



BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending DCC Titles 9, 18, and 22 to Refine Standards for the Regulation and Enforcement of Marijuana Production on Rural Lands and Declaring an Emergency.

ORDINANCE NO. 2018-012

WHEREAS, the Board of County Commissioners directed the Deschutes County Community Development Department staff to initiate amendments (Planning Division File No. 247-18-000540-TA) to Deschutes County Code (DCC) Title 9, Chapter 9.12, Right to Farm; Title 18, Chapter 18.24, Redmond Urban Reserve Area Combining Zone; Chapter 18.116, Supplementary Provisions; Chapter 18.124, Site Plan Approval Criteria; Title 22, Chapter 22.24, Land Use Action Hearings; and Chapter 22.32, Appeals, refining standards for the regulation and enforcement of marijuana production on rural lands; and

WHEREAS, the Board of County Commissioners considered this matter after a duly noticed public hearing on August 28, 2018 and concluded that the public will benefit from the changes to the Deschutes County Code; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC 9.12, Right to Farm, is amended to read as described in Exhibit "A," attached and incorporated by reference herein, with new language underlined and deleted language set forth in strikethrough.

Section 2. AMENDMENT. DCC 18.24, Redmond Urban Reserve Area Combining Zone, is amended to read as described in Exhibit "B," attached and incorporated by reference herein, with new language underlined and deleted language set forth in strikethrough.

Section 3. AMENDMENT. DCC 18.116, Supplementary Provisions, is amended to read as described in Exhibit "C," attached and incorporated by reference herein, with new language underlined and deleted language set forth in strikethrough.

Section 4. AMENDMENT. DCC 18.124, Site Plan Review, is amended to read as described in Exhibit "D," attached and incorporated by reference herein, with new language underlined and deleted language set forth in strikethrough.

Section 5. AMENDMENT. DCC 22.24, Land Use Action Hearings, is amended to read as described in Exhibit "E," attached and incorporated by reference herein, with new language underlined and deleted language set forth in strikethrough.

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Section 6. AMENDMENT. DCC 22.32, Appeals, is amended to read as described in Exhibit "F," attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 7. FINDINGS. The Board adopts as its findings Exhibit "G," attached and incorporated by reference herein.

Section 8. EMERGENCY. This Ordinance being necessary for the public peace, health, safety and welfare, an emergency is declared to exist, and this Ordinance becomes effective 30 days from adoption.

Dated this 24 of October, 2018


BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON



ANTHONY DeBONE/Chair



PHIL HENDERSON, Vice Chair



TAMMY BANEY, Commissioner

ATTEST: 

Recording Secretary

Date of 1st Reading: 24 day of October, 2018.

Date of 2nd Reading: 24 day of October, 2018.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Anthony DeBone	<u>X</u>	—	—	—
Phil Henderson	<u>X</u>	—	—	—
Tammy Baney	<u>X</u>	—	—	—

Effective date: 23 day of November, 2018.

Chapter 9.12. RIGHT TO FARM

9.12.020. Purpose and Scope.

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9.12.020. Purpose and Scope.

- A. It is the purpose of DCC 9.12 to protect farm and forest-based economically productive activities of Deschutes County in order to assure the continued health, safety and prosperity of its residents. Farm and forest uses sometimes offend, annoy, interfere with or otherwise affect others located on or near farm and forest lands. Deschutes County has concluded in conformance with ORS chapter 30 that persons located on or near farm and forest lands must accept resource uses and management practices.
- B. DCC 9.12 is intended to limit the availability of remedies based on nuisance or trespass, rights of action and claims for relief and issuance of citations for violations over which Deschutes County has jurisdiction, when they otherwise would either have an adverse impact on farm and forest uses that Deschutes County seeks to protect, or would impair full use of the farm and forest resource base within Deschutes County.
- ~~B. C. Scope. DCC Chapter 9.12 (The Deschutes County Right To Farm Ordinance) applies to all crops. does not apply to marijuana production operations whether permitted by Deschutes County, Oregon Liquor Control Commission, Oregon Health Authority, or otherwise. However, subject to ORS 475B, Cannabis regulation, the governing body of a county may adopt ordinances that impose reasonable regulations on marijuana production, processing, wholesaling and retailing.~~
- (Ord. 2018-012 §1, 2018; Ord. 2003-021 §21, 2003; Ord. 95-024 §2, 1995)

Chapter 18.24 REDMOND URBAN RESERVE AREA COMBINING ZONE

18.24.030. Conditional Uses Permitted; Prohibition.

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18.24.030. Conditional Uses Permitted; Prohibition.

A. Subject to the prohibitions provided for in DCC 18.24.030(B), uses permitted conditionally in the RURA-Redmond Urban Reserve Area Combining Zone shall be those identified as conditional uses in the underlying zoning districts. Conditional uses shall be subject to all conditions of those zones as well as the requirements of this chapter.

B. The following uses are prohibited and not permitted in the RURAedmond Urban Reserve Area Combining Zone:

1. Marijuana production; and
2. Marijuana processing.

(Ord. 2018-012 §2, 2018)

Chapter 18.116. SUPPLEMENTARY PROVISIONS

18.116.330 Marijuana Production, Processing, and Retailing

18.116.340 Marijuana Production Registered by the Oregon Health Authority (OHA)

* * *

18.116.330. Marijuana Production, Processing, and Retailing

A. Applicability. Section 18.116.330 applies to:

1. Marijuana Production in the EFU, ~~MUA-10~~, and RI zones.
2. Marijuana Processing in the EFU, ~~MUA-10~~, TeC, TeCR, TuC, TuI, RI, and SUBP zones
3. Marijuana Retailing in the RSC, TeC, TeCR, TuC, TuI, RC, RI, SUC, SUTC, and SUBP zones.
4. Marijuana Wholesaling in the RSC, TeC, TeCR, TuC, RC, SUC, and SUBP zones.

B. Marijuana production and marijuana processing. Marijuana production and marijuana processing shall be subject to the following standards and criteria:

1. Minimum Lot Area.
 - a. In the EFU and ~~MUA-10~~ zones, the subject legal lot of record shall have a minimum lot area of five (5) acres.
2. Indoor Production and Processing.

~~In the MUA-10 zone, marijuana production and processing shall be located entirely within one or more fully enclosed buildings with conventional or post framed opaque, rigid walls and roof covering. Use of greenhouses, hoop houses, and similar non-rigid structures is prohibited.~~

 - a. In the EFU zone, marijuana production and processing shall only be located in buildings, including greenhouses, hoop houses, and similar structures.
 - b. In all zones, marijuana production and processing are prohibited in any outdoor area.
3. Maximum Mature Plant Canopy Size. In the EFU zone, the maximum canopy area for mature marijuana plants shall apply as follows:
 - a. Parcels from 5 acres to less than 10 acres in lot area: 2,500 square feet.
 - b. Parcels equal to or greater than 10 acres to less than 20 acres in lot area: 5,000 square feet. The maximum canopy area for mature marijuana plants may be increased to 10,000 square feet upon demonstration by the applicant to the County that:
 - i. The marijuana production operation was lawfully established prior to January 1, 2015; and
 - ii. The increased mature marijuana plant canopy area will not generate adverse impact of visual, odor, noise, lighting, privacy or access greater than the impacts associated with a 5,000 square foot canopy area operation.
 - c. Parcels equal to or greater than 20 acres to less than 40 acres in lot area: 10,000 square feet.
 - d. Parcels equal to or greater than 40 acres to less than 60 acres in lot area: 20,000 square feet.
 - e. Parcels equal to or greater than 60 acres in lot area: 40,000 square feet.
4. ~~Maximum Building Floor Area. In the MUA-10 zone, the maximum building floor area used for all activities associated with marijuana production and processing on the subject property shall be:~~
 - a. ~~Parcels from 5 acres to less than 10 acres in lot area: 2,500 square feet.~~
 - b. ~~Parcels equal to or greater than 10 acres: 5,000 square feet.~~
54. Limitation on License/Grow Site per Parcel. No more than one (1) Oregon Liquor Control Commission (OLCC) licensed marijuana production or Oregon Health Authority (OHA)

registered medical marijuana grow site shall be allowed per legal parcel or lot.

