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Chapter 19.64 – MARIJUANA

Section 19.64.010 – Purpose and Intent

The purpose of this chapter is to establish zoning regulations that provide for state licensed and approved **commercial** marijuana activities and land uses consistent with Chapter 69.50 RCW, the Washington Uniform Controlled Substances Act, and Chapter 314-55 WAC, which addresses the producing, processing, and retailing of marijuana. This chapter establishes minimum performance standards to address public health, welfare, and safety impacts from such facilities.

Section 19.64.020 – Applicability

This chapter applies to land being used for marijuana production, processing, and retailing licensed by the state of Washington in all portions of unincorporated Whitman County. This Chapter does not apply to the production of hemp **nor medical marijuana use.**

Section 19.64.030 – Definitions

Whitman County shall rely upon definitions set forth in Chapter 314-55 WAC, RCW 69.50.101, and WCC Chapter 19.03, as each now exists or may hereafter be amended.

Agricultural Activity: The County recognizes the growing of licensed marijuana to be an agricultural land use as contemplated by the County Comprehensive Plan, however, for the purposes of this Chapter, the production, processing, and sale of marijuana is not considered an agricultural activity. For the definition of Agricultural Activity see WCC Chapter 19.03.025.

Section 19.64.040 – Marijuana Production and Processing Permitted Zoning Districts

A. Indoor marijuana production and processing may be permitted in the following zoning districts:

1. Agricultural District
2. North Pullman-Moscow Corridor District
3. South Pullman-Moscow Corridor District
4. Heavy Commercial District
5. Light Industrial District
6. Heavy Industrial District

B. Outdoor marijuana production and processing may be permitted in the following districts:

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1. The Agricultural District

C. Marijuana retail outlets may be permitted in the following zoning districts:

1. North Pullman-Moscow Corridor District
2. South Pullman-Moscow Corridor District

Section 19.64.050 – Development Standards

A. Indoor production, processing and retailing

1. Indoor marijuana production, processing, or retailing requires a conditional use permit. A pre-application meeting with the Planning Department is required prior to the submittal of a conditional use application.
2. Only marijuana producers, processors, and retailers with a current, validly issued license by the Washington State Liquor and Cannabis Board, compliant with all local development regulations, shall be allowed to apply for a conditional use permit. When a conflict exists such that the Washington State Liquor and Cannabis Board has issued a license in a location where activity is prohibited by regulation, the local regulations shall prevail.
3. Marijuana producers, processors, and retailers shall be subject to the development standards of the underlying zoning district, the Whitman County Code, and all other local and state laws except as modified in this chapter.
4. No marijuana production, processing, or retailing shall be permitted within a dwelling unit or within a building physically attached to a dwelling unit.
5. Indoor marijuana production and processing in all permitted zoning districts shall be within an entirely enclosed building.
6. No marijuana production, processing, or retailing operations shall emit odors of marijuana that are detectable at or beyond the lot lines of the facility. The County Planner may issue a written notice to the holder of a conditional use permit issued pursuant to this chapter that odor has been detected in violation of this section. Any odor condition detected must be cured within seven business days of the conditional use holder's receipt of the written notice of violation. If a second violation occurs, the County Planner shall take the conditional use permit holder back to the Board of Adjustment or Hearing Examiner for a review of the permit. If odors cannot be contained within the lot lines of the facility the Board of Adjustment or the Hearing Examiner can terminate the conditional use permit.

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7. The applicant shall install an exhaust system that is designed and constructed to capture odors and sources of contaminants to prevent spreading of contaminants or odors to the surrounding areas. The system must be designed by a licensed Washington State professional engineer.
8. Lighting for marijuana production, processing, and retail operations, including any required security lighting, shall be designed, installed, and maintained so as to eliminate light directly projecting across property lines.
9. The Board of Adjustment or Hearing Examiner shall determine the setback requirement for all marijuana indoor production and processing facilities based on site specific and operational characteristics (such as topography, use of structures to enhance plant growth, use of odor control systems, use of temporary growing structures, ventilation system, prevailing wind direction, etc.) and probable impacts to neighboring properties; but in no case shall setbacks for indoor production and processing be less than a minimum of 20 feet from front, rear, and side property lines. Any increase of the setbacks is subject to the site specific and operational characteristics described above.
10. No indoor marijuana production or processing shall be allowed on lots or parcels less than two acres. The land used for this must be a stand-alone legal parcel.
11. Licensed indoor marijuana production, processing, and retailing shall not be permitted within one thousand (1,000) feet of the property lines of the following “sensitive uses”.
 - a. Elementary or secondary schools;
 - b. Playgrounds;
 - c. Recreation centers or facilities;
 - d. Child-care centers;
 - e. Public parks and trails;
 - f. Public transit centers;
 - g. Libraries;
 - h. Game arcades (where admission is not restricted to persons age 21 or older);
 - i. Churches;
 - j. Any parcel containing a licensed marijuana retail outlet;
 - k. Retirement/senior/elder care facilities;
 - l. Hospitals and medical clinics;
 - m. Drug treatment centers;
 - n. The county fairgrounds;

