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**Development Review Committee**

1020 East Pioneer Road  
Draper, Utah 84020

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**STAFF REPORT**  
DECEMBER 13, 2019

**To:** Draper City Planning Commission  
Business Date: December 19, 2019

**From:** Development Review Committee

**Prepared By:** Pete Kane, Planner III  
Planning Division  
Community Development Department  
(801) 576-6335 or [pete.kane@draper.ut.us](mailto:pete.kane@draper.ut.us)

**Re: City-Initiated Medical Cannabis Text Amendment Request**

Application No.: TEXTMAP-912-2019  
Applicant: Draper City  
Project Location: City-Wide  
Request: Request for approval of a text amendment to various sections of Draper City Municipal Code Title 9 to comply with state law concerning the regulation of medical cannabis as passed by the Utah State Legislature in 2019.

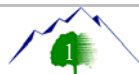
**SUMMARY**

This application is a request for approval of a text amendment. These text amendments have been initiated by the City and are being proposed in order to comply with state law related to the regulation of medical cannabis most recently amended by the Utah State Legislature in the 2019 First Special Session (SB 1002). The proposed text amendments will affect Draper City Municipal Code (“DCMC”) Chapters 9-3, 9-9, 9-11, 9-12, 9-13, 9-14, 9-18, and creates a new Chapter 9-42. These changes would apply citywide.

The following staff report analyzes the proposed changes by specific title and section. A full copy of the changes can be found in Exhibit B of this report. In the changes, text that is blue and underlined are additions, text that is ~~red and crossed out~~ are deletions and text that is black is not being altered. The page numbers from Exhibit B have been provided after the section numbers within the staff report for reference purposes.

**BACKGROUND**

During the 2019 General Session of the Utah State Legislature, the Utah Medical Cannabis Act (the “Act”) was adopted. The Act was subsequently amended by the Legislature during a special session held in September 2019. As the Act pertains to Draper City, it provides guidance as to local municipal



jurisdiction over the zoning for cultivation, processing, and distribution outlets.

The State has mandated that municipalities adopt regulations to incorporate the new laws concerning medicinal cannabis into local zoning ordinances by January 2021. The purpose of the proposed text amendment is to comply with State law and address medical cannabis-related land uses in the DCMC. The proposed changes directly reference State law.

Based on the Act, municipalities with “Agricultural” or “Manufacturing<sup>1</sup>” land uses must allow “Cannabis Production Establishments” (“Establishments”) in at least one of each of these zoning districts. Consistent with the requirement, this proposal permits this land use in both the A5 and A2 agricultural zoning districts and both the M1 and M2 manufacturing zoning districts. Additionally, “Medical Cannabis Pharmacies” (“Pharmacies”) are mandated to be permitted in all zoning districts other than those districts that are primarily residential. The proposed text specifies which zoning districts in the city are primarily residential. Both Establishments and Pharmacies are subject to specific distancing requirements in the Act and per State law, municipalities may not adopt regulations that are more restrictive than State regulations. The proposed changes to the DCMC are consistent with State law.

## **ANALYSIS**

All proposed text amendments relate to DCMC Title 9 – Land Use and Development Regulations. To minimize conflicts with Utah State Code and make the adjustments as clear as possible, the amendments are broken into three categories: definition, use by zone, and purpose/scope.

### **Definition**

1. 9-3-040: Definitions  
Exhibit B, page 9

This adds in the definitions for both “Cannabis Production Establishment” and “Medical Cannabis Pharmacy.” As both are defined by Utah State Code, these definitions directly refer to their applicable sections for clarity and to ensure there’s no conflict.

### **Use by Zone<sup>2</sup>**

1. 9-9-080: Use and Development Standards Tables  
Exhibit B, page 9

This relates to Chapter 9: Agricultural Zones. It adds in the permitted uses of “Cannabis Production Establishment” and “Medical Cannabis Pharmacy.”

2. 9-11-110: Use and Development Standards Tables  
Exhibit B, page 9

This relates to Chapter 11: Commercial Zones. It adds in the non-permitted use of “Cannabis Production Establishment” and permitted use of “Medical Cannabis Pharmacy.”

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<sup>1</sup> The Act specifies “Industrial” zones, however, DCMC refers to industrial zones as “Manufacturing.”

<sup>2</sup> The Act specifies that the operation of an Establishment shall be a permitted industrial use in any industrial zone and permitted agricultural use in any agricultural zone, unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for an Establishment, at least one industrial zone and one agricultural zone in which the operation of an Establishment is a permitted use.

3. 9-12-080: Use and Development Standards Tables  
Exhibit B, page 9

This relates to Chapter 12: Public Facility Zones. It adds in the permitted use of “Medical Cannabis Pharmacy” in the PF (Public Facility), PI (Public Institutional), and OS (Open Space) zones.