65. Setbacks. The following setbacks shall apply to all marijuana production and processing areas and buildings:
 - a. Minimum Yard Setback/Distance from Lot Lines: ~~2100~~150 feet.
 - b. Setback from an off-site dwelling: ~~5300~~400 feet.
 - c. Setback from Federal public lands: 300 feet.
 - b. For the purposes of this criterion, an off-site dwelling includes those proposed off-site dwellings with a building permit application submitted to Deschutes County prior to submission of the marijuana production or processing application to Deschutes County.
 - d. Exception: Any reduction to these setback requirements may be granted by the Planning Director or Hearings Body provided the applicant demonstrates the reduced setbacks afford equal or greater mitigation of visual, odor, noise, lighting, privacy, and access impacts.
6. Separation Distances. Minimum separation distances shall apply as follows:
 - a. The ~~use applicant property line~~ shall be located a minimum of ~~1000~~1,320 feet from:
 - i. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;
 - ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
 - iii. A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool. This does not include licensed or unlicensed child care which occurs at or in residential structures;
 - iv. A youth activity center; ~~and~~
 - v. State, local, and municipal parks, including land owned by a parks district;
 - vi. ~~Public lands; and~~
 - vii. Redmond Urban Reserve Area;
 - viii. The boundary of any local jurisdiction that has opted out of Oregon's recreational marijuana program; and
 - viii. Any other lot or parcel approved by Deschutes County for marijuana production.
 - b. For purposes of DCC 18.116.330(B)(~~7~~6), all distances shall be measured from the lot line of the affected properties listed in DCC 18.116.330(B)(~~7~~6)(a) to the closest point of the ~~buildings and land area~~applicant's property line of land occupied by the marijuana producer or marijuana processor.
 - c. A change in use of another property to those identified in DCC 18.116.330(B)(~~7~~6) shall not result in the marijuana producer or marijuana processor being in violation of DCC 18.116.330(B)(~~7~~6) if the use is:
 - i. Pending a local land use decision;
 - ii. Licensed or registered by the State of Oregon; or
 - iii. Lawfully established.
87. Access. Marijuana production ~~over 5,000 square feet of canopy area for mature marijuana plants sites~~ shall comply with the following standards.
 - a. Have frontage on and legal direct access from a constructed public, county, or state road; or
 - b. Have access from a private road or easement serving only the subject property.
 - c. If the property takes access via a private road or easement which also serves other properties, the applicant shall obtain written consent to utilize the easement or private

road for marijuana production access from all owners who have access rights to the private road or easement. The written consent shall:

- i. Be on a form provided by the County and shall contain the following information;
- ii. Include notarized signatures of all owners, persons and properties holding a recorded interest in the private road or easement;
- iii. Include a description of the proposed marijuana production or marijuana processing operation; and
- iv. Include a legal description of the private road or easement.

98. Lighting. Lighting shall be regulated as follows:

- a. Inside building lighting, including greenhouses, hoop houses, and similar structures, used for marijuana production shall not be visible outside the building from ~~sundown~~~~sunset to sunup~~~~sunrise~~ 7:00 p.m. to 7:00 a.m. on the following day.
- b. Lighting fixtures shall be fully shielded in such a manner that all light emitted directly by the lamp or a diffusing element, or indirectly by reflection or refraction, is projected below the horizontal plane through the lowest light-emitting part.
- c. Light cast by exterior light fixtures other than marijuana grow lights shall comply with DCC 15.10, Outdoor Lighting Control.

109. Odor. The building shall be equipped with an effective odor control system which must at all times prevent unreasonable interference of neighbors' use and enjoyment of their property. As used in DCC 18.116.330(B)(9), building means the building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing. Odor produced by marijuana production and processing shall comply with the following:

~~Standard. To prevent unreasonable interference of neighbors' use and enjoyment of their property, no adverse or noxious odors shall be detectable beyond the property line.~~

- a. Odor control plan. To ensure that the standard stated in DCC 18.116.330(B)(9) is continuously met, the applicant shall submit an odor control plan prepared and stamped by a mechanical engineer licensed in the State of Oregon that includes the following:
 - i. The mechanical engineer's qualifications and experience with system design and operational audits of effective odor control and mitigation systems;
 - ii. A detailed analysis of the methodology, including verified operational effectiveness, that will be relied upon to effectively control odor on the subject property;
 - iii. A detailed description of any odor control systems that will be utilized, including operational schedules and maintenance intervals;
 - iv. Contingence measures if any aspect of the odor control plan fails or is not followed, or if it is otherwise shown that the standard stated in DCC 18.116.330(B)(9) is not met;
 - v. Testing protocols and intervals; and
 - vi. Identification of the responsible parties tasked with implementing each aspect of the odor control plan.

~~Compliance. On going compliance with the odor control plan is mandatory and shall be ensured with a permit condition of approval, but compliance with the odor control plan does not supersede required compliance with the standard set forth in DCC 18.116.330(B)(9). If provided in applicable state statutes, private actions alleging nuisance or trespass associated with odor impacts are authorized.~~

- b. Modifications. Significant Mmodifications to the odor control plan, including but not limited to replacement of one system for another or a change in odor control methodology shall be approved in the same manner as a modification to a land use action pursuant to DCC 22.36.040.

- c. The system shall at all times be maintained in working order and shall be in use.
- a. ~~The building shall be equipped with an effective odor control system which must at all times prevent unreasonable interference of neighbors' use and enjoyment of their property.~~
- b. ~~An odor control system is deemed permitted only after the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating system design and operational audit of effectively, operational C is authorized system will effectively and continuously control odor so as not to unreasonably interfere with neighbors' use and enjoyment of their property.~~
- e. ~~Private actions alleging nuisance or trespass associated with odor impacts are authorized, if at all, as provided in applicable state statute.~~
- d. ~~The odor control system shall:~~
 - i. ~~Consist of one or more fans. The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the required CFM; or~~
 - ii. ~~Utilize an alternative method or technology to achieve equal to or greater odor mitigation than provided by (i) above.~~
- e. The system shall at all times be maintained in working order and shall be in use.

H10. Noise. Noise produced by marijuana production and marijuana processing shall comply with the following:

- a. ~~Sustained noise from mechanical equipment used for heating, ventilation, air condition, odor control, fans and similar functions shall not exceed 30 dB(A) measured at any property line between 10:00 p.m. and 7:00 a.m. the following day~~
- b. ~~Sustained noise from marijuana production is exempt from protections of DCC 9.12 and ORS 30.395, Right to Farm. Intermittent noise for accepted farming practices is permitted.~~
- a. Standard. To prevent unreasonable interference of neighbors' use and enjoyment of their property, sustained noise including ambient noise levels shall not be detectable beyond the applicant's property line above 3045 dB(A) in total between 10:00 pm and 7:00 am the following day.
 - i. For purposes of DCC 18.116.330(B)(10), "sustained noise" shall mean noise lasting more than ~~twofive~~ continuous minutes or ~~twofive~~ total minutes in a one hour period from mechanical equipment used for heating, ventilation, air condition, odor control, fans and similar functions associated with marijuana production and processing.
 - b. Noise control plan. To ensure that the standard stated in DCC 18.116.330(B)(10) is continuously met, the applicant shall submit a noise control plan prepared and stamped by a mechanical engineer licensed in the State of Oregon that includes the following:
 - i. The mechanical engineer's qualifications and experience with system design and operational audit of effective noise control and mitigation systems;
 - ii. A detailed analysis of the methodology that will be relied upon to effectively control noise on the subject property;
 - iii. A detailed description of any noise control systems that will be utilized, including operational schedules and maintenance intervals;
 - iv. Contingence measures if any aspect of the noise control plan fails or is not followed, or if it is otherwise shown that the standard stated in DCC 18.116.330(B)(10) is not met;
 - v. Testing protocols and intervals; and
 - vi. Identification of the responsible parties tasked with implementing each aspect of the noise control plan.

~~—Compliance. On going compliance with the noise control plan is mandatory and shall be ensured with a permit condition of approval, but compliance with the noise control plan does not supersede required compliance with the standard set forth in DCC 18.116.330(B)(1). If provided in applicable state statutes, private actions alleging nuisance or trespass associated with odor impacts are authorized.~~

c. ~~Modifications. Significant modifications to the noise control plan, including but not limited to replacement of one system for another or a change in noise control methodology shall be approved in the same manner as a modification to a land use action pursuant to DCC 22.36.040. Modifications to the noise control plan shall be approved in the same manner as a modification to a land use action pursuant to DCC 22.36.040.~~

~~1211.~~ Screening and Fencing. The following screening standards shall apply to greenhouses, hoop houses, and similar non-rigid structures and land areas used for marijuana production and processing:

- a. ~~All marijuana uses, buildings, structures, fences, and storage and parking areas, whether a building permit is required or not, in the Landscape Management Combining Zone, shall comply with and require Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.~~
- b. ~~Fencing and screening shall be finished in a muted earth tone that blends with the surrounding natural landscape and shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc., and shall be subject to DCC 18.88, Wildlife Area Combining Zone, if applicable.~~
- c. ~~Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.~~
- d. ~~The existing tree and shrub cover screening the development from the public right-of-way or adjacent properties shall be retained to the maximum extent possible. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act; or agricultural use of the land.~~

~~1312.~~ Water. Applicant shall state the anticipated amount of water to be used, as stated on the water right, certificate, permit, or other water use authorization, on an annual basis. Water use from any source for marijuana production shall comply with all applicable state statutes and regulations. The applicant shall provide:

- a. ~~A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resource Department; or An Oregon Water Resources Department (OWRD) Certificate(s), permit, or other water use authorization proving necessary water supply of proper classification will be available for intended use during required seasons, regardless of source; or~~
- b. ~~A will serve statement that water is supplied from a public or private water provider, along with a will haul statement, including the name and contact information of the water provider/hauler; or A source water provider Will Serve statement referencing valid Water Right to be utilized, if any, as well as a Will Haul statement, including the name and contact information of the water hauler; or~~
- c. ~~Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right. In the alternative to (a) and (b) above, proof from Oregon Water Resources Department that the water supply to be used does not require a Water Right for the specific application use classification, volume, and season of use (i.e., roof-collected water).~~
- d. ~~For production sites with 5,000 square feet or more of mature canopy, a dedicated water meter for the marijuana production facility shall be required. If the applicant is proposing a year-round production facility, the water right, certificate, permit, or other~~

water use authorization must address all permitted sources of water for when surface water is unavailable.

e. In the event that the water source for the facility changes from the use of an OWRD certificate, permit, or other water use authorization to the use of a water hauler, or from the use of a water hauler to another source, a modification to a land use action pursuant to DCC 22.36.040 notification to the Community Development Department is required.

