

Cannabis Business Blog

The New Greenways: The City of Hillsboro Adopts Recreational Marijuana Regulations

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On May 3, 2016, the City of Hillsboro adopted new land use regulations in preparation for recreational marijuana uses of the product. The city's new code allows marijuana production facilities only in the General Industrial (I-G) and Industrial Park (I-P) zones. However, such production facilities are not allowed in the city's recently adopted Industrial Sanctuary (I-S) or the light rail industrial zones. As a practical matter, this limitation in the I-S zone may turn out to be smart planning as the city has envisioned high energy users at these locations, and marijuana production could have had adverse impacts to energy infrastructure and availability in the area.

Development of industrial marijuana facilities in the I-G zone will allow flexibility for the use that can either occupy existing buildings or new construction. The city's vision is the new uses might help solve the blight caused by out-of-date buildings with the result that those structures will be repurposed and refurbished. Further, vacant land in the southwest industrial area and in older industrial parks elsewhere in the city will allow for construction of new buildings to serve the use. Both refurbishment and new construction for marijuana facilities will be subject to the process and standards of the Development Review process.

Similarly, the I-P zone allows industrial marijuana facilities. However, new buildings in the I-P zone are required to have concrete or cement masonry units construction only. The city's intent is to ensure that new development is consistent with the city's plan for well-designed, highest quality development, and the construction of "use neutral" buildings which enhance property values on nearby properties and better enable conversion to other higher value uses in the future. While the city refers to higher value uses in the future, it is hard to imagine when 2016 Oregon market projections call for [\\$481 million](#) in legal marijuana sales.

Although production is not allowed in the city's Station Community Business Park (SC-BP) and Station Community Industrial (SCI) zones, complimentary uses will be allowed. For example, wholesale facilities and testing laboratories can occupy either existing buildings or new

construction. New construction will be limited to concrete or cement masonry units construction only, and subject to the process and standards of the Development Review process.

The city also adopted time, place and manner restrictions intended to prevent nuisance impacts to surrounding properties and the general. Here are a few highlights from these regulations:

- In the case of production facilities, views from the exterior of the building into the production area are prohibited.

- Security features are addressed.

- Odor mitigation for production facilities, including installation of activated carbon filters on all exhaust outlets to the building exterior; location of exhaust outlets a minimum of 10 feet from the property line and 10 feet above finished grade; and maintenance of negative air pressure within the facility; or an alternative odor control system approved by the Building Official.

- Marijuana waste must be rendered unusable before it is disposed.

- A recreational marijuana production, processing, testing laboratory or wholesale sales facility shall not be located within 100 feet of any single-family residential, multi-family residential, mixed-use, urban center or institutional zone.

- For retail sales facilities, operation may only occur between the hours of 10:00 a.m. and 8:00 p.m., Monday through Thursday; and 10:00 a.m. to 10:00 p.m., on Friday, Saturday and Sunday.

- And be sure to check the code for distances required from schools, public plazas and other specified areas.

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For those of you “do-it-yourselfers,” take heed. The city decided that home occupations for recreational marijuana facilities are prohibited. And don’t expect a marijuana cart on wheels to drop off your product because mobile retail businesses are prohibited.

Ready to get started with a recreational marijuana facility in Hillsboro? We can help navigate the land use process while you get down to business.

Warning Regarding Federal Law: The possession, distribution, and manufacturing of marijuana is illegal under federal law, regardless of state law which may, in some jurisdictions, decriminalize such activity under certain circumstances. Penalties for violating federal drug laws are very serious. For example, a conviction on a charge of conspiracy to sell drugs carries a mandatory minimum prison term of five years for a first offense and, depending on the quantity of marijuana involved, the fine for such a conviction could be as high as \$10 million. In addition, the federal government may seize, and seek the civil forfeiture of, the real or personal property used to facilitate the sale of marijuana as well as the money or other proceeds from the sale. Although the U.S. Department of Justice (DOJ) recently rescinded its guidance regarding prioritization of criminal prosecutions of individuals and entities operating in compliance with effective state regulatory systems, DOJ left in place long standing guidance to federal prosecutors regarding how to exercise this discretion. Individuals and companies are cautioned to consult with experienced attorneys regarding their exposure to potential criminal prosecution before establishing business operations in reliance upon the passage of state laws which may decriminalize such activity. Federal authority to prosecute violations of federal law as crimes or through seizures and forfeiture actions is not diminished by state law. Indeed, due to the federal government’s jurisdiction over interstate commerce, when businesses provide services to marijuana producers, processors or distributors located in multiple states, they potentially face a higher level of scrutiny from federal authorities than do their customers with local operations.

Tags: 2016 Oregon market projections, City of Hillsboro, Development Review process, I-G zone, I-S zone, Industrial Sanctuary (I-S), land use regulations, light rail industrial zones, marijuana production, marijuana production facilities, recreational marijuana production, recreational marijuana use, Station Community Business Park (SC-BP), Station Community Industrial (SCI) zones