

Key to modifications:

Strikeout	Version of CCC 40.260.115 adopted in Ordinance 2017-07-04
Underline	Version of CCC 40.260.115 adopted in Ordinance 2019-07-01
Strikeout and red highlight	Deletions from Ordinance 2019-07-01
Double Underline and green highlight	Additions to Ordinance 2019-07-01

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ORDINANCE NO. 2020-10-_____

An ordinance relating to land use and zoning regulations under Chapters 35.63 and 36.70A RCW for medical marijuana and marijuana related facilities in Clark County Code (Title 40).

WHEREAS, in July 2019, the Clark County Council adopted an ordinance lifting the county’s prior moratorium on marijuana establishments; and

WHEREAS, subsequently a scrivener’s error was made during the biannual code amendment update process that resulted in the county code returning to the marijuana code prior to the July, 2019 ordinance; and

WHEREAS, in May, 2020, the County Council adopted an interim ordinance temporarily addressing the scrivener’s error and removing the substance abuse disorder (SUD) treatment facility language. This was done to give the Council time to consider issues related to inclusion of a distance barrier between marijuana establishments and SUD treatment facilities; and

WHEREAS, after further review, the County Council finds that marijuana establishments should not be located within 500 feet of a SUD treatment facility for the best protection of the public health, safety, and welfare; and

WHEREAS, the County Council desires to correct the aforementioned scrivener’s error in a permanent ordinance, as opposed to an interim ordinance; and

WHEREAS, the Council finds that adoption of these code amendments will further the public health, safety and welfare; now, therefore,

BE IT HEREBY ORDERED, RESOLVED, AND DECREED BY THE CLARK COUNTY COUNCIL, CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:

Section 1. Findings. The recitals above are incorporated into this ordinance as findings.

Section 2. Amendatory. Sec. 2 of Ord. 2014-05-07 and codified as CCC 40.260.115, and most recently amended by Ord. 2020-03-11, are each hereby amended as follows:

~~40.260.115~~ Marijuana Facilities

A. Purpose. _____

1 ~~—The purpose of this section is to implement Chapter 69.50 RCW, the Washington Uniform Controlled~~
2 ~~Substances Act, and Chapter 314-55 WAC, which address the producing, processing, and retailing of~~
3 ~~marijuana. This section addresses the facilities for such uses by establishing criteria to adequately~~
4 ~~separate such facilities from schools, community centers, parks, licensed daycare facilities, and other~~
5 ~~such facilities, and to establish minimum performance standards to address public health and safety~~
6 ~~impacts from such facilities.~~

7 ~~(Amended: Ord. 2017-07-04)~~

8 ~~B.—Applicability.~~

9 ~~1.—This section shall apply to all unincorporated areas of the county.~~

10 ~~2.—The location restrictions and special standards in this section apply to any facility that:~~

11 ~~a.—Is a producer of marijuana as defined in WAC 314-55-075;~~

12 ~~b.—Is a processor of marijuana as defined in WAC 314-55-077; or~~

13 ~~c.—Is a retailer of marijuana as defined in WAC 314-55-079.~~

14 ~~3.—This section does not pertain in any respect to medical marijuana collective gardens.~~

15 ~~4.—Recreational marijuana-related permits will not be approved until such time that marijuana is no~~
16 ~~longer listed as a federally controlled substance in accordance with 21 U.S.C 812(c).~~

17 ~~(Amended: Ord. 2017-07-04)~~

18 ~~C.—Definitions. For purposes of this section, the following definitions shall apply:~~

Marijuana processor	“Marijuana processor” means a facility licensed by the Washington Liquor Control Board to transform 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. Processors are classified as follows: • Processor I: a facility limited to drying, curing, trimming, and packaging; and • Processor II: a facility that extracts concentrates, infuses products, or involves mechanical and/or chemical processing in addition to drying, curing, trimming, and packaging.
Marijuana producer	“Marijuana producer” means a facility licensed by the Washington Liquor Control Board for the growing and sale at wholesale of marijuana to marijuana processors and other marijuana producers.
Marijuana retailer	“Marijuana retailer” means a facility licensed by the Washington Liquor Control Board for the sale to consumers of usable marijuana and marijuana-infused products.

