



Deschutes County Board of Commissioners
1300 NW Wall St., Bend, OR 97701-1960
(541) 388-6570 - Fax (541) 385-3202 - www.deschutes.org

MINUTES OF WORK SESSION

DESCHUTES COUNTY BOARD OF COMMISSIONERS

WEDNESDAY, SEPTEMBER 2, 2015

Present were Commissioners Anthony DeBone, Tammy Baney and Alan Unger. Also present were Tom Anderson, County Administrator; Erik Kropp, Deputy County Administrator; David Doyle, County Counsel; Matt Martin, Community Development; and about a dozen other citizens. There were no representatives of the media in attendance.

Chair DeBone opened the meeting at 1:30 p.m.

1. Discussion of Redmond Cold Weather Shelter Options.

Matt Searfus and Curt Floski of the Shepherd's House explained that last year they were asked by the City of Redmond to help with sheltering the homeless. Highland Baptist has stepped up in the past but could not last year due to building and security issues.

They are looking at training or supervising, fund-raising efforts, so that funds from Redmond help in Redmond. They could operate the whole year in this fashion. When the temperature gets to below 28 degrees, cold weather shelter is necessary. They would prefer this be at 30 degrees if space is available. Guests at the Shepherd's House are to be clean and sober, so sometimes individuals have to be asked to leave. They have had public health counselors come occasionally to talk with people. They are trying for a long-term program and want to approach it in a holistic way.

They need stable places to host cold weather shelters. They would like to be able to manage and control this 24 hours a day. Mr. Searfus stated that statistics show about one-third of the homeless are women. They range from late teens to up into their 80's. There are a limited number of veterans as well. They are not drawing from the campers on the BLM land. Many of the residents last winter were transients moving through the area.

Many partners support this at some level. He asked if the County had any properties that might be suitable.

Erik Kropp asked if they have contacted the City of Redmond regarding siting a shelter. The Bethlehem Inn had looked at other locations, and there were many hurdles to overcome. Mr. Searfus said that they had sites in mind last year, but the City found most were not suitable.

Commissioner Baney stated that the County has land but not much that would work regarding access, transportation and other necessities. Mr. Searfus said that about one in three have a vehicle, and some slept in them much of the time. Location is critical.

Commissioner Baney asked if they are seeking a long-term shelter like Bethlehem Inn. They have a long-term vision and a variety of populations served. She asked how many are residents of the area, or are just moving through.

Mr. Floski replied that a daily location would be great in Redmond. Most want to see this, so they could provide services beyond sheltering. This could touch a lot of other Central Oregon cities. Mr. Searfus noted that demographics show that the vast majority are locals. They range from high school age to 50's or older. About 20% can be considered transient.

Commissioner Baney wondered how many might have had housing if the market was not so tight. Mr. Searfus said that some are ambivalent about a change in their lives and just want relief when it is really cold. There are usually opportunities to get into another place. Some are addicted and will not go into a program. Mr. Floski agreed that these are the two main issues everywhere, addiction and mental health.

Commissioner Unger stated that he met with representatives of Jericho Road, as they are trying to find structure as well. He encouraged Mr. Searfus and Mr. Floski to speak with them, as perhaps they can find common ground on some ideas.

Mr. Searfus said that he sees Jericho Road people regularly at meetings, so there is a possibility that they might co-locate. He will encourage this. They should be able to use one month at the Presbyterian church this winter, Highland Baptist one or two months, Grace perhaps one month, and another month where Jericho is. That would cover some, but not all, of the winter months. The goal might be to be where the meal site is, with everything in one place.

Commissioner Unger said they might talk about a CDGB grant. Redmond also has its own funds for this kind of thing, and grants to Housing Works. Chair DeBone added that he hopes they can get to a point where things will start to align.

2. Discussion regarding HB 3400 and Options for Marijuana-related Businesses on Agricultural Lands.

Matt Martin gave an overview of the issue to date. The Board had asked to continue the conversation, and if the Board so chooses, can go through a process of establishing guidelines. Action needs to be completed by the end of the year, when the OLCC would start issuing licenses. He referred to his staff report and presented options, including whether the Board wants to opt out on any eligible businesses, processors, retails, producers, etc., all or part. Or, establish regulations for land use and narrow the discussion.

He offered that Sheriff Nelson wished to be a part of this conversation. (Sheriff Nelson provided a handout.)

Commissioner Under noted that some counties voted no at a higher percentage, but Deschutes County was slightly less than that. David Doyle said that if the yes vote was less than 55%, the governing body could pass an ordinance to create a moratorium with the OHA and OLCC, and the issue would go before the voters in November 2016.

Commissioner Unger asked if the vote was a ‘no’ to an opt out, then what would happen. Mr. Doyle stated that they could opt out of a category.

Commissioner Baney said that she wants to be clear they are not talking about personal use. Measure 91 addressed personal use. This is solely on the business aspects. Mr. Doyle stated that the categories for opt out could include recreational producers, growers, processors, wholesalers and/or retailers.

Commissioner DeBone stated that the complaints he is getting now seem to be on the medical grows.

Sheriff Nelson said he is passionate about this. He feels it is bad for public safety and he stands by this opinion. He wants the Board to opt out and let citizens decide on how the County should go. This is difficult because his people try to help with substance abuse issues, but the voters have spoken.

There is a definite line between use and manufacture and sale. He has reached out to his counterparts who have already been down this path, in Colorado. It is important to note that this is still a federal crime, and they will still have to deal with the black market. Regulation has done little to help with this. The cartels still are involved. Out of state transit is black market. The seed to sale concept is not working because you cannot track the buds on plants.

He has concerns regarding young people. Big tobacco has proven that this works. Some businesses offer jobs but this has raised the transient population. There are higher crimes overall related a lot to dispensaries.

This is affecting livability. Some citizens will not frequent downtown due to the increase in the transient population. He hears about the odor issue. There is an increase in pre-trial numbers. Another Sheriff said that there have been armed robberies and burglaries tied to this. He does not want people to think this is a destination resort for marijuana. He appreciates how they are conducting this for both sides, but he disagrees with anything other than opt out.