~~d. If multiple sources of water are being proposed during the year, the applicant shall provide proof from the controlling entity that the water can be applied to marijuana production.~~

~~14~~13. Fire protection for processing of cannabinoid extracts. Processing of cannabinoid extracts shall only be permitted on properties located within the boundaries of or under contract with a fire protection district.

~~15~~14. Utility Verification. Utility statements identifying the proposed operation, or operational characteristics such as required electrical load and timing of such electrical loads and A statement from each utility company proposed to serve the operation, stating that each such company is able and willing to serve the operation, shall be provided. The utility shall state that it has reviewed the new service or additional load request and determined if existing capacity can serve the load or if a system upgrade is required. Any new service request or additional load request requiring an upgrade shall be performed per the serving utility's stated policy.

~~16~~15. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with requirements of the OLCC or the OHA.

~~17~~16. Secure Waste Disposal.

a. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA Person Responsible for the Grow Site (PRMG).

b. A statement is also required describing how any water runoff is being addressed. Wastewater generated during marijuana production and/or processing shall be disposed of in compliance with applicable federal, state, and local laws and regulations.

~~18~~. Residency. In the MUA-10 zone, a minimum of one of the following shall reside in a dwelling unit on the subject property:

a. ~~An owner of the subject property;~~

b. ~~A holder of an OLCC license for marijuana production, provided that the license applies to the subject property; or~~

e. ~~A person registered with the OHA as a person designated to produce marijuana by a registry identification cardholder, provided that the registration applies to the subject property.~~

~~19~~17. Nonconformance. All medical marijuana grow sites lawfully established prior to June 8, 2016 by the Oregon Health Authority shall comply with Ordinance 2016-015 and with the provisions of DCC 18.116.330(B)(9) by September 8, 2016 and with the provisions of DCC 18.116.330(B)(10-12, 16, 17) by December 8, 2016.

~~20~~18. Prohibited Uses.

a. In the EFU zone, the following uses are prohibited:

i. A new dwelling used in conjunction with a marijuana crop;

ii. A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop;

iii. A commercial activity, as described in ORS 215.213(2)(c) or 215.283(2)(a), carried on in conjunction a marijuana crop; and

- iv. ~~Agri-tourism and other commercial events and activities in conjunction with a marijuana crop.~~
- b. ~~In the MUA-10 Zone, the following uses are prohibited:~~
 - i. ~~Commercial activities in conjunction with farm use when carried on in conjunction with a marijuana crop.~~
- eb. In the EFU, MUA-10, and Rural Industrial zones, the following uses are prohibited on the same property as marijuana production:
 - i. Guest Lodge.
 - ii. Guest Ranch.
 - iii. Dude Ranch.
 - iv. Destination Resort.
 - v. Public Parks.
 - vi. Private Parks.
 - vii. Events, Mass Gatherings and Outdoor Mass Gatherings.
 - viii. Bed and Breakfast.
 - ix. Room and Board Arrangements.

19. Compliance.

- a. Odor. On-going compliance with the odor control plan is mandatory and shall be ensured with a permit condition of approval. The odor control plan does not supersede required compliance with the standard set forth in DCC 18.116.330(B)(9). If provided in applicable state statutes, private actions alleging nuisance or trespass associated with odor impacts are authorized.
 - b. Noise. On-going compliance with the noise control plan is mandatory and shall be ensured with a permit condition of approval. The noise control plan does not supersede required compliance with the standard set forth in DCC 18.116.330(B)(10). If provided in applicable state statutes, private actions alleging nuisance or trespass associated with odor impacts are authorized.
- C. Marijuana Retailing. Marijuana retailing, including recreational and medical marijuana sales, shall be subject to the following standards and criteria:
1. Hours. Hours of operation shall be no earlier than 9:00 a.m. and no later than 7:00 p.m. on the same day.
 2. Odor. The building, or portion thereof, used for marijuana retailing shall be designed or equipped to prevent detection of marijuana plant odor off premise by a person of normal sensitivity.
 3. Window Service. The use shall not have a walk-up or drive-thru window service.
 4. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.
 5. Minors. No person under the age of 21 shall be permitted to be present in the building, or portion thereof, occupied by the marijuana retailer, except as allowed by state law.
 6. Co-Location of Related Activities and Uses. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot or parcel or within the same building with any marijuana social club or marijuana smoking club.
 7. Separation Distances. Minimum separation distances shall apply as follows:
 - a. The use shall be located a minimum of 1,000 feet from:
 - i. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;
 - ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;

- iii. A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool. This does not include licensed or unlicensed family child care which occurs at or in residential structures;
 - iv. A youth activity center;
 - v. National monuments and state parks; and
 - vi. Any other marijuana retail facility licensed by the OLCC or marijuana dispensary registered with the OHA.
- b. For purposes of DCC 18.116.330(CB)(7), distance shall be measured from the lot line of the affected property to the closest point of the building space occupied by the marijuana retailer. For purposes of DCC 18.116.330(CB)(7)(a)(vi), distance shall be measured from the closest point of the building space occupied by one marijuana retailer to the closest point of the building space occupied by the other marijuana retailer.
 - c. A change in use to another property to a use identified in DCC 18.116.330(CB)(7), after a marijuana retailer has been licensed by or registered with the State of Oregon shall not result in the marijuana retailer being in violation of DCC 18.116.330(CB)(7).
- D. Inspections and Annual Reporting.
- 1. An annual report shall be submitted to the Community Development Department by the real property owner or licensee, if different, each February 1, documenting all of the following as of December 31 of the previous year, including the applicable fee as adopted in the current County Fee Schedule and a fully executed Consent to Inspect Premises form:
 - a. Documentation demonstrating compliance with the:
 - i. Land use decision and permits.
 - ii. Fire, health, safety, waste water, and building codes and laws.
 - iii. State of Oregon licensing requirements.
 - b. An optional statement of annual water use.
 - ~~b. Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance with DCC 18.116.330(D)(1)(a) shall serve as acknowledgement by the real property owner and licensee that the otherwise allowed use is not in compliance with Deschutes County Code; authorizes permit revocation under DCC Title 22, and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.~~
 - c. Other information as may be reasonably required by the Planning Director to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
 - d. As a condition of approval, the applicant must consent in writing to allow Deschutes County to, randomly and without prior notice, inspect the premises and ascertain the extent and effectiveness of the odor control system(s), compliance with the Deschutes County Code, and applicable conditions of approval. Inspections may be conducted by the County up to fourthree (43) times per calendar year, including one inspection prior to the initiation of use. ~~for inspecting the premises and to ascertain the extent and effectiveness of odor control system(s).~~ Marijuana Control Plan to be established and maintained by the Community Development Department.
 - e. Conditions of Approval Agreement to be established and maintained by the Community Development Department.
 - e-f. Documentation that System Development Charges have been paid.
 - g. This information shall be public record subject to ORS 192.502(17).
 - h. Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance with DCC 18.116.330(D)(1)(a) shall serve as acknowledgement by the real property owner and licensee that the otherwise allowed

use is not in compliance with Deschutes County Code; authorizes permit revocation under DCC Title 22, and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.

(Ord. 2018-012 §3, 2018; Ord. 2016-015 §10, 2016)

18.116.340. Marijuana Production Registered by the Oregon Health Authority (OHA)

A. Applicability. Section 18.116.340 applies to:

1. All marijuana production registered by OHA prior to June 1, 2016; and
2. All marijuana production registered by OHA on or after June 1 2016 until the effective date of Ordinances 2016-015, 2016-16, 2016-17, and 2016-18, at which time Ordinances 2016-015 through Ordinance 2016-018 shall apply.

B. All marijuana production registered by OHA prior to June 1, 2016 shall comply with the following standards by September 15, 2016:

1. Lighting. Lighting shall be regulated as follows:
 - a. Inside building lighting, including greenhouses, hoop houses, and similar structures, used for marijuana production shall not be visible outside the building from ~~7:00 p.m. to 7:00 a.m.~~ sunset to sunrise on the following day.
 - b. Lighting fixtures shall be fully shielded in such a manner that all light emitted directly by the lamp or a diffusing element, or indirectly by reflection or refraction, is projected below the horizontal plane through the lowest light-emitting part.
 - c. Light cast by exterior light fixtures other than marijuana grow lights shall comply with DCC 15.10, Outdoor Lighting Control.

