



MEMO – Use Category Determination

From: Morgan Hester, AICP, Program Coordinator
Meggan L. Herington, AICP, Assistant Planning Director

Concurrence From: Peter Wysocki, AICP, Planning and Community Development Director

Date: May 21, 2019

Re: **Industrial Hemp Processing and Manufacturing – Similar Use Determination**

This memorandum *SUPERSEDES* the email dated Friday, May 1, 2015 with the subject of 'Hemp, Hemp Hooray' and/or Industrial Hemp Processing ("attached"). The intent is to provide guidance for Planning Staff regarding the use categories for the processing of land use applications related to Industrial Hemp manufacturing.

Under Colorado Law, Industrial Hemp is raw material derived from the cannabis plant and contains less than 0.3% THC (tetrahydrocannabinol) content. Colorado law states that any raw material derived from a cannabis plant that has THC content of 0.3% or higher is marijuana and does not fall within the definition of hemp. The Colorado Department of Agriculture regulates cultivation of Industrial Hemp, including THC content and the issuance of required State permits. The Colorado Department of Public Health and Environment (CDPHE) regulates Industrial Hemp facilities. Those manufacturers producing food items that contain Industrial Hemp must register with the CDPHE.

Pursuant to section 7.5.104 (B) of the Code of the City of Colorado Springs, 2001 as amended ("City Code"), the Manager of Community Development ("Manager") may make interpretations of the Zoning Code to provide similar use determinations and/or interpretations for uses that are not specifically defined. Under the City Code, 'Industrial Hemp' is not a defined land use, but the growing and extraction methods, as well as public safety concerns, have been determined to be similar to that of Medical Marijuana from a land use perspective. Pursuant to the Manager's authority in City Code section 7.5.104, Industrial Hemp shall be regulated in the same manner as the growing and extraction methods for Medical Marijuana as the land use impacts are indistinguishable. As such, the growing and extraction of Industrial Hemp will be permitted by right or permitted as a conditional use in the following zoning districts as set forth below:

Use Types	OR	OC	PBC	C-5	C-6	PIP-1	PIP-2	M-1	M-2
Medical Marijuana Facilities:									
Medical Marijuana infused product manufacturer – non-hazardous	*	*	C	C	C	C	C	P	P
Optional premises cultivation operation	*	*	C	C	C	C	C	P	P
Medical marijuana infused product manufacturer - hazardous	*	*						P	P

*Additional standards apply for facilities in the OR and OC zone districts.

The growing of Industrial Hemp in residential zone districts is strictly prohibited.

As Medical Marijuana facilities are not permitted in the North Nevada Overlay area, no Industrial Hemp grow or extraction facilities will be permitted, by right or as a conditional use, as the land uses set forth in the “Renew North Nevada Avenue Master Plan” supersede the Permitted, Conditional, and Accessory Use chart in City Code section 7.3.203.

M-1 Light Industrial uses include the manufacturing of CBD oils with a THC content of less than 0.3% where the process does not involve hazardous chemicals (i.e. – CO2) and whereas the extraction is through pressing of plants for oil, creams, lotions, baking of food products infused with CBD oil, or assembly of Industrial Hemp products from already prepared materials.

M-2 Heavy Industrial uses include the manufacturing of CBD oils or other products including, but not limited to, the manufacturing of CBD oils or other products where the process requires the use and storage of hazardous materials such as ethanol or butane. As with marijuana extraction, the amount of potentially hazardous materials required with Industrial Hemp extraction may trigger the need for “H” occupancy under the Fire Code and will be subject to a determination by the Fire Marshal.

As with Medical Marijuana Facilities, the testing of Industrial Hemp is determined to fall under the definition of “Research and Development Services”. Pursuant to City Code section 2.2.102, “Definitions”, a Marijuana Testing Facility is defined as “any real property use for or upon with there is any type of structure or any such facility that includes or is associated with analyzing and certifying the safety and potency of marijuana”. City Code section 7.2.302, “Definitions of Use Types”, defines these uses as being “primarily engaged in research and development of prototypes of an industrial or scientific nature”. Research and Development Services are permitted in the PIP-1, PIP-2, M-1, M-2, and APD zones.

In the event the owner/operator of Medical Marijuana Optional Premises Cultivation Operation (“OPC”) or Medical Marijuana Infused Product Manufacturer – Non-Hazardous or Hazardous (“MIP”) facility chooses to convert to an Industrial Hemp grow or extraction facility, the owner/operator of the City Clerk-issued license must first surrender said OPC and/or MIP license(s). Pursuant to City Code section 7.5.1203, “Nonconforming Uses”, the change of use may be “only to a use which is the same intensity and as restricted, is a lesser intensity and more restricted, or is conforming to the provisions of this Zoning Code”. From a land use

perspective, the conversion from an OPC or MIP to an Industrial Hemp grow or extraction facility does not increase the use's intensity as it requires the same amounts of off-street parking and landscape buffering and has the same levels of associated traffic generation, noise, light, and dust than the existing use. Additionally, the use is determined to be permitted in the same or more restricted zone districts as Medical Marijuana grow and/or extraction facilities (OPCs and/or MIPs).

This memorandum in no way supersedes, restricts or is intended to conflict with any other state or federal law or regulation regarding the growing, manufacturing, distribution or licensing of marijuana or hemp, or related businesses. The City may enforce this similar use determination through the comprehensive zoning enforcement process as provided for in City Code.



Planning & Community Development Director

July 19, 2019

Date

Helpful Links:

[Colorado Springs City Code](#)
[Colorado Dept of Ag - Industrial Hemp](#)
[City Code - Marijuana licensing](#)

Direction to SOP Team:

Delete all Hemp Hemp Hooray emails from SOP
2014 memo from CAO to Peter Wysocki is still relevant
Pair with this memo and update SOP