(Applause from the audience. Chair DeBone reminded them that this is a work session and the audience is present just to observe.)

Chair DeBone stated that either they all opt out, or deal with the details. He wants to defend the rural residential lifestyle. This is a situation where medical growers are aggressively implementing their business.

He feels they need to start with zoning, and utilize the Planning Commission's expertise to figure out what makes sense and land use compatibility issues. Some make sense, but others might warehouse and process in other locations. Some want to do all of this now without approvals.

Commissioner Baney noted that those who are investing should be business people and understand the risk. It would be unfortunate to speculate and lose. It is the same with other investments. There needs to be a balance. She wants it to be clear that this is speculation and it is not the County's responsibility if someone moves ahead.

Commissioner Unger said that the Board can still opt out, to give time to work through this. Two east side counties have already done this. The voters may decide to let it happen anyway, and then what. He wants to figure out how to manage the opportunities right now, and make a clear path that works.

Chair DeBone stated that they still have the opt out option for several months. They need to get specific regarding issues relating to noise, setbacks, and other things that may not fit. He is not advocating a large commercial recreational marijuana culture. Just as destination resorts needed a lot of justification, the same applies to this as well.

Commissioner Unger said that the big grows seem to be the problem, but there are problems also with the small grows. There are issues either way as to what it means and the effects. Redmond is looking at odors, security and other issues. The question is whether there are ways to address this kind of thing. Zones come into play and can help differentiate. They have limited ability in EFU zones to manage this, but it needs to be managed like anything else.

Commissioner Baney noted that they can do more locally than the State could. If they opt out, it is a roll of the dice. If opt out is not embraced by the voters, then what happens. Others who want to invest want regulation as well. They want to be good players. If this happened, there would be no opportunity to craft what works best. They can narrow the focus. Many will not remain standing if the impacts are too great. A lot of this area is unincorporated. There are few businesses in the unincorporated areas, like Bend Distillery. She hears no good reasons why they cannot deal with this with a narrow focus.

Chair DeBone observed that there are already some rural commercial zones. Commissioner Baney said they could draft regulations for where it makes sense. She believes there is a medical component. The difficulty is whether it makes sense in all areas; for instance, where there are schools in the area. She wants to be sensitive about the investments being made and does not want to drag this out. There is nothing tell her that they cannot deal with this; it needs regulation and clarity. She does not want to wait. She is leaning towards the Planning Commission handling some of this. They understand land use. They might have to bump a few other things off their schedule to address this.

Chair DeBone said he supports this idea.

Matt Martin requested clarity on the basic questions. He asked if they are not choosing to use the opt out provision. He asked about the medical marijuana processing sites.

Chair DeBone responded that he would like to see processing, warehousing and maybe the retailing done inside the cities. He is not sure any of this is appropriate in the rural areas. Mr. Martin said that processing an agricultural crop is permitted in rural areas. It is considered an ancillary activity. They should be able to regulate this locally without an opt out.

Commissioner Unger added that he is not prepared to opt out on any of this yet, either. It needs clarity, and they still need to address the various zones.

Sheriff Nelson asked why they will not opt out totally. Commissioner Baney replied that if this is voted on and opt out is not embraced, the County then will not be able to set any sidebars. She wants to have some structure to all of this, as much as possible. Sheriff Nelson said they would be prepared for it in any case.

Chair DeBone wants to give this an opportunity for integration with the new law, and not have a knee-jerk reaction and use the big hammer now. Commissioner Baney added that if they opt out, all County residents can vote on this, and most are within the cities. Some might think they would use their right to use personally. It is a roll of the dice. This will not help those with concerns regarding compatibility. Some are living with the impacts already and need a voice.

Chair DeBone stated that this is the optimum time to deal with this through land use, to not just stand by and then have less control. David Doyle said that they could subsequently work on reasonable regulations, but there would be a year and a half where everything would be up in the air.

Commissioner Unger noted that they are unique here, with a lot of rural residential areas. It means a lot to have a good plan in place for everyone.

Mr. Martin confirmed it is agreed that there is no opt out at this time. It appears they will give directions to the Planning Commission to establish guidelines for local regulation. He asked if staff should convene community conversations, go to the Planning Commission, or a committee of stakeholders. Or to use just the Planning Commission as the drafting body. They have to expedite this, and going straight to the Planning Commission might be best.

Chair DeBone said he sees some narrow issues. EFU is different, but they need help there as well. Processing cannot begin until January 4. Mr. Martin stated that there is a time factor, with notice issues.

Chair DeBone added that medical marijuana grows are okay but there can be issues relating to permitting and planning regulations. Much of this right now is speculative. All they can look at now is permitting for the building part. Enforcement beyond that is with the Oregon Health Authority. He has no idea how well that is being policed. Commissioner Baney noted that there are so many variations out there right now.

Mr. Martin stated that the OLCC has not established licensing or use rules yet. This could end up being a duplicate process. They can initiate a process immediately to work on local regulations.

Commissioner Baney noted that regulations from the State may not meet local needs. This is often more for counties like Marion or Multnomah, They need to do locally what is right for Deschutes County. Commissioner Unger said that they should narrow the issues to recommendations to present to the Planning Commission.

Commissioner Baney said she does not expect them to have to figure it all out themselves. The uses need to be narrowed. Processing and distilling can be volatile, and there is not a swift fire response in many rural areas. Cutting down all the trees is not the answer, either.

Chair DeBone added that rural roads are not always that well maintained, either. Commissioner Baney stated that most business people want to consider all of this also.

Mr. Martin said he will look to the Board for each use, and perhaps work on one each work session. Some are limited in opportunities, while others are more complicated. Commissioner Baney asked if they could dust off anything that was used to consider medical marijuana.

Mr. Martin stated that the unincorporated communities have a buffer from schools, and also identify some of the zones. The initial step is to cross off any general areas where this does not work. The use can be permitted outright via a conditional use permit or as an outright use with standards. Some is subjective, based on compatibility issues. Some would be outright prohibited in some zones.