C. All marijuana production registered by OHA prior to June 1, 2016 shall comply with the following standards by December 15, 2016:

1. Odor. As used in DCC 18.116.340~~(CB)~~(40), building means the building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing.
 - a. The building shall be equipped with an effective odor control system which must at all times prevent unreasonable interference of neighbors' use and enjoyment of their property.
 - b. An odor control system is deemed permitted only after the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the system will control odor so as not to unreasonably interfere with neighbors' use and enjoyment of their property.
 - c. Private actions alleging nuisance or trespass associated with odor impacts are authorized, if at all, as provided in applicable state statute.
 - d. The odor control system shall:
 - i. Consist of one or more fans. The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the required CFM; or
 - ii. Utilize an alternative method or technology to achieve equal to or greater odor mitigation than provided by i. above.
 - e. The system shall be maintained in working order and shall be in use.
2. Noise. Noise produced by marijuana production and marijuana processing shall comply with the following:
 - a. Sustained noise from mechanical equipment used for heating, ventilation, air condition, odor control, fans and similar functions shall not exceed 30 dB(A) measured at any property line between 10:00 p.m. and 7:00 a.m. the following day.
 - b. Sustained noise from marijuana production is not subject to the Right to Farm protections in DCC 9.12 and ORS 30.395. Intermittent noise for accepted farming

- practices is however permitted.
3. Screening and Fencing. The following screening standards shall apply to greenhouses, hoop houses, and similar non-rigid structures and land areas used for marijuana production and processing:
 - a. Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.
 - b. Fencing shall be finished in a muted earth tone that blends with the surrounding natural landscape and shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc., and shall be subject to DCC 18.88, Wildlife Area Combining Zone, if applicable.
 - c. Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.
 - d. The existing tree and shrub cover screening the development from the public right-of-way or adjacent properties shall be retained to the maximum extent possible. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act; or agricultural use of the land.
 4. Water. The applicant shall provide:
 - a. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resource Department; or
 - b. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
 - c. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.
 5. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with requirements of the OLCC or the OHA.
 6. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA Person Responsible for the Grow Site (PRMG).
 7. Inspections and Annual Reporting. All marijuana production registered by OHA prior to June 1, 2016 shall comply with DCC 18.116.340(D)(8) when site locations are identified or otherwise disclosed by the State of Oregon.
- D. All new marijuana production registered by OHA on or after June 1, 2016 shall comply with DCC 18.116.340330(A-, B, and D), and the following standards:
- ~~1. Shall only be located in the following zones~~
 - ~~a. EFU;~~
 - ~~b. MUA 10; or~~
 - ~~c. Rural Industrial in the vicinity of Deschutes Junction.~~
 - ~~2. Minimum Lot Area:~~
 - ~~a. In the EFU and MUA 10 zones, the subject property shall have a minimum lot area of five (5) acres.~~
 - ~~3. Maximum Building Floor Area. In the MUA 10 zone, the maximum building floor area used for all activities associated with medical marijuana production on the subject property shall be:~~
 - ~~a. Parcels from 5 acres to less than 10 acres in area: 2,500 square feet.~~
 - ~~b. Parcels equal to or greater than 10 acres: 5,000 square feet.~~
 - ~~4. Setbacks. The following setbacks shall apply to all marijuana production areas and buildings:~~
 - ~~a. Minimum Yard Setback/Distance from Lot Lines: 1200 feet.~~
 - ~~b. Setback from an off site dwelling: 5300 feet.~~

For the purposes of this criterion, an off-site dwelling includes those proposed off-site dwellings with a building permit application submitted to Deschutes County prior to submission of the marijuana production or processing application to Deschutes County.

~~e. Exception: Reductions to these setback requirements may be granted at the discretion of the Planning Director or Hearings Body provided the applicant demonstrates that the reduced setbacks afford equal or greater mitigation of visual, odor, noise, lighting, privacy, and access impacts.~~

~~5. Indoor Production and Processing.~~

~~a. In the MUA-10 zone, marijuana production shall be located entirely within one or more fully enclosed buildings with conventional or post framed opaque, rigid walls and roof covering. Use of greenhouses, hoop houses, and similar non-rigid structures is prohibited.~~

~~a. In the EFU zone, marijuana production shall only be located in buildings, including greenhouses, hoop houses, and similar structures.~~

~~b. In all zones, marijuana production is prohibited in any outdoor area.~~

~~6. Maximum Mature Plant Canopy Size. In the EFU zone, the maximum canopy area for mature marijuana plants shall apply as follows:~~

~~a. Parcels from 5 acres to less than 10 acres in lot area: 2,500 square feet.~~

~~b. Parcels equal to or greater than 10 acres to less than 20 acres in lot area: 5,000 square feet. The maximum canopy area for mature marijuana plants may be increased to 10,000 square feet upon demonstration by the applicant to the County that:~~

~~i. The marijuana production operation was lawfully established prior to January 1, 2015; and~~

~~ii. The increased mature marijuana plant canopy area will not generate adverse impact of visual, odor, noise, lighting, privacy or access greater than the impacts associated with a 5,000 square foot canopy area operation.~~

~~c. Parcels equal to or greater than 20 acres to less than 40 acres in lot area: 10,000 square feet.~~

~~d. Parcels equal to or greater than 40 acres to less than 60 acres in lot area: 20,000 square feet.~~

~~e. Parcels equal to or greater than 60 acres in lot area: 40,000 square feet.~~

~~7. Separation Distances. Minimum separation distances shall apply as follows:~~

~~a. The use shall be located a minimum of 1000 feet from:~~

~~i. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;~~

~~ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;~~

~~iii. A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool. This does not include licensed or unlicensed child care which occurs at or in residential structures;~~

~~iv. A youth activity center; and~~

~~v. National monuments and state parks;~~

~~vi. Public lands; and~~

~~vii. Redmond Urban Reserve Area~~

~~viii.~~

~~ix. approved by Deschutes County for b. For purposes of DCC~~

~~18.116.3430(DB)(7), all distances shall be measured from the lot line of the affected properties listed in DCC 18.116.3430(DB)(7)(a) to the closest point of the buildings~~

- and land area occupied by the marijuana producer or marijuana processor.
- e. ~~A change in use of another property to those identified in DCC 18.116.3430(DB)(7) shall not result in the marijuana producer or marijuana processor being in violation of DCC 18.116.330(B)(7) if the use is:
 - i. ~~Pending a local land use decision;~~
 - ii. ~~Registered by the State of Oregon; or~~
 - iii. ~~Lawfully established.~~~~
8. ~~Access. Marijuana production over 5,000 square feet of canopy area for mature marijuana plants shall comply with the following standards:~~
- a. ~~Have frontage on and legal direct access from a constructed public, county, or state road; or~~
 - b. ~~Have access from a private road or easement serving only the subject property.~~
 - e. ~~If the property takes access via a private road or easement which also serves other properties, the applicant shall obtain written consent to utilize the easement or private road for marijuana production access from all owners who have access rights to the private road or easement. The written consent shall:
 - i. ~~Be on a form provided by the County and shall contain the following information;~~
 - ii. ~~Include notarized signatures of all owners, persons and properties holding a recorded interest in the private road or easement;~~
 - iii. ~~Include a description of the proposed marijuana production or marijuana processing operation; and~~
 - iv. ~~Include a legal description of the private road or easement.~~~~
9. ~~Residency. In the MUA-10 zone, a minimum of one of the following shall reside in a dwelling unit on the subject property:~~
- a. ~~An owner of the subject property; or~~
 - b. ~~A person registered with the OHA as a person designated to produce marijuana by a registry identification cardholder, provided that the registration applies to the subject property.~~
10. ~~Inspections and Annual Reporting. An annual report shall be submitted to the Community Development Department by the real property owner or licensee, if different, of marijuana production registered by OHA, each February 1, documenting all of the following as of December 31 of the previous year, including the applicable fee as adopted in the current County Fee Schedule and a fully executed Consent to Inspect Premises form:~~
- a. ~~Documentation demonstrating compliance with the:
 - i. ~~Land use decision and permits.~~
 - ii. ~~Fire, health, safety, waste water, and building codes and laws.~~
 - iii. ~~State of Oregon licensing requirements.~~~~
 - b. ~~Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance with DCC 18.116.3430(C)(8) shall serve as acknowledgement by the real property owner and licensee that the otherwise allowed use is not in compliance with Deschutes County Code; authorizes permit revocation under DCC Title 22, and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.~~
- ~~Other information as may be reasonably required by the Planning Director to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.d. — Marijuana Control Plan to be established and maintained by the Community Development Department. As a condition of approval, the applicant must consent in writing to allow Deschutes County to randomly and without prior notice, up to four (4) times per calendar year, inspect the premises to ascertain the extent and effectiveness of for odor control.~~

Conditions of Approval Agreement to be established and maintained by the Community Development Department.

~~Documentation that System Development have been paid.~~

This information shall be public record subject to ORS 192.502(17). 11. Prohibited Uses.

- a. ~~In the EFU zone, the following uses are prohibited:~~
 - i. ~~A new dwelling used in conjunction with a marijuana crop;~~
 - ii. ~~A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop;~~
 - iii. ~~A commercial activity, as described in ORS 215.213(2)(c) or 215.283(2)(a), carried on in conjunction a marijuana crop; and~~
 - iv. ~~Agri-tourism and other commercial events and activities in conjunction with a marijuana crop.~~
- b. ~~In the MUA 10 Zone, the following uses are prohibited:~~
 - i. ~~Commercial activities in conjunction with farm use when carried on in conjunction with a marijuana crop.~~
- e. ~~In the EFU, MUA 10, and Rural Industrial zones, the following uses are prohibited on the same property as marijuana production:~~
 - ~~Guest Lodge.~~
 - i. ~~Guest Ranch.~~
 - ii. ~~Dude Ranch.~~
 - iii. ~~Destination Resort.~~
 - iv. ~~Public Parks.~~
 - v. ~~Private Parks.~~
 - vi. ~~Events, Mass Gatherings and Outdoor Mass Gatherings.~~
 - vii. ~~Bed and Breakfast.~~
 - viii. ~~Room and Board Arrangements.~~

(Ord. 2018-012 §3, 2018; Ord. 2016-019 §1, 2016)

Chapter 18.124. SITE PLAN REVIEW

18.124.060. Approval Criteria.

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18.124.060. Approval Criteria.

