

8-3 Division J. Article 11.
SPECIAL USE STANDARDS

8-3J.1110 DESCRIPTION AND PURPOSE

This Section supplements the standards of the Talent Zoning Code. It provides standards for the land uses in order to control the scale and compatibility of those uses within the City.

8-3J.1120 DEFINITIONS

8-3J.1130 MARIJUANA RELATED USES

The purpose of this section is to regulate the cultivation of marijuana within the City of Talent in a manner that protects the health, safety and welfare of the community, while avoiding undue interference with an individual's right to cultivate marijuana as allowed by the laws of the State of Oregon.

- A. Marijuana Cultivators shall be allowed to cultivate, produce, process and/or possess marijuana subject to the following general conditions:
1. The resident grower must live on the property where the cultivation of marijuana is located and that same property must be the primary residence of the resident grower;
 2. Marijuana cultivation and any related activities shall be in full compliance with all applicable provisions of the Oregon Health Authority (OHA) and Oregon Liquor Control Commission (OLCC);
 3. Marijuana processing shall be located indoors;
 4. Licensed commercial grows, as defined by Measure 91, are strictly prohibited in all residential zones.
 5. The use of explosive or flammable gas products for marijuana cultivation or processing is prohibited;
 6. There shall be no visible evidence of the presence of marijuana cultivation at the property line of the site upon which the cultivation is conducted;
 7. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, smoke, traffic, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes;
 8. Disposal of any excess or unused marijuana, marijuana products, or other byproducts thereof, shall meet all local and state requirements for disposal, and shall be disposed of in a secure fashion so as to avoid access by children, visitors,

casual passersby, vandals or anyone not licensed or authorized to possess marijuana;

9. Cultivation, production or processing of marijuana in a commercial or industrial structure or located in a commercial or industrial zone shall meet the following requirements:
 - a. The use must be conducted entirely indoors in accordance with Section XXX below;
 - b. The premises must not be vacant and there shall be an actual daily presence, use and occupancy of the premises by an owner, tenant, employee or agent thereof;
10. Outdoor Cultivation. Up to four (4) recreational marijuana plants per lot or up to six (6) medical marijuana plants per lot are allowed to be grown in accordance with applicable Oregon Revised Statutes and Oregon Administrative Rules. Outdoor marijuana cultivation shall meet all of the following requirements:
 - a. Outdoor cultivation areas must be in compliance with ORS 475.320(2)(b)(d) which requires all medical marijuana grows to obtain and display a medical marijuana grow site registration card.
 - b. Outdoor cultivation areas are not permitted when the cultivation of marijuana is for the consumption of individuals other than resident OMMP registered individual(s);
 - c. Locate marijuana plants so that they are not visible from a public place, public street or area the general public has access (e.g. schools, playgrounds, parks, open space, pedestrian and bicycle paths and trails). Marijuana plants shall not be located in a front yard.
 - d. Screen marijuana plants to limit view and access from adjacent residential properties with a solid wood fence or masonry wall. Fences and wall shall meet the requirements outlined in the City's Zoning Code.
 - e. Marijuana plants grown outdoors shall meet the following dimensional standards:
 - i. Cultivation areas shall be sited closer to the primary dwelling of the resident grower than to dwellings on adjacent properties;
 - ii. Cultivation areas may include one area or a combination of areas on the property;
 - iii. Contiguous lots under single ownership shall be considered one lot for the purpose of calculating the dimensional standards for marijuana cultivation;
 - iv. Number of marijuana plants grown outdoors may not exceed four (4) recreational or six (6) medical plants;
 - v. Maximum cultivation areas shall not exceed fifty (50) square feet and shall be surrounded by a fence that is six (6) feet in height. The combined total of the individual cultivation areas shall not exceed the maximum.

