~~

"Marijuana business" means a state-licensed business involved in the production, processing, warehousing, testing, research, or sale of marijuana or marijuana-derived products.

"Marijuana processor" means a state-licensed business that processes, compounds, transforms, or converts marijuana into other marijuana products including concentrates, extracts, or edible products.

"Marijuana production" means planting, cultivating, growing, or harvesting of marijuana for sale or processing as a legal, state-licensed business.

"Marijuana retailer" means a state-licensed business that sells or distributes marijuana and marijuana-derived products to consumers. A marijuana retailer may sell or distribute recreational or medical marijuana.

CHAPTER 19.300 BASE ZONES

19.301 LOW DENSITY RESIDENTIAL ZONES

19.301.3 Use Limitations and Restrictions

A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.

A1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.

Proposed Code Amendment

- B2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 sq ft per head of livestock.
- ~~C3.~~ Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.

B. Marijuana production is not permitted in low density residential zones except as follows:

1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards set forth in Subsection 19.509.2.
 2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.
-

19.302 MEDIUM AND HIGH DENSITY RESIDENTIAL ZONES

19.302.3 Use Limitations and Restrictions

- A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.
 1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
 2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock.
 3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.
 - B. Office uses allowed in the medium and high density zones are offices, studios, clinics, and others similar professional offices. Corporate offices for marijuana businesses are permitted provided that no marijuana or marijuana products associated with the business are onsite. Marijuana testing labs and research facilities are not permitted office uses in these zones.
 - C. Marijuana production is not permitted in medium and high density residential zones except as follows:
 1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards set for in Subsection 19.509.2.
 2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.
-

19.303 COMMERCIAL MIXED-USE ZONES

19.303.2 Uses

| Table 19.303.2 Uses Allowed in Commercial Mixed-Use Zones | | | |
|---|-----|-----|--|
| Uses and Use Categories | GMU | NMU | Standards/Additional Provisions |
| Commercial^{3, 4} | | | |
| <p>General Office</p> <p>General office means professional, executive, management, or administrative or administrative offices of firms or organizations.</p> <p>Examples include professional services such as lawyers, architects, or accountants; financial businesses such as lenders, credit unions, or real estate agents; sales offices; <u>offices for testing and research-related businesses (including marijuana testing and research)</u>, and medical and dental clinics<u>clinics</u>.</p> | P | P | <u>Subsection 19.303.6.C Marijuana testing and research facilities</u> |
| <p>Retail-oriented sales</p> <p>Sales-oriented retail firms are involved in the sale, leasing, and rental of new or used products to the general public. Examples include stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronics, fabric, gifts, groceries, hardware, household products, jewelry, pets and pet products, pharmaceuticals, plants, printed materials, stationery, and printed and electronic media.</p> | P | P | |
| <p>Marijuana retailer <u>Medical marijuana facility</u></p> <p><u>Marijuana retailer means a state-licensed business that sells or distributes marijuana and marijuana-derived products to consumers. A marijuana retailer may sell or distribute recreational or medical marijuana.</u></p> <p>Medical marijuana facility means a business that dispenses medical marijuana in accordance with the regulations set forth by ORS Chapter 475 and related Oregon Administrative Rules. State-registered grow sites are not considered to be medical marijuana facilities and are not permitted under the City of Milwaukie's medical marijuana facility regulations.</p> | P | P | <u>Subsection 19.303.6.A Standards for Marijuana retailers</u> Medical Marijuana Facilities |

Proposed Code Amendment

| Manufacturing and Production | | | |
|--|---|---|---|
| <p>Manufacturing and production.⁸</p> <p>Manufacturing and production uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; <u>marijuana processors</u>; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; and production of artwork and toys. <u>Marijuana production is prohibited.</u></p> | P | P | <p><u>Subsection 19.509.2 Security and odor control for certain marijuana businesses</u></p> |

P = Permitted.

3. In the NMU Zone, unless otherwise specified in this section, all nonresidential uses listed in Table 19.303.2 shall be no greater than 10,000 sq ft in area per use. A nonresidential use greater than 10,000 sq ft in area may be approved through a conditional use review pursuant to Section 19.905.
4. The 10,000 sq ft size limitation in Footnote 3 of Table 19.303.2 does not apply to "retail-oriented sales" uses established within the existing lot and building situated at 4320 SE King Rd, within the lot's boundaries that exist on February 13, 2016, the effective date of Ordinance #2112. Redevelopment of the site is subject to all standards of Table 19.303.2.
8. Manufacturing and production uses are limited to 5,000 sq ft in floor area per use on the ground floor and are only permitted when associated with, and accessory to, a related retail-oriented sales or eating/drinking establishment use. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on the site would not be considered manufacturing or production.