Approval of a site plan shall be based on the following criteria:

- A. The proposed development shall relate harmoniously to the natural and man-made environment and existing development, minimizing visual impacts and preserving natural features including views and topographical features.
- B. The landscape and existing topography shall be preserved to the greatest extent possible, considering development constraints and suitability of the landscape and topography. Preserved trees and shrubs shall be protected.
- C. The site plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transition from public to private spaces.
- D. When appropriate, the site plan shall provide for the special needs of disabled persons, such as ramps for wheelchairs and Braille signs.
- E. The location and number of points of access to the site, interior circulation patterns, separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures shall be harmonious with proposed and neighboring buildings and structures.
- F. Surface drainage systems shall be designed to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality.
- G. Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking and similar accessory areas and structures shall be designed, located and buffered or screened to minimize adverse impacts on the site and neighboring properties.
- H. All above-ground utility installations shall be located to minimize adverse visual impacts on the site and neighboring properties.
- I. Specific criteria are outlined for each zone and shall be a required part of the site plan (e.g. lot setbacks, etc.).
- J. All exterior lighting shall be shielded so that direct light does not project off-site.
- K. Transportation access to the site shall be adequate for the use.
 - 1. Where applicable, issues including, but not limited to, sight distance, turn and acceleration/deceleration lanes, right-of-way, roadway surfacing and widening, and bicycle and pedestrian connections, shall be identified.
 - 2. Mitigation for transportation-related impacts shall be required.
 - 3. Mitigation shall meet applicable County standards in DCC 17.16 and DCC 17.48, applicable Oregon Department of Transportation (ODOT) mobility and access standards, and applicable American Association of State Highway and Transportation Officials (AASHTO) standards.

(Ord. 2018-012 §4, 2018; Ord. 2010-018 §2, 2010, Ord. 93-043 §§21, 22 and 22A, 1993; Ord. 91-038 §1, 1991; Ord. 91-020 §1, 1991)

Chapter 22.24. LAND USE ACTION HEARINGS

22.24.030. Notice of Hearing or Administrative Action.

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22.24.030. Notice of Hearing or Administrative Action.

A. Individual Mailed Notice.

1. Except as otherwise provided for herein, notice of a land use application shall be mailed at least 20 days prior to the hearing for those matters set for hearing, or within 10 days after receipt of an application for those matters to be processed administratively with notice. Written notice shall be sent by mail to the following persons:
 - a. The applicant.
 - b. Owners of record of property as shown on the most recent property tax assessment roll of property located:
 1. Within 100 feet of the property that is the subject of the notice where any part of the subject property is within an urban growth boundary;
 2. Within 250 feet of the property that is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone, except where greater notice is required under DCC 22.24.030(A)(4) for structures proposed to exceed 30 feet in height; or
 3. Within 750 feet of the property that is the subject of the notice where the subject property is within a farm or forest zone, except where greater notice is required under DCC 22.24.030(A)(4) for structures proposed to exceed 30 feet in height.
 4. Within 1000 feet of the property that is subject of a marijuana production or processing notice where the subject property is within a farm zone.
 - c. For a solar access or solar shade exception application, only those owners of record identified in the application as being burdened by the approval of such an application.
 - d. The owner of a public use airport if the airport is located within 10,000 feet of the subject property.
 - e. The tenants of a mobile home park when the application is for the rezoning of any part or all of a mobile home park.
 - f. The Planning Commission.
 - g. Any neighborhood or community organization formally recognized by the board under criteria established by the Board whose boundaries include the site.
 - h. At the discretion of the applicant, the County also shall provide notice to the Department of Land Conservation and Development.
2. Notwithstanding DCC 22.24.030(A)(1) (b)(1), all owners of property within 250 feet of property that is the subject of a plan amendment application or zone change application shall receive notice.
3. The failure of a property owner to receive mailed notice shall not invalidate any land use approval if the Planning Division can show by affidavit that such notice was given.
4. For structures proposed to exceed 30 feet in height that are located outside of an urban growth boundary, the area for describing persons entitled to notice under DCC 22.24.030(A)(1)(b) shall expand outward by a distance equal to the distance of the initial notice area boundary for every 30 foot height increment or portion thereof.

B. Posted Notice.

1. Notice of a land use action application for which prior notice procedures are chosen shall be posted on the subject property for at least 10 continuous days prior to any date set for receipt of comments. Such notice shall, where practicable, be visible from any adjacent public way.

2. Posted notice of an application for a utility facility line approval shall be by posting the proposed route at intervals of not less than one-half mile. The notice shall be posted as close as practicable to, and be visible from, any public way in the vicinity of the proposed route.
 3. Notice of a solar access application shall be posted as near as practicable to each lot identified in the application.
- C. Published Notice. In addition to notice by mail and posting, notice of an initial hearing shall be published in a newspaper of general circulation in the County at least 20 days prior to the hearing.
- D. Media Notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.

(Ord. 2018-012 §5, 2018; Ord. 99-031 §6, 1999; Ord. 96-071 §1D, 1996; Ord. 95-071 §1, 1995; Ord. 95-045 §12, 1995; Ord. 91-013 §7-8, 1991; Ord. 90-007 §1, 1990)

Chapter 22.32. APPEALS

22.32.015. Filing Appeals.

* * *

22.32.015. Filing appeals.

- A. To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the Planning Division and an appeal fee.
- B. Unless a request for reconsideration has been filed, the notice of appeal and appeal fee must be received at the offices of the Deschutes County Community Development Department no later than 5:00 PM on the twelfth day following mailing of the decision. If a decision has been modified on reconsideration, an appeal must be filed no later than 5:00 PM on the twelfth day following mailing of the decision as modified. Notices of Appeals may not be received by facsimile machine.
- C. Unless a request for reconsideration has been filed for a marijuana production or processing administrative decision, the notice of appeal and appeal fee must be received at the offices of the Deschutes County Community Development Department no later than 5:00 PM on the fifteenth day following mailing of the decision.
- €D. If the Board of County Commissioners is the Hearings Body and the Board declines review, a portion of the appeal fee may be refunded. The amount of any refund will depend upon the actual costs incurred by the County in reviewing the appeal. When the Board declines review and the decision is subsequently appealed to LUBA, the appeal fee may be applied toward the cost of preparing a transcript of the lower Hearings Body's decision.
- ƉE. The appeal fee shall be paid by method that is acceptable to Deschutes County.
(Ord. 2018-012 §6, 2018; Ord. 2015-017 §3, 2015; Ord. 99-031 §15, 1999; Ord. 98-019 §2, 1998; Ord. 96-071 §1G, 1996; Ord. 95-045 §32, 1995; Ord. 94-042 §2, 1994; Ord. 91-013 §11, 1991; Ord 90-007 §1, 1990)

FINDINGS

I. BACKGROUND

A. Deschutes County Process

Following the passage of Ballot Measure 91 (2014), legalizing the sale and recreational use of marijuana, and HB 3400 (2015), refining the implementation of marijuana legalization, the Deschutes County Board of Commissioners adopted marijuana regulations in June 2016 (Ordinance Nos. 2016-013, 2016-014, 2016-015, 2016-017, 2016-018, and 2016-019). Throughout the adoption process, the Board committed to evaluating the regulations after they had been in place for a year to determine if they were working as intended. The Board reiterated this commitment to the 2017 Legislature. Since the release of the Marijuana Regulatory Assessment on April 2, 2018, the Board conducted eight work sessions to discuss changes to the regulation and enforcement of marijuana production on rural lands.

Based on the issues discussed during the work sessions, the Planning Commission and the Board of Commissioners considered substantive changes to certain sections of Deschutes County Code (DCC), specific to marijuana production. The proposed amendments are more restrictive than Deschutes County's existing marijuana regulations.

B. Deschutes County Distinguishing Land Use Characteristics

As summarized in the findings to the 2016 ordinances listed above, agricultural land in Deschutes County has a history of challenges unique to the area, owing to its low rainfall, high elevation, relatively poor soil quality, short growing season, and distance to major markets. As a result, Deschutes County utilizes smaller lot size requirements for agricultural land than the general State requirement; this unique set of farm sub-zones has been acknowledged by the Land Conservation and Development Commission (DLCDC). Nevertheless, the inherent difficulties of commercial farming in Deschutes County combined with rapid population growth make for considerable pressure to convert agricultural land to residential or other uses when possible.

The introduction of marijuana production into these agricultural lands—particularly those areas of smaller lotting patterns—highlights the compatibility concerns expressed by both farm and nonfarm property owners. The unique conditions and development patterns present in Deschutes County only amplify the challenge of balancing the mitigation of potential impacts with the “reasonable time, place, and manner” regulation of marijuana production.