19 ~~(Amended: Ord. 2017-07-04)~~

20 ~~D.—Location Standards.~~

21 ~~1.—Subject to Section 40.260.115(D)(1)(d), marijuana facilities as defined in Section 40.260.115(C)~~
22 ~~may be sited as follows:~~

23 ~~a.—Marijuana production facilities may be allowed on legal parcels of at least ten (10) acres in size~~
24 ~~zoned AG-20 and FR-40, and on legal conforming parcels zoned IL, IH, and IR.~~

- 1 ~~b. Marijuana processing facilities may be allowed on legal parcels as follows:~~
- 2 ~~(1) Processor I facilities, on legal conforming parcels zoned IL, IH, IR, and BP;~~
- 3 ~~(2) Processor I facilities, on parcels of at least ten (10) acres in size zoned AG-20 and~~
4 ~~FR-40, but only as accessory to licensed production facilities; and~~
- 5 ~~(3) Processor II facilities, on parcels zoned IH, IL, IR, and BP.~~
- 6 ~~c. Marijuana retailing facilities may be allowed on legal conforming parcels zoned GC, CC, and~~
7 ~~CR-2.~~
- 8 ~~d. No facilities are allowed within one thousand (1,000) feet of the perimeter of the grounds of the~~
9 ~~following entities. The distance shall be measured as the shortest straight line distance from~~
10 ~~the property line of the proposed building/business location to the property line of the~~
11 ~~entities listed below:~~
- 12 ~~(1) Elementary or secondary school;~~
- 13 ~~(2) Public playground;~~
- 14 ~~(3) Recreation center or facility, including the Clark County Events Center;~~
- 15 ~~(4) Child care center;~~
- 16 ~~(5) Public park;~~
- 17 ~~(6) Public transit center;~~
- 18 ~~(7) Library;~~
- 19 ~~(8) Any game arcade where admission is not restricted to persons aged twenty one~~
20 ~~(21) or older; or~~
- 21 ~~(9) Churches and religious facilities.~~

22 ~~2. Where allowed, production and processing facilities may co-locate on the same parcel, if they~~
23 ~~otherwise meet the requirements of Chapter 314-55 WAC and this section.~~

24 ~~(Amended: Ord. 2016-06-12; Ord. 2017-07-04)~~

25 ~~E. Development Standards.~~

- 26 ~~1. The requirements of Chapter 314-55 WAC are considered minimum standards for the purposes~~
27 ~~of this section.~~
- 28 ~~2. Any facilities as described in Section 40.260.115(B)(2) shall be located entirely within an~~
29 ~~enclosed and secure structure with an engineered foundation, and shall be constructed in~~
30 ~~compliance with Titles 14 (Buildings and Structures), 15 (Fire Prevention), and 24 (Public~~
31 ~~Health).~~
- 32 ~~3. There shall be no on-site display or sale of paraphernalia used for the consumption of cannabis.~~
- 33 ~~4. Cannabis plants shall not be visible from the public right-of-way or any public place.~~

1 5.—Signs.

2 a.—~~In accordance with RCW 69.50.357(3) 69.50.369(2), licensed marijuana retailers shall not~~
3 ~~display any signage in a window, on a door, or on the outside of the premises of a retail~~
4 ~~outlet that is visible to the general public from a public right-of-way, other than a single sign~~
5 ~~no larger than twelve (12) square feet one thousand six hundred square inches identifying~~
6 ~~the retail outlet by the licensee's business or trade name.~~

7 b.—~~No signs for production and processing facilities are allowed.~~

8 6.—~~Hours of operation for retailing facilities shall be between 8:00 a.m. and 8:00 p.m.~~

9 7.—~~Measures shall be implemented to prevent adverse health and safety effects to nearby residents~~
10 ~~from odors, noise, noxious gases, light, smoke and security.~~

11 a.—~~Odors. Facilities shall not create odors or smoke that is objectionable to residents or~~
12 ~~employees of adjacent properties.~~

13 b.—~~Lighting. All lights used for security shall be shielded or positioned to prevent glare impacts to~~
14 ~~nearby properties.~~

15 c.—~~Noise. Maximum noise levels of WAC 173-60-040 shall not be exceeded.~~

16 d.—~~Security. Security measures shall include, at a minimum, the requirements of WAC 314-55-~~
17 ~~083 and Title 14.~~

18 e.—~~Waste Disposal. Waste materials generated from any facility must be disposed of in~~
19 ~~accordance with the plan filed as part of the license application.~~

20 *****

21
22 **40.260.115 Marijuana Facilities**

23 **A. Purpose.**

24 The purpose of this section is to implement Chapter 69.50 RCW, the Washington Uniform Controlled
25 Substances Act, and Chapter 314-55 WAC, which address the producing, processing, and retailing of
26 marijuana. This section addresses the facilities for such uses by establishing criteria to adequately
27 separate such facilities from schools, community centers, parks, licensed daycare facilities, and other
28 such facilities, and to establish minimum performance standards to address public health and safety
29 impacts from such facilities.

30 (Amended: Ord. 2017-07-04; Ord. 2019-07-01)

31 **B. Applicability.**

32 1. This section shall apply to all unincorporated areas of the county.

