

**STAFF REPORT FOR THE PLANNING COMMISSION MEETING OF
JUNE 24, 2020**

FILE NO: ZA-2020-0006

AGENDA ITEM: E.4

STAFF CONTACT: Lee Plemel, AICP, Community Development Director

AGENDA TITLE: For Discussion Only: Presentation and discussion only regarding the drafting of regulations for the cultivation of hemp.

STAFF SUMMARY: The Board of Supervisors adopted a moratorium on the cultivation of hemp, including the drying of hemp plants, on May 7, 2020, in order to give City time to develop, for possible consideration and approval by the Board of Supervisors, appropriate regulations for such operations, including location and operational standards. Federal and Nevada laws allow the cultivation of hemp and manufacturing of certain products from hemp. Though similar in appearance, hemp has different characteristics than cannabis (marijuana) and is regulated separately from cannabis. The cultivation of hemp may have some of the same potential negative impacts as the cultivation of marijuana, such as objectionable odors that may create a public nuisance to adjacent properties. The purpose of this item is to discuss potential regulations in Title 18 (Zoning) for hemp cultivation to bring back to the Planning Commission and Board of Supervisors at a later date for possible adoption.

PROPOSED MOTION: No action. The Planning Commission may provide feedback to staff through discussion regarding how to draft regulations for hemp cultivation in order for staff to bring a draft ordinance back to the Commission for its consideration and recommendation to the Board of Supervisors.

DISCUSSION:

The growing and processing of hemp is regulated by the State through the provisions of NRS Chapter 557 (Hemp). Unless otherwise regulated by a local government, hemp is considered an agricultural product for the purposes of local zoning regulations. Currently, hemp may be cultivated (grown) in Carson City anywhere other agricultural products may be grown.

For the purposes of defining the term “hemp” for Title 18 zoning regulations, staff offers the following draft definition for consideration:

“Hemp cultivation facilities” means the growing of hemp plants and the handling of live and harvested hemp plant material until the plant material is dried. “Hemp” and “grower” have the meanings as defined in NRS Chapter 557 (Hemp).

NRS Chapter 557 has the following definitions for the terms “hemp” and “grower”:

*NRS 557.140 – “Grower” defined. “Grower” means a person who is registered by the Department and produces hemp.
(Added to NRS by 2017, 1344; A 2019, 2352, 2583)*

*NRS 557.160 – “Hemp” defined.
1. “Hemp” means any plant of the genus *Cannabis sativa* L. and any part of such a plant, including, without limitation, the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether*

growing or not, with a THC concentration that does not exceed the maximum THC concentration established by federal law for hemp.

*2. "Hemp" does not include any commodity or product made using hemp.
 (Added to NRS by 2017, 1344; A 2019, 2352, 2583)*

While hemp and marijuana are regulated as separate products by the State, the plants share many characteristics including potentially strong odors. The City's Open Space Manager, Lyndsey Boyer, will provide a presentation to the Planning Commission at its meeting regarding the similarities, differences and potential impacts of growing hemp and marijuana plants to assist with the Commission's discussion on this topic.

In addition to adopting a definition for hemp in Title 18, regulations regarding the cultivation of hemp need to include in which zoning districts it will be allowed, by what process it will be allowed (i.e. by-right or with a Special Use Permit), and any other development standards that should apply to all hemp cultivation facilities. Following is a comparison summary of how hemp cultivation is regulated under current code provisions compared to how marijuana cultivation is regulated:

Regulation	Hemp	Marijuana
Permitted zoning districts	Agriculture (A) Conservation Reserve (CR) Limited Industrial (LI) ¹ General Industrial (GI) ¹ General Industrial Airport (GIA) ¹ Air Industrial Park (AIP) ¹	General Industrial ² General Industrial Airport ²
Permitting process	By-right (no Special Use Permit)	Conditional use (requires Special Use Permit)
Odor regulations	None	Regulated by State (included as condition of SUP), odors may not be detected off-site
Indoor or outdoor use	Outdoor in A & CR, indoor in LI, GI, GIA and AIP	Indoor only.
Visibility of product	No limitations	May not be visible from exterior of building
Permitted signage	None in A or CR zones; up to 200 s.f. for industrial zones with max. freestanding sign height of 10 feet	Max. 30 s.f. wall sign, max. 32 s.f. freestanding sign, max. freestanding sign height of 10 feet

Footnotes:

1. Allowed by-right in industrial zones as a product manufacturing use.
2. Further limited to the geographical northeastern portion of the City.