4. 9-13-080: Use and Development Standards Tables  
Exhibit B, page 10

This relates to Chapter 13: Manufacturing Zones. It adds in the permitted use of “Cannabis Production Establishment” and “Medical Cannabis Pharmacy.” Being that this zone is zoned for manufacturing and is also not primarily residential, both uses fall under that state mandate.

5. 9-14-050: Use Regulations  
Exhibit B, page 10

This relates to Chapter 14: Transit Station District (TSD). It adds in the non-permitted use of “Cannabis Production Establishment” and permitted use of “Medical Cannabis Pharmacy.”

6. Chapter 9-18: Commercial Special Districts  
Exhibit B, pages 10-12

This add ins the permitted use of “Medical Cannabis Pharmacy” to the “Permitted Use” section in each of the individual Commercial Special District sections.

### Purpose/Scope

1. Chapter 42: Cannabis Production Establishments and Medical Cannabis Pharmacies  
Exhibit B, pages 12-14

This new chapter is created in order to define the purpose and scope of regulating these two new uses, adding definitions specific to just this chapter, setting standards for the land use developments, and clarifying regulation precedence.

Purpose – this section identifies the two permitted land uses (as defined in 9-3-040) and confirms the licensing procedures as set by Utah State Code.

Scope<sup>3</sup> – this section clarifies that the chapter pertains to cannabis production establishments and medical cannabis pharmacies.

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<sup>3</sup> UCA 26-61a-507 provides for the following:

(3) A municipality or county may enact an ordinance that: (a) is not in conflict with this chapter; and (b) governs the time, place, or manner of medical cannabis pharmacy operations in the municipality or county.

(4) An applicant for a land use permit to operate a medical cannabis pharmacy shall comply with the land use requirements and application process described in: (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

Definitions – this section adds in specific definitions for “primarily residential” and “community location”. State law states that zones that are “primarily residential” may not permit medical cannabis pharmacies. This definition helps to clearly outline which zones the City has determined to be “primarily residential.”

Standards – this section is broken down by:

- a. “Health and Safety” – notes the need to protect environmental standards and quality, visibility of cannabis products at medical cannabis pharmacies, and that both uses must comply with the land use requirements of the applicable zone.
- b. “License Requirement” – reiterates the State requirement for a valid license from the Utah Department of Agriculture and Food or the Utah Department of Health and business license from the City.
- c. “Location” – outlines the location restrictions of both cannabis production establishments and medical cannabis pharmacies as they relate to community locations or districts zoned as primarily residential.
- d. “Signs” – this confirms that signage is permitted within the requirements set by the State Code which limits the size, number, and information on the signs.

Regulation Precedence – this confirms that if any element of Title 9 conflicts with Utah Code, that the State code takes precedence.

Criteria For Approval. The criteria for review and potential approval of a text amendment request is found in Section 9-5-060(E) of the DCMC. This section depicts the standard of review for such requests as:

2. Text Amendments:

- a. Whether the proposed amendment is consistent with goals, objectives and policies of the city’s general plan;
- b. Whether a proposed amendment furthers the specific purpose statements of the zoning ordinance;
- c. Whether the proposed amendment is appropriate given the context of the request and there is sufficient justification for a modification to the zoning ordinance;
- d. The proposed amendment will not create a conflict with any other section or part of this title or the general plan;
- e. Whether the potential effects of the proposed amendment have been evaluated and determined not to be detrimental to public health, safety, or welfare and represents an overall community benefit; and
- f. The extent to which a proposed text amendment implements best current, professional practices of urban planning, design, and engineering practices

## **REVIEWS**

Planning Division Review. The Draper City Planning Division has completed their review of the text amendment submission. Comments from the Division, if any, can be found in Exhibit A.

Engineering and Public Works Divisions Review. The Draper City Engineering and Public Works Divisions has completed their review of the text amendment submission. Comments from the Division, if any, can be found in Exhibit A.

**Building Division Review.** The Draper City Building Division has completed their review of the text amendment submission. Comments from the Division, if any, can be found in Exhibit A.

**Fire Division Review.** The Draper City Fire has completed their review of the text amendment submission. Comments from the Division, if any, can be found in Exhibit A.

**Legal Review.** The Draper City Attorney has completed their review of the text amendment submission. Comments from the Division, if any, can be found in Exhibit A.

**Noticing.** Notice has been properly issued in the manner outlined in the City and State Codes.

### **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission review the request, receive public comment, and make a decision based on the findings listed below and the criteria for approval, or denial, as listed within the staff report.

The findings for approval as are follows:

1. The proposed amendment is consistent with goals, objectives and policies of the city's general plan.
2. The proposed amendment furthers the specific purpose statements of the zoning ordinance.
3. The proposed amendment is appropriate given the context of the request and there is sufficient justification for a modification to the zoning ordinance.
4. The proposed amendment will not create a conflict with any other section or part of this title or the general plan.
5. The potential effects of the proposed amendment have been evaluated and determined not to be detrimental to public health, safety, or welfare and represents an overall community benefit.
6. The proposed text amendment implements best current, professional practices of urban planning, design, and engineering practices.
7. The proposed text amendment complies with state law mandates regulating cannabis production establishments and medical cannabis pharmacies.