II. PROPOSAL

This is a legislative text amendment to Deschutes County Code (DCC), Title 9, Public Peace and Welfare, Title 18, County Zoning, and Title 22, Development Procedures. The proposal clarifies the regulation and enforcement of marijuana production in Deschutes County based on work sessions with the Board of County Commissioners.

The proposed amendments are to:

- DCC Chapter 9.12, Right to Farm;
- DCC Chapters 18.24, Redmond Urban Reserve Area Combining Zone, 18.116, Supplementary Provisions, and 18.124, Site Plan Review;
- DCC Chapters 22.24, Land Use Action Hearings, and 22.32, Appeals.

Substantive elements of the proposal:

- Excludes marijuana production and processing in the Multiple Use Agricultural Zone.
- Increases minimum separation distances to one-quarter mile from state, local, and municipal parks, local governments that opted out of regulating marijuana, Redmond Urban Reserve Area, and other approved marijuana production sites.
- Increases requirements for odor and noise mitigation.
- Increases requirements for documentation of water usage.

List of Preliminary Modified Amendments

The following list summarizes amendments to Deschutes County Code (DCC) Chapter 9.12, Right to Farm, DCC Chapter 18.24, Redmond Urban Reserve Area Combining Zone, DCC Chapter 18.116, Supplementary Provisions, DCC Chapter 18.124, Site Plan Review, DCC Chapter 22.24, Land Use Action Hearings, and DCC Chapter 22.32, Appeals. The full text amendments will be available in their entirety at www.deschutes.org/marijuana.

DCC Chapter 9.12, Right to Farm

DCC 9.12.020 - Clarified the scope of the Right to Farm Ordinance does not apply to marijuana production operations per ORS 475B.

DCC Chapter 18.24, Redmond Urban Reserve Area Combining Zone

DCC 18.24.030 – Prohibited marijuana production and processing in the Redmond Urban Reserve Area Combining Zone.

DCC 18.116.330. Marijuana Production, Processing, and Retailing

DCC 18.116.330(A)(1) and (2) – Removed MUA-10 zone from zones permitting marijuana production and processing.

DCC 18.116.330(B)(1) – Removed MUA-10 zone from marijuana production and processing standards.

DCC 18.116.330(B)(2) – Removed MUA-10 zone from indoor production and processing standards.

DCC 18.116.330(B)(4) – Removed Maximum Building Floor Area standards for MUA-10 zone.

DCC 18.116.330(B)(5)(a) - Increased setback distances from lot lines for marijuana production and processing from 100 feet to 150 feet.

DCC 18.116.330(B)(5)(b) - Increased setback distances from an off-site dwelling for marijuana production and processing from 300 feet to 400 feet.

DCC 18.116.330(B)(5)(d) - Added setback distance of 400 feet from Federal public land.

DCC 18.116.330(B)(6)(a) - Applied a 1/4 mile separation distance from Redmond Urban Reserve Area, state, local, and municipal parks, including land owned by a parks district, local governments that have opted out of regulating marijuana and approved marijuana production sites. Separation distances are to be measured from the applicant's property line.

DCC 18.116.330(B)(7) – Removed 5,000-foot canopy size threshold for access requirement standards.

DCC 18.116.330(B)(8)(a) - Clarified indoor lighting shall not be visible outside a building from sunset to sunrise.

DCC 18.116.330(B)(9) - Strengthened odor control measures, requiring odor control methodology to show verified operational effectiveness.

DCC 18.116.330(B)(10) - Strengthened noise control measures.

DCC 18.116.330(B)(11)(a) – Clarified all marijuana uses, buildings, structures, fences, and storage and parking areas, whether a building permit is required or not, in the Landscape Management Combining Zone, shall comply with and require Landscape Management Combining Zone approval.

DCC 18.116.330(B)(12) - Strengthened water use requirements.

DCC 18.116.330(B)(14) - Strengthened utility requirements.

DCC 18.116.330(B)(16) – Added a requirement to Secure Waste Disposal for wastewater to be disposed of in compliance with applicable federal, state, and local laws.

DCC 18.116.330(B)(18) – Removed subsection outlining residency requirements for MUA-10 zone.

DCC 18.116.330(B)(18)(b) and (c) – Removed references to MUA-10 in Prohibited Uses.

DCC 18.116.330(D) – Added Inspections to Annual Reporting.

DCC 18.116.330(D)(1)(b) – Added statement of annual water use measured at the facility to requirements for annual reporting.

DCC 18.116.330(D)(1)(d) – Added condition of approval that an applicant must consent in writing to allow Deschutes County to randomly and without prior notice, up to three (3) times per calendar year, inspect the premises to ascertain the extent and effectiveness of odor control and compliance with applicable conditions of approval. One of the three allowable inspections must be prior to initiation of use.

DCC 18.116.330(D)(f) – Added documentation that System Development Charges have been paid.

DCC 18.116.340. Marijuana Production Registered by OHA

DCC 18.116.340(B)(a) – Clarified indoor lighting shall not be visible outside a building from sunset to sunrise.

DCC 18.116.340(C)(7) – Added condition to clarify that properties licensed before June 1, 2016 are subject to the annual inspection regulations from 18.116.330(D)(8).

DCC 18.116.340(D) – Refers new marijuana production registered by OHA on or after June 1, 2016 to the requirements of DCC 18.116.330(A, B, and D), and deleted remainder of section for clarity.

DCC Chapter 18.124. Site Plan Review

DCC 18.124.060 – Added a provision that proposed development shall relate harmoniously to the natural and man-made environment and existing development, minimizing visual impacts and preserving natural features including views and topographical features.

DCC Chapter 22.24. Land Use Action Hearings

DCC 22.24.030(A)(1)(b)(4) – Added required notice to property owners within 1,000 feet of marijuana production or processing.

DCC Chapter 22.32. Appeals

DCC 22.32.015(C) – Added provision allowing 15 days for an appeal of a marijuana production or processing decision.

III. REVIEW CRITERIA

Deschutes County lacks specific criteria in DCC Titles 18, 22, or 23 for reviewing a legislative plan amendment. Nonetheless, since Deschutes County is initiating one, the County bears the responsibility for justifying that the amendments are consistent with Statewide Planning Goals and its existing Comprehensive Plan.

A. HB 3400 and ORS 475B

Following the 2014 adoption of Measure 91, legalizing the production, possession, distribution, and use of recreational marijuana in certain amounts, in 2015 the Oregon State Legislature passed HB 3400, which allows local governments to adopt reasonable regulations on the production, processing, and wholesale and retail sale of marijuana. Subsequently, this bill, along with several others, have been codified into ORS 475B and OAR 845-025-2000 to 845-025-2080.

In 2016, the Legislature clarified that marijuana is a farm crop, which allows marijuana to be grown on land zoned for exclusive farm use (EFU), subject to local time place and manner restrictions.¹ ORS 475B.340 (since renumbered to ORS 475B.486) specifies that cities or counties may impose restrictions on elements such as hours of operation, location, public access, and manner of operation. The OLCC (Oregon Liquor Control Commission), which controls the licensing of recreational marijuana, does place some limited restrictions on the location of recreational production sites—for example, on federal property or at the same address as a liquor license. Ultimately, however, the source of authority to operate a marijuana production business derives from state law; local code—and the proposed text amendments—is the mechanism by which the county may impose reasonable restrictions and conditions on the operator.

B. Local Restrictions

The Deschutes County Board of Commissioners adopted marijuana regulations in June 2016. Throughout the adoption process, the Board committed to evaluating the regulations after they had been in place for a year to determine if they were working as intended. The Board reiterated this commitment to the 2017 Legislature. Based on its experience with the ensuing proposals, applications, and hearings, the Board concluded that further refinements to the regulation and enforcement of marijuana production were needed. The proposed amendments acknowledge that marijuana production is authorized, but additional restrictions are necessary to maintain compatibility with neighboring land uses. Therefore, Deschutes County seeks to regulate the impacts of recreational marijuana, which by law, it is permitted to do in a “reasonable time, place, and manner.”

Contributing factors include:

Parcel Size. As noted above, the unique conditions of Deschutes County’s rural agricultural land have resulted in smaller than average parcels zoned for Exclusive Farm Use. As such, landowners have the potential to be exposed to the effects of neighboring uses more than they would if minimum lot sizes were larger. Light, noise, and odor all have the potential to be more noticeable at closer distances. The proposed amendments address this in two ways: by strengthening and clarifying the light, noise, and odor mitigation requirements, as well as increasing setbacks and separation distances from certain types of uses.

Oversaturation of Market. As with any newly emerging industry, the marijuana market has not always been predictable. The market has shifted since regulations were first introduced, and it has become oversaturated, resulting in lower prices and in some cases, difficulty for smaller growers to survive. This could be attributed to a number of factors: the complexities of the ever-changing state and local laws; the manner in which lawmakers first structured the program, allowing businesses to apply for multiple licenses, with low fees and no caps on

¹ <https://www.orcities.org/Portals/17/Library/2016LocalRegulationofMarijuanAinOregon12-09-16.pdf>

licenses;² the ability of jurisdictions to opt out of the program entirely, thereby concentrating the industry into certain areas; and the inability to move or distribute marijuana across state lines all are contributors to an oversaturation of the marijuana production market in Oregon.³ With the oversaturation of product comes the potential of the surplus being sold into the illegal market (for instance, to out-of-state sales channels), thereby exacerbating the problems that the creation of a legal market was intended to avoid.

