

ORDINANCE NO. 21-09

AN ORDINANCE AMENDING TITLE 16 OF THE WASATCH COUNTY CODE AND CREATING A NEW CHAPTER 16.20 REGARDING CANNABIS PRODUCTION FACILITIES, CANNABIS PHARMACIES, INDUSTRIAL HEMP PRODUCER AND THEIR RESPECTIVE ALLOWED LOCATIONS IN THE COUNTY TO BE REGULATED BY AN OVERLAY ZONE AND MAP FOR SPECIFIC ALLOWED LOCATIONS.

WHEREAS, the 2019 session of the Utah Legislature resulted in amendments to state code that triggers the need to amend the County Code to achieve consistency; and,

WHEREAS, the amendments to the State code allows for medical cannabis and associated uses; and

WHEREAS, Utah Code 17-27a-525 (2021) requires counties to allow certain cannabis uses as permitted uses in industrial and agricultural zoning districts unless specifically regulated by the County; and

WHEREAS, County has determined that none of its industrial and agricultural districts are currently laid out in a manner to protect the health, safety, and welfare of Wasatch County and its residents for cannabis uses; and

WHEREAS, the County has determined that a cannabis overlay zone which includes a portion of the industrial, commercial and an agricultural zones will be the best way of meeting the requirements of the Utah Code while minimizing the health, safety, and welfare impacts of the cannabis uses; and

WHEREAS, the County has not analyzed whether this code fits in with the General Plan because due to the mandate of the Utah Code, if the County does not allow the uses in limited areas, it will be allowed in much larger areas, making it so compatibility with the general plan is really irrelevant; and

WHEREAS, the county legislative body has determined that for purposes of compliance with Utah Code 26-61a-507(1)(a), which requires a medical cannabis pharmacy to be a permitted use in any zone besides a primarily residential zone, that P-160, A-20, RA-5, RA-1, M, JBOZ, NVOZ, and JSPA are all primarily residential zones because the developed areas in these zones are primarily used for residential structures, in conformity with the land use and development code; and

WHEREAS, the county legislative body desires to insure that industrial hemp is only produced in agricultural areas and in a manner that protects the health, safety, and welfare of persons; and

WHEREAS, the planning commission has reviewed the proposed code amendments and recommended approval of the ordinance; and

WHEREAS, the County Legislative Body of Wasatch County noted a statement of intent to have staff draft and for the legislative body to consider this ordinance during an April 7, 2021 meeting establishing a 6 month pending ordinance allowance.

NOW THEREFORE, the County Legislative Body of Wasatch County ordains as follows:

SECTION I: **Repealer.** If any provisions of the County Code heretofore adopted are inconsistent herewith they are hereby repealed.

SECTION II: **Enactment.**

The Wasatch County Code is hereby amended as follows:

1 **16.04.02 DEFINITIONS**

2 CANNABIS PRODUCTION ESTABLISHMENT: a cannabis cultivation facility, processing
3 facility, or an independent cannabis testing laboratory.

4 ...

5 COMMUNITY LOCATION: a public or private elementary or secondary school, a church, a
6 public library, a public playground, or a public park.

7 ...

8 INDUSTRIAL HEMP: means any part of a cannabis plant, whether growing or not, with a
9 concentration of less than 0.3% tetrahydrocannabinol by dry weight.

10 INDUSTRIAL HEMP PRODUCER: a person possessing an industrial hemp producer license
11 that the Utah Department of Agriculture and Food issues under the Utah Hemp and Cannabinoid
12 Act; Utah Agricultural Code Chapter 41 (2020), as amended.

13 ...

14 MEDICAL CANNABIS PHARMACY: a person that:

15 A. Acquires or intends to acquire medical cannabis or a cannabis product in a medicinal
16 dosage form from a cannabis processing facility or another medical cannabis pharmacy or
17 a medical cannabis devise; or

18 B. Possesses medical cannabis or a medical cannabis device and sells or intends to sell
19 medical cannabis or a medical cannabis device to a medical cannabis cardholder.

20 C. Sells or intends to sell medical cannabis or a medical cannabis device top a medical
21 cannabis cardholder.

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23 ...

