

TITLE 9

COMMUNITY DEVELOPMENT

Subtitle 2 — Land Development Code Division 6 — Miscellaneous Development Code Provisions

CHAPTER 940

MARIJUANA CODE

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940.100 Title; short title

This Chapter, LCC 940.100 to 940.900, shall be known and may be cited as the “Linn County Marijuana Code.” This Chapter may also be referred to and cited as the “Marijuana Code.”

[Adopted 16-370 §8 eff 12/14/16]

940.200 Statement of purpose

(A) The purpose of this Chapter is to describe the requirements for establishing marijuana businesses, including medical and recreational marijuana production, processing, wholesaling, retailing, research and testing in Linn County.

(B) The purpose of this Chapter is to establish reasonable time, place, and manner requirements for new businesses that produce, process, wholesale, retail, research, or test marijuana. This is accomplished by providing clear and objective standards for marijuana businesses that minimize conflicts with other uses in underlying zoning districts, as well as protect the public health, safety, and general welfare of the citizens of Linn County.

[Adopted 16-370 §8 eff 12/14/16]

940.300 Applicability

(A) Marijuana production, processing, wholesaling, retailing, research, and testing are allowed only if they are specifically listed as a use permitted outright or a use permitted through a Type IIA review under the zoning district that directly applies to a subject property. Marijuana uses are subject to either a Type IB review or Type IIA review as described in LCC Chapter 921.

(B) The production, processing, wholesaling, retailing, research, and testing of marijuana are prohibited in all urban growth area zoning districts.

(C) Marijuana uses are subject to the applicable standards as described in this Chapter, the underlying zoning district standards, and general provisions of the Land Development Code. Where a provision of this Chapter is not consistent with another provision of the Land Development Code, the more restrictive standards apply.

(D) The requirements of this Chapter do not affect the provisions regarding personal use of recreational marijuana found in ORS Chapter

475B and OAR Chapter 845, Division 25 or personal use of medical marijuana under the Oregon Medical Marijuana Program, as allowed by state law.

[Adopted 16-370 §8 eff 12/14/16]

940.400 Marijuana production

(A) Marijuana production is limited to the Agribusiness (AB), Freeway Interchange Commercial (FIC), Heavy Industrial (HI), Light Industrial (LI), Rural Commercial (RCM), Urban Development (UD-II), Exclusive Farm Use (EFU), Farm/Forest (F/F), and Forest Conservation Management (FCM) zoning districts and shall be subject to the following standards and criteria:

(1) Minimum lot size. For production in the EFU, F/F, and FCM zoning districts, the subject property shall be a minimum of two acres, except that if outdoor production is proposed, the subject property shall be a minimum of five acres.

(2) Setbacks. Outdoor production, as defined in LCC 920.100(B)(204), shall be a minimum of 100 feet from all property lines. Any structure used for indoor production, as defined in LCC 920.100(B)(147), shall comply with the structural setback standards of the underlying zone or be located a minimum of 100 feet from an existing dwelling that is not located on the same property as marijuana production use, whichever is greater.

(3) Access. The subject property shall have frontage on, and direct access from, a constructed public, county, or state road, or take access on an exclusive road or easement serving only the subject property. However, the easement standard will be waived if the property takes access via a private road or easement which also serves other properties and evidence is provided by the applicant, in the form of a petition, that all other property owners who have access rights to the private road or easement agree to allow the specific marijuana production described in the application. Such evidence shall include any conditions stipulated in the agreement.

(4) Lighting. Lighting shall be regulated as follows:

(a) Light cast by light fixtures inside a building used for marijuana production shall not be visible outside the building between the hours of 7:00 p.m. to 7:00 a.m., except for the months of June, July and August, where light cast by light fixtures inside a building used for marijuana production shall not be visible outside the building between sunset and sunrise.

(b) Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m., except for the months of June, July and August, where outdoor marijuana grow lights shall not be illuminated between sunset and sunrise.

(c) Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall not be directed skyward and shall be directed within the boundaries of the subject property.

(5) Odor. As used in this section, building means the building, or portion thereof, used for indoor production. This section does not apply to a building approved as part of outdoor production, as defined in LCC 920.100(B)(204).

(a) The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

(b) The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.

(c) The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.

(d) Negative air pressure shall be maintained inside the building.

(e) Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

(f) The filtration system shall be designed by a mechanical engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with LCC 940.400(A)(5).

(g) An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.

(6) Noise. The applicant shall submit a noise study by an acoustic engineer licensed in the State of Oregon. The study shall demonstrate that generators as well as mechanical equipment used for heating, ventilating, air conditioning, or odor control will not produce sound that, when measured at any property line of the subject property, exceeds 50 dB(A).

(7) Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public right-of-way, except as required to comply with licensing requirements of the Oregon Liquor Control Commission (OLCC) or registration requirements of the Oregon Health Authority (OHA).