He spoke about Table 1, page 3, Title 18, where it is permitted in each zone at some level. They also have Title 19, 20 and 21 in the urban reserve areas to keep in mind.

Commissioner Baney asked if this is not in alignment, who wins. Mr. Doyle replied that most are under County jurisdiction, but they do not want to hamstring the cities, either.

Mr. Martin confirmed that there is no opt out at this time, and staff is to move forward with a process to establish regulations immediately, and not wait for the OLCC.

Chair DeBone said that they need to know what the OLCC is doing, though. This might be able to add clarity to some of the challenges. Commissioner Unger is concerned about being able to keep track of all of this. Commissioner Baney said there are the issues of noise and odors. Some larger properties can meet these restrictions and limit the impacts. Compatibility issues are real and this will not be just an open door for a new business or destination.

Chair DeBone asked about greenhouses being lit up at night and whether they can require some kind of covering. He asked if this falls in the night sky ordinance. Mr. Martin replied that it just addressed outside lighting. These lights are inside but the walls are transparent, and there is no way to address this now. Mr. Anderson noted that they would have to amend the ordinance in some way to address greenhouses.

Commissioner Baney asked if they can send out a letter to require shading. Mr. Martin said this could be a mechanism of a handout or education through code enforcement, but plastic visqueen may not even need a permit.

Mr. Martin referred to Table 2, page 4, generally capturing options regarding impacts.

Commissioner Baney stated that MUA-10 and RR-10 are not usually even ten acres. She asked if they can ask for minimum acreage. Mr. Martin replied they should be able to do this.

Commissioner Baney said this might bump out some who are already doing this. Chair DeBone asked what happens if they are already growing medical marijuana there. Mr. Martin replied that this is hard to address. They can zero in on greenhouses and general regulations regarding setbacks and screening, and lot coverage, the ratio of square footage to overall lot size.

Commissioner Baney asked if they already have a greenhouse growing medical marijuana, if it is a greenhouse code issue, then what happens. Mr. Martin responded that it would then be a nonconforming use, but they cannot change the rules if it has already been established,

Commissioner Unger asked if they are licensed through the OHA. Mr. Martin said he is not familiar with OHA regulations. They need to protect the nonconforming use. But this would be existing medical marijuana operations only at this point.

Chair DeBone asked about waste from hydroponics and wastewater in general, to protect the groundwater. Commissioner Baney added that with a commercial grow, they need to consider public health and safety, fire danger and septic use. Mr. Doyle said that fire code and others may not apply to an agricultural exempt building. Commissioner Baney stated that an agricultural building would not allow all the processing. They would also then be getting into ADA issues.

Mr. Martin stated that an agricultural building does not require permits, but it might be built to other standards. It depends on the criteria on how the building will be used.

Commissioner Unger asked if this could end up at LUBA or District Court. Mr. Doyle replied that the opt out is a general law power through Circuit Court. Regulations for land use need to be reasonable, and LUBA addresses these case by case. LUBA is very Valley-centric. The Board needs to do what it thinks is best for here.

Chair DeBone said there is a long history of land use, and sometimes they take their lumps from LUBA. This is the path the County needs to follow through land use, and not stick their heads in the sand.

Mr. Martin stated that they can establish clear criteria so everyone understands, and remove some of the uncertainties. He asked that the Commissioners forward their thoughts to him so he can begin crafting the language. Staff will identify when work sessions can be scheduled. Any code amendment requires an initial public hearing by the Planning Commission. There would then be a hearing before the Board.

Commissioner Unger noted that this is a tight timeframe, and asked if there is the ability to toll the clock for the opt out later, and whether they could rescind it if they want. Mr. Doyle will check on this.

Commissioner Baney said that some people are operating today so they can begin business right away. It is not going to work that fast. She asked if they need to say more than they are taking a risk in proceeding. Mr. Doyle replied that they can adopt an ordinance but then repeal it, but he is not sure of this in regard to HB 3400.

Commissioner Unger stated that they already know they are taking a risk. Mr. Doyle added that this should be part of due diligence as is found in the business and real estate world. Proceedings have been very public and people should realize it is far from final.

3. Other Items.

None were offered.

Being no other items discussed, the meeting was adjourned at 3:10 p.m.


DATED this 23 Day of September 2015 for the
Deschutes County Board of Commissioners.



Anthony DeBone, Chair



Alan Unger, Vice Chair



Tammy Baney, Commissioner

ATTEST:



Recording Secretary



Deschutes County Board of Commissioners
1300 NW Wall St., Suite 200, Bend, OR 97701-1960
(541) 388-6570 - Fax (541) 385-3202 - www.deschutes.org

WORK SESSION AGENDA

DESCHUTES COUNTY BOARD OF COMMISSIONERS

1:30 P.M., WEDNESDAY, SEPTEMBER 2, 2015

1. Discussion of Redmond Cold Weather Shelter Options – *Matt Searfus, Shepherd's House*

2. Discussion regarding HB 3400 and Options for Marijuana-related Businesses on Agricultural Lands – *Nick Lelack and Matt Martin*

3. Other Items

PLEASE NOTE: At any time during this meeting, an executive session could be called to address issues relating to ORS 192.660(2) (e), real property negotiations; ORS 192.660(2) (h), litigation; ORS 192.660(2)(d), labor negotiations; or ORS 192.660(2) (b), personnel issues; or other issues under ORS 192.660(2), executive session.

Meeting dates, times and discussion items are subject to change. All meetings are conducted in the Board of Commissioners' meeting rooms at 1300 NW Wall St., Bend, unless otherwise indicated. If you have questions regarding a meeting, please call 388-6572.

Deschutes County encourages persons with disabilities to participate in all programs and activities. To request this information in an alternate format please call (541) 330-4640, or email anna.johnson@deschutes.org.