- vi. The total area permitted to be used for marijuana cultivation, including indoor and outdoor cultivation areas shall not exceed one hundred (100) square feet.
 - vii. Maximum marijuana plant height shall not exceed 10 feet in height. Plant height is measured from the average adjacent grade.
 - viii. Minimum cultivation area setbacks from any property line shall be ten (10) feet and twenty (20) feet from dwellings on adjacent properties or from multifamily dwelling units within a multifamily development.
11. Indoor Cultivation. Indoor marijuana cultivation shall meet all of the following requirements;
- a. Building Code. Any structure, accessory structure, electrical service, plumbing, or mechanical equipment such as lighting, fans, heating and cooling systems associated with marijuana cultivation shall satisfy the Oregon Building Code requirements and obtain all required permits prior to installation;
 - b. Maximum indoor cultivation area shall not exceed one hundred (100) square feet and not exceed ten (10) feet in height per property;
 - c. Accessory Structures. Any accessory structure shall meet the requirements of the City's Zoning Code;
 - d. Light and Glare. Light pollution, glare, or brightness that disturbs the repose of another shall be minimized. All lighting shall be shielded or confined to the interior of the structure and shall not exceed 1200 watts for every fifty (50) square feet of cultivation area;
 - e. Marijuana cultivation shall not be the primary use of a dwelling. Vacant, uninhabited or abandoned dwelling units shall not be used for marijuana cultivation.

8-3J.1140 TEMPORARY USES

All temporary uses must comply with the provisions of this ordinance. Only temporary uses lasting more than two (2) days require a temporary use permit. Temporary Uses lasting two (2) days or less shall be subject to a Special Use Permit.

- A. Application. Applications for the temporary use permit shall be filed with Community Development and shall include:
 - 1. Form prescribed by the City and signed by the property owner.
 - 2. A statement explaining the request.
 - 3. Site plan showing location of any proposed structures, activity areas, and parking with respect to property lines and existing buildings, parking areas, and landscaping.
 - 4. Drawings or photos showing proposed structures.
 - 5. Any other information needed to describe the proposed use in sufficient detail for Community Development Director to determine how the proposed use meets the approval criteria.

B. Approval Criteria. A temporary use may be granted only if:

1. The temporary use is consistent with the purpose of the zoning district in which it is placed.
2. The temporary use shall comply with the applicable criteria listed in Section 8-3J.1140(C) below.

C. Allowable Temporary Uses.

1. Temporary displays, sales, and events. Temporary displays, sales and events may be permitted in all industrial, commercial and public facilities and parks zones. All activities must meet the following criteria:
 - a. Adequate parking facilities are available. The temporary activity does not eliminate parking spaces required by Section 8-3J.5 of this ordinance.
 - b. The temporary activity does not encroach on the required setbacks of the lot.
 - c. Food vendors shall comply with all state and county health and fire regulations and shall furnish written evidence of compliance prior to opening for business.
 - d. Renew the Temporary Use Permit each year.
 - e. Temporary activities involving tents, tarps, or sales out of vehicles will last no more than two (2) consecutive days.
2. Temporary stationary food vending, coffee stands or other kiosks. Temporary stationary food vending, coffee stands or other kiosks may be permitted in all commercial zones for a period not to exceed one (1) year.
 - b. No extension cords shall be used to provide electricity.
 - c. The use must not connect to City water or sewer and must identify the method of grey water disposal.
 - d. Prior to the issuance of any permit or a business license, the Fire Marshal shall inspect and approve any mobile unit to determine compliance with all applicable Building and Fire Codes.
3. Second Dwelling on Property During Construction or Demolition of Dwelling. A manufactured home or RV may be used temporarily during construction or reconstruction of a permanent residence. Or, a building permit may be issued for a new residence while an existing home remains occupied to allow for the residents to remain on their lot until the new dwelling is ready to occupy. The temporary use, including demolition of building, shall be limited to a maximum of one year unless an extension is approved by the Community Development Director. The following standards must be met for either of these temporary uses:
 - a. The applicant shall provide evidence of an approved water supply and sewage disposal system.