The findings for denial as are follows:

1. The proposed amendment is not consistent with goals, objectives and policies of the city's general plan.
2. The proposed amendment does not further the specific purpose statements of the zoning ordinance.
3. The proposed amendment is not appropriate given the context of the request and there is sufficient justification for a modification to the zoning ordinance.
4. The proposed amendment will create a conflict with any other section or part of this title or the general plan.
5. The potential effects of the proposed amendment have been evaluated and determined to be detrimental to public health, safety, or welfare and represents an overall community benefit.
6. The proposed text amendment does not implement best current, professional practices of urban planning, design, and engineering practices.
7. The proposed text amendment does not comply with state law mandates regulating cannabis production establishments and medical cannabis pharmacies.

## **MODEL MOTIONS**

### *Sample Motion for Approval*

I move that we forward a positive recommendation to the City Council for the text amendment, as requested by Draper City for the City-Initiated Medical Cannabis Text Amendment, application TEXTMAP-912-2019, based on the findings listed in the Staff Report dated December 13, 2019.

### *Sample Motion for Modified Approval*

I move that we forward a positive recommendation to the City Council for the text amendment, requested by Draper City for the City-Initiated Medical Cannabis Text Amendment, application TEXTMAP-912-2019, based on the findings listed in the Staff Report dated December 13, 2019, and as modified by the findings and conditions below:

1. List any additional findings and conditions...

### *Sample Motion for Denial*

I move that we forward a negative recommendation to the City Council for the text amendment, as requested by Draper City for the City-Initiated Medical Cannabis Text Amendment, based on the findings listed in the Staff Report dated December 13, 2019.

## DEVELOPMENT REVIEW COMMITTEE ACKNOWLEDGEMENT

We, the undersigned, as duly appointed members of the Draper City Development Review Committee, do acknowledge that the application which provides the subject for this staff report has been reviewed by the Committee and has been found to be appropriate for review by the Draper City Planning Commission and/or City Council.

  
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Draper City Public Works Division

  
\_\_\_\_\_  
Draper City Building Division

  
\_\_\_\_\_  
Draper City Fire Department

  
\_\_\_\_\_  
Draper City Planning Division

  
\_\_\_\_\_  
Draper City Legal Counsel

**EXHIBIT A**  
**DEPARTMENT REVIEWS**

REVIEWS ARE NOT MEANT TO BE AN ALL INCLUSIVE LIST OF POSSIBLE COMMENTS OR CONDITIONS.

*Planning Division Review.*

No comments were received.

*Engineering and Public Works Divisions Review.*

No comments were received.

*Building Division Review.*

No comments were received.

*Fire Division Review.*

No comments were received.

*Legal Review.*

No comments were received.



**EXHIBIT B**  
**PROPOSED TEXT CHANGES**

## TITLE 9 – LAND USE AND DEVELOPMENT REGULATIONS

### CHAPTER 3: RULES OF CONSTRUCTION AND DEFINITIONS

#### 9-3-040: DEFINITIONS:

CANNABIS PRODUCTION ESTABLISHMENT: As defined in Section 4-41a-102 of the Utah Code, as amended.

MEDICAL CANNABIS PHARMACY: As defined in Section 26-61a-102 of the Utah Code, as amended.

### CHAPTER 9: AGRICULTURAL ZONES

#### 9-9-080 USE AND DEVELOPMENT STANDARDS TABLES:

USE	ZONES	
	A5	A2
Agricultural uses:		
<u>Cannabis Production Establishment</u>	<u>P</u>	<u>P</u>
Commercial uses:		
<u>Medical Cannabis Pharmacy</u>	<u>P</u>	<u>P</u>

### CHAPTER 11: COMMERCIAL ZONES

#### 9-11-110 USE AND DEVELOPMENT STANDARDS TABLES:

USES	ZONES												#
	CN	CC	CR	CG	CI	CBP	CO1	CO2	O-R	TC	DC	CS	MARF
Agricultural uses:													
<u>Cannabis Production Establishment</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
Commercial uses:													
<u>Medical Cannabis Pharmacy</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

### CHAPTER 12: PUBLIC FACILITY ZONES

#### 9-12-080 USE AND DEVELOPMENT STANDARDS TABLES:

USE	ZONES		
	PF	OS	PI
Commercial uses:			
<u>Medical Cannabis Pharmacy</u>	<u>P</u>	<u>P</u>	<u>P</u>

## CHAPTER 13: MANUFACTURING ZONES

### 9-13-080 USE AND DEVELOPMENT STANDARDS TABLES:

USE	ZONES	
	M1	M2
Agricultural uses:		
<a href="#">Cannabis Production Establishment</a>	<u>P</u>	<u>P</u>
Commercial uses:		
<a href="#">Medical Cannabis Pharmacy</a>	<u>P</u>	<u>P</u>