Work Session

(Please Print)

9-2-15

Name

Math Services
Curt Hosli

Agency

The Shepherds
House

Mailing Address

1854 N.E. Dora
St.

City

Bend

Zip

Phone #

~~541 788-2510~~
541 788-2510

e-mail address

Redmond Cold Weather Shelter

Short History and Description of Services

History

The Redmond Cold Weather Shelter has served the homeless for five years. It has operated at Highland Baptist Church (HBC) on nights between mid-October and the end of March when the temperature was forecast to be below 28 degrees. From 2010 through 2013 the Shelter was operated by volunteers provided primarily by HBC volunteers. On January 1, 2014 the shelter closed for the remainder of the year due to supervision and security concerns. Subsequent to this, a group of concerned individuals in Redmond approached The Shepherd's House leadership to operate the shelter with better supervision. The Shepherd's House agreed to provide trained staff and general oversight of the Shelter contingent on being able to generate financial support from the Redmond community to provide adequate staff and other needed items.

A group of concerned leaders from the Redmond faith community and The Shepherd's House began meeting monthly to formulate a plan to raise the support needed. The community of Redmond, primarily through local churches, raised over \$10,000 in October. The Shepherd's House staff made contact with NeighborImpact to apply for and ultimately receive a grant was for up to \$17,000 to operate a cold weather warming shelter. With this support we were able to operate from October 15, 2014 until March 31, 2015, and in fact we raised the shelter activation temperature to 30 degrees.

Operations

Shelter guests are required to complete a short demographic form, arrive sober and follow basic instructions. No alcohol or illegal drugs are allowed on site. Smoking is restricted to a specific area outside. Guests must take all of their personal belongings with them in the morning. There are no pets allowed in the shelter. This was discussed at length and has been determined to be the best course to provide safe, stable shelter for the most people. Guests are provided a comfortable sleeping mat, sheet, blanket, and pillow. Light snacks, coffee, tea, and other food items are provided. We arrange to pick up guests from the Jericho Table meal site and in front of the Library. In the morning we transport guests from the shelter location back to the downtown core area to a public space.

Last year was the first that The Shepherd's House was involved with the shelter, and we tracked the activity very carefully. Results from last year and a partial list of community partners follows.

Current Issues

Highland Baptist Church has been a gracious and accommodating host. We would, however, like to have a site that is under more direct control, without the issues of coordinating building use, and be able to operate every day between November 1st and March 31st. Leasing a vacant property for the season at a very low rate would be our best solution, but we are currently working out a rotating schedule among Redmond churches. By sharing the hosting responsibilities we plan on being open every night. Opening and closing the shelter based on temperature did not allow us to accomplish one of our main goals: to build relationships and trust with shelter guests and begin the discussion of change.

Redmond Cold Weather Shelter 2014/2015

**Operated by The Shepherd's House at Highland Baptist Church
Oct 15 2014 to Mar 31, 2015**

Nights Open	73
Bed Nights	703
Showers	327
Guests Served	71
Women	23
Men	48
Children	1
Veterans	12
Volunteer Hours	583
Staff Hours	564
# of Volunteers	28

Community Partners

Highland Baptist Church	Love Inc. of Central Oregon
Community Presbyterian Church	City Center Church
Jericho Table	Deschutes County Health Department
Redmond School District FAN advocates	Grace Gate Community Church
Redmond Ministerial Alliance	Little Caesar's Pizza
Joseph House Ministries of Redmond	Redmond Assembly of God



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005
(541)388-6575 FAX (541)385-1764
<http://www.co.deschutes.or.us/cdd/>

MEMORANDUM

DATE: August 27, 2015

TO: Board of County Commissioners

FROM: Matthew Martin, Associate Planner
Nick Lelack, Community Development Director

RE: Marijuana Related Business Land Use / Zoning Decisions

PURPOSE

The purpose of this memorandum is to assist the Board in determining the following:

I. Allowed Uses:

Review marijuana business use categories and determine which, if any, should be allowed in the unincorporated county; identify opt out for those that will not be allowed.

II. Reasonable Regulations:

Identify preliminarily, reasonable regulations to address marijuana businesses not subject to an opt out ordinance; and

III. Review Process:

Identify the process for drafting local regulations for marijuana businesses and the review criteria.

SUMMARY

The work session on September 2, 2015 is a continuation of the discussion addressing marijuana businesses in unincorporated Deschutes County. It is an opportunity for the Board of County Commissioners (Board) to provide direction on what, if any, marijuana related businesses to "opt out" of and the process for establishing regulations of the businesses that will be allowed.

INTRODUCTION

Land use issues associated with medical and recreational marijuana in Oregon are very dynamic with many varying opinions. In an effort to frame the discussion, the following land use policy issues have been identified for the Board's consideration:

- Where should marijuana producers, processors, wholesalers and retailers be permitted outright, permitted conditionally or prohibited in the unincorporated county?
- Should medical marijuana and recreational marijuana uses be treated differently?

- Are the existing time, place and manner restrictions for medical marijuana dispensaries appropriate? ¹
- Marijuana producers (grow operations) are considered farm uses and allowed outright in Exclusive Farm Use (EFU) zone. Should grow operations be allowed in the county's other two resource zones (F-1/F-2) in a similar manner as EFU?
- The County allows farm/agricultural uses in most rural transitional (i.e. MUA-10) and residential (i.e. RR-10) zones as well as in the urban reserve areas of Bend, Redmond, and Sisters. Should the growing of marijuana as a farm /agricultural use in these and similar zones be limited, prohibited, or treated differently than other farm uses?
- Are other general development standards addressing site, sound and smell (e.g., buffers – landscaping/fencing, setbacks, lighting, charcoal filtration, lot coverage, building size) appropriate or necessary to address the impacts of marijuana facilities and operations?
- What types of regulatory measures (development standards, review process) should apply to entitling marijuana businesses.