Attachment A shows the various locations throughout the City where the above zoning districts are located that allow hemp and marijuana cultivation. Note that the map does not identify Conservation Reserve properties, which are primarily privately-owned properties outside of the urban areas of the City where agricultural uses (e.g. hemp cultivation) are currently permitted by-right.

Attachment B is the current development standards for marijuana establishments, including marijuana cultivation, for comparison purposes.

In initiating and adopting the moratorium that is currently in place for hemp cultivation, the primary concerns regarding where hemp cultivation should be allowed were 1) odors from the crop, and 2) the appearance and “attractive nuisance” to humans and animals having the open hemp crops in close proximity to the public.

Hemp plants emit the same odors as marijuana plants. State regulations require marijuana growers to control odors when grown within industrial buildings, as it is grown in Carson City. There is no City regulation requiring an operation to restrict the odors from leaving the site, but the City has required that with every Special Use Permit approval for marijuana cultivation consistent with the State requirement. One marijuana cultivator in the City initially had issues with complaints from odors leaving the site, but those issues were eventually solved. If crops were to be grown outdoors, there would be no odor control measures available.

The second issue relates to potential conflicts that could arise from the growing of hemp in the open and in proximity to residential neighborhoods and public spaces. Since the average person cannot distinguish between hemp and marijuana plants, hemp crops are susceptible to theft and an attractive nuisance for some who think the crop is marijuana. Also, the plant can be toxic to animals, including wild animals and pets. The agricultural areas in Carson City where hemp crops could be grown are close to residential neighborhoods, public trails, and generally within the urbanized area of the City. The Carson City Open Space Manger’s presentation will include additional information regarding the impacts of hemp crops on the environment.

As noted previously with the hemp cultivation moratorium, staff does not believe that product manufacturing from hemp materials warrants special zoning standards. Once the hemp plant is dried, its characteristics are similar to any other spice or dried plant-based materials, and its odors are minimal. Current zoning regulations allow for the processing of such materials in appropriate areas. Hemp material delivered to hemp handlers has been tested for THC content by the Department of Agriculture, so businesses can verify to law enforcement or other regulating agencies that they are not handling marijuana products that they would otherwise not be permitted to process.

CONCLUSION AND ALTERNATIVES:

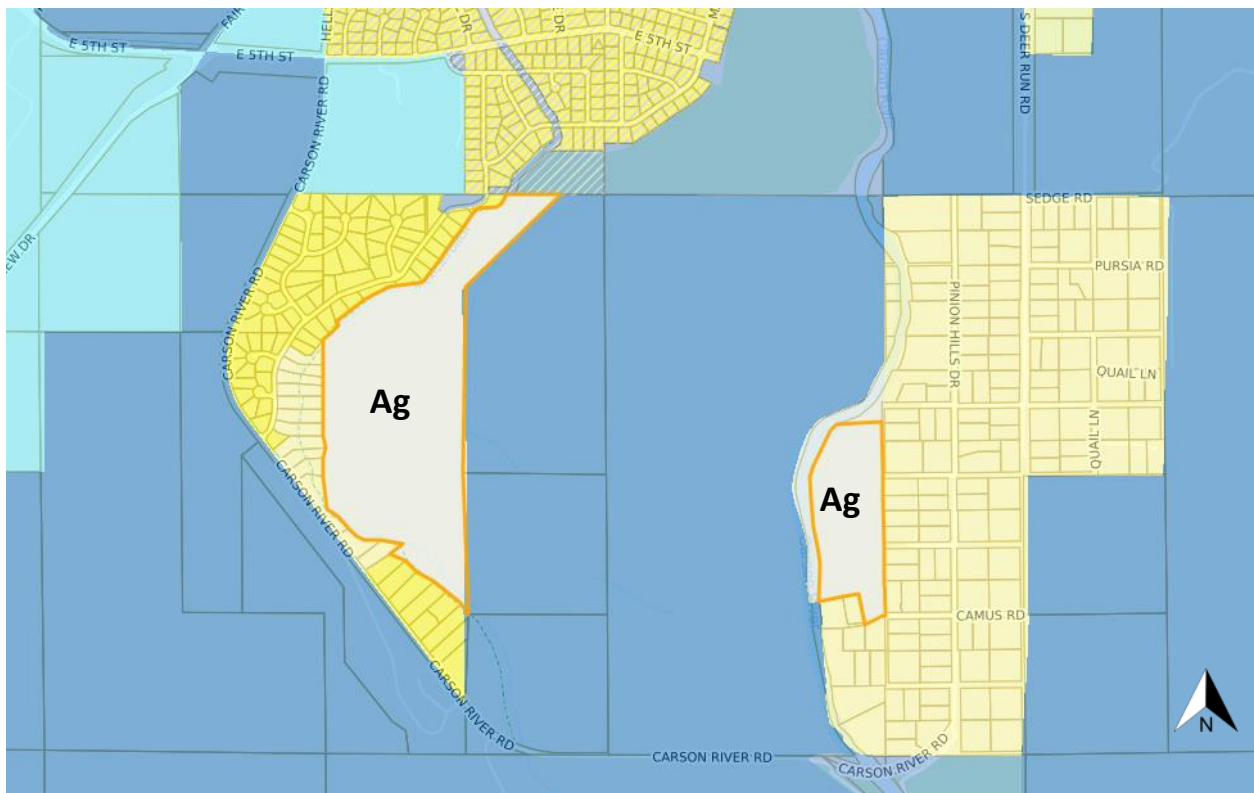
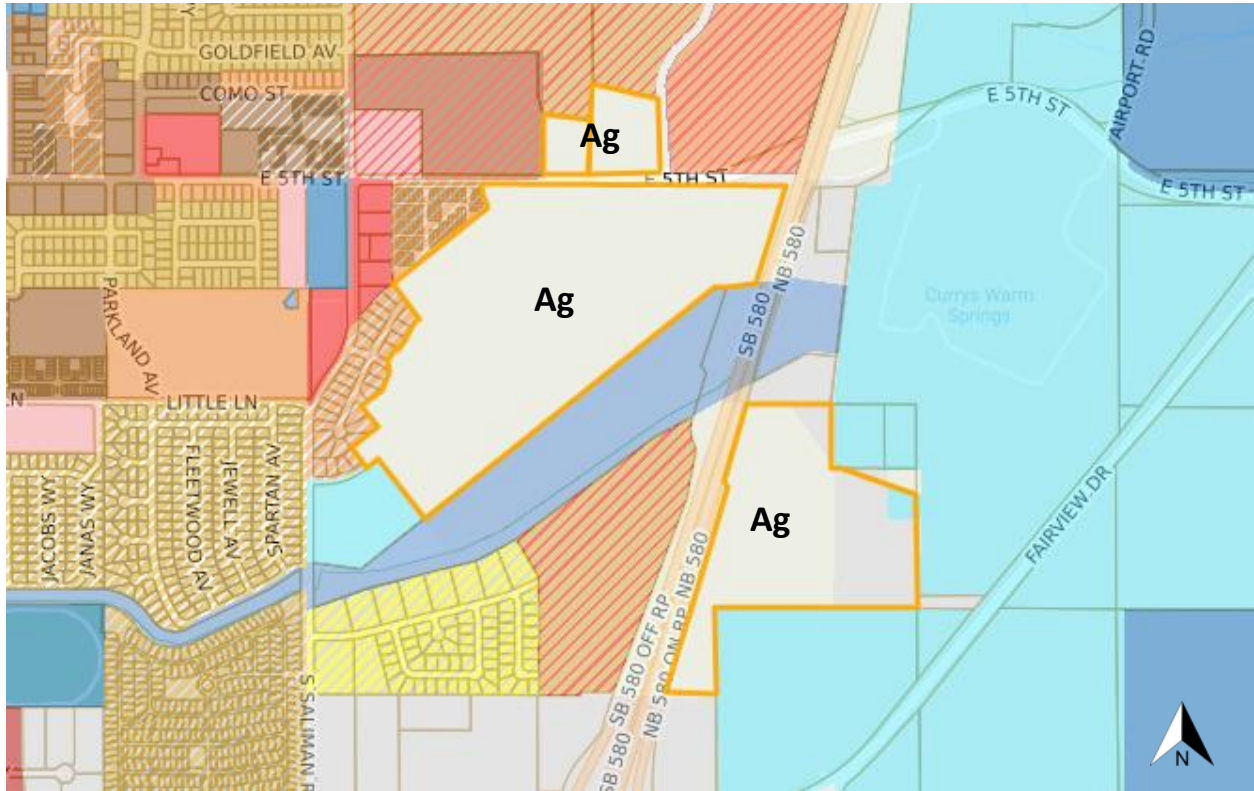
The Planning Commission should use the comparison table above in this staff report to discuss the various elements of potential hemp cultivation regulations and to determine appropriate standards for hemp cultivation. Based on direction from the Planning Commission, staff will prepare a draft ordinance to bring back to the Planning Commission at a future meeting to make a recommendation to the Board of Supervisors.