## CHAPTER 14: TRANSIT STATION DISTRICT (TSD)

### 9-14-050 USE REGULATIONS:

TABLE 9-14-1

#### ALLOWED USES IN THE TSD ZONE

USE	ZONES		
	TSD-1	TSD-2	TSD-3
Agricultural uses:			
<a href="#">Cannabis Production Establishment</a>	<u>NP</u>	<u>NP</u>	<u>NP</u>
Commercial uses:			
<a href="#">Medical Cannabis Pharmacy</a>	<u>P</u>	<u>P</u>	<u>P</u>

## CHAPTER 18: COMMERCIAL SPECIAL DISTRICTS (CSD)

### ARTICLE A. DRAPER PEAKS COMMERCIAL SPECIAL DISTRICT

#### 9-18A-020: PERMITTED USES:

Medical and dental clinic.

[Medical cannabis pharmacy.](#)

Multi-family residential buildings.

### ARTICLE B. DAHLE RETAIL CENTER COMMERCIAL SPECIAL DISTRICT

#### 9-18B-020: PERMITTED USES:

Medical and dental clinic.

[Medical cannabis pharmacy.](#)

Office, general.

### ARTICLE C. SOUTHWESTERN FURNITURE COMMERCIAL SPECIAL DISTRICT

#### 9-18C-020: PERMITTED USES:

Health and fitness facility.

[Medical cannabis pharmacy.](#)

Office, general.

### ARTICLE D. KARL MALONE AUTO CENTER COMMERCIAL SPECIAL DISTRICT

**9-18D-020: PERMITTED USES:**

Equipment sales and service.

[Medical cannabis pharmacy.](#)

Restaurants.

**ARTICLE E. DAY DAIRY COMMERCIAL SPECIAL DISTRICT**

**9-18E-020: PERMITTED USES:**

Health and fitness facility.

[Medical cannabis pharmacy.](#)

Multi-family residential buildings.

**ARTICLE F. LIVING PLANET AQUARIUM COMMERCIAL SPECIAL DISTRICT**

**9-18F-020: PERMITTED USES:**

Live theater/music.

[Medical cannabis pharmacy.](#)

Office, general.

**ARTICLE G. LONE PEAK COMMERCIAL SPECIAL DISTRICT**

**9-18G-030: PERMITTED USES:**

Media service.

[Medical cannabis pharmacy.](#)

Medical service.

**ARTICLE H. DRAPER POINTE MIXED USE COMMERCIAL SPECIAL DISTRICT**

**9-18H-020: PERMITTED USES:**

Media services.

[Medical cannabis pharmacy.](#)

Medical services.

**ARTICLE I. WHITE MOUNTAIN BUSINESS DISTRICT COMMERCIAL SPECIAL DISTRICT**

**9-18I-060: PERMITTED USES:**

Manufacturing.

[Medical cannabis pharmacy.](#)

Medical or dental laboratory.

**ARTICLE J. 11400 SOUTH LONE PEAK PARKWAY COMMERCIAL SPECIAL DISTRICT**

**9-18J-020: PERMITTED USES:**

Government service.

[Medical cannabis pharmacy.](#)

Municipal uses.

## **ARTICLE K. HIGHLINE COMMERCIAL SPECIAL DISTRICT**

### **9-18K-020: PERMITTED USES:**

Media services.

[Medical cannabis pharmacy.](#)

Medical services.

## **ARTICLE L. 136 CENTER COMMERCIAL SPECIAL DISTRICT**

### **9-18L-020: PERMITTED USES:**

Media services.

[Medical cannabis pharmacy.](#)

Medical services.

## **ARTICLE N. IRVINE COMMERCIAL SPECIAL DISTRICT**

### **9-18N-020: PERMITTED USES:**

Higher education facility, public.

[Medical cannabis pharmacy.](#)

Medical services.

## **CHAPTER 42: CANNABIS PRODUCTION ESTABLISHMENTS AND MEDICAL CANNABIS PHARMACIES**

### **9-42-010: PURPOSE:**

The purpose of this chapter is to permit the establishment of cannabis production establishments and medical cannabis pharmacies as defined in 9-3-040 of this title, subject to licensing procedures required by the State of Utah.

### **9-42-020: SCOPE:**

The requirements of this chapter shall apply to any cannabis production establishments and medical cannabis pharmacies within the city. This chapter shall be construed as a regulation of time, place, and manner of the operation of these businesses, consistent with Utah Code. The requirements of this chapter shall not be construed to prohibit or limit other applicable provisions of this title, this code, or other laws.