~~19.303.6 Standards for Medical Marijuana Facilities~~

~~In the commercial mixed-use zones, medical marijuana facilities shall meet the following standards:~~

- ~~A. As set forth by Oregon Administrative Rules, a medical marijuana facility shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors or within 1,000 ft of another medical marijuana facility. In addition, a medical marijuana facility shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites.~~
- ~~B. A medical marijuana facility shall not be colocated with another business.~~
- ~~C. Display of marijuana or marijuana products that are visible from outside of the facility is prohibited.~~
- ~~D. The hours of operation for medical marijuana facilities shall be limited to the hours between 8:00 a.m. and 10:00 p.m.~~

19.303.76 Additional Provision

Depending on the type and use of development proposed, the following sections of the Milwaukie Municipal Code may apply. These sections are references for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

19.304 DOWNTOWN ZONES

19.304.2 Uses

| Table 19.304.2 Downtown Zones—Uses | | | |
|--|------------|-----------|---|
| Uses and Use Categories | DMU | OS | Standards/ Additional Provisions |
| Commercial | | | |
| <p>Production-related office</p> <p>Production-related office uses are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the development, testing, <u>research</u>, production, processing, packaging, or assembly of goods and products.</p> <p>Examples include: software and internet content development and publishing; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; call centers, <u>marijuana testing and research facilities</u>, and medical and dental labs.</p> | P/CU | N | <p>Subsection 19.304.3.A.2 Main St limitations</p> <p>Subsection 19.304.3.A.3 Commercial use limitations</p> <p>Subsection 19.509.2 <u>Security and odor control for certain marijuana business</u></p> <p>Section 19.905 Conditional Uses</p> <p><u>Note: Production, processing, packaging, and assembly uses must meet the standards listed below under Manufacturing.</u></p> |
| <p><u>Marijuana retailer</u></p> <p><u>Marijuana retailer means a state-licensed business that sells or distributes marijuana and marijuana-derived products to consumers. A marijuana retailer may sell or distribute recreational or medical marijuana.</u></p> <p><u>Medical marijuana facility</u></p> <p><u>Medical marijuana facility means a business that dispenses medical marijuana in accordance with the regulations set forth by ORS Chapter 475 and related Oregon Administrative Rules. State-registered grow sites are not considered to be medical marijuana facilities and are not permitted under the</u></p> | P/CU | N | <p>Subsection 19.509.1 19.304.3.A.7 Standards for-Marijuana Retailers Medical Marijuana Facilities</p> |

Proposed Code Amendment

| | | | |
|---|---|---|---|
| City of Milwaukie's medical marijuana facility regulations. | | | |
| Manufacturing | | | |
| <p>Manufacturing and production</p> <p>Uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used.</p> <p>Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; <u>marijuana processors</u>; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments (including musical instruments), vehicles, appliances, precision items, and other electrical items; and production of artwork and toys.</p> | P | N | <p>Subsection 19.304.3.A.87 Manufacturing and production limitations Subsection 19.509.2 <u>Security and odor control for certain marijuana businesses</u></p> |

P = Permitted.

N = Not permitted.

CSU = Permitted with community service use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

19.304.3 Use Limitations, Restrictions, and Provisions

A. Use Limitations and Restrictions

The following provisions describe the limitations for uses listed in Table 19.304.2.

~~7. Medical marijuana facilities shall meet the following standards:~~

- ~~a. As set forth by Oregon Administrative Rules, a medical marijuana facility shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors or within 1,000 ft of another medical marijuana facility.~~
- ~~b. A medical marijuana facility shall not be colocated with another business.~~
- ~~c. Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.~~
- ~~d. The hours of operation for medical marijuana facilities shall be limited to the hours between 8:00 a.m. and 10:00 p.m.~~

87. Manufacturing and production uses are limited to 5,000 sq ft in floor area per use on the ground floor and are only permitted when associated with, and accessory to, a related retail-oriented sales or eating/drinking establishment use. For purposes of this

subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on-site would not be considered manufacturing or production. Marijuana production is prohibited.

19.306 LIMITED COMMERCIAL ZONE C-L

In a C-L Zone the following regulations shall apply:

19.306.1 Uses Permitted Outright

In a C-L Zone the following uses and their accessory uses are permitted outright:

- B. ~~Offices of~~ for administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, testing, scientific, or statistical businesses or organizations.
- C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory.
- F. Marijuana retailer ~~Medical marijuana facilities~~ subject to the standards of Subsection 19.306.3-~~L~~509.1.