24 **16.06.02: PERMITTED PRINCIPAL USES**

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26 PERMITTED PRINCIPAL USES IN THE AGRICULTURAL ZONE (A-20) [A use is being
 27 added; none are being removed]

| Use Number | Use Classification |
|---------------|---|
| 1111 | Single-family dwellings, detached, on 1 parcel |
| <u>2834</u> | <u>Cannabis production establishment ONLY if located in the cannabis overlay zone</u> |
| 4500 | Highway and street right of way |

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29 **16.13.02: PERMITTED PRINCIPAL USES**

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31 PERMITTED PRINCIPAL USES IN THE
 32 INDUSTRIAL ZONE (I) [Uses is being added; none are being removed]

| Use Number | Use Classification |
|---------------|---|
| 2150 | Bakery products manufacturing |
| 2170 | Confectionery and related products |
| 2310 | Apparel, except leather |
| 2350 | Hats, caps and millinery |
| 2380 | Miscellaneous apparel and accessories |
| 2390 | Fabricated textile products manufacturing, NEC |
| 2700 | Printing, publishing and allied industries |
| 2832 | Medicinal chemicals and botanical products |
| <u>2834</u> | <u>Cannabis production establishment ONLY if located in the Cannabis Overlay Zone</u> |
| <u>2835</u> | <u>Medical cannabis pharmacies</u> |

3210 Glass and glassware manufacturing - small scale

3500 Professional, scientific and controlling instruments: photographic and optical goods, watches and clocks

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34 **16.10.02: PERMITTED PRINCIPAL USES**

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36 PERMITTED USES IN THE COMMERCIAL ZONE (C) [A use is being added; none are being
 37 removed]

| Use Number | Use Classification |
|------------|--------------------|
|------------|--------------------|

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|------|----------------------|
| 2700 | Printing, publishing |
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|------|------------------------------------|
| 2835 | <u>Medical Cannabis Pharmacies</u> |
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| 4500 | Highway and street rights of way |
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40 **16.11.02: CONDITIONAL USES**

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42 CONDITIONAL USES IN THE HIGHWAY SERVICES ZONE (HS) [A use is being added;
 43 none are being removed]

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| 44 1516 | <u>Bed and breakfast</u> |
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| 45 1518 | <u>Accessory dwelling for nonresidential use</u> |
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| 46 2835 | <u>Medical Cannabis Pharmacies</u> |
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|---------|---|
| 47 4500 | <u>Highway and street rights of way</u> |
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16.36: APPENDIX 1, WASATCH COUNTY LAND USE CLASSIFICATIONS

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2830 Drugs

2831 Biological products (includes serums, toxins, vaccines, bacterins)

2832 Medicinal chemicals and botanical products

2833 Pharmaceutical preparations (includes analgesics, anesthetics, antacids, cold remedies, soap, etc.)

2834 Cannabis production establishment

2835 Medical cannabis pharmacies

8110 Field and seed crops

8117 Industrial hemp

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16.20: CANNABIS OVERLAY ZONE (COZ); CANNABIS PRODUCTION ESTABLISHMENTS AND MEDICAL CANNABIS PHARMACIES:

16.20.01 PURPOSE

16.20.02 TERMS

16.20.03 CANNABIS OVERLAY ZONE

16.20.04 MEDICAL CANNABIS PHARMACIES

16.20.05 INDUSTRIAL HEMP

16.20.01 PURPOSE

This Cannabis Overlay Zone, Cannabis Production Establishments and Medical Cannabis Pharmacies Chapter is intended to accomplish the following purposes:

- A. To allow for the specific uses outlined in this overlay zone in addition to the uses allowed for the underlying or base zone in specified areas.
- B. Establish areas in the County that allow cannabis production facilities and medical cannabis pharmacies in areas deemed appropriate for the uses.

- 80 C. Provide specific regulations so that the cannabis proposals can be located in accordance
- 81 with adopted ordinances and State law.
- 82 D. Provide accommodation for uses required under Utah Code while doing what can legally
- 83 be done to protect the health, safety and general welfare of Wasatch County residents.
- 84 E. To provide a code consistent with State requirements.
- 85 F. To control the sale, production, cultivation and testing of Cannabis so that said uses are in
- 86 conformance with Utah Code.
- 87 G. To have the COZ only modified in accordance with the requirements of Utah Code and
- 88 Wasatch County code for a Zoning change, unless the Utah Code is modified so as to no
- 89 longer require Wasatch County to allow Cannabis uses, in which case this Chapter shall
- 90 automatically be repealed without further action by the county legislative body.
- 91 E-H. To allow for industrial hemp only in areas zoned for agriculture.

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93 **16.20.02: TERMS**

94 Terms used in this Chapter which are not defined in the Wasatch County Land Use and

95 Development Code shall have the meaning of those terms as defined in the Utah Medical

96 Cannabis Act, Utah Code 4-41a-102, or Utah Code 4-41-102.

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98 **16.20.03 CANNABIS PRODUCTION OVERLAY ZONE:**