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The 1000 foot buffer distance must be measured as the shortest straight line distance from the property line of the proposed business location to the property line of any of the entities aforementioned.

12. The subsequent establishment of a sensitive use listed in paragraph 11 above, within 1,000 feet of a legally established and licensed marijuana production, processing, or retail facility, shall not be prohibited by this Chapter and shall thereby not render a valid conditional use permit non-conforming.
13. Waste disposal from all structures and uses serving production and/or processing of marijuana shall conform to WAC 314-55-097, as now in effect or as hereafter amended. If any such waste may be designated dangerous waste under WAC 173-303, as now in effect or hereafter amended, then the waste generator shall bear the responsibility for waste characterization and disposal pursuant to the rules of the Washington State Department of Ecology or any other appropriate regulatory authority.
14. No fertilizers, chemicals, gases, or hazardous materials used in the growing or processing of the marijuana plants shall be allowed to enter an on-site septic system, sanitary sewer, or stormwater system, nor be released into the atmosphere where the facility is located.
15. Any soil amendments, fertilizers, other crop production aids, and pesticides used in the indoor production and processing of marijuana must comply with WAC 314-55-084.
16. In the Agricultural District, no facility engaged in marijuana production and/or processing may locate within 1,500 feet of the municipal boundaries of incorporated towns and unincorporated communities within Whitman County. Marijuana retail operations will comply with the setbacks from the underlying zoning district.
17. Upon notice of violation the County Planner may direct compliance. Upon failure to comply the permit may be suspended [per WCC 19.06.010(2)] by the Board of Adjustment or Hearing Examiner until necessary corrections are made or terminated upon failure to comply or repeated violations.

B. Outdoor Production

1. Outdoor production of marijuana requires a conditional use permit. A pre-application meeting with the Planning Department is required prior to the submittal of a conditional use application.

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2. Only marijuana producers, processors, and retailers with a current, validly issued license by the Washington State Liquor and Cannabis Board, compliant with all local development regulations, shall be allowed to apply for a conditional use permit. When a conflict exists such that the Washington State Liquor and Cannabis Board has issued a license in a location where activity is prohibited by regulation, the local regulations shall prevail.
3. Outdoor marijuana producers shall be subject to the development standards of the underlying zoning district, the Whitman County Code, and all other local and state laws except as modified in this chapter.
4. No outdoor marijuana producer shall emit odors that are detectable at or beyond the lot lines of the facility. The County Planner may issue a written notice to the holder of a conditional use permit issued pursuant to this chapter that odor has been detected in violation of this section. Any odor condition detected must be cured within seven business days of the conditional use holder's receipt of the written notice of violation. If a second violation occurs the County Planner shall take the conditional use permit holder back to the Board of Adjustment or Hearing Examiner for a review of the permit. If the odors from the outdoor grow operation cannot be contained within the property, the options for the Board of Adjustment or Hearing Examiner are to terminate or to modify the conditional use permit, such as by requiring the operation to be moved indoors to a building that conforms to the requirements of Section 19.64.050(A)(6).
5. Outdoor marijuana production areas shall be located within the confines of an opaque wall or fence. The wall or fence shall be a minimum height of eight feet.
6. Lighting for outdoor marijuana production including any required security lighting, shall be designed, installed, and maintained so as to eliminate light directly projecting across property lines.
7. The Board of Adjustment or Hearing Examiner shall determine the setback requirement for outdoor marijuana production applications based on site specific and operational characteristics (such as topography, use of structures to enhance plant growth, use of odor control systems, use of temporary growing structures, ventilation system, prevailing wind direction, etc.) and probable impacts to neighboring properties. The minimum setback for outdoor marijuana production is 200 feet from front, rear, and side property lines.