19.306.2 Conditional Uses Permitted

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- H. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock; marijuana production is not permitted as an agricultural use;

19.306.3 Standards

In a C-L Zone the following standards shall apply:

- L. Offices for marijuana research or testing shall be subject to the security and odor control standards of Subsection 19.509.2. ~~Medical marijuana facilities shall meet the following standards:~~
 - 1. ~~As set forth by Oregon Administrative Rules, a medical marijuana facility shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors, or within 1,000 ft of another medical marijuana facility. In addition, a medical marijuana facility shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites.~~
 - 2. ~~A medical marijuana facility shall not be colocated with another business.~~
 - 3. ~~Display of marijuana or marijuana products that are visible from outside of the facility is prohibited.~~
 - 4. ~~The hours of operation for medical marijuana facilities shall be limited to the hours between 8:00 a.m. and 10:00 p.m.~~

19.307 GENERAL COMMERCIAL ZONE C-G

In a C-G Zone the following regulations shall apply:

19.307.1 Uses Permitted Outright

In a C-G Zone the following uses and their accessory uses are permitted outright:

- B. Offices ~~of~~ for administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, testing, scientific, or statistical businesses or organizations.
- C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory;
- Y. Marijuana retailer ~~Medical marijuana facilities~~ subject to the standards of Subsection ~~19.307.3.M509.1~~ 19.307.3.M509.1;

19.307.2 Conditional Uses Permitted

In a C-G Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- E. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock; marijuana production is not permitted as an agricultural use;

19.307.3 Standards

In a C-G Zone the following standards shall apply:

- M. Offices for marijuana research or testing shall be subject to the security and odor control standards of Subsection 19.509.2. ~~Medical marijuana facilities shall meet the following standards:~~
 - 1. ~~As set forth by Oregon Administrative Rules, a medical marijuana facility shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors, or within 1,000 ft of another medical marijuana facility. In addition, a medical marijuana facility shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites.~~
 - 2. ~~A medical marijuana facility shall not be colocated with another business.~~
 - 3. ~~Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.~~
 - 4. ~~The hours of operation for medical marijuana facilities shall be limited to the hours between 8:00 a.m. and 10:00 p.m.~~

19.308 COMMUNITY SHOPPING COMMERCIAL ZONE C-CS

In a C-CS Zone the following regulations shall apply:

19.308.1 Uses

Development shall be a community-scale shopping center.

- A. Such center shall include at least 3 out of the 4 following uses:

1. Department store uses;
 2. Drug and/or variety store uses;
 3. Food supermarket;
 4. Retail specialty shops.
- B. Such center may include the following additional uses:
7. ~~Marijuana retailer~~ Medical marijuana facilities subject to the standards of Subsection 19.308.5.K 509.1;

19.308.5 Development Standards

- K. ~~Medical marijuana facilities shall meet the following standards:~~
1. ~~As set forth by Oregon Administrative Rules, a medical marijuana facility shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors or within 1,000 ft of another medical marijuana facility. In addition, a medical marijuana facility shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites.~~
 2. ~~A medical marijuana facility shall not be colocated with another business.~~
 3. ~~Display of marijuana or marijuana products that are visible from outside of the facility is prohibited.~~
 4. ~~The hours of operation for medical marijuana facilities shall be limited to the hours between 8:00 a.m. and 10:00 p.m.~~

19.309 MANUFACTURING ZONE M

19.309.2 Permitted Uses

Permitted uses are limited to industrial uses meeting the following criteria:

- A. Any combination of manufacturing, office, and/or commercial uses are allowed when at least 25% of the total project involves an industrial use as described under Subsection 19.309.2.B.
- B. A use which involves the collection and assembly of durable goods, warehousing of goods, transshipment of goods from other sources, and/or the assembly of goods from products which have been processed elsewhere, general manufacturing, and production.
- C. Commercial and office uses which are accessory to the industrial use(s). Such uses may include gymnasium, health club, secretarial services, sandwich deli, small restaurant, and retail/wholesale commercial use and showroom.
- D. May produce small amounts of noise, dust, vibration, or glare, but may not produce off-site impacts that create a nuisance, as defined by DEQ or the City Noise Ordinance.
- E. A permitted use may require outside storage areas. These storage areas shall be screened with a sight-obscuring fence or dense plantings from any adjoining residential uses or public streets.
- F. Warehouse use which is accessory to an industrial use.