I. Allowed Uses

The County is responsible for regulating land uses, including those related to recreational and medical marijuana, pursuant to the Deschutes County Code (DCC). Marijuana production, processing and sale are no different than any other land use when it comes to administering the zoning ordinance. As with other land uses, the appropriate zoning district(s) to locate these businesses will be based on characteristics of the business (growing, processing, wholesaling, retailing or a combination thereof). Medical marijuana-related uses have been regulated in the same manner as other similar uses under the DCC for many years. The Oregon Medical Marijuana Act was adopted in 1998, although retail dispensaries were not legalized until 2014. For recreational marijuana, the inherent conflict is that related uses may be legally permissible under the construct of the DCC and yet cannot legally operate until such time as the Oregon Liquor Control Commission (OLCC) issues a license for each facility.

House Bill (HB) 3400 identifies the following six (6) marijuana related businesses that require registration or licensing by OLCC prior to being established:

- Medical Marijuana Processing Site
- Medical Marijuana Dispensaries
- Recreational Marijuana Producers (Growers)
- Recreational Marijuana Processors
- Recreational Marijuana Wholesalers
- Recreational Marijuana Retailers

Please note that HB 3400 identifies which business types/land uses are permitted in the EFU zone and which are not. Specifically, medical and recreational marijuana processing is outright permitted in the EFU zone unless the County opts out of these businesses.² Recreational marijuana production (grow) is outright permitted as a farm use. HB 3400 prohibits farms stands and commercial activities in the EFU zone, meaning retail sales are not allowed.

¹ http://www.deschutes.org/sites/default/files/fileattachments/community_development/page/1064/ordnc_2015-004_-_med_marijuana_dispensaries.pdf

² Processing facilities require a land use permit in the EFU zone under Deschutes County Code 18.16.025(l).

As discussed at the public hearings on August 12, 2015, and deliberations on August 17th HB 3400 also provides an opportunity for the Board to prohibit, or “opt out” of any one or more of the following marijuana related use categories in the unincorporated areas of Deschutes County. If the Board elects to “opt out” of a business category, then a temporary moratorium will be imposed on the “opt out” business category(s) in the unincorporated county and referred to voters in the November 2016 general election.

In addition, the Board will need to identify future land use / zoning decisions for business types that are not included in an “opt out” ordinance. Specifically, the Board will decide if and how to allow a business type/land use in each zone:

- **Permitted use:** the business type/land use is approved, approved with conditions, or denied subject to compliance with clear and objective standards (Site Plan Review or an Administrative Determination may be required); or
- **Conditional Use:** the business type/land use is approved, approved with conditions, or denied subject to compliance with compatibility standards (DCC 18.128.015) and other applicable standards; or
- **Prohibit:** the use in the zone is disallowed.

Staff seeks direction from the Board on which, if any, of the business types shall be permitted and which shall be prohibited through the “opt out” process. To assist the Board, Table 1 provides a cursory analysis of the DCC identifying how many zones each use could potentially be located. For example, “7-Permitted” means there are 7 zones where a use is allowed outright and “4-Conditional Use” means there are 4 zones where a use is allowed conditionally.

Table 1

Potential Number of Zones Where Marijuana Businesses are Permitted				
	Title 18 Deschutes County	Title 19* Bend	Title 20* Redmond	Title 21* Sisters
Medical Marijuana Processing	7 – Permitted 4 – Conditional Use	3 - Permitted		
Medical Marijuana Dispensaries	11 - Permitted	4 - Permitted		
Recreational Marijuana Producers	20 - Permitted	8 - Permitted	1 - Permitted	1 - Permitted
Recreational Marijuana Processors	7 - Permitted 4 – Conditional Use	3 - Permitted		
Recreational Marijuana Wholesalers	6 – Permitted (office only) 4 –Conditional Use (incl. warehouse)	4 - Permitted 2 – Permitted (office only) 1 – Conditional Use		
Recreational Marijuana Retailers	13 - Permitted	4 - Permitted 2 –Conditional Use (service commercial)	1 - Permitted	
* The County shall coordinate with the cities on proposed changes pursuant to the Intergovernmental Agreements (IGA).				

II. Reasonable Regulations

The provisions of HB 3400, Sections 33, 34, and 89 provide an opportunity for the County to establish “reasonable regulations” addressing the time, place and manner characteristics of marijuana related uses.

- A. **Regulation:** Compliance with “reasonable regulations” must be demonstrated by the applicant prior to the issuance of a Land Use Compatibility Statement (LUCS). HB 3400 provides local jurisdictions 21 days to determine compliance and issuance of the LUCS. These regulations can apply to outright permitted uses or conditional uses. Table 2 lists several time, place, and manner regulation options that staff has noted from comments received, but this is not a comprehensive or definitive list. It is simply intended to begin identifying options.

Table 2

Time	Place	Manner/Operations
Hours of Operation Seasonal Duration	Zones Lot Size (needs to match zone) Site Plan Review Setbacks Lot Coverage	Lighting Transportation Management Access Buffer/Screening

- B. **Process:** The process for drafting regulations can be conducted in a several ways. Staff has identified the following options for consideration:³
1. **Board Directed Approach:** The Board provides direction to staff on the proposed amendments (i.e., permitted/conditional/prohibited uses in each zone; “reasonable regulations”; etc.).
 2. **Committee Directed Approach:**
 - a. **Convened by Staff:** Staff will convene a stakeholder committee to discuss, review, and make a recommendation.⁴
 - b. **Appointed by the Board:** The Board can appoint a committee to provide recommendations. Such a committee will be governed by State public meeting rules.
 3. **Planning Commission:** Utilize the planning commission for direction and recommendations.
 4. **Other:** The Board can identify a preferred alternative approach not listed.
- C. **Timeline:** Jurisdictions across the state are contemplating what is the most effective and efficient method of establishing regulations for marijuana related businesses given the limited time available to develop and adopt them prior to OLCC accepting licensee applications on January 4, 2016. Two approaches identified are:

³ Each process option requires Planning Commission review public hearing(s) and recommendation, followed by Board public hearing(s) and adoption.

⁴ Clackamas County approach.

1. Wait until after OLCC completes its rulemaking process in November to understand the gaps in land use regulations the County needs to address, while recognizing there is a short timeline to adopt rules prior to January 4, 2016; or
2. Initiate the process now to get ahead of the curve, but potentially duplicating OLCC's land use rulemaking efforts, and/or facing inconsistencies in the County and OLCC's rules, which would need to be reconciled in November/December.