### **9-42-030: DEFINITIONS:**

- A. “Primarily Residential” for the purposes of this chapter and any applicable state law means the following zoning districts:

- 1) MPC – Master Planned Community
- 2) RA1 – Residential agricultural
- 3) RA2 – Residential agricultural
- 4) RH – Single-family residential (hillside)
- 5) R3 – Single-family residential
- 6) R4 – Single-family residential
- 7) R5 – Single-family residential
- 8) RM – Residential - MDU
- 9) RM1 – Multiple-family residential
- 10) RM2 – Multiple-family residential

- 11) RR-22 – Rural Residential
- 12) RR-43 – Rural Residential
- 13) RSD-1 – Foxgate Farms (Residential Special District)
- 14) RSD-2 – Corner Canyon Vista (Residential Special District)
- 15) RSD-3 – South Fork Estates (Residential Special District)
- 16) RSD-4 – Valle di Villa (Residential Special District)
- 17) RSD-5 – Bellevue (Residential Special District)
- 18) IC – Institutional Care
- B. The definitions in Utah Code Title 26, Chapter 61a, Utah Medical Cannabis Act, as amended, and Utah Code Title 4 Chapter 41a, Cannabis Production Establishments, as amended, are hereby adopted by this section.

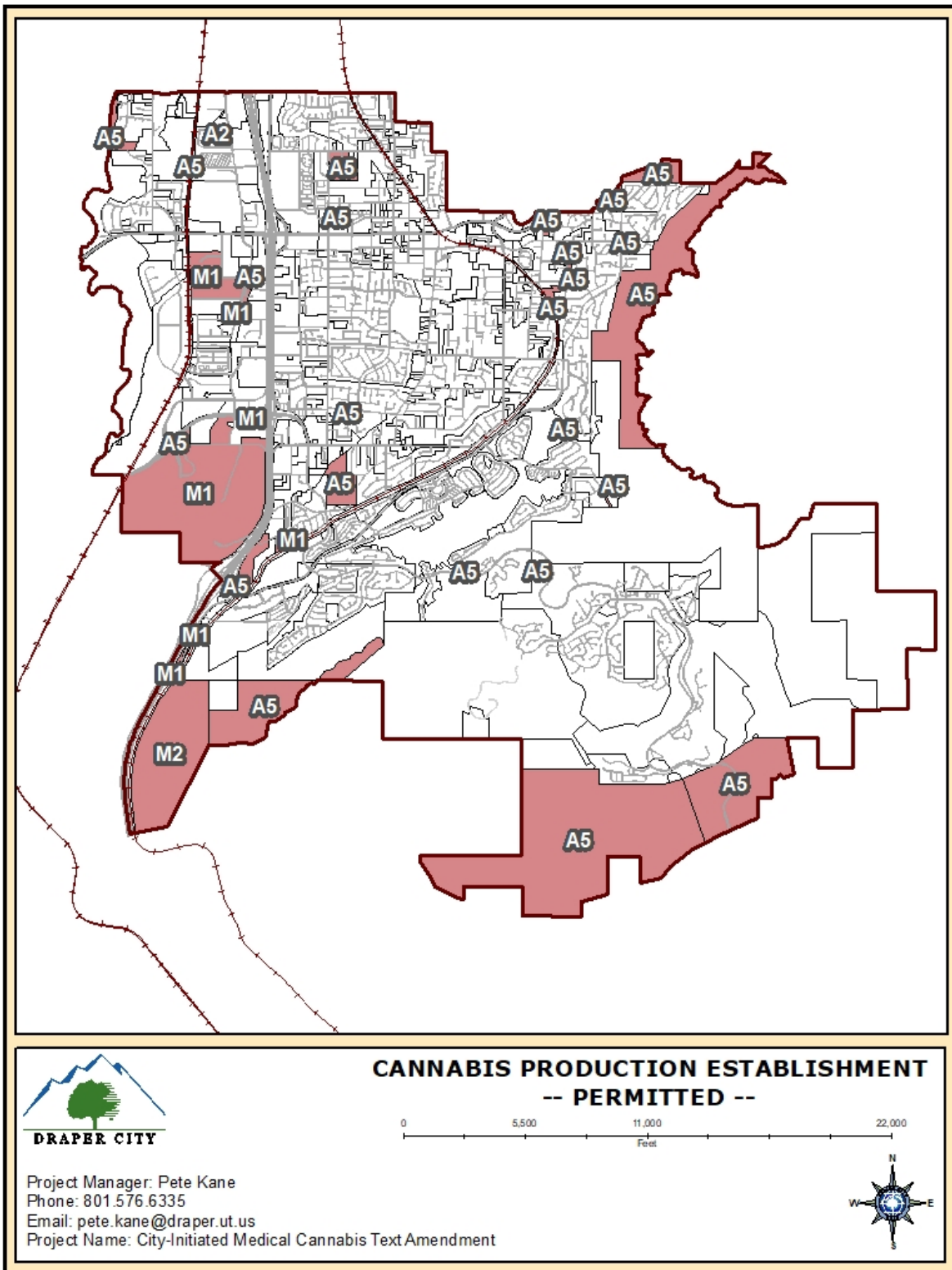
#### **9-42-040: STANDARDS:**

- A. Health and Safety:
  - 1) The following standards apply to all cannabis production establishments:
    - i. There shall be no emission of dust, fumes, vapors, odors, or waste into the environment from any facility where growing, processing, or testing of cannabis occurs, and