Proposed Code Amendment

- G. Marijuana retailers ~~Medical marijuana facilities~~ are allowed as a commercial use under Subsection 19.309.2.A. and subject to the special development standards set forth in Subsection 19.309.7.A509.1.

19.309.7 Special Development Standards

The following development standards apply to specified uses in the M Zone.

A. Marijuana Businesses ~~Medical Marijuana Facilities~~

1. Marijuana retailers shall be subject to the standards of Subsection 19.509.1 ~~Medical marijuana facilities shall meet the following standards:~~

~~1—As set forth by Oregon Administrative Rules, a medical marijuana facility shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors or within 1,000 ft of another medical marijuana facility. In addition, a medical marijuana facility shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites.~~

~~2—A medical marijuana facility shall not be colocated with another business.~~

~~3—Display of marijuana or marijuana products that are visible from outside of the facility is prohibited.~~

~~4—The hours of operation for medical marijuana facilities shall be limited to the hours between 8:00 a.m. and 10:00 p.m.~~

2. Marijuana production, processing, testing, research, and warehousing shall be subject to the security and odor control standards of Subsection 19.509.2.

3. Marijuana production facilities located in the M-Manufacturing zone shall be subject to the Marijuana Production Limitations set forth in subsection 19.509.3.

19.310 BUSINESS INDUSTRIAL ZONE BI

19.310.2 Uses Permitted Outright

- A. The following business and industrial uses are allowed outright, subject to the standards of Subsection 19.310.6.
1. Experimental, research, film, or testing laboratories, provided no operation shall be conducted or equipment used which would create hazards and/or nuisances off the site (marijuana testing or research shall also be subject to the security and odor control standards of Subsection 19.509.2);
 2. Manufacturing, processing, fabrication, packaging, or assembly of products from previously prepared materials;
- C. Warehousing and distribution (marijuana warehousing shall be subject to the security and odor control standards of Subsection 19.509.2).
-

19.310.5 Conditional Uses

B. Uses allowed subject to the above conditions are:

- 4. Marijuana producers and processors. Marijuana producers and processors shall be subject to the security and odor control standards of Subsection 19.509.

19.312 TACOMA STATION AREA MANUFACTURING ZONE M-TSA

19.312.2 Use Categories

The categories of land uses that are permitted in the M-TSA Zone are listed in Table 19.312.2. Permitted uses are designated with a “P.” A “C” in this table indicates a use that may be authorized as a conditional use in conformance with Chapter 19.905. An “L” indicates a use that is permitted outright with certain limitations as described in Subsection 19.312.6. Uses not listed in the table are not allowed.

All uses must comply with the land use district standards of this section and all other applicable requirements of the Zoning Ordinance. If it is unclear whether a proposed use is allowed under the use categories, the applicant may submit a Director Determination application per Subsection 19.903 to resolve the issue.

| Table 19.312.2 M-TSA Zone Uses | |
|--|-------------------------|
| Use Category | Status |
| G. Limited Uses | |
| This category comprises uses that are primarily intended to support and serve other allowed uses in the M-TSA Zone. Limited uses are divided into two subcategories. See Subsection 19.312.6 for applicable limitations on these uses. 3. <u>Medical Marijuana Facilities</u> — This subcategory applies only to retail sales of medical marijuana at State-licensed facilities | L |
| L. Marijuana Businesses (as Limited and Conditional Uses) | |
| This category includes the following businesses: 1. <u>Marijuana retailers subject to the standards of Subsections 19.312.6 B. and 19.509.1</u> 2. <u>Marijuana processing, testing, research, and warehousing subject to the standards of Subsection 19.509.2.</u> 3. <u>Marijuana production subject to the conditional use process and the standards of Subsections 19.509.2 and 19.509.3.</u> | L C ¹ |

P = Permitted.

L = Limited.

C = Conditional use.

¹ Only marijuana production is subject to the condition use process.

19.312.5 Standards for Conditional Uses

The following standards apply to those uses listed as conditional (C) in Table 19.312.2.

C. Marijuana Production

1. Marijuana production shall be subject to the security and odor control standards of Subsection 19.509.2 and the Marijuana Production Limitations set forth in subsection 19.509.3.

19.312.6 Standards for Limited Uses

The following standards apply to those uses listed as limited (L) in Table 19.312.2.