III. Board Direction / Options

- A. The Board may direct staff to prepare an ordinance for consideration at a future business meeting to opt out of any or all marijuana businesses. (See Section I of this memo).
- B. At this or a future public meeting, the Board may direct staff to initiate a public process to draft/develop "reasonable regulations" and review criteria to address marijuana businesses not subject to the "opt out" ordinance. These amendments will be land use regulations subject to Planning Commission review and recommendation, followed by Board public hearing(s) and consideration (see Sections II(A) and (B) of this memo).
- C. If the Board chooses to pursue text amendments, staff seeks direction on the process of drafting proposed standards and the timeline (See Section II(C) of this memo).

Attachment: Appendix addresses the following topics:

- A. MARIJUANA LAND USE IN DESCHUTES COUNTY: CURRENT STATUS
- B. NEW STATE LEGISLATION
- C. RECREATIONAL MARIJUANA (Ballot Measure 91/House Bill 3400)
- D. MEDICAL MARIJUANA

APPENDIX

A. MARIJUANA LAND USE IN DESCHUTES COUNTY: CURRENT STATUS

1. The County Planning Division, Building Division and other departments routinely receive inquiries regarding marijuana regulations and associated land use regulations and permitting requirements.
2. The County is responsible for regulating land uses, including those related to recreational and medical marijuana, pursuant to the Deschutes County Code (DCC), specifically Titles 18, 19, 20, and 21. Marijuana production, processing and sales are no different than any other land use when it comes to administering the zoning ordinance. As with other land uses, the appropriate zoning district(s) to locate these businesses will be based on characteristics of the business (growing, processing, wholesaling, retailing or a combination thereof). Medical marijuana-related uses have been regulated in the same manner as other similar uses under the DCC for many years. The Oregon Medical Marijuana Act was adopted in 1998, although retail dispensaries were not legalized until 2014. For recreational marijuana, the inherent conflict is that related uses may be legally permissible under the construct of the County DCC and yet cannot legally operate until such time as the OLCC issues a license for each facility.
3. The county's time, place and manner ordinance (DCC 18.116.320), which was adopted by the Board of County Commissioners (Board) in April 2015 for medical marijuana dispensaries, is administered by the Planning Division through the normal permitting process.
4. On August 12, 2015, the Board held a public hearing to receive testimony regarding whether to "opt out" of marijuana land uses, as permitted by HB 3400. The Board briefly deliberated on August 17, 2015, and decided not to opt out of any marijuana businesses at this time in favor of considering whether it is prudent to consider whether the better option is to develop regulations addressing where and how marijuana businesses may operate. With that said, the Board also acknowledged the opportunity to opt out is still available if a regulatory approach is determined to not be suitable.

B. NEW STATE LEGISLATION

The 2015 legislature adopted five bills related to marijuana. In addition to HB 3400, discussed at length below, only one bill is related to to marijuana land use regulations.

Senate Bill 460A (Early Start) allows *medical* marijuana dispensaries to sell limited recreational marijuana products (i.e. recreational marijuana seeds, leaves, flowers and non-flowering plants) beginning October 1, 2015. The effect of this bill brings the legal sale of recreational marijuana to the market prior to the OLCC accepting and approving licenses for recreational marijuana dispensaries in 2016. The sale of limited recreational marijuana products can only occur in licensed medical marijuana dispensaries that are already authorized under the County's time, place and manner regulations. Therefore, no additional land use regulations are necessary before October 1, 2015 to allow the sale of limited recreational marijuana products.

House Bill 3400 *amended* Ballot Measure 91 and certain provisions of the Oregon Medical Marijuana Act. Details are below in sections C and D.

C. RECREATIONAL MARIJUANA (Ballot Measure 91/House Bill 3400)

Definitions:

- a. Household: *a housing unit, including any place in or around the housing unit at which the occupants of the housing unit are producing, processing, keeping or storing homegrown marijuana or homemade marijuana products*
- b. Marijuana: *the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae*
- c. Immature Marijuana Plant: *a marijuana plant that is not flowering*
- d. Mature marijuana plant: *a marijuana plant that is not an immature marijuana plant*
- e. Marijuana items: *marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts*
- f. Marijuana processor: *a person who processes marijuana items in this state*
- g. Marijuana producer: *a person who produces marijuana in this state*
- h. Marijuana retailer: *a person who sells marijuana items to a consumer in this state*
- i. Marijuana wholesaler: *a person who purchases marijuana items in this state for resale to a person other than a consumer*
- j. Processes: *the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts. Processes does not include packaging and labeling.*
- k. Produces: *the manufacture, planting, cultivation, growing or harvesting of marijuana*
- l. Public place: *a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartment designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and areas used in conjunctions with public passenger transportation.*

Overview:

Measure 91, approved by Oregon voters in November 2014 -- the *Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act* -- was approved in Deschutes County by a vote of 51.86% in favor (37,018) to 48.14% in opposition (34,366), with a voter turnout of 72.63%. HB 3400, which amends Measure 91, was adopted by the 2015 state legislature. The following information summarizes the original act as amended by HB 3400.

- a. The purpose of the law is to permit persons licensed, controlled, regulated and taxed by this state to legally manufacture and sell marijuana to persons 21 year of age and older.
- b. Though the original Act does not include any specific land use regulations, HB 3400 does.

- c. Though the original Act does not amend the Oregon Medical Marijuana Act, HB 3400 does.
- d. The Act clarifies that *marijuana* does not include industrial hemp, as defined in ORS 571.300, or industrial hemp commodities or products. (Growing industrial hemp is considered to be an agricultural product / farm use (OAR 571.305(1)). Industrial hemp facilities must be licensed by the Oregon Department of Agriculture (ODA).)

Recreational Marijuana for Personal Use:

The production, processing and storage of homegrown marijuana and marijuana products is often referred to as the *Personal Use Allowance*. The personal allowance authorized for recreational marijuana per household is a right to possess marijuana; it is *not* a land use issue and will not be regulated by the DCC.