- b. The certificate of occupancy for the new residence shall not be issued until the original dwelling has been demolished and the site cleaned up, or until the manufactured home being used temporarily is removed from the site.
 - c. If a manufactured home is to be used as a temporary residence, a building permit for the siting and anchoring of the manufactured home shall be submitted and approved by the building inspector prior to occupancy. Upon expiration of the temporary use, the manufactured home shall not be converted to an accessory use.
 - d. RV use shall be limited to not more than 90 days.
4. Outdoor Storage (not involving sales). Temporary outdoor storage not exceeding 180 days may be permitted in all industrial and commercial zones. All outdoor storage areas must meet the following criteria:
- a. The storage does not encroach on the required setbacks of the lot.
 - b. Adequate parking facilities are available. The temporary outdoor storage does not eliminate parking spaces required by Section 8-3J.5 of this ordinance.
 - c. The materials being stored will not cause any contamination of stormwater runoff. The materials being stored shall be screened from view with sight-obscuring fence or landscaping in compliance with Section 8-3J.4 of the Talent Zoning Code.
 - c. The materials do not create an attractive nuisance as defined in the Talent Municipal Code.
 - d. After one (1) year, the temporary use permit period expires. The use shall then either be converted to a permanent use through Conditional Use Permit review in compliance with the standards of Section 8-3L.2, or be discontinued.
5. Standards for a manufactured dwelling as a temporary office in the commercial or industrial zone during construction of a permanent structure.
- a. Within six (6) months from the date the approval is granted, an application for a building permit for a permanent structure or modification of an existing structure on the premises must be filed. Failure to submit the application within the specified time will terminate the approval.
 - b. The temporary permit shall be for a period not to exceed eighteen (18) months.
 - c. All owners of the lot agree in writing to remove the manufactured dwelling from the lot not later than eighteen (18) months from the date on which the building permit is issued or not later than two (2) months following the completion of the construction, whichever shall occur first.
 - d. All owners of the lot agree in writing to remove all evidence that the manufactured dwelling has been on the lot within 30 days after the removal of the manufactured dwelling and that the manufactured dwelling shall not be converted to an accessory building.

- e. Any electric, water and sewer connections which are necessary must be made according to City specification.
- f. A building permit for the siting and anchoring of the manufactured dwelling shall be submitted and approved by the building inspector prior to occupancy.

D. Procedures for Approving Temporary Uses.

1. The Community Development Director may approve, disapprove, or conditionally approve the Temporary Use Permit. If the application is for a highly visible location or potentially controversial use, the Community Development Director may require a Type 2 Review to obtain comments from the neighbor. Approval of the Temporary Use Permit will be subject to compliance with the standards as set forth in this ordinance and standards as established elsewhere by City ordinance or resolution.
2. The Community Development Director may attach appropriate and reasonable conditions to the permit that are necessary to ensure the public health, safety, and welfare and to maintain compliance with city codes and ordinances. Such clear and objective standards may include but are not limited to:
 - a. Setback requirements
 - b. Screening
 - c. Control of points of ingress and egress
 - d. Special provisions for signs
 - e. Landscaping and maintenance of landscaping
 - f. Maintenance of grounds
 - g. Control of noise, vibration, and odors
 - h. Limitation of hours for certain activities
 - i. Limitation of duration of temporary use
3. Once approved, the site plan for the temporary use as modified with conditions shall become the official plan.
4. Compliance with conditions imposed in the temporary use permit and adherence to the approved plans is required. The Community Development Director may revoke the temporary use permit with any departure from the approved plans or conditions or approval.
5. All temporary uses require a City Business license.

E. Procedures for Renewing Temporary Use Permits.

1. Temporary Use Permit shall be subject to review and approval by the Community Development Director on an annual basis for a period not to exceed three (3) years, after which the use shall be discontinued or application for Site Development Plan review shall be approved.

2. Temporary Use Permit renewals may be approved by the Community Development Department provided that:
 - a. No formal complaints have been filed regarding the temporary use.
 - b. There have been no changes made to the site plan or activities from the time of initial approval as verified by the Community Development Director.