Medical Marijuana. According to the Oregon Health Authority's (OHA) Medical Marijuana Statistical Snapshot from July 2018, Deschutes County currently contains 791 medical marijuana grow sites.⁴ By current law, these are all sites that are not subject to local land use regulations, nor can a list of grow site locations be provided to local law enforcement, as discussed in correspondence between OHA and the Deschutes County Sheriff's Office, dated April 19, 2018 (see Attachment A). In correspondence dated June 12, 2018 (see Attachment B), the Oregon Health Authority has acknowledged that of the 18,000 medical grow sites across the state, approximately 6,000 of these are registered for two or more patients; OHA is in the process of determining the priority of compliance inspections. For sites serving fewer than two patients, inspections are complaint-based only. The County recognizes that locations of medical marijuana grow sites may only be revealed to the County via individual complaints; however, it is necessary to ensure that adequate regulations are utilized to mitigate the potential impacts of these sites—which greatly outnumber recreational production sites in Deschutes County—in the event that their locations have been disclosed, as well as those of recreational production sites.

C. Statewide Planning Goals and Guidelines

Goal 1: Citizen Involvement: The amendments do not propose to change the structure of the County's citizen involvement program. Notice of the proposed amendments were provided to the *Bulletin* for the Board public hearing. Since the release of the Marijuana Regulatory Assessment on April 2, 2018, the Board conducted seven work sessions open to the public to discuss programmatic changes to the regulation and enforcement of marijuana production on rural lands.

In addition, in the November 1998 general election, Oregon voters approved Ballot Measure 56 (BM 56). The measure requires cities and counties to provide affected property owners with notice of a change in zoning classification; adoption or amendment of a comprehensive plan; or adoption or change of an ordinance in a manner that limits or prohibits previously allowed uses. Amendments to Deschutes County's marijuana regulations triggered BM 56 notice to approximately 5,000 property owners with properties larger than five acres in the Exclusive Farm Use and Multiple Use Agricultural zones. A notice was sent to those property owners on August 8, 2018. To supplement the information provided in the Measure 56 notice, a dedicated website and phone line were created to provide opportunities for the County to answer questions or issue clarifications to the public concerning the regulations.

Goal 2: Land Use Planning: This goal is met because ORS 197.610 allows local governments to initiate post acknowledgments plan amendments (PAPA). An Oregon Land Conservation and Development Department 35-day notice was initiated on July 24, 2018. The Board of County Commissioners will hold a public hearing on August 28, 2018. The Findings document provides the adequate factual basis for the amendments.

Goal 3: Agricultural Lands: House Bill 3400 specifies that marijuana is a crop for purposes of the definition of farm use in ORS 215.203 and clearly permits the production and small-scale processing of marijuana in Exclusive Farm Use zones. House Bill 3400 also prohibits marijuana-related farm dwellings, farm stands and commercial activities in conjunction with farm use. The proposed amendments to the County Code are consistent with these provisions of state law and are therefore consistent with Goal 3.

² <https://www.denverpost.com/2018/05/31/easy-entry-into-oregons-legal-pot-market-means-huge-surplus/>

³ <https://oregoneconomicanalysis.com/2018/02/08/marijuana-falling-prices-and-retailer-saturation/>

⁴ https://www.oregon.gov/oha/PH/DISEASESCONDITIONS/CHRONICDISEASE/MEDICALMARIJUANAPROGRAM/Documents/O MMP-Statistic-Snapshot-07-2018_Final.pdf

Goal 4: Forest Lands: House Bill 3400 specifies that marijuana is a crop for purposes of the definition of farm use in ORS 215.203 and explicitly provides for marijuana production on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones. The proposal prohibits marijuana related uses in the forest use zones (F-1, F-2).

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources: Complies because the text amendment does not propose to change the County's Plan policies or implementing regulations for Goal 5 open spaces, scenic and historic areas, and natural resources.

Goal 6: Air, Water and Land Resources Quality: The proposed text amendments do not propose to change the County's Plan policies or implementing regulations for compliance with Goal 6, and therefore are in compliance. In addition, the proposed amendments serve to strengthen criteria regarding reporting of water usage as well as water runoff as they relate to marijuana production on rural lands.

Goal 7: Areas Subject to Natural Disasters and Hazards: The proposed text amendments do not propose to change the County's Plan or implementing regulations regarding natural disasters and hazards; therefore, they are in compliance.

Goal 8: Recreational Needs: Complies because the text amendment does not propose to change the County's Plan or implementing regulations regarding recreational needs.

Goal 9: Economy of the State: Goal 9 and its implementing regulations focus on economic analysis and economic development planning required in urban Comprehensive Plans. The proposed amendments apply to rural lands but do not propose to amend the Comprehensive Plan. Goal 9 does identify land use controls and ordinances as one of a suite of economic development tools. The proposed text amendments continue to allow marijuana production in certain rural zones; however, these uses are already permitted in these zones as part of other more general use categories (e.g., farming). Therefore, the text amendments comply with Goal 9.

Goal 10: Housing: This goal is not applicable because, unlike municipalities, unincorporated areas are not obligated to fulfill certain housing requirements.

Goal 11: Public Facilities and Services: Complies because the text amendments do not propose to change the County's Plan or implementing regulations regarding public facilities and services.

Goal 12: Transportation: Goal 12 is implemented by Oregon Administrative Rules Chapter 660, Division 12. Local governments are required to adopt a Transportation System Plan and land use regulations to implement the TSP. This proposal does not include amendments to the County's TSP or transportation-related land use regulations. However, Plan and land use regulation amendments must be evaluated under OAR 660-012-0060. The proposal includes allowing specified marijuana related uses in certain zones; however, these uses are already permitted in these zones as part of other more general use categories (e.g., growing of crops). There is no greater impact to the transportation system by more specifically identifying these uses in the zones where they are permitted. The text amendments do not propose any changes to the functional classifications, performance standards, or access management standards of any County roads or State highways. The text amendments are consistent with Goal 12.

Goal 13: Energy Conservation: Complies because the text amendments do not propose to change the County's Plan or implementing regulations regarding energy conservation.

Goal 14: Urbanization: Complies because the text amendments do not propose to change the County's Plan or implementing regulations regarding urbanization.

Goals 15 through 19 are not applicable to the proposed text amendments because the County does not contain these types of lands.

D. Deschutes County Comprehensive Plan

Chapter 1, Comprehensive Planning: This chapter sets the Goals and Policies of how the County will involve the community and conduct land use planning. As described above, the proposed regulations were discussed at several work sessions with the Board of County Commissioners, as well as presented to the Planning Commission, which is the County's official committee for public involvement. The Board of County Commissioners will receive oral and written testimony. County staff also created and updated a webpage specifically for the proposed marijuana text amendments. As part of the required Measure 56 notice, described above, County staff created and mailed a flyer summarizing the proposed amendments as well as the public process to all landowners within the affected districts. All of these actions demonstrate compliance with Section 1.2, Community Involvement. Goal 1 of this section, Community Involvement, is to maintain an active open community involvement program and are consistent specifically with Policies 1.2.3 through 1.2.5.

These actions also satisfy the Goals and relevant Policies of Section 1.3, Land Use Planning Policies. Goal 1 of this section is to "maintain an open and public land use process in which decisions are based on the objective evaluation of facts." Staff, the Planning Commission, and the Board reviewed state rules and regulations as well as those of other local governments when refining the County's reasonable regulations for time, manner, and place of marijuana production. The above work sessions, staff reports, and public hearings comply with Section 1.3, Goal 1, but also its policies, specifically 1.3.1-1.3.4, and 1.3.6.

Chapter 2, Resource Management: This chapter sets the Goals and Policies of how the County will protect resource lands, including but not limited to, Agriculture and Forest as well as Water Resources and Environmental Quality.

Section 2.2, Agricultural Lands Policies, states that Goal 1 is to "preserve and maintain agricultural lands and the agricultural industry." Marijuana is considered an agricultural crop, grown on land zoned for farm use. The proposed amendments strive to achieve balance between maintaining agricultural lands—by allowing marijuana production—and mitigating any negative impacts, such as odor and noise.

Goal 2 promotes a diversified, sustainable, revenue-generating agricultural sector. Policy 2.2.10 calls for the promotion of economically viable opportunities and practices while Policy 2.2.11 encourages small farming enterprises including but not limited to, niche markets and organic farming and valued-added projects. The proposed text amendments continue to diversify agriculture in the County by adding a revenue-generating crop. By definition, the marijuana grown for recreational uses is a niche market.

Goal 3 specifies the Exclusive Farm Use (EFU) policies, classifications, and codes are consistent with local and emerging agricultural conditions and markets. The regulation of time, place, and manner of growing marijuana are consistent with this goal. The County has spent extensive staff time, reviewed testimony of experts in the industry and concerned citizens, irrigation districts, and State agencies to arrive at reasonable regulations to ensure the viability of this emerging agricultural crop while mitigating potential land use conflicts.