- a. Effective July 1, 2015, the making, processing and storage of homegrown marijuana and marijuana products is not to exceed four plants, eight ounces of useable marijuana, 16 ounces in solid form, 72 ounces in liquid form and 16 ounces of concentrates *per* household at any time
- b. The delivery of marijuana is not to exceed more than one ounce of homegrown marijuana, 16 ounces of solids, 72 ounces of liquids and 16 ounces of concentrates at a time by a person 21 years of age or older to another person 21 years of age or older for non-commercial purposes.
- c. No consumption is allowed in public.
- d. No person may produce, process, keep or store homegrown marijuana or homemade marijuana products if the products can be readily seen by normal unaided vision from a public place.

Oregon Liquor Control Commission (OLCC):

The Oregon Liquor Control Commission (OLCC) is responsible to adopt laws (Oregon Administrative Rules) to implement and administer Measure 91 and HB 3400. The duties of the OLCC include:

- a. To regulate the purchase, sale, production, processing, transportation and delivery of marijuana items.
- b. On or before **January 1, 2016**, to adopt rules and regulations as deemed necessary for the implementation and administration of the Act.
- c. On or before **January 4, 2016**, to begin **receiving** applications for the licensing of persons to produce, process, wholesale and retail marijuana. (The Act states that OLCC may not unreasonably delay decisions on a license, but does not specify a time limit.)

RECREATIONAL MARIJUANA LICENSES

Type: Licenses approved by the OLCC are required for four types of commercial recreational marijuana facilities:

- a. producers;
- b. processors;
- c. wholesalers, and
- d. retailers.

The same person may hold one or more production licenses, one or more processor licenses, one or more wholesale licenses, and one or more retail licenses. The following information is excerpts from HB 3400 regarding each license

PRODUCTION LICENSE: Sections 12 and 13 of HB 3400 identify the requirements for a marijuana production license:

SECTION 12. Section 19, chapter 1, Oregon Laws 2015, is amended to read:

- (1) The production of marijuana is subject to regulation by the Oregon Liquor Control Commission.*
- (2) A marijuana producer must have a production license issued by the commission for the premises at which the marijuana is produced. To hold a production license under this section, a marijuana producer:*
 - (a) Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;*
 - (b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older; and*
 - (c) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.*
- (3) The commission shall adopt rules that:*
 - (a) Require a marijuana producer to annually renew a license issued under this section;*
 - (b) Establish application, licensure and renewal of licensure fees for marijuana producers;*
 - (c) Require marijuana produced by marijuana producers to be tested in accordance with section 92 of this 2015 Act;*
 - (d) Require marijuana producers to submit, at the time of applying for or renewing a license under section 28, chapter 1, Oregon Laws 2015, a report describing the applicant's or licensee's electrical or water usage; and*
 - (e)*
 - (A) Require a marijuana producer to meet any public health and safety standards and industry best practices established by the commission by rule related to:*
 - (i) The production of marijuana; or*

- (ii) *The propagation of immature marijuana plants and the seeds of the plant Cannabis family Cannabaceae.*
- (B) *For purposes of establishing rules under subparagraph (A)(ii) of this paragraph, the commission may not limit:*
 - (i) *The number of immature marijuana plants that may be possessed by a marijuana producer licensed under this section;*
 - (ii) *The size of the grow canopy a marijuana producer licensed under this section uses to grow immature marijuana plants; or*
 - (iii) *The weight or size of shipments of immature marijuana plants made by a marijuana producer licensed under this section.*
- (4) *Fees adopted under subsection (3)(b) of this section:*
 - (a) *May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana producers;*
 - (b) *Shall be in the form of a schedule that imposes a greater fee for premises with more square footage or on which more mature marijuana plants are grown; and*
 - (c) *Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.*

SECTION 13.

- (1) *Subject to subsection (2) of this section, the Oregon Liquor Control Commission shall adopt rules restricting the size of mature marijuana plant grow canopies at premises for which a license has been issued under section 19, chapter 1, Oregon Laws 2015. In adopting rules under this subsection, the commission shall:*
 - (a) *Limit the size of mature marijuana plant grow canopies, for premises where marijuana is grown outdoors and for premises where marijuana is grown indoors, in a manner calculated to result in premises that produce the same amount of harvested marijuana leaves and harvested marijuana flowers regardless of whether the marijuana is grown outdoors or indoors.*
 - (b) *Adopt a tiered system under which the permitted size of a marijuana producer's mature marijuana plant grow canopy increases at the time of licensure renewal under section 19, chapter 1, Oregon Laws 2015, except that the permitted size of a marijuana producer's mature marijuana plant grow canopy may not increase following any year during which the commission disciplined the marijuana producer for violating a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or a rule adopted under a provision of sections 3 to 70, chapter 1, Oregon Laws 2015.*
 - (c) *Take into consideration the market demand for marijuana items in this state, the number of persons applying for a license under section 19, chapter 1, Oregon Laws 2015, and to whom a license has been issued under section 19, chapter 1, Oregon Laws 2015, and whether the availability of marijuana items in this state is commensurate with the market demand.*
- (2) *This section does not apply to a premises for which a license has been issued under section 19, chapter 1, Oregon Laws 2015, if the premises is used only to propagate*

immature marijuana plants.