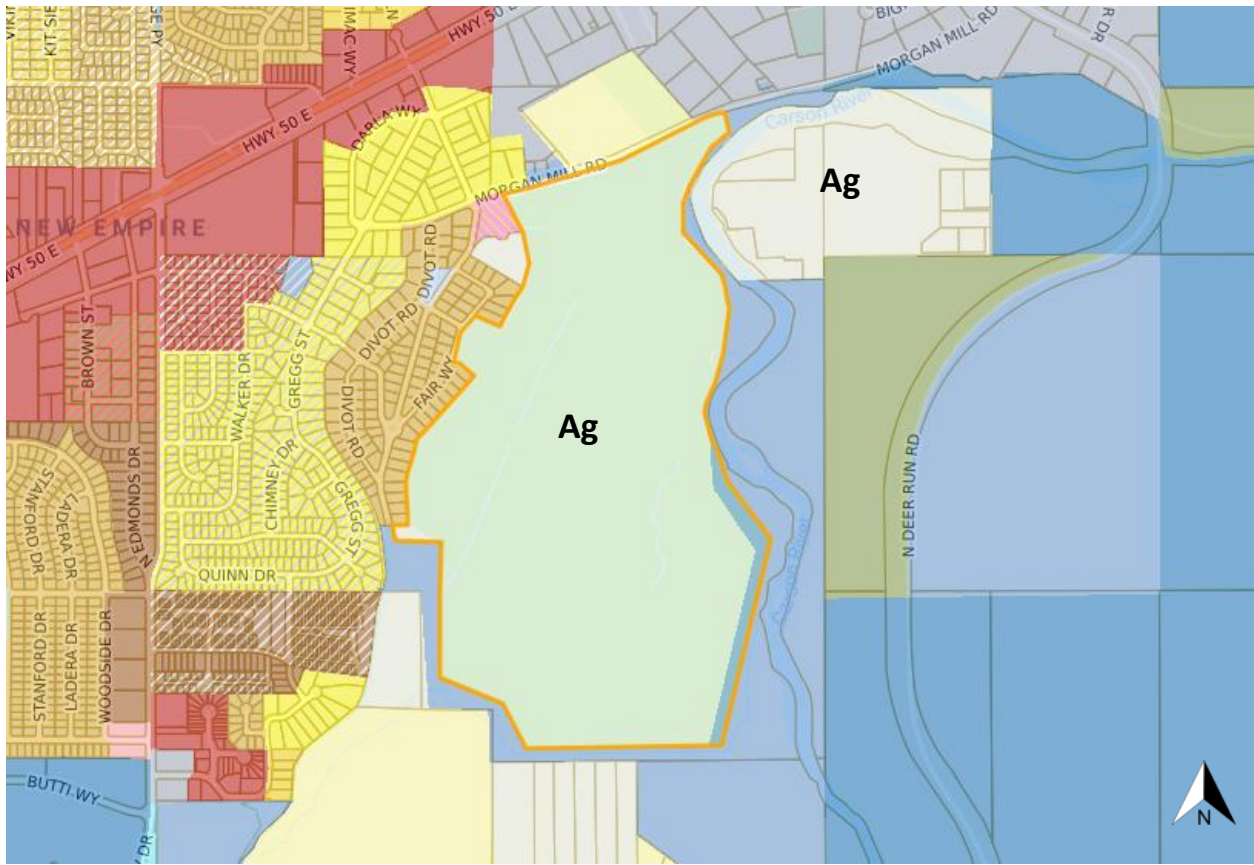
If you have questions regarding this item, contact Lee Plemel at lplemel@carson.org or 283-7075.