99 Any Cannabis Production Establishments shall comply with the following requirements:

- 100 A. May not operate in the County without a business license and a license issued by the
- 101 assigned State of Utah agency;
- 102 B. May not operate in the County if less than 1,000 feet from a Community Location, as
- 103 defined in 16.04.02, or within 600 feet of an area zoned primarily for residential use, as
- 104 measured from the nearest property boundary of the Cannabis Production Establishment
- 105 by following the shortest route of ordinary pedestrian travel to the property boundary of
- 106 the Community Location or area zoned primarily for residential use;
- 107 C. Processing facilities, testing laboratories, and any greenhouses used for cultivation of
- 108 cannabis shall be in an entirely enclosed building which is designed, constructed and
- 109 operated to prevent the emission of any cannabis related dust, fumes, vapors, odors or
- 110 waste outside of the building;
- 111 D. Cultivation of cannabis outside of a greenhouse shall have fences over 8' high or over
- 112 6' high with barbed wire on the top, and which shall be locked at all times the property
- 113 owner or their designee is not on the property;
- 114 E. Shall not have cannabis products visible from outside of the establishment.
- 115 F. Shall not have signs visible from a road; and

116 G. Cannabis production establishment uses are only permitted in the cannabis overlay
117 zone. The Cannabis Overlay Zone shall be specified on the zoning map.

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119 **16.20.04: MEDICAL CANNABIS PHARMACY**

120 Any medical cannabis pharmacy shall comply with the following requirements:

- 121 A. May not operate in the County without a business license and a license issued by the
- 122 assigned State of Utah agency.
- 123 ~~A.B.~~ Drive through service is not allowed.
- 124 ~~B.C.~~ Outdoor seating areas are not allowed.
- 125 ~~C.D.~~ Outdoor vending machines are not allowed.
- 126 ~~D.E.~~ Any retail delivery service, including any home delivery service is not allowed.
- 127 ~~E.F.~~ Hours of operation are limited to 6:59 a.m. through 10:01 p.m.
- 128 G. Maximum size shall be 3,000 square feet.
- 129 ~~F.H.~~ A medical cannabis pharmacy sign is only allowed in accordance with the code
- 130 for other commercial/retail uses.
- 131 I. Must be located more than 1,000 feet from a Community Location, as defined in
- 132 16.04.02.
- 133 J. Must be in a zone where medical cannabis pharmacy is a permitted or conditional use.

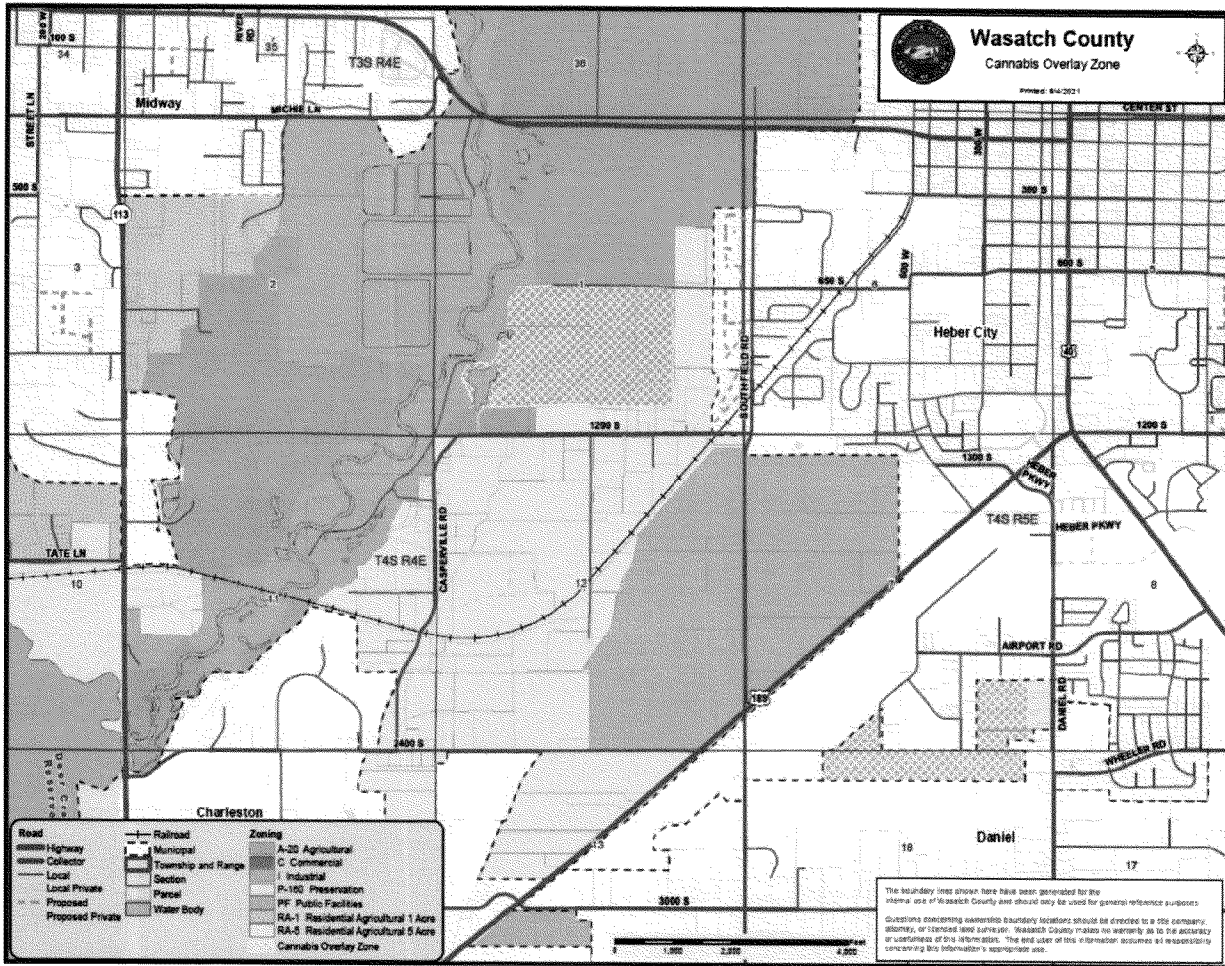
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135 **16.20.05: INDUSTRIAL HEMP**