8-3J.1150 BACKYARD CHICKENS

- A. The keeping of chickens on lots less than 4,000 square feet in size is allowed in a residential zoning district subject to all of the following conditions:
 1. One (1) chicken is allowed for each one thousand (1,000) square feet of lot area, up to a maximum of ten (10) chickens.
 2. No chickens are allowed on properties occupied by multi-family housing, including duplexes or within mobile home parks.
 3. Roosters are not allowed.
- B. Chickens kept under this section shall be secured at all times:
 1. During non-daylight hours, chickens must be confined within a secure chicken coop sufficient to protect chickens from predators;
 2. During daylight hours, chickens shall be confined within a chicken coop or run meeting the requirements of Section 8-3J.1150(C), below, or within a securely fenced backyard.
- C. Chicken coops and runs:
 1. Shall be built in compliance with all applicable building and zoning codes;
 2. Shall not be located in a required front yard;
 3. Shall be set back at least 20 feet from dwellings on abutting property;
 4. Shall be set back a minimum of 5 feet from abutting property;
 5. Shall not exceed eight (8) feet in height;
 6. Square footage combined shall not exceed one hundred (100) square feet in area, or ten (10) square feet per animal, whichever is greater.
- D. To protect public health, the areas in which chickens are kept must be maintained in compliance with the following requirements:
 1. All animal or poultry food shall be stored in metal or other rodent proof receptacles;
 2. Chicken manure must be collected, stored, composted and/or removed from the property on a regular basis so as not to create a public health hazard or nuisance. All manure not used for composting or fertilizing shall be removed from the property;

3. Noise resulting from the keeping or maintaining of chickens must not exceed the limitations set forth in Talent Municipal Code XXX.

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"Homegrown Marijuana" means any marijuana cultivated, dried, produced, processed, kept or stored for personal recreational use by a person 21 years of age or older in accordance with state law. Sales of homegrown marijuana are prohibited.

"Household" means a housing unit, and includes any indoor structure or accessory dwelling unit in or around the housing unit at which the occupants of the housing unit are cultivating, drying, producing, processing, keeping, or storing homegrown marijuana.

"Housing unit" means a house; a mobile home; a manufactured home; and/or a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall including an individual residential unit in an apartment, duplex, townhome, condominium, or senior living facility.

"Indoors/Indoor Structure" means within a fully enclosed and secure structure that complies with the Oregon Residential Specialty Code (ORSC) or Oregon Structural Specialty Code (OSSC), as adopted by the City of Talent. Plastic sheeting, regardless of gauge, or similar products does not satisfy this requirement.

"Marijuana" means all parts of the plant Cannabis family Moraceae, including, but not limited to, its dried leaves and flowers, any marijuana products derived therefrom. The term includes any and all recreational marijuana, medical marijuana and marijuana products as defined in this section.

"Marijuana cultivator" means a medical or recreational marijuana grower, patient, and any landlord or property owner allowing marijuana to be cultivated, dried, produced, processed, kept or stored at a premises.

"Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption.

"Medical Marijuana" means the marijuana cultivated, dried, produced, processed, kept or stored for medicinal use in accordance with the OMMA.

"Medical Marijuana Grow Site" means a location registered pursuant to ORS 475.304 where medical marijuana is produced for use by a patient.

"Recreational Marijuana Grower" means a person 21 years of age and older engaged in the cultivation, drying, production, processing, keeping or storage of homegrown marijuana in accordance with state law.

"Homegrown Marijuana Grow Site" means a location in which a person 21 years of age and older cultivates, dries, produces, processes, keeps or stores homegrown recreational marijuana in accordance with state law.

"Patient" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.

“Primary Residence” means the place that a person, by custom and practice, makes his or her principle domicile and address and to which the person intends to return, following any temporary absence, such as vacation. Residence is evidenced by actual daily physical presence, use, and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking of meals, regular mail delivery, vehicle and voter registration, or credit, water, and utility billing. A person shall have only one primary residence, which may include an indoor structure or accessory dwelling unit, provided that the indoor structure or accessory dwelling unit is located on the same tax lot as the primary residence.

"Property" means any home, business or public right-of-way.

“Secure” means locked or partitioned off to prevent access by children, visitors, casual passersby, vandals, or anyone not licensed or authorized to possess marijuana or marijuana products.