    - ii. Cannabis production establishments shall meet the land use requirements for the zone in which it is located;
  - 2) The following standards apply to all medical cannabis pharmacies:
    - i. No cannabis products shall be visible from outside a medical cannabis pharmacy, and
    - ii. Medical cannabis pharmacies shall meet the land use requirements for the zone in which it is located.
- B. License Requirement: No cannabis production establishment or medical cannabis pharmacy shall be established, operated, or maintained within the City without a valid license issued by the Utah Department of Agriculture and Food or the Utah Department of Health, respectively, and without a valid business license issued by the City.
- C. Location:
  - 1) Cannabis production establishments shall be located as required by Title 4-41a of the Utah Code.
  - 2) Medical cannabis pharmacies shall be located as required by Title 26-61a of the Utah Code.
- D. Signs: Signs shall be subject to the dimensional and design regulations per sections 4-41a-403 and 26-61a.505, Utah Code, as amended.

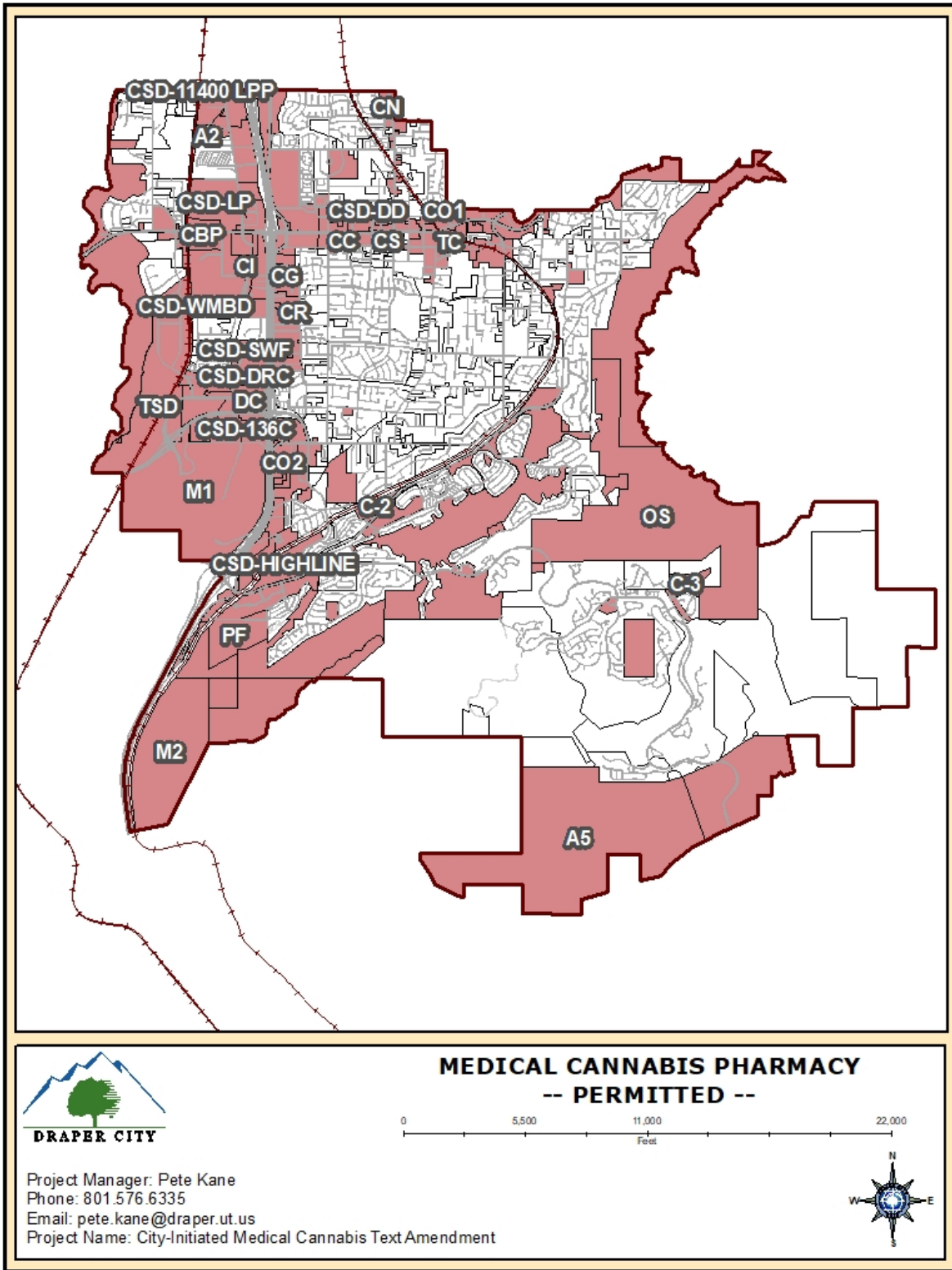
#### **9-42-050: REGULATION PRECEDENCE:**

If any regulation, in Title 9 – Land Use and Development Regulations, regarding cannabis production establishments or medical cannabis pharmacies is in conflict with Utah Code, State code takes precedence.