136 Any growing, cultivating, or processing of industrial hemp must comply with the following
137 requirements:

- 138 A. Must be an industrial hemp producer as defined in 16.04.02.
- 139 B. Must be located more than 1,000 feet from a Community Location, as defined in
- 140 16.04.02.
- 141 C. May not operate in the County without a business license and a license issued by the
- 142 assigned State of Utah agency.
- 143 D. Must be in a zone where industrial hemp 8117 is a permitted or conditional use.

144
145 The following COZ map is hereby adopted, and shall be maintained on the Wasatch County
146 Zoning Map::

147 G.



SECTION III: Effective Date. This Ordinance shall become effective immediately upon execution by the Chair of the County Council and the completion of public notice requirements imposed by state statute.

SECTION IV: Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

SECTION V: Public Notice. The Wasatch County Clerk, and ex officio Clerk of the Wasatch County Council, is hereby ordered, in accordance with the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, to do as follows:


- a. Enter at length this ordinance in the ordinance book;

- b. Deposit a copy of this ordinance in the office of the County Clerk;
- c. Publish a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk's office and with the name of the members voting for and against the ordinance, for at least one publication in a newspaper published in and having general circulation in the county; or post a complete copy of this ordinance in nine (9) public places within the County.

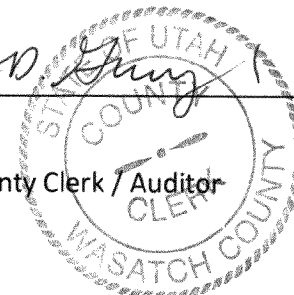
APPROVED and PASSED this 18 day of August, 2021.

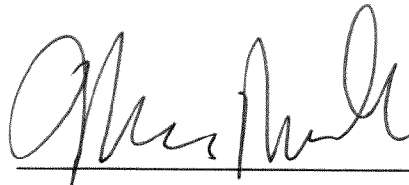
Attest:

WASATCH COUNTY COUNCIL:



Joey Granger
Wasatch County Clerk / Auditor





Mark Nelson, Chair
Wasatch County Council

VOTE

Mark Nelson, Chairman ✓

Steve Farrell ✓

Kendall Crittenden

✓

Danny Goode

✓

Spencer Park

✓

Marilyn Crittenden

—

Jeff Wade

✓

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ADOPTION OF ORDINANCE AFFIDAVIT

STATE OF UTAH)

: ss.

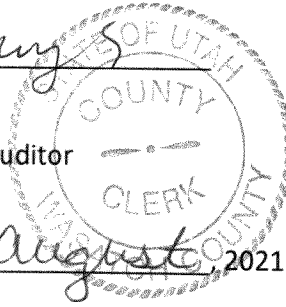
COUNTY OF WASATCH)

I, the undersigned, the duly qualified and acting County Clerk of Wasatch County, Utah, and ex officio Clerk of the Wasatch County Council, do hereby further certify, according to the records of said Council in my official possession, and upon my own knowledge and belief, that I have fulfilled the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, by:

- (a) Causing this ordinance to be entered at length in the ordinance book;
- (b) Causing three (3) copies of this ordinance to be deposited in the office of the County Clerk;
- (c) Causing a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk's office and with the name of the members voting for and against the ordinance to be published for at least one publication in The Wasatch Wave, a newspaper of general circulation within the geographical jurisdiction of Wasatch County; or posting a complete copy of this ordinance in nine (9) public places within the County.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the official seal of the County Legislative Body of Wasatch County, Utah, this 18 day of August, 2021.

Joey D. Granger
 Joey Granger
 Wasatch County Clerk / Auditor



SUBSCRIBED AND SWORN to me, a Notary Public, this 18 day of August, 2021.

Wendy McKnight
 Notary Public

Residing in: Wasatch
 My commission expires: 09/10/2022