33 2. The location restrictions and special standards in this section apply to any facility that:

34 a. Is a producer of marijuana as defined in WAC 314-55-075;

35 b. Is a processor of marijuana as defined in WAC 314-55-077; or

36 c. Is a retailer of marijuana as defined in WAC 314-55-079.

1 3. This section does not pertain in any respect to medical marijuana cooperatives as defined in
2 WAC 314-55-410.

3 (Amended: Ord. 2017-07-04; Ord. 2019-07-01)

4 C. Definitions. For purposes of this section, the following definitions shall apply:

<u>Marijuana</u>	<u>“Marijuana” means all parts of the plant cannabis, whether growing or not, with a THC concentration greater than three-tenths (0.3) percent 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: (1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, 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 seed of the plant which is incapable of germination; or (2) Industrial hemp as defined in RCW 15.120.010. (Source: RCW 69.50.101(2)(x))</u>
<u>Marijuana processor</u>	<u>“Marijuana processor” means a facility licensed by the Washington State Liquor and Cannabis Board to transform 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. Processors are classified as follows:</u> <ul style="list-style-type: none"><u>• Processor I: a facility limited to drying, curing, trimming, and packaging; and</u><u>• Processor II: a facility that extracts concentrates, infuses products, or involves mechanical and/or chemical processing in addition to drying, curing, trimming, and packaging.</u>
<u>Marijuana producer</u>	<u>“Marijuana producer” means a facility licensed by the Washington State Liquor and Cannabis Board for the growing and sale at wholesale of marijuana to marijuana processors and other marijuana producers.</u>
<u>Marijuana retailer</u>	<u>“Marijuana retailer” means a facility licensed by the Washington State Liquor and Cannabis Board for the sale to consumers of usable marijuana and marijuana-infused products.</u>
<u>Medical marijuana cooperative</u>	<u>“Medical marijuana cooperative” means a group of qualifying patients or designated providers who may form a cooperative and share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative.</u>
<u>Substance use disorder treatment facility program</u>	<u>“Substance use disorder treatment program-facility” means a program facility that is licensed or certified by the Washington Department of Health to provide substance use disorder treatment pursuant to the standards established by state law or persons with a substance use disorder provided by a treatment program licensed or certified by the Department of Health standards adopted pursuant to RCW 71.24.021.</u>

5
6 (Amended: Ord. 2017-07-04; Ord. 2019-07-01)

7 D. Location Standards.

- 1 1. Subject to Section 40.260.115(D)(1)(d), marijuana facilities as defined in Section 40.260.115(C)
2 may be sited as follows:
- 3 a. Marijuana production facilities may be allowed on legal parcels of at least five (5) acres in
4 size zoned AG-20 and FR-40, and on legal conforming parcels zoned IL and IH.
- 5 b. Marijuana processing facilities may be allowed on legal parcels as follows:
- 6 (1) Processor I facilities, on legal conforming parcels zoned IL, IH, and BP;
7 (2) Processor I facilities, on parcels of at least five (5) acres in size zoned AG-20 and FR-40,
8 but only as accessory to licensed production facilities; and
9 (3) Processor II facilities, on parcels zoned IH, IL, and BP.
- 10 c. Marijuana retailing facilities may be allowed on legal conforming parcels zoned GC and CC.
- 11 d. No production or processing facilities are allowed within one thousand (1,000) feet of the
12 perimeter of the grounds of the following entities. The distance shall be measured as the
13 shortest straight line distance from the property line of the proposed building/business
14 location to the property line of the entities listed below pursuant to WAC 314-55-050:
- 15 (1) Elementary or secondary school;
16 (2) Public playground;
17 (3) Recreation center or facility, including the Clark County Events Center;
18 (4) Child care center;
19 (5) Public park;
20 (6) Public transit center;
21 (7) Library;
22 (8) Any game arcade where admission is not restricted to persons aged twenty-one (21) or
23 older;
24 (9) Churches and religious facilities; or
25 (10) Substance use disorder treatment facilities.
- 26 e. Except as limited by WAC 314-55-050(11)(a), no retail facilities are allowed within five
27 hundred (500) feet of the perimeter of the grounds of the following entities. The distance shall
28 be measured as the shortest straight line distance from the property line of the proposed
29 building/business location to the property line of the entities listed below pursuant to WAC
30 314-55-050:
- 31 (1) Recreation center or facility, including the Clark County Events Center;
32 (2) Child care center;
33 (3) Public park;
34 (4) Public transit center;

1 (5) Library;

2 (6) Any game arcade where admission is not restricted to persons aged twenty-one (21) or
3 older;

4 (7) Churches and religious facilities; or

5 (8) Substance use disorder treatment facilities.