~~B. Medical Marijuana Facilities~~

~~Medical marijuana facilities shall meet the following standards:~~

- ~~1. As set forth by Oregon Administrative Rules, a medical marijuana facility shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors or within 1,000 ft of another medical marijuana facility. In addition, a medical marijuana facility shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites.~~
- ~~2. A medical marijuana facility shall not be colocated with another business.~~
- ~~3. Display of marijuana or marijuana products that are visible from outside of the facility is prohibited.~~
- ~~4. The hours of operation for medical marijuana facilities shall be limited to the hours between 8:00 a.m. and 10:00 p.m.~~

~~C.B. Retail Commercial and Professional Services~~

In order to ensure that these uses are limited in size and scale and do not dominate land intended for manufacturing uses, the following standards apply. See Figure 19.312.6.B for an illustration of the size limitations.

Figure 19.312.6.CB

Size Limitations for Retail and Professional Service Uses



CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.507 HOME OCCUPATION STANDARDS

19.507.2 Prohibitions and Use Restrictions

F. Except as set forth below, all marijuana-related businesses (production, processing, testing, warehousing, and sales) are prohibited as home occupations. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards of Subsection 19.509.2.

19.509 MARIJUANA BUSINESS STANDARDS

The intent of these regulations is to ensure that potential impacts from marijuana businesses are managed and mitigated.

19.509.1 Standards for Marijuana Retailers

- A. A marijuana retailer shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors. In addition, a marijuana retailer shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites nor within 1,000 ft of another marijuana retailer.
- B. A marijuana retailer shall not be collocated with another business except when collocated with another state-licensed marijuana business as permitted by state laws.
- C. Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.
- D. The hours of operation for marijuana retailer shall be limited to the hours between 8:00 a.m. and 10:00 p.m.
- E. No drive-through sales are permitted.

19.509.2 Security and Odor Control for Certain Marijuana Businesses

- A. The operation shall be entirely indoors, within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie and all other applicable state regulations.
- B. Odor shall be managed through the installation of activated carbon filters on exhaust outlets to the building exterior from any rooms used for production, processing, testing, research, and warehousing. Negative air pressure shall be maintained within the rooms. Exhaust outlets shall be a minimum of 25 feet from a property line.
- C. An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.

19.509.3 Marijuana Production Limitations

The following limitations apply to marijuana production in the M-Manufacturing and M-TSA Tacoma Station Area Manufacturing zones:

- A. Within a building utilized for production, multiple producers may operate but no single producer shall operate in a manner where the mature marijuana plant grow canopy associated with that producer's operation exceeds 10,000 square feet.
- B. A marijuana producer shall not be located in a building that is within 1,500 feet of another building that is utilized for marijuana production.

Clean Amendments

Zoning Ordinance

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

"Agriculture" means the tilling of the soil, the raising of crops, dairying, or animal husbandry; but not including the keeping or raising of fowl, pigs, or furbearing animals unless the keeping of animals is clearly incidental to the principal use of the property for the raising of crops.

"Production-related office" means offices that are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the development, testing, research, production, processing, packaging, or assembly of goods and products. Examples include: software and internet content development and publishing; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; call centers; and medical and dental labs.

"Medical marijuana facility" means a business that dispenses medical marijuana in accordance with the regulations set forth by ORS Chapter 475B and related Oregon Administrative Rules. State-registered grow sites are not considered to be medical marijuana facilities and are instead classified as "marijuana production" for purposes of this Code.

"Marijuana business" means a state-licensed business involved in the production, processing, warehousing, testing, research, or sale of marijuana or marijuana-derived products.

"Marijuana processor" means a state-licensed business that processes, compounds, transforms, or converts marijuana into other marijuana products including concentrates, extracts, or edible products.

"Marijuana production" means planting, cultivating, growing, or harvesting of marijuana for sale or processing as a legal, state-licensed business.

"Marijuana retailer" means a state-licensed business that sells or distributes marijuana and marijuana-derived products to consumers. A marijuana retailer may sell or distribute recreational or medical marijuana.

CHAPTER 19.300 BASE ZONES

19.301 LOW DENSITY RESIDENTIAL ZONES

19.301.3 Use Limitations and Restrictions

- A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.
 - 1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.

Proposed Code Amendment

2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 sq ft per head of livestock.
 3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.
- B. Marijuana production is not permitted in low density residential zones except as follows:
1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards set forth in Subsection 19.509.2.
 2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.

19.302 MEDIUM AND HIGH DENSITY RESIDENTIAL ZONES

19.302.3 Use Limitations and Restrictions

- A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.
1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
 2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock.
 3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.
- B. Office uses allowed in the medium and high density zones are offices, studios, clinics, and others similar professional offices. Corporate offices for marijuana businesses are permitted provided that no marijuana or marijuana products associated with the business are onsite. Marijuana testing labs and research facilities are not permitted office uses in these zones.
- C. Marijuana production is not permitted in medium and high density residential zones except as follows:
1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards set for in Subsection 19.509.2.
 2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.

