

## 8-3 Division J. Article 11.

# SPECIAL USE STANDARDS

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### **8-3J.1110 DESCRIPTION AND PURPOSE**

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

### **8-3J.1120 APPLICABILITY**

This section supplements the other requirements of this ordinance. Uses designated as special uses and uses the City determines to be similar to such uses, are subject to this section. Some special use standards and contained in this article, and others have a corresponding section in this ordinance. Where standards differ between chapters, the provisions of this article apply.

### **8-3J.1130 REVIEW PROCESS**

City Staff or Planning Commission applies the standards of this article through the applicable review process (i.e., Type 1 review, Type 2 review or Type 3 review). Site Development Plan Review pursuant to Chapter 8-3L.1, or a Conditional Use Permit pursuant to Chapter 8-3L.2 may be required for some uses.

### **8-3J.1140 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. **Homegrown Marijuana Cultivation.** Marijuana Cultivators shall be allowed to cultivate, produce, process and/or possess marijuana as an outright permitted use, 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 including any drying, keeping or storage of homegrown ma 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. 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;
7. 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;
8. **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. 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.
  - c. 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. The total area permitted to be used for marijuana cultivation, including indoor and outdoor cultivation areas shall not exceed one hundred (100) square feet.
    - vi. Maximum marijuana plant height shall not exceed 10 feet in height. Plant height is measured from the average adjacent grade.
    - vii. 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.

9. **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. **Accessory Structures.** Any accessory structure shall meet the requirements of the City's Zoning Code;
  - c. **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;
  - d. **Marijuana cultivation shall not be the primary use of a dwelling.** Vacant, uninhabited or abandoned dwelling units shall not be used for marijuana cultivation.

**B. Marijuana-Related Businesses.**

1. Marijuana-related businesses may require a Type 2 or Type 3 Site Development Plan Review under Section 8-3L.1 or a Type 3 Conditional Use Permit under Section 8-3L.2. Marijuana-related businesses shall meet all of the following requirements.
  - a. The business must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor marijuana production, cultivation, and storage of merchandise, raw materials, or other material associated with the business are prohibited.
  - b. Any modifications to the subject site or exterior of a building housing the business must be consistent with the Site Development Plan standards, if required by Section 8-3L.1 of the Talent Zoning Code. Security bars or grates on windows and doors are prohibited.
  - c. The business must provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the business' exterior refuse containers.
  - d. **Light and Glare.** Shield lighting systems and use window coverings to confine light and glare from light systems associated with indoor cultivation so as to confine light and glare to the interior of the structure. Grow light systems within a greenhouse are prohibited.
  - e. **Building Code.** Any structure, accessory structure, electrical service, plumbing, or mechanical equipment (e.g., lighting, fans, heating and cooling systems) associated with a business shall satisfy the Building Code requirements and obtain all required building permits prior to installation.

- f. Methodology for Measuring Separation Requirements. The following methodology shall be used for marijuana related- businesses that are required to be separated by a specific distance (i.e., marijuana production facility, marijuana wholesale facility, marijuana retail outlet). For the purposes of determining the distance between a marijuana related-business and another marijuana-related business, “within 1,000 feet” means a straight line measurement in a radius extending for 1,000 feet or less in every direction from the closest point anywhere on the premises of an approved marijuana related- business to the closest point anywhere on the premises of a proposed marijuana-related business of the same type. If any portion of the premises of a proposed marijuana related-business is within 1,000 feet of an approved marijuana related business of the same type, it may not be approved. For the purpose of this section, premises is all public and private enclosed areas within a building at the location that are used in the business operation, including offices, kitchens, rest rooms, and storerooms.

- 2. **Marijuana Laboratories, Processing, Production, and Wholesale.** In addition to the standards and review process described in zone in which the use will take place and the applicable requirements of Section 8-3L.1, Site Development Plan Review or 8-3L.4, Conditional Uses, marijuana laboratories, processing, production, and wholesale shall meet the following requirements as applicable.
  - a. Marijuana laboratories, processing, production and wholesale operations shall be located 200 feet or more from a residential zone.
  - b. Marijuana Production shall be:
    - i. Limited to 5,000 square feet of gross leasable floor area per lot; and
    - ii. Located more than 1,000 feet from another marijuana production facility.
  - c. Marijuana Wholesale. A marijuana wholesale facility shall be located more than 1,000 feet from another wholesale facility.

### **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 Standards. 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. 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.
- 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 and a revised plan meeting the conditions shall be submitted to Community Development.
- 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 of 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 within the City is allowed in all residential zoning districts as an outright permitted use, subject to 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. 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. Chicken coops and runs shall be built in compliance with all applicable building and zoning codes if over 200 square feet;
  2. Chicken coops and runs shall not be located in a required front yard;
  3. Chicken coops shall be set back at least 20 feet from dwellings on abutting property;
  4. Chicken coops shall be set back a minimum of five (5) feet from abutting side property;
  5. Chicken coops and runs shall not exceed eight (8) feet in height;
  6. Chicken coops must have at least two (2) square feet of floor area per adult chicken.
  7. Chicken runs must have at least six (6) square feet of run area per adult chicken.
- 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.

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