Attachments:

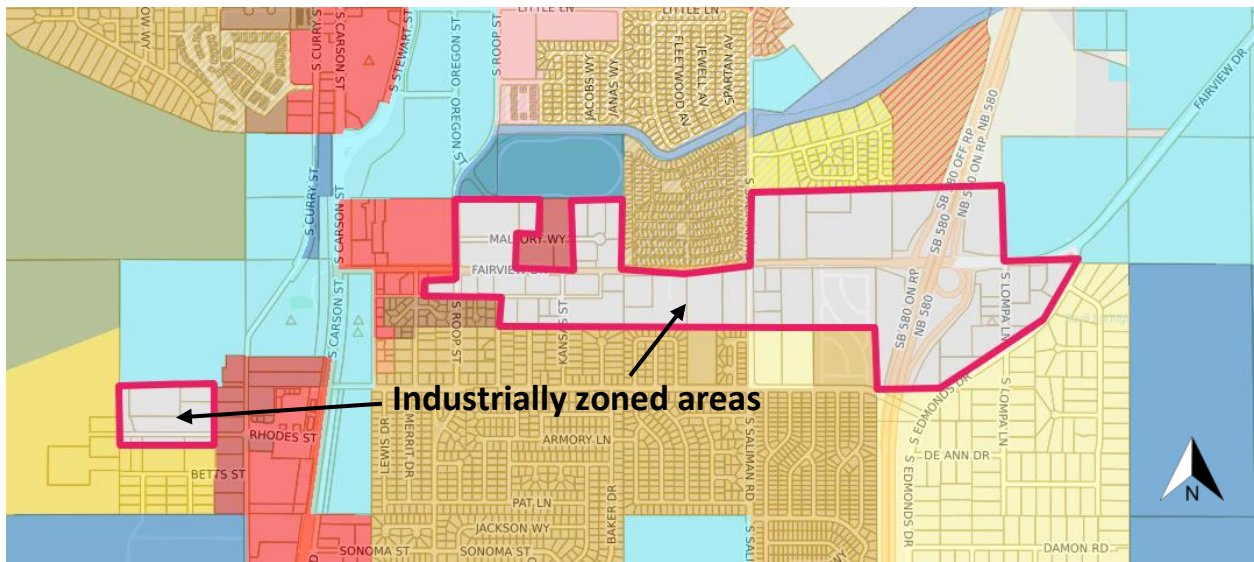
- A) Maps of permitted areas for agricultural uses and marijuana establishments
- B) Development Standards Division 1.20, Marijuana Establishment standards