19.303 COMMERCIAL MIXED-USE ZONES

19.303.2 Uses

| Table 19.303.2 Uses Allowed in Commercial Mixed-Use Zones | | | |
|--|------------|------------|---|
| Uses and Use Categories | GMU | NMU | Standards/Additional Provisions |
| Commercial^{3, 4} | | | |
| <p>General Office</p> <p>General office means professional, executive, management, or administrative or administrative offices of firms or organizations.</p> <p>Examples include professional services such as lawyers, architects, or accountants; financial businesses such as lenders, credit unions, or real estate agents; sales offices; offices for testing and research-related businesses (including marijuana testing and research), and medical and dental clinics.</p> | P | P | <p>Subsection 19.303.6.C Marijuana testing and research facilities</p> |
| <p>Retail-oriented sales</p> <p>Sales-oriented retail firms are involved in the sale, leasing, and rental of new or used products to the general public. Examples include stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronics, fabric, gifts, groceries, hardware, household products, jewelry, pets and pet products, pharmaceuticals, plants, printed materials, stationery, and printed and electronic media.</p> | P | P | |
| <p>Marijuana retailer</p> <p>Marijuana retailer means a state-licensed business that sells or distributes marijuana and marijuana-derived products to consumers. A marijuana retailer may sell or distribute recreational or medical marijuana.</p> | P | P | <p>Subsection 19.303.6.A Marijuana retailers</p> |

Proposed Code Amendment

| Manufacturing and Production | | | |
|--|---|---|---|
| <p>Manufacturing and production.⁸</p> <p>Manufacturing and production uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used.</p> <p>Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; marijuana processors; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; and production of artwork and toys.</p> <p>Marijuana production is prohibited.</p> | P | P | Subsection 19.509.2 Security and odor control for certain marijuana businesses |

P = Permitted.

- In the NMU Zone, unless otherwise specified in this section, all nonresidential uses listed in Table 19.303.2 shall be no greater than 10,000 sq ft in area per use. A nonresidential use greater than 10,000 sq ft in area may be approved through a conditional use review pursuant to Section 19.905.
- The 10,000 sq ft size limitation in Footnote 3 of Table 19.303.2 does not apply to "retail-oriented sales" uses established within the existing lot and building situated at 4320 SE King Rd, within the lot's boundaries that exist on February 13, 2016, the effective date of Ordinance #2112. Redevelopment of the site is subject to all standards of Table 19.303.2.
- Manufacturing and production uses are limited to 5,000 sq ft in floor area per use on the ground floor and are only permitted when associated with, and accessory to, a related retail-oriented sales or eating/drinking establishment use. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on the site would not be considered manufacturing or production.

19.303.6 Additional Provision

Depending on the type and use of development proposed, the following sections of the Milwaukie Municipal Code may apply. These sections are references for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

19.304 DOWNTOWN ZONES

19.304.2 Uses

| Table 19.304.2 Downtown Zones—Uses | | | |
|---|------------|-----------|---|
| Uses and Use Categories | DMU | OS | Standards/ Additional Provisions |
| Commercial | | | |
| Production-related office | P/CU | N | Subsection 19.304.3.A.2 |

| | | | |
|---|-------------|----------|--|
| <p>Production-related office uses are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the development, testing, research, production, processing, packaging, or assembly of goods and products.</p> <p>Examples include: software and internet content development and publishing; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; call centers, marijuana testing and research facilities, and medical and dental labs.</p> | | | <p>Main St limitations Subsection 19.304.3.A.3 Commercial use limitations Subsection 19.509.2 Security and odor control for certain marijuana business Section 19.905 Conditional Uses Note: Production, processing, packaging, and assembly uses must meet the standards listed below under Manufacturing.</p> |
| <p>Marijuana retailer</p> <p>Marijuana retailer means a state-licensed business that sells or distributes marijuana and marijuana-derived products to consumers. A marijuana retailer may sell or distribute recreational or medical marijuana.</p> | <p>P/CU</p> | <p>N</p> | <p>Subsection 19.509.1 Standards for Marijuana Retailers</p> |
| <p>Manufacturing</p> | | | |
| <p>Manufacturing and production</p> <p>Uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used.</p> <p>Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; marijuana processors; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments (including musical instruments), vehicles, appliances, precision items, and other electrical items; and production of artwork and toys.</p> | <p>P</p> | <p>N</p> | <p>Subsection 19.304.3.A.7 Manufacturing and production limitations Subsection 19.509.2 Security and odor control for certain marijuana businesses</p> |

P = Permitted.
 N = Not permitted.
 CSU = Permitted with community service use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

Proposed Code Amendment

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

19.304.3 Use Limitations, Restrictions, and Provisions

A. Use Limitations and Restrictions

The following provisions describe the limitations for uses listed in Table 19.304.2.