(8) Water. The applicant shall submit:

(a) A water right permit or certificate number for the proposed marijuana production;

(b) A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or

(c) Proof from the Oregon Water Resources Department that the water to be used for marijuana production is from a source that does not require a water right.

(9) Waste Management. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant. Outdoor storage of marijuana waste is prohibited. Marijuana waste burning is prohibited.

(10) Fencing. Fencing, walls, or other barriers, as required by state law, shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc. Fencing shall not be electrified, use barbed wire, razor wire, concertina coils, anti-climb spikes or any other similar security feature designed to discourage ingress through the potential of causing bodily harm.

(11) Survey. Pursuant to OAR 845-025-1030(4)(c), a survey prepared by an Oregon licensed surveyor that accurately reflects the property lines of the subject property is required to be submitted as part of an application for outdoor marijuana production. The survey is required in order to ensure that the outdoor marijuana production operation is located entirely on the subject property and does not encroach onto adjacent properties.

(12) Marijuana production is subject to the size limitations found in OAR 845-025-2040.

(13) Marijuana production shall be subject to a Type IIA site plan review per LCC 921.080(B)(13).

[Adopted 16-370 §8 eff 12/14/16]

940.500 Marijuana processing

(A) Marijuana processing is limited to the Agribusiness (AB), Freeway Interchange Commercial (FIC), Heavy Industrial (HI), Light Industrial (LI), Rural Commercial (RCM), Urban Development (UD-II), Exclusive Farm Use (EFU), and Farm/Forest (F/F) zoning districts and shall be subject to the following standards and criteria:

(1) AB, FIC, HI, LI, RCM, and UD-II zoning districts:

(a) No on-site retail sales are allowed.

(b) No outdoor storage of marijuana in any form, including remnants, by-products, and waste is allowed.

(2) EFU and F/F zoning districts:

(a) Only dry, water, or CO-2 processing is allowed.

(b) All marijuana processing shall be located entirely within one or more completely enclosed buildings.

(c) Marijuana processing is subject to the lighting, odor, noise, security camera, water, and waste management criteria and standards described in LCC Section 940.400.

(B) Marijuana processing is permitted only on properties located within the boundaries of a fire protection district.

[Adopted 16-370 §8 eff 12/14/16]

940.600 Marijuana wholesaling

(A) Marijuana wholesaling shall be subject to the following standards and criteria:

(1) Odor. As used in this section, building means the building, or portion thereof, used for wholesaling.

(a) The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

(b) The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.

(c) The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.

(d) Negative air pressure shall be maintained inside the building.

(e) Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

(f) The filtration system shall be designed by a mechanical engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with LCC 940.400(A)(5).

(g) An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.

(2) Noise. The applicant shall submit a noise study by an acoustic engineer licensed in the State of Oregon. The study shall demonstrate that generators as well as mechanical equipment used for heating, ventilating, air conditioning, or odor control will not produce sound that, when measured at any property line of the subject property, exceeds 50 dB(A).

(3) Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public right-of-way, except as required to comply with licensing requirements of the Oregon Liquor Control Commission (OLCC).

(4) Waste Management. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee. Outdoor storage of marijuana waste is prohibited. Marijuana waste burning is prohibited.

(B) Marijuana wholesaling is not authorized in the Exclusive Farm Use (EFU) and Farm/Forest (F/F) zoning districts, other than wholesale farm product sales allowed under the definition of farm use in LCC 920.100(B)(105). Wholesale establishments in the EFU, F/F, and FCM zoning districts shall be subject to a Type IIA site plan review per LCC 921.080(B)(13).

(C) Wholesaling may be allowed for recreational marijuana only.

(D) Wholesale of marijuana to the general public is prohibited.

(E) A sample of usable recreational marijuana or a cannabinoid product, concentrate, or extract may be provided to a marijuana wholesaler, retailer, or processor licensee for the purpose of licensee determining whether to purchase the product. The product may not be consumed on the property.

940.700 Marijuana retailing

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

(1) Hours: A marijuana retailer may only sell to consumers between the hours of 10:00 a.m. and 8:00 p.m. and may only permit consumers to be present in the building space occupied by the marijuana retailer between the hours of 10:00 a.m. and 8:00 p.m.

(2) Odor: As used in this section, building means the building, or portion thereof, used for marijuana retailing.

(a) The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

(b) The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.

(c) The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.

(d) Negative air pressure shall be maintained inside the building.

(e) Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

(f) The filtration system shall be designed by a mechanical engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with LCC 940.700(A)(2).

(g) An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the

activated carbon filtration system otherwise required.

(3) Window Service: The use shall not have a walk-up window or drive-thru window service.

(4) Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public right-of-way, except as required to comply with licensing requirements of the OLCC or registration requirements of the OHA.