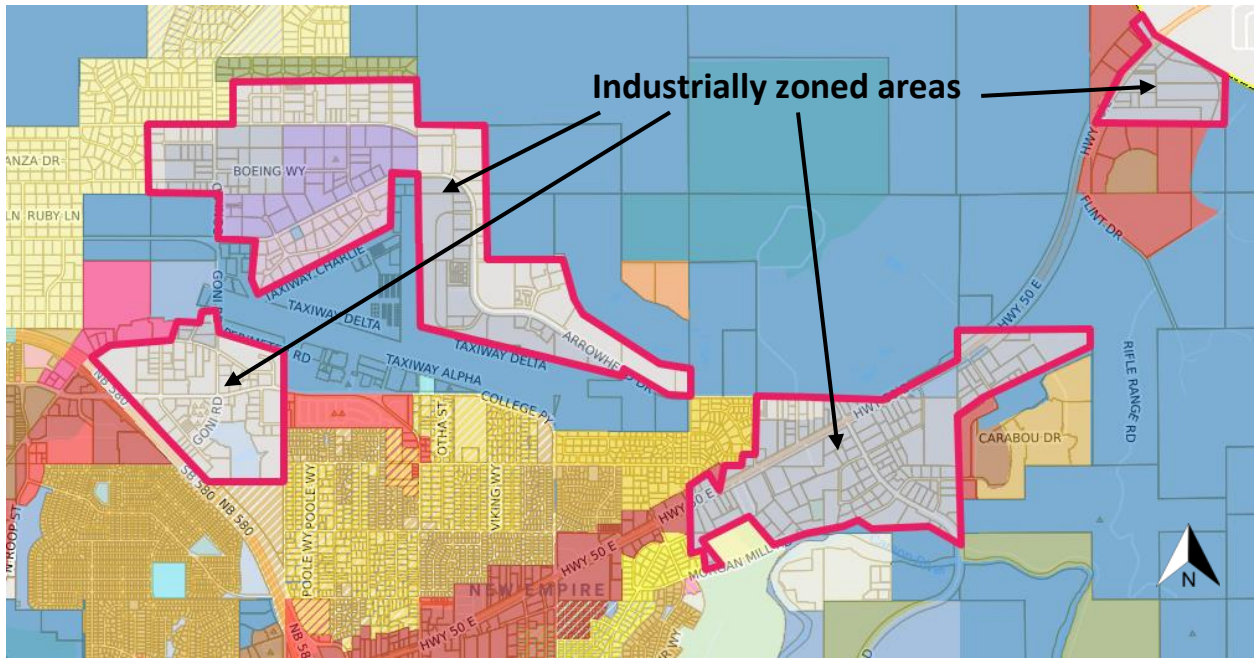
Locations of Agriculture zoning districts in which hemp could be grown by-right under current zoning regulations:



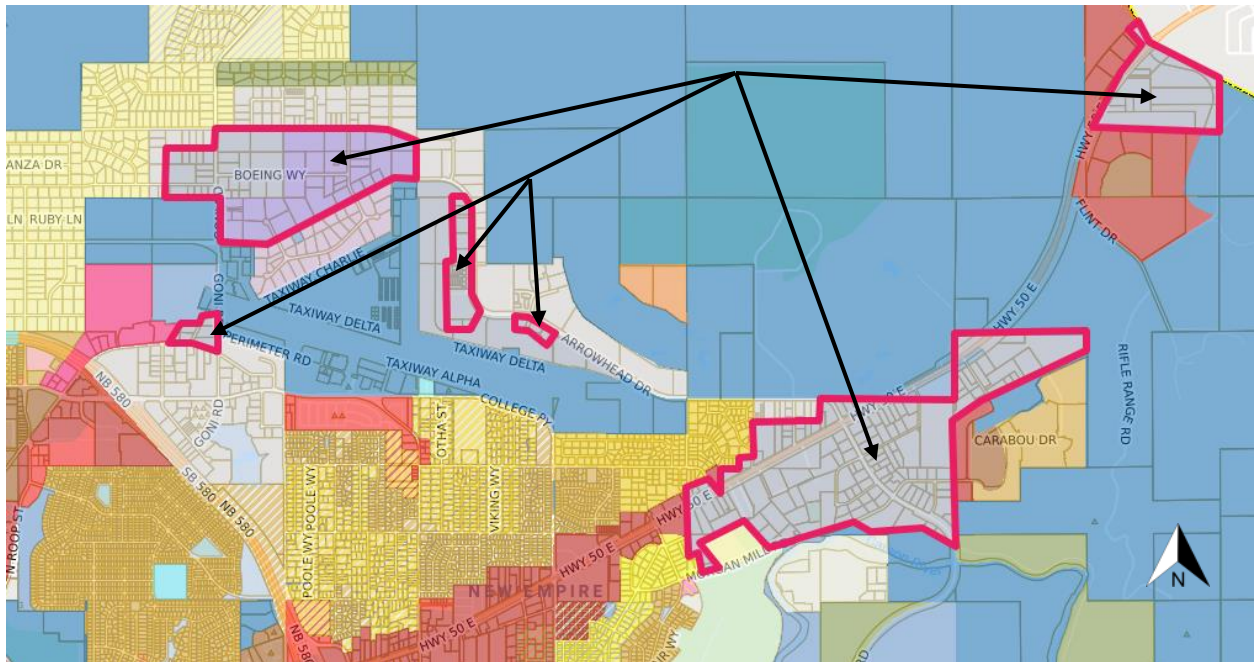


Location of industrial zoning districts in which hemp could be grown by-right as part of a product manufacturing process under current zoning regulations:





Industrial areas in which Marijuana Cultivation is allowed as a conditional use under current zoning regulations:



The following standards are intended to establish minimum standards and Special Use Permit review criteria for Medical Marijuana Establishments and Marijuana Establishments, in addition to other standards for commercial and industrial development.

1. The following standards apply to all Medical Marijuana Establishments and Marijuana Establishments:
 - (a) Medical Marijuana Establishments and Marijuana Establishments require the issuance of a Special Use Permit. Special Use Permits for Medical Marijuana Establishments and Marijuana Establishments are only valid at the specific location for which a person has obtained the required approval through the applicable state agency to operate as a Medical Marijuana Establishment or Marijuana Establishment. A Special Use Permit that is issued in accordance with this Division automatically expires and shall be deemed void if the Medical Marijuana Establishment or Marijuana Establishment loses or otherwise forfeits the required state approval to operate. A Special Use Permit issued in accordance with this Division is not transferable between operators and locations within Carson City. Except as otherwise provided in this Division and notwithstanding any other provision of CCMC, a separate Special Use Permit is not required for a Medical Marijuana Establishment or Marijuana Establishment that will be established in an existing location at which a Medical Marijuana Establishment or Marijuana Establishment in good standing already operates. The expansion of any location of a Medical Marijuana Establishment or Marijuana Establishment that will result in an increase of more than ten (10) percent of the space in which the Medical Marijuana Establishment or Marijuana Establishment has been approved to operate requires the issuance of an amended Special Use Permit.
 - (b) The consumption of marijuana products is prohibited on the premises of any Medical Marijuana Establishment and Marijuana Establishment.
 - (c) All business activities related to Medical Marijuana Establishments and any marijuana cultivation facility, marijuana testing facility, marijuana product manufacturing facility or retail marijuana store must be conducted indoors and within a permanent building. The use of an office trailer or other temporary structure is prohibited. All Medical Marijuana Establishments and Marijuana Establishments must at all times maintain an interior and exterior appearance that is professional, orderly, dignified and consistent with the traditional style of pharmacies and medical offices.
 - (d) The outdoor display or sale of any Medical Marijuana Establishment or Marijuana Establishment merchandise or product is prohibited.
 - (e) Accessory outside storage for Medical Marijuana Establishments and Marijuana Establishments must comply with the provisions of Title 18 Appendix (Carson City Development Standards), Division 1.12 (Outside Storage).
 - (f) Access to Medical Marijuana Establishment or Marijuana Establishment must comply with all applicable state and federal laws and regulations.
 - (g) Medical Marijuana Establishment and Marijuana Establishment merchandise and products must not be visible when viewed from outside the building in which the Marijuana Establishment or Marijuana Establishment is located.
 - (h) All signage for Medical Marijuana Establishments and Marijuana establishments must be discreet, professional and consistent with the traditional style of signage for pharmacies and medical offices. All Medical Marijuana establishments and Marijuana Establishments are limited to following signage:
 - (1) A maximum of thirty (30) square feet of wall sign area.
 - (2) A maximum of thirty-two (32) square feet of freestanding sign area.
 - (3) The maximum freestanding sign height for Marijuana Dispensaries and Marijuana Retail Stores shall