6 2. Where allowed, production and processing facilities may co-locate on the same parcel, if they
7 otherwise meet the requirements of Chapter 314-55 WAC and this section.

8 (Amended: Ord. 2016-06-12; Ord. 2017-07-04; Ord. 2019-07-01)

9 E. Development Standards.

10 1. The requirements of Chapter 314-55 WAC are considered minimum standards for the purposes
11 of this section.

12 2. Any facilities as described in Section 40.260.115(B)(2) shall be located entirely within an
13 enclosed and secure structure with an engineered foundation, and shall be constructed in
14 compliance with Titles 14 (Buildings and Structures), 15 (Fire Prevention), and 24 (Public Health).

15 3. Marijuana plants, products, and paraphernalia shall not be visible from outside the building in
16 which the marijuana business is located.

17 4. Cannabis plants shall not be visible from the public right-of-way or any public place.

18 5. Signs.

19 a. In accordance with RCW 69.50.369, licensed marijuana retailers shall not display any
20 signage in a window, on a door, or on the outside of the premises of a retail outlet that is
21 visible to the general public from a public right-of-way, other than two (2) signs no larger than
22 twelve (12) square feet one thousand six hundred square inches each identifying the retail
23 outlet by the licensee's business or trade name.

24 b. No signs for production and processing facilities are allowed.

25 c. Signs shall be subject to applicable sections in Chapter 40.310 and Appendix F, Section 8.4.

26 6. Hours of operation for retailing facilities shall be between 8:00 a.m. and 11:00 p.m.

27 7. Measures shall be implemented to prevent adverse health and safety effects to nearby residents
28 from odors, noise, noxious gases, light, smoke and security.

29 a. Odors. Facilities shall not create odors or smoke that is objectionable to residents or
30 employees of adjacent properties.

31 b. Lighting. All lights used for security shall be shielded or positioned to prevent glare impacts to
32 nearby properties.

33 c. Noise. Maximum noise levels of WAC 173-60-040 shall not be exceeded.

34 d. Security. Security measures shall include, at a minimum, the requirements of WAC 314-55-
35 083 and Title 14.

1 e. Waste Disposal. Waste materials generated from any facility must be disposed of in
2 accordance with the plan filed as part of the license application.

3 (Amended: Ord. 2019-07-01)

4 F. Approval Process.

5 Applications for production, processing, and retailing facilities shall be considered using a Type II process
6 pursuant to Section 40.510.020.

7 (Amended: Ord. 2019-07-01)

8 G. Enforcement.

9 Violations of this chapter shall be subject to enforcement action as contained in Title 32, Enforcement.

10 (Amended: Ord. 2014-05-07; Ord. 2019-07-01)

11 **Section 3. Severability.** If any section, sentence, clause, or phrase of this ordinance is held invalid or
12 unconstitutional by a court of competent jurisdiction or the Growth Management Hearings Board, such
13 invalidity or unconstitutionality shall not affect the validity or unconstitutionality of any other section,
14 sentence, clause, or phrase of this ordinance.

15
16 **Section 4. Effective Date.** This ordinance will take effect in 10 (ten) days and until such time Interim
17 Ordinance 2020-05-03 will remain in effect.

18
19 **Section 5. Instructions to the Clerk.**

20 The Clerk of the County Council shall:

- 21 1. Record a copy of this ordinance with the Clark County Auditor.
- 22 2. Transmit a copy of this ordinance to the Washington State Department of Commerce within ten
23 days of its adoption pursuant to RCW 36.70A.106.
- 24 3. Cause notice of adoption of this ordinance to be published forthwith pursuant to RCW
25 36.70A.290, and Clark County Code 1.02.140, and transmit a copy to Community Planning.
- 26 4. Transmit a copy of the adopted ordinance to the Community Development Department Director
27 and Permit Manager.
- 28 5. This ordinance is temporary in nature and is not to be codified.

29
30 Section 6. Roll Call Vote. The following persons voted in favor of the above ordinance [amendments]:

31 _____
32 _____

33
34 ADOPTED this ____ of _____ 2020.
35 CLARK COUNTY COUNCIL

36
37 Attest:

FOR CLARK COUNTY, WASHINGTON

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39
40 _____
41 Clerk to the Council

By: _____
Eileen O'Brien, Chair

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43 Approved as to Form Only:
44 Anthony F. Golik
45 Prosecuting Attorney

By: _____
Temple Lentz, Councilor

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By: _____
Taylor Hallvik
Deputy Prosecuting Attorney

By: _____
Julie Olson, Councilor

By: _____
John Blom, Councilor

By: _____
Gary Medvigy, Councilor