Section 2.3 addresses Forest Land, which includes the F-1 and F-2 zones, neither of which are proposed as possible locations for any marijuana-related land use activities. In terms of resource-zoned lands, the marijuana-related land uses are only permitted in the EFU zone. Therefore, the Goals and Policies of this section are inapplicable.

Section 2.4 addresses Goal 5 (Natural Resources, Scenic and Historic Areas, Open Spaces, and Aggregate, i.e., surface mining) resources. Goal 1 of this section of the Comprehensive Plan is to protect Goal 5 resources. The County has an acknowledged list of significant and protected Goal 5 properties and sites. The proposed amendments would not repeal those protections or Goal 5 listings, therefore the text amendment is consistent with this portion of the Comprehensive Plan.

Section 2.5 concerns Water Resources; Goal 1 is to develop regional, comprehensive water management policies while balancing the diverse needs of water users and recognize Oregon water law. Policy 2.5.1 calls for working

cooperatively with stakeholders. Goal 6 of this section calls for coordinating land use and water policies. Oregon Water Resources Department (OWRD) will be invited to share its perspective on the proposed amendments to DCC 18.116.330 and DCC 18.116.340, which addresses the reporting of annual water usage as well as the source of the water to be utilized. Furthermore, applicants will continue to be required to demonstrate that they have a legal source of water under State law. Thus, the proposed regulations comply with the relevant Comprehensive Plan policies.

Section 2.6 addresses Wildlife goals and policies. The proposed regulations will not modify the County's Goal 5 inventory, its various wildlife area combining zones, nor its seasonal travel restrictions. Thus, the proposed amendments are consistent with the goals and policies of this section.

Section 2.7 focuses on Open Spaces, Scenic Views, and Sites. The proposed regulations will not modify the Goal 5 inventory nor lands zoned for Open Space and Conservation (OSC). Any property used for marijuana production must conform to the setback, screening, lighting, and allowable colors of building and fencing materials requirements. In many cases, the proposed amendments increase the setback distances from the previous iteration of the code. Thus, the proposed amendments are consistent with the relevant goals and policies of this section.

Section 2.8 devotes its energy to Energy Policies. Goal 1 is to promote energy conservation and applicable Policies 2.8.2 and 2.8.4 look at reducing energy demand through efficiency and conservation, respectively. Goal 2 promotes affordable, efficient, reliable, and environmentally sound energy systems for individual home and business consumers. In terms of growing operations, the combination of Central Oregon's numerous sunny days, greenhouses, and modern building technologies make for highly energy efficient operations. Utilities serving the county's recreational production sites will be invited to share their perspective on the proposed amendments, which requires that a statement from each utility company proposed to serve the operation be provided, stating that each such company is able and willing to serve the operation, and noting if upgrades to the system will be necessary to serve the proposed use. Taken together, the marijuana regulations thus comply with these goals and their relevant policies.

Section 2.9 consists of Environmental Quality Policies. Goal 1 is to maintain and improve the quality of air, water, and land with Policy 2.9.2 to maintain County noise and outdoor lighting codes and revise as needed. The marijuana amendments will not repeal the County's applicable ordinances regarding noise and lighting. Goal 2 promotes sustainable building practices and Goal 3 encourages recycling. Marijuana waste continues to be required to be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA Person Responsible for the Grow Site. Additionally, modern greenhouses are energy efficient and thus sustainable and the unused portions of marijuana can be recycled under a secured system. Finally, the proposed amendments require applicants to document the manner in which water runoff will be addressed. Taken together, the proposed amendments comply with the applicable goals and policies.

Section 2.10 regards Surface Mining Policies. As the regulations will not change the Goal 5 inventory of surface mining sites and the County code requires properties with a quarter-mile of an SM zone to sign a waiver of non-remonstrance, the regulations are consistent with the applicable goals and policies of this section.

Section 2.11 focuses on cultural and historic resources. The proposed regulations will not modify the County's Goal 5 inventory for cultural and historic resources. Thus, the proposed amendments are consistent with the relevant goals and policies of this section.

Chapter 3, Rural Growth Management: This chapter sets the goals and policies on who the County will manage the development of the lands outside of urban unincorporated communities such as Terrebonne and Tumalo.

Section 3.3 consists of Rural Housing Policies. Given the regulations are for non-residential uses, the goals and policies of this section are not applicable.

Section 3.5 is Natural Hazards with Goal 1 being to protect people, property, infrastructure, the economy and the environment from natural hazards. The goals and policies are not directly applicable with the possible exception of Policy 3.5.3, which requires coordination with emergency service providers when new development is proposed. When a property is proposed to develop, the County sends a transmittal notice to the fire agency that would respond in an emergency. As the marijuana land uses cannot occur in F-1 or F-2 zoned lands, wildfire is not an issue. The County code does not allow development in the 100-year floodplain, which is consistent with Policy 3.5.10. The amendments comply with the applicable goal and policies of this section.

Section 3.6 addresses Public Facilities and Services; Goal 1 is to support the orderly, efficient, and cost-effective siting of rural public facilities and services. As these proposed regulations are for private development, the goal and policies of this section do not apply.

Section 3.7 is Transportation and is covered under the findings for Goal 12.

Section 3.8 is Rural Recreational Policies, which deal with access to public lands, planning for public parks and recreation, trail design, etc. The goal and policies are not applicable.

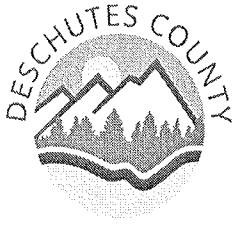
Section 3.9 is Destination Resort Policies and is not applicable as the regulations will not amend the County's Destination Resort Overlay map nor change the criteria for siting a Goal 8 destination resort.

Section 3.10 Area Specific Policies describe the following geographic areas: South Deschutes County (which was completed and ultimately became the following Section 3.11), Oregon Military Site south of the fairgrounds, Crooked River Ranch, and Deschutes Junction. The underlying zoning in these areas remains unchanged and these proposed amendments will not change the zoning.

Section 3.11 Newberry Country: A Plan for Southern Deschutes County. The vast majority of this area is zoned either F-1, F-2, RR-10, or Flood Plain, which are not being amended by this proposal.

Chapter 4, Urban Growth Management: These policies deal with urban, rural and resort unincorporated communities of Sunriver, Terrebonne, and Tumalo, Black Butte Ranch and Inn of the 7th Mountain/Widgi Creek, and various Rural Service Centers, which are not being amended by this proposal.

Section 4.3, Unincorporated Communities, has no goals or objectives, with the exception of Tumalo and Terrebonne, which are discussed in Sections 4.5 and 4.6 below. The proposed text amendments comply with OAR 660-022, which identifies and lists the types of unincorporated communities in the State, including those in Deschutes County, and the uses allowed in each type. The proposed regulations are consistent with OAR 660-022.



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AGENDA REQUEST & STAFF REPORT

For Board of Commissioners Business Meeting of October 24, 2018

DATE: October 17, 2018

FROM: Tanya Saltzman, Community Development,

TITLE OF AGENDA ITEM:

FIRST READING: Ordinance No. 2018-012, Marijuana Text Amendments

Consideration of first reading for Ordinance 2018-012, which refines the standards for the regulation and enforcement of marijuana production on rural land.



MEMORANDUM

TO: Deschutes County Board of Commissioners

FROM: Tanya Saltzman, Associate Planner

DATE: October 17, 2018

SUBJECT: Marijuana Text Amendments – Consideration of First Reading

I. OVERVIEW

The Board of County Commissioners (Board) conducted a public hearing on August 28, 2018 to consider Ordinance 2018-012, a series of text amendments pertaining to the regulation and enforcement of marijuana on rural lands in Deschutes County. Public comments received during the open record period, August 29 through September 14, 2018, were provided to the Board for a work session held on September 24, 2018 to review options for next steps.¹ The Board began deliberations on the proposed amendments on October 1, 2018,² and continued them on October 17, 2018.³ Staff offers a revised version of Ordinance 2018-012 for consideration of first reading on October 24, 2018.

II. SUMMARY OF CHANGES

- DCC 18.116.330(B)(5)(c): Setback from Federal public lands changed from 400 feet to 300 feet; Exception clause moved to bottom of section.
- DCC 18.116.330(B)(9)(b) and 18.116.330(B)(10)(c): Language added to clarify what types of modifications to odor or noise control systems require land use action pursuant to DCC 22.36.040
- DCC 18.116.300(B)(9)(c): Reinstated language requiring odor control system to be in use at all times

¹ <https://deschutescountyor.idm2.com/Citizens/FileOpen.aspx?Type=1&ID=1934&Inline=True>

² https://deschutescountyor.idm2.com/Citizens/Detail_Meeting.aspx?ID=1917

³ https://deschutescountyor.idm2.com/Citizens/Detail_Meeting.aspx?ID=2059

- DCC 18.116.330(B)(10)(a)(i): Changed definition of sustained noise to five minutes per hour, from two minutes per hour
- DCC 18.116.330(B)(12): Removed proposed water metering requirements
- DCC 18.116.330(B)(12)(e): Added language requiring modifications to water sources be pursuant to DCC 22.36.040
- DCC 18.116.330(D)(1)(b): Changed required statement of annual water use to be optional

Attachments:

1. Ordinance No. 2018-012