be determined by the applicable commercial or shopping center regulations of Division 4 (Signs).

- (4) The maximum freestanding sign height for all Medical Marijuana Establishments and Marijuana Establishments other than Medical Marijuana Dispensaries and Marijuana Retail Stores shall be ten (10) feet.
 - (5) Where a Medical Marijuana Establishment and Marijuana Establishment are jointly located on a single property, the maximum permitted sign area applies to the property and not each type of Establishment.
- (i) Off-street parking must be provided for Medical Marijuana Establishments and Marijuana Establishments in accordance with the following:
 - (1) For Medical Marijuana Dispensaries and Marijuana Retail Stores, a minimum of one (1) space for every three hundred (300) square feet of gross floor area.
 - (2) For Medical Marijuana Cultivation Facilities and Marijuana Cultivation Facilities, a minimum of one (1) space for every one thousand (1,000) square feet of gross floor area.
 - (3) For Medical Marijuana Product Manufacturing Facilities and Marijuana Product Manufacturing Facilities, a minimum of one (1) space for every five hundred (500) square feet of gross floor area.
 - (4) For Medical Marijuana Testing and Marijuana Testing Facilities, a minimum of one (1) space for every four hundred (400) square feet of gross floor area.
 - (j) Notwithstanding any other provision of CCMC, not more than two (2) Medical Marijuana Dispensaries are allowed to operate at the same time in Carson City.
 - (k) A Marijuana Retail Store may only be jointly located within the same premises of an existing Medical Marijuana Dispensary that is operating in good standing.
 - (l) A Medical Marijuana Establishment or Marijuana Establishment is prohibited within one thousand (1,000) feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade twelve (12), or within three hundred (300) feet of a facility that provides day care to children, a public park, a playground, a public swimming pool, and any other center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents, which already exists on the date the application for the proposed Medical Marijuana Establishment or Marijuana Establishment is submitted to the applicable state agency for approval to operate, as measured on a straight line from the property line of the nearest school or facility to the front door or primary entrance of the Medical Marijuana Establishment or Marijuana Establishment.
2. The following standards apply to all Medical Marijuana Dispensaries and Retail Marijuana Stores:
 - (a) A single point of secure public entry must be provided and identified.
 - (b) Hours of operation are limited to between 8:00 a.m. and 10:00 p.m., daily.
 - (c) Drive-through service is prohibited.
 - (d) A Medical Marijuana Dispensary or Retail Marijuana Store is prohibited on any property, or within a shopping center with frontage, that is located on the same street on which a residentially zoned property is also located unless the dispensary or store is located more than three hundred (300) feet from the residential property, as measured on a straight line from the nearest residential property line abutting the street right-of-way to the front door of the dispensary or store.
 3. In addition to the required findings for a Special Use Permit, the following standards must also be considered in the review of a request for a Special Use Permit for a Medical Marijuana Dispensary or Marijuana Retail Store to be located within the General Industrial zoning district:
 - (a) That the proposed Medical Marijuana Dispensary or Marijuana Retail Store is located where sufficient, convenient and safe access is provided to the public.

(b) That the proposed location has adequate lighting and street improvements for a use providing public access (Ord. No. 2014-10, § IV, 7-3-2014; Ord. No. 2017-21, § VI, 10-5-2017; Ord. No. 2018-7, § I, 6-7-2018; Ord. No. 2020-2, § I, 3-19-2020)