7. Manufacturing and production uses are limited to 5,000 sq ft in floor area per use on the ground floor and are only permitted when associated with, and accessory to, a related retail-oriented sales or eating/drinking establishment use. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on-site would not be considered manufacturing or production. Marijuana production is prohibited.

19.306 LIMITED COMMERCIAL ZONE C-L

In a C-L Zone the following regulations shall apply:

19.306.1 Uses Permitted Outright

In a C-L Zone the following uses and their accessory uses are permitted outright:

- B. Offices for administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, testing, scientific, or statistical businesses or organizations.
- C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory.
- F. Marijuana retailer subject to the standards of Subsection 19.509.1.

19.306.2 Conditional Uses Permitted

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- H. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock; marijuana production is not permitted as an agricultural use;

19.306.3 Standards

In a C-L Zone the following standards shall apply:

- L. Offices for marijuana research or testing shall be subject to the security and odor control standards of Subsection 19.509.2.

19.307 GENERAL COMMERCIAL ZONE C-G

In a C-G Zone the following regulations shall apply:

19.307.1 Uses Permitted Outright

In a C-G Zone the following uses and their accessory uses are permitted outright:

- B. Offices for administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, testing, scientific, or statistical businesses or organizations.
- C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory;
- Y. Marijuana retailer subject to the standards of Subsection 19.509.1;

19.307.2 Conditional Uses Permitted

In a C-G Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- E. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock; marijuana production is not permitted as an agricultural use;

19.307.3 Standards

In a C-G Zone the following standards shall apply:

- M. Offices for marijuana research or testing shall be subject to the security and odor control standards of Subsection 19.509.2.

19.308 COMMUNITY SHOPPING COMMERCIAL ZONE C-CS

In a C-CS Zone the following regulations shall apply:

19.308.1 Uses

Development shall be a community-scale shopping center.

- A. Such center shall include at least 3 out of the 4 following uses:
 - 1. Department store uses;
 - 2. Drug and/or variety store uses;
 - 3. Food supermarket;
 - 4. Retail specialty shops.
- B. Such center may include the following additional uses:
 - 7. Marijuana retailer subject to the standards of Subsection 19. 509.1;

19.309 MANUFACTURING ZONE M

19.309.2 Permitted Uses

Permitted uses are limited to industrial uses meeting the following criteria:

- A. Any combination of manufacturing, office, and/or commercial uses are allowed when at least 25% of the total project involves an industrial use as described under Subsection 19.309.2.B.
- B. A use which involves the collection and assembly of durable goods, warehousing of goods, transshipment of goods from other sources, and/or the assembly of goods from products which have been processed elsewhere, general manufacturing, and production.
- C. Commercial and office uses which are accessory to the industrial use(s). Such uses may include gymnasium, health club, secretarial services, sandwich deli, small restaurant, and retail/wholesale commercial use and showroom.
- D. May produce small amounts of noise, dust, vibration, or glare, but may not produce off-site impacts that create a nuisance, as defined by DEQ or the City Noise Ordinance.
- E. A permitted use may require outside storage areas. These storage areas shall be screened with a sight-obscuring fence or dense plantings from any adjoining residential uses or public streets.
- F. Warehouse use which is accessory to an industrial use.
- G. Marijuana retailers are allowed as a commercial use under Subsection 19.309.2.A. and subject to the special development standards set forth in Subsection 19.509.1.

19.309.7 Special Development Standards

The following development standards apply to specified uses in the M Zone.

- A. Marijuana Businesses
 - 1. Marijuana retailers shall be subject to the standards of Subsection 19.509.1
 - 2. Marijuana production, processing, testing, research, and warehousing shall be subject to the security and odor control standards of Subsection 19.509.2.
 - 3. Marijuana production facilities located in the M-Manufacturing zone shall be subject to the Marijuana Production Limitations set forth in subsection 19.509.3.

19.310 BUSINESS INDUSTRIAL ZONE BI

19.310.2 Uses Permitted Outright

- A. The following business and industrial uses are allowed outright, subject to the standards of Subsection 19.310.6.
 - 1. Experimental, research, film, or testing laboratories, provided no operation shall be conducted or equipment used which would create hazards and/or nuisances off the site (marijuana testing or research shall also be subject to the security and odor control standards of Subsection 19.509.2);
 - 2. Manufacturing, processing, fabrication, packaging, or assembly of products from previously prepared materials;

C. Warehousing and distribution (marijuana warehousing shall be subject to the security and odor control standards of Subsection 19.509.2).