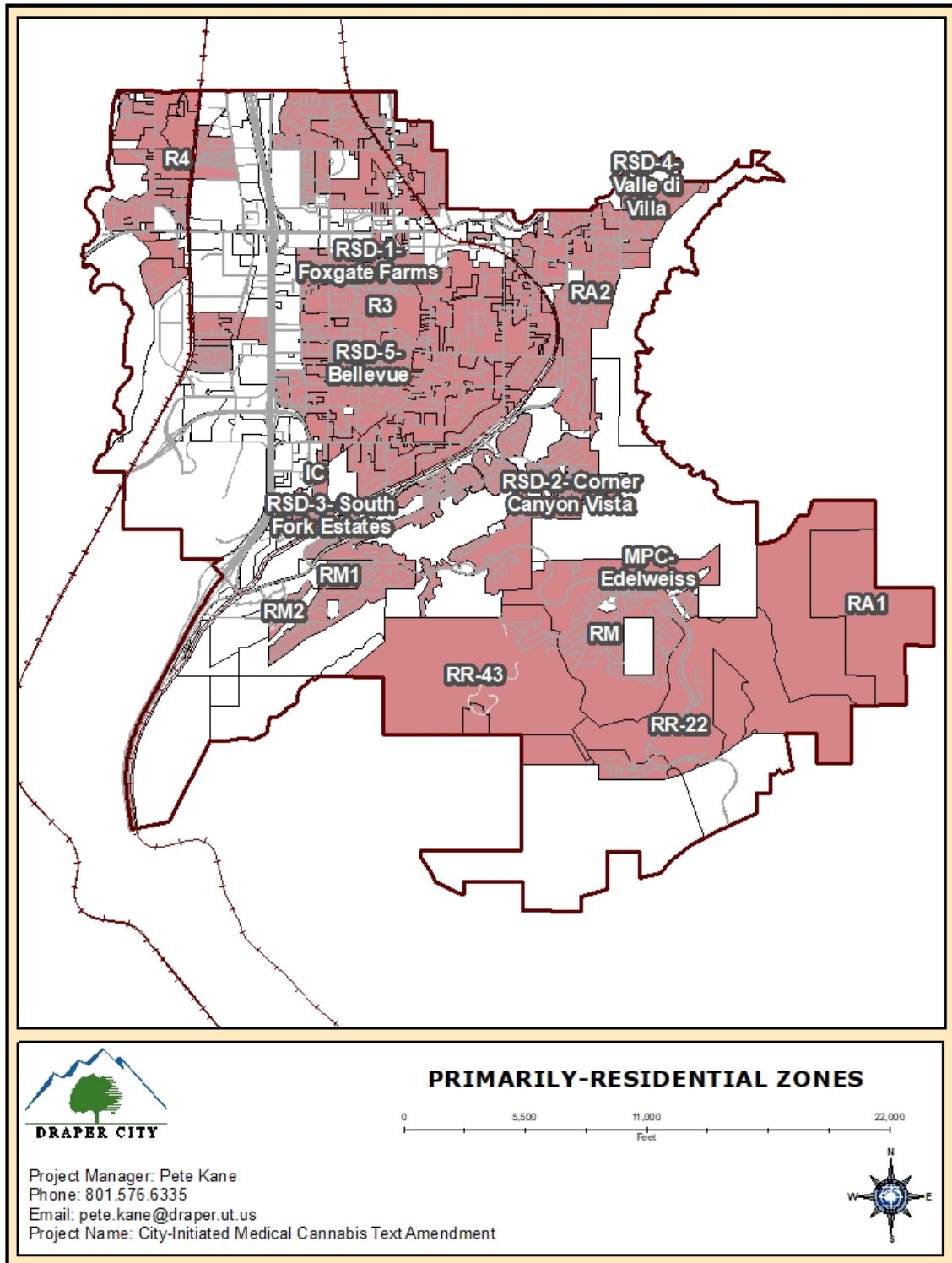
**EXHIBIT C**  
**CANNABIS PRODUCTION ESTABLISHMENT – PERMITTED ZONES**



**EXHIBIT D**  
**MEDICAL CANNABIS PHARMACY – PERMITTED ZONES**

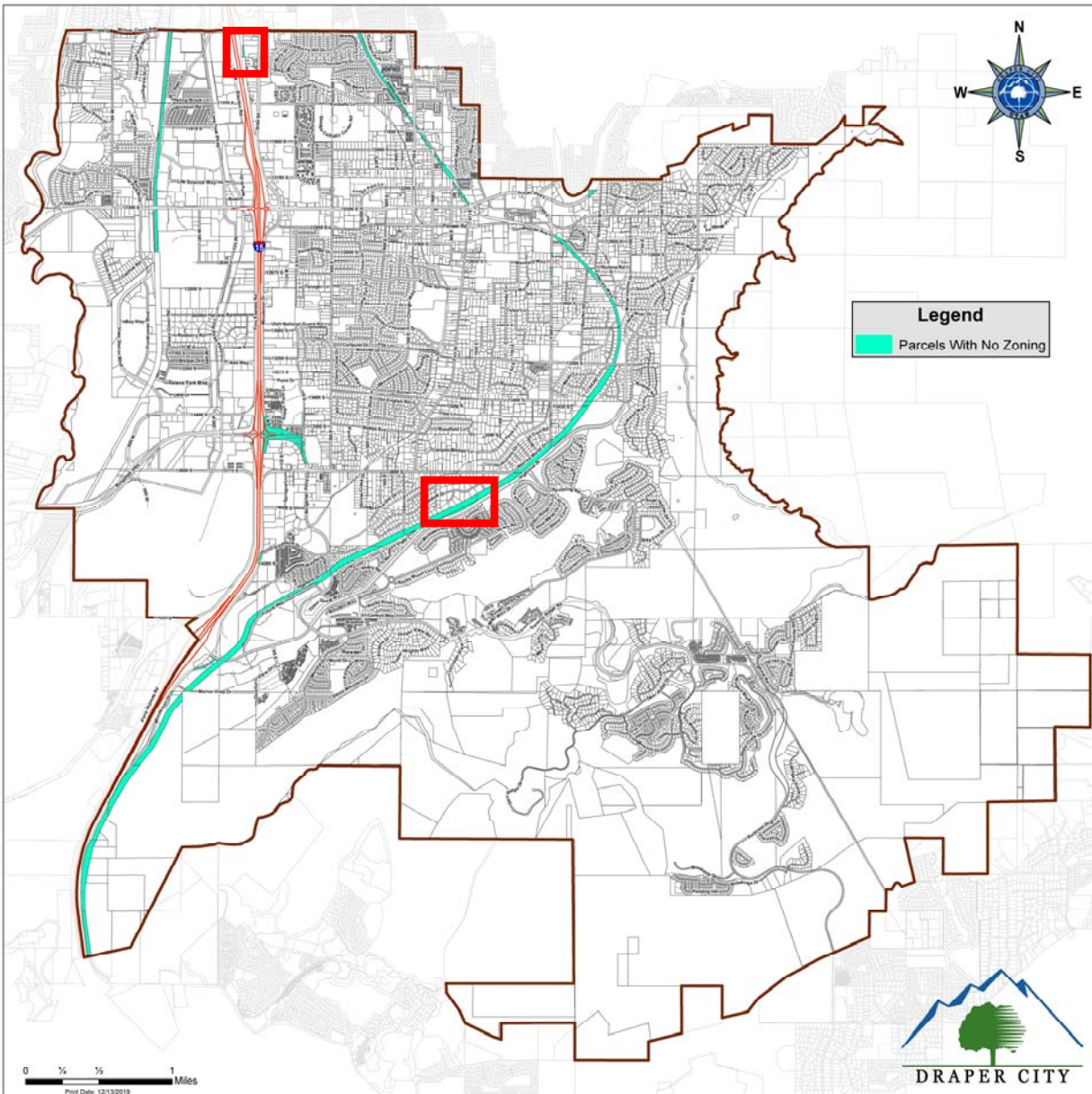


**EXHIBIT E**  
**PRIMARILY-RESIDENTIAL ZONES**  
(CANNABIS PRODUCTION ESTABLISHMENT & MEDICAL CANNABIS PHARMACY –  
NOT PERMITTED)





## EXHIBIT F UNZONED PROPERTIES



The majority of unzoned properties in Draper are either road or rail rights-of-way. The exceptions include:

- 603 E 12300 E (0.01 acres) – a sliver of land between the Valvoline and 12300 E
- 1401 E 13430 S (0.04 acres) – a linear piece of privately-owned land running through the UTA right-of-way (see *Figure 1* below)
- 14790 S Future Way (0.04 acres) – a piece of land between the UTA right-of-way and the Highline CSD
- 953 E Highland Dr (1.57 acres) – a long sliver of land between Highland Dr and the UTA right-of-way (see *Figure 2* below)

- 11506 S State St (0.045 acres) – this is the western portion of the parking lot at AGEM (see *Figure 3* below)
- 11524 S State St (0.01 acres) – a small lot with a billboard (see *Figure 3* below)



*Figure 1*



*Figure 2*



*Figure 3*