

Chapter 18.90.075 Marijuana Related Uses

A. Purpose.

The purpose of requiring standards for marijuana related uses and facilities is to mitigate the adverse secondary effects caused by such facilities and to maintain compatibility with other land uses and services permitted within the City. In addition, these provisions are intended to acknowledge a) collective gardens as set forth in RCW 69.51A.085, b) enactment by Washington voters of Initiative 502, and c) state licensing procedure to permit, but only to the extent required by state law, collective gardens, marijuana producers, marijuana processors, and marijuana retailers to operate in designated zones of the city.

B. Definitions.

All definitions used in this chapter apply to this chapter only, and except as otherwise revised below, shall have the meanings established pursuant to RCW 60.50.101 and WAC 314-55-010, as the same exist now or as they may later be amended. Select definitions have been included below for ease of reference:

“Child care center” means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

“Collective Garden” means any place, area, or garden where qualifying patients engage in the production, processing, and delivery of cannabis for medical use as set forth in chapter 69.51A RCW and subject to the limitations therein.

“Elementary school” means a school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

“Game arcade” means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

“Library” means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

“Marijuana” means all parts of the plant cannabis, whether growing or not, with a THC concentration greater than zero point three percent (.3%) on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plants, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted

therefrom), fiber, oil, or cake, or the sterilized seeds of the plant which is incapable of germination.

“Marijuana infused products” means products that contain marijuana or marijuana extracts and are intended for human use. The term marijuana infused products does not include usable marijuana.

“Marijuana related use” means any use where a marijuana producer, marijuana processor, marijuana retailer, and collective garden are established or proposed.

“Marijuana processor” means a person licensed by the State Liquor Control Board to process marijuana into usable marijuana and marijuana infused products, package and label usable marijuana and marijuana infused products for sale in retail outlets, and sell usable marijuana and marijuana infused products at wholesale to marijuana retailers.

“Marijuana producer” means a person licensed by the State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

“Marijuana retailer” means a person licensed by the State Liquor Control Board to sell usable marijuana and marijuana infused products in a retail outlet.

“Perimeter” means a property line that encloses an area.

“Playground” means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, federal government, or metropolitan park district.

“Public Park” means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails. Public park does not include trails.

“Public transit center” means a facility located outside of the public right-of-way that is owned and managed by a transit agency or city, county, state or federal government for the express purpose of staging people and vehicles where several bus and other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

“Recreational center or facility” means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.

“Secondary school” means a high school and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

“Useable marijuana” means dried marijuana flowers. The term “usable marijuana” does not include marijuana infused products.

C. Limitations on Marijuana Related Use.

No marijuana processor, marijuana producer, marijuana retailer or collective garden shall locate within 1000 feet of the following businesses and facilities, as measured in the manner in 314-55 WAC or as hereafter amended:

1. Elementary or secondary schools;
2. Playgrounds;
3. Recreation center or facility;
4. Child care centers;
5. Public park;
6. Public transit center;
7. Library; or
8. Game arcade.

D. Marijuana Related Use Development Standards.

1. Marijuana producers and marijuana processors shall be allowed in the Light Industrial (LI) zoning district only. Such facilities and uses may be located only at designated sites licensed by the state of Washington and fully conforming to state law and this chapter.
2. Marijuana retail outlets shall be allowed in the Light Industrial (LI) zoning district only. Such facilities and uses may be located only at designated sites licensed by the state of Washington and fully conforming to state law and this chapter.
 - a. Marijuana retail outlet use within the Light Industrial zoning district may utilize all of building’s gross square footage for retail use.
3. Collective gardens shall be allowed in the Light Industrial (LI) zoning district only.
 - a. Collective gardens must meet all requirements under RCW 69.51A.085, including but not limited to the number of members, number of plants, amount of useable cannabis on site, maintenance of each member’s valid documentation of qualifying patient status.
 - b. A location utilized solely for the purpose of distributing medical marijuana shall not be considered a collective garden and is prohibited.
 - c. Outdoor collective gardens are prohibited and must be within a fully-enclosed and secure structure that complies with but not limited to, the International Building Code, electrical code and fire code.
 - d. No production, processing or delivery of cannabis may be visible to the public.
 - e. Collective gardens must meet the location requirements in 18.90.075.C.

4. No marijuana producer, processor or retail outlet are allowed as a subordinate or accessory use in any land use district.
5. No production, processing or retailing facility shall be established or conducted in a building that includes residential use and/or as mixed use.
6. Recreational marijuana production, processing and retailing operations shall be within a fully-enclosed and secure structure that complies with but not limited to, the International Building Code, electrical code and fire code. No outdoor cultivation is allowed.
7. Signage shall comply with WAC 314-55-155(1) now or as hereafter amended, and the city sign code as applicable.
8. All applicable development regulations and performance standards found in PMC 18.90 shall apply to marijuana uses located in new or redeveloped structures, unless modified by this Chapter.
9. Marijuana use parking shall be as follows:
 - a. Recreational marijuana production, processing operations, and collective gardens shall be 1 space per 500 gsf.
 - b. Recreational marijuana retail outlet shall be 1 space per 300 gsf.
10. Marijuana odor shall be contained within the enclosed structure so that odor from the marijuana cannot be detected by a person with a normal sense of smell from any abutting use or property. If marijuana odor can be smelled from any abutting use or property, the marijuana related use shall be required to implement measures, including but not limited to, the installation of the ventilation equipment necessary to contain the odor.

E. Compliance with state licensing.

The production, processing and retailing of marijuana is and remains illegal under federal law. Nothing herein or as provided elsewhere in the ordinances of the City of Poulsbo is an authorization to circumvent federal law or to provide permission to any person or entity to violate federal law. In addition to collective gardens, only Washington State licensed marijuana producers, marijuana processors, and marijuana retailers may locate in the City of Poulsbo and then only pursuant to a license issued by the State of Washington. Business license issued by the City of Poulsbo is also required.

F. Penalties.

In addition to any other applicable remedy and/or penalty, any violation of this section is declared to be a public nuisance per se, and may be abated by the city attorney under the applicable provisions of this code or state law, but not limited to the provisions of PMC Chapter 1.16.