19.310.5 Conditional Uses

- B. Uses allowed subject to the above conditions are:
4. Marijuana producers and processors. Marijuana producers and processors shall be subject to the security and odor control standards of Subsection 19.509.

19.312 TACOMA STATION AREA MANUFACTURING ZONE M-TSA

19.312.2 Use Categories

The categories of land uses that are permitted in the M-TSA Zone are listed in Table 19.312.2. Permitted uses are designated with a "P." A "C" in this table indicates a use that may be authorized as a conditional use in conformance with Chapter 19.905. An "L" indicates a use that is permitted outright with certain limitations as described in Subsection 19.312.6. Uses not listed in the table are not allowed.

All uses must comply with the land use district standards of this section and all other applicable requirements of the Zoning Ordinance. If it is unclear whether a proposed use is allowed under the use categories, the applicant may submit a Director Determination application per Subsection 19.903 to resolve the issue.

| Table 19.312.2 M-TSA Zone Uses | |
|--|----------------|
| Use Category | Status |
| G. Limited Uses | |
| This category comprises uses that are primarily intended to support and serve other allowed uses in the M-TSA Zone. Limited uses are divided into two subcategories. See Subsection 19.312.6 for applicable limitations on these uses. | L |
| L. Marijuana Businesses (as Limited and Conditional Uses) | |
| This category includes the following businesses: | L |
| 1. Marijuana retailers subject to the standards of Subsections 19.312.6 B. and 19.509.1 | |
| 2. Marijuana processing, testing, research, and warehousing subject to the standards of Subsection 19.509.2. | |
| 3. Marijuana production subject to the conditional use process and the standards of Subsections 19.509.2 and 19.509.3. | C ¹ |

P = Permitted.
 L = Limited.
 C = Conditional use.
¹ Only marijuana production is subject to the condition use process.

19.312.5 Standards for Conditional Uses

The following standards apply to those uses listed as conditional (C) in Table 19.312.2.

C. Marijuana Production

1. Marijuana production shall be subject to the security and odor control standards of Subsection 19.509.2 and the Marijuana Production Limitations set forth in subsection 19.509.3.

19.312.6 Standards for Limited Uses

The following standards apply to those uses listed as limited (L) in Table 19.312.2.

B. Retail Commercial and Professional Services

In order to ensure that these uses are limited in size and scale and do not dominate land intended for manufacturing uses, the following standards apply. See Figure 19.312.6.B for an illustration of the size limitations.

Figure 19.312.6.B

Size Limitations for Retail and Professional Service Uses



CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.507 HOME OCCUPATION STANDARDS

19.507.2 Prohibitions and Use Restrictions

- F. Except as set forth below, all marijuana-related businesses (production, processing, testing, warehousing, and sales) are prohibited as home occupations. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards of Subsection 19.509.2.

19.509 MARIJUANA BUSINESS STANDARDS

The intent of these regulations is to ensure that potential impacts from marijuana businesses are managed and mitigated.

19.509.1 Standards for Marijuana Retailers

- A. A marijuana retailer shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors. In addition, a marijuana retailer shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites nor within 1,000 ft of another marijuana retailer.
- B. A marijuana retailer shall not be collocated with another business except when collocated with another state-licensed marijuana business as permitted by state laws.
- C. Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.
- D. The hours of operation for marijuana retailer shall be limited to the hours between 8:00 a.m. and 10:00 p.m.
- E. No drive-through sales are permitted.

19.509.2 Security and Odor Control for Certain Marijuana Businesses

- A. The operation shall be entirely indoors, within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie and all other applicable state regulations.
- B. Odor shall be managed through the installation of activated carbon filters on exhaust outlets to the building exterior from any rooms used for production, processing, testing, research, and warehousing. Negative air pressure shall be maintained within the rooms. Exhaust outlets shall be a minimum of 25 feet from a property line.
- C. An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.

19.509.3 Marijuana Production Limitations

The following limitations apply to marijuana production in the M-Manufacturing and M-TSA Tacoma Station Area Manufacturing zones:

- A. Within a building utilized for production, multiple producers may operate but no single producer shall operate in a manner where the mature marijuana plant grow canopy associated with that producer's operation exceeds 10,000 square feet.
- B. A marijuana producer shall not be located in a building that is within 1,500 feet of another building that is utilized for marijuana production.