The minimum setback from an outdoor marijuana facility to existing residences for which a Rural Housing Certificate (RHC) or a Certificate of Zoning Compliance (CZC) has been issued at the time shall be 500 feet. This setback is to be measured from the foundation of a residence to the fence of the marijuana

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facility. This minimum setback distance can be increased or decreased by the Board of Adjustment. It can be decreased by up to fifty percent (50%) provided the affected property owner of record grants the reduced distance through a signed and notarized waiver, contract, covenant or other document is executed with specific reference to the assessor parcels impacted and a copy is recorded with the Whitman County Auditor. Any increase of the setbacks is subject to the site specific and operational characteristics described above.

8. No outdoor marijuana production or processing shall be allowed on lots or parcels less than ten acres. The land used for this must be a stand-alone legal parcel.
9. Licensed outdoor marijuana producers shall not be permitted within one thousand (1,000) feet of the perimeter grounds of the following entities:
 - a. Elementary or secondary schools;
 - b. Playgrounds;
 - c. Recreation centers or facilities;
 - d. Child-care centers;
 - e. Public parks and trails;
 - f. Public transit centers;
 - g. Libraries;
 - h. Game arcades (where admission is not restricted to persons age 21 or older);
 - i. Churches with licensed day care centers;
 - j. Any parcel containing a licensed marijuana retail outlet;
 - k. Retirement/senior/elder care facilities;
 - l. Hospitals and medical clinics;
 - m. Drug treatment centers;
 - n. The county fairgrounds,

The 1000 foot buffer distance must be measured as the shortest straight line distance from the property line of the proposed business location to the property line of any of the entities aforementioned.

10. The subsequent establishment of a sensitive use listed in paragraph 9 above, within 1,000 feet of a legally established and licensed marijuana production, processing, or retail facility, shall not be prohibited by this Chapter and shall thereby not render a valid conditional use permit non-conforming.
11. Waste disposal from all structures and uses serving outdoor production of marijuana shall conform to WAC 314-55-097, as now in effect or as hereafter amended. If any such waste may be designated dangerous waste under WAC 173-303, as now in effect or hereafter amended, then the waste generator shall

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bear the responsibility for waste characterization and disposal pursuant to the rules of the Washington State Department of Ecology or any other appropriate regulatory authority.

12. No fertilizers, chemicals, gases, or hazardous materials used in the growing of the marijuana plants shall be allowed to enter an on-site septic system, sanitary sewer, or stormwater system.
13. Any soil amendments, fertilizers, other crop production aids, and pesticides used in the production of outdoor marijuana must comply with WAC 314-55-084.
14. No facility engaged in outdoor marijuana production may locate within 1/2 mile of the municipal boundaries of incorporated towns and unincorporated communities within Whitman County.

Section 19.64.060 – Conditional Use Submittal Requirements

The applicant shall submit the following to the Planning Department:

1. A site plan drawn to a standard scale. The site plan shall depict and describe the following: (a) the location and total area of the licensed facility; (b) the distances from the production (grow) areas and/or processing facilities to all adjacent buildings and property lines; (c) all existing and intended uses of any buildings or structures, grow areas, parking areas, property lines, physical land features such as roads, utilities, driveways and any critical areas; (d) the location of the security fence and the distance of the fence from the property's lot lines. The security fence must be at least 20 feet from all lot lines.
2. A location plan. The applicant shall submit a map, drawn to scale, showing that the marijuana production facility and/or processing fence line is at least 1,000 feet from the property lines of all of the entities identified in Section 19.64.050(B)(9).
3. A lighting plan. Buildings shall have internal shielding (such as blackout curtains) to prevent glare and light trespass from the building's interior walls and roof, so that lighting sources are not visible from off-site residences and public roads. Conditions of approval for any conditional use permitted under this chapter shall require compliance with the lighting plan. At the time of application for a building permit, proof of interior wall and roof shielding shall be submitted to the County Planning Department. All exterior lighting shall be designed to be downward facing and shielded to prevent light directly projecting across property lines.

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4. A security plan. A marijuana business shall meet all security requirements as required by WAC 314-55 and shall provide proof of such operational security system.
5. A waste disposal plan. All fertilizers, chemicals, gases, and hazardous materials shall be handled in compliance with all applicable local, state, and federal regulations. No fertilizers, chemicals, gases, or hazardous materials shall be allowed to enter an on-site septic system, sanitary sewer or storm sewer system, nor be released into the atmosphere where the facility is located. Waste materials generated from any facility must be disposed of in accordance with the operating plan filed as part of a marijuana license application and consistent with all applicable federal, state, and local regulations.
6. Variance to setbacks. If a variance to setbacks is requested, specify the setback distance. If the setback distance is requested to be decreased a waiver from the adjacent landowner is to be provided in the CUP application. Also include in the application the reason(s) why a variance is being sought.