(5) Waste Management: Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant. Outdoor storage of marijuana waste is prohibited. Marijuana waste burning is prohibited.

(6) Minors: No one under the age of 21 shall be permitted to be present in the building space occupied by the marijuana retailer, except as allowed by state law.

(7) On-site Consumption: Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building or on the property occupied by a marijuana retailer.

(8) Minimum Separation Distances: Minimum separation distances shall apply as follows:

(a) The use shall be located a minimum of:

(i) 1,500 feet from a public elementary or secondary school for which attendance is compulsory under ORS 339.020, including any parking lot accessory to and any property used by the school; or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot accessory to and any property used by the school;

(ii) 1,500 feet from a public park, public playground, government-owned recreational use, public library, licensed treatment center, light rail transit station, or a multifamily dwelling owned by a public housing authority;

(iii) 1,500 feet from a licensed daycare facility or licensed preschool, including

any parking lot accessory to and any property used by the daycare facility or preschool;

(iv) 1,500 feet from a church, including any parking lot accessory to and any property used by the church;

(v) 100 feet from a residentially zoned property; however, this provision shall not apply if the subject property has street frontage on a principal interstate, principal expressway, principal arterial, or major arterial, as identified in the Linn County Transportation System Plan.

(b) Pursuant to ORS 475B.340, a marijuana retail facility shall be located a minimum of 1,000 feet from any other marijuana retailer.

(c) Pursuant to ORS 475B.450, a medical marijuana dispensary shall be located a minimum of 1,000 feet from any other medical marijuana dispensary.

(d) For purposes of LCC 940.700(A)(8)(a), distance shall be measured from the lot line of the affected property (e.g., a school) to the closest point of the building space occupied by the marijuana retailer. For purposes of LCC 940.700(A)(8)(b) and (c), distance shall be measured from the closest point of the building space occupied by one marijuana retailer to the closest point of the building space occupied by the other marijuana retailer.

(e) LCC 940.700(A) does not apply to any medical marijuana dispensary that applied for a registration with the OHA and has subsequently obtained land use approval to operate the facility on or before the adoption date of this Chapter.

(f) A change in use (including a zone change) on another property to a use identified in LCC 940.700(A)(8) after a complete application for a marijuana retailing facility has been filed shall not result in the marijuana retailer being in violation of LCC 940.700(A)(8).

(g) In case of a conflict under LCC 940.700(A)(8)(b) and (c), any person who has received approval to establish a marijuana retailing facility, shall be deemed to have established

marijuana retailing at the approved location, so long as the marijuana retailer begins operation within one year of the date of the County's final decision on the land use application. If more than one application is in process with the County at one time, the County shall issue decisions in the order in which complete applications were filed and deemed complete.

Adopted 16-370 §8 eff 12/14/16

940.800 Marijuana research and testing

(A) Marijuana research and testing shall be subject to the following standards and criteria:

(1) Odor. As used in this section, building means the building, or portion thereof, used for research and testing.

(a) The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

(b) The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.

(c) The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.

(d) Negative air pressure shall be maintained inside the building.

(e) Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

(f) The filtration system shall be designed by a mechanical engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with LCC 940.400(A)(5).

(g) An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the

State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.

(2) Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public right-of-way, except as required to comply with licensing requirements of the Oregon Liquor Control Commission (OLCC).

(3) Waste Management. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee. Outdoor storage of marijuana waste is prohibited. Marijuana waste burning is prohibited.

(B) Marijuana testing laboratory use must be conducted entirely indoors.

(C) Marijuana research may be conducted in conjunction with marijuana production and processing or as a standalone use as specified in the applicable zoning districts.

Adopted 16-370 §8 eff 12/14/16]

940.900 Approval period

(A) Approval of a permit pursuant to LCC Chapter 940 is valid for two (2) years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this two-year period, the approval shall be implemented, or the approval will become void.

(1) Implemented as it applies to marijuana production and processing means all major development permits shall be obtained and maintained for the approved use. If no major development permits are required to initiate the permitted use, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained. A major development permit is:

(a) A building permit for a new primary structure that is part of the approved development; or

(b) A permit issued by the County for parking lot or road improvements required by the approved development.

(2) Implemented as it applies to retailing, wholesaling, research and testing means that the facility has begun operation and is open for consumer business. Notwithstanding the two-year implementation period, a complete application for a marijuana retailing, wholesaling, research or testing license shall be filed with the Oregon Liquor Control Commission, or a complete application for a medical marijuana dispensary registration shall be filed with the Oregon Health Authority, within three months of the date of the County's final decision, or the approval will become void.

[Adopted 16-370 §8 eff 12/14/16]

Statutory References and Other Authorities:
ORS 197; 203; 215; 475B

Legislative History of Chapter 940:
Adopted 16-370 §8 eff 12/14/16

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