PROCESSOR LICENSE: Section 14 of HB 3400 identifies the requirements for a marijuana processor license: *SECTION 14. Section 20, chapter 1, Oregon Laws 2015, is amended to read:*

- (1) The processing of marijuana items is subject to regulation by the Oregon Liquor Control Commission.*
- (2) A marijuana processor must have a processor license issued by the commission for the premises at which marijuana items are processed. To hold a processor license under this section, a marijuana processor:*
 - (a) Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;*
 - (b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;*
 - (c) If the marijuana processor processes marijuana extracts, may not be located in an area zoned exclusively for residential use; and*
 - (d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.*
- (3) The commission shall adopt rules that:*
 - (a) Require a marijuana processor to annually renew a license issued under this section;*
 - (b) Establish application, licensure and renewal of licensure fees for marijuana processors;*
 - (c) Require marijuana processed by a marijuana processor to be tested in accordance with section 92 of this 2015 Act; and*
 - (d) Require a marijuana processor to meet any public health and safety standards and industry best practices established by the commission by rule related to:*
 - (A) Cannabinoid edibles;*
 - (B) Cannabinoid concentrates;*
 - (C) Cannabinoid extracts; and*
 - (D) Any other type of cannabinoid product identified by the commission by rule.*
- (4) Fees adopted under subsection (3)(b) of this section:*
 - (a) May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana processors; and*
 - (b) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.*

STAFF COMMENT: Paragraph 2(c) prohibits a marijuana processor who processes marijuana extracts from being "... located in an area zoned exclusively for residential

use.” [emphasis added] There is no zoning district in unincorporated Deschutes County that is exclusively zoned for residential use. All of the residential zones also allow uses such as parks, churches, schools and other uses. Staff can only surmise that this provision is intended to prohibit marijuana processors in districts **primarily** zoned for residential use.

WHOLESALE LICENSE: Section 15 identifies the requirements for a marijuana wholesale license: SECTION 15. Section 21, chapter 1, Oregon Laws 2015, is amended to read:

- (1) The wholesale sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.
- (2) A marijuana wholesaler must have a wholesale license issued by the commission for the premises at which marijuana items are received, stored or delivered. To hold a wholesale license under this section, a marijuana wholesaler:
 - (a) Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;
 - (b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;
 - (c) May not be located in an area that is zoned exclusively for residential use; and
 - (d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.
- (3) The commission shall adopt rules that:
 - (a) Require a marijuana wholesaler to annually renew a license issued under this section;
 - (b) Establish application, licensure and renewal of licensure fees for marijuana wholesalers;
 - (c) Require marijuana items received, stored or delivered by a marijuana wholesaler to be tested in accordance with section 92 of this 2015 Act; and
 - (d) Require a marijuana wholesaler to meet any public health and safety standards and industry best practices established by the commission by rule.
- (4) Fees adopted under subsection (3)(b) of this section:
 - (a) May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana wholesalers; and
 - (b) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

RETAIL LICENSE: Sections 16 and 17 identify the requirements for a marijuana retail license:

SECTION 16. Section 22, chapter 1, Oregon Laws 2015, is amended to read:

- (1) The retail sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

- (2) *A marijuana retailer must have a retail license issued by the commission for the premises at which marijuana items are sold. To hold a retail license under this section, a marijuana retailer:*
- (a) *Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;*
 - (b) *Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;*
 - (c) *May not be located in an area that is zoned exclusively for residential use;*
 - (d) *May not be located within 1,000 feet of:*
 - (A) *A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or*
 - (B) *A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and*
 - (e) *Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.*
- (3) *The commission shall adopt rules that:*
- (a) *Require a marijuana retailer to annually renew a license issued under this section;*
 - (b) *Establish application, licensure and renewal of licensure fees for marijuana retailers;*
 - (c) *Require marijuana items sold by a marijuana retailer to be tested in accordance with section 92 of this 2015 Act; and*
 - (d) *Require a marijuana retailer to meet any public health and safety standards and industry best practices established by the commission by rule.*
- (4) *Fees adopted under subsection (3)(b) of this section:*
- (a) *May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana retailers; and*
 - (b) *Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.*

SECTION 17. If a school described in section 22 (2)(d), chapter 1, Oregon Laws 2015, that has not previously been attended by children is established within 1,000 feet of a premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015, the marijuana retailer located at that premises may remain at that location unless the Oregon Liquor Control Commission revokes the license of the marijuana retailer under section 30, chapter 1, Oregon Laws 2015.

REASONABLE REGULATIONS: Section 33 of HB 3400 authorizes the County to impose reasonable regulations on the operation of licensed recreational marijuana businesses.

SECTION 33. Section 59, chapter 1, Oregon Laws 2015, is amended to read:

- (1) For purposes of this section, “reasonable regulations” includes:*
 - (a) Reasonable conditions on the manner in which a marijuana producer licensed under section 19, chapter 1, Oregon Laws 2015, may produce marijuana;*
 - (b) Reasonable conditions on the manner in which a marijuana processor licensed under section 20, chapter 1, Oregon Laws 2015, may process marijuana;*
 - (c) Reasonable conditions on the manner in which a marijuana wholesaler licensed under section 21, chapter 1, Oregon Laws 2015, may sell marijuana at wholesale;*
 - (d) Reasonable limitations on the hours during which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may operate;*
 - (e) Reasonable conditions on the manner in which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may sell marijuana items;*
 - (f) Reasonable requirements related to the public’s access to a premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015; and*
 - (g) Reasonable limitations on where a premises for which a license may be issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, may be located.*
- (2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015, from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015.*
- (3) Regulations adopted under this section must be consistent with city and county comprehensive plans and zoning ordinances and applicable provisions of public health and safety laws.*

STAFF COMMENT: The word “reasonable” is not defined by HB 3400. Depending on the result of discussion with County Counsel about statutory construction, a dictionary definition of “reasonable” may be relevant.

FARM USE: Section 34 explicitly applies various farm-related provisions of state law to marijuana and requires a land use compatibility statement from the County as part of the Oregon Liquor Control Commission’s marijuana business licensing process.

SECTION 34.

- (1) Notwithstanding any other provision of law, marijuana is:
 - (a) A crop for the purposes of “farm use” as defined in ORS 215.203;
 - (b) A crop for purposes of a “farm” and “farming practice,” both as defined in ORS 30.930;
 - (c) A product of farm use as described in ORS 308A.062; and
 - (d) The product of an agricultural activity for purposes of ORS 568.909.
- (2) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses on land designated for exclusive farm use:
 - (a) A new dwelling used in conjunction with a marijuana crop;
 - (b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a marijuana crop; and
 - (c) A commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a marijuana crop.
- (3) A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones under this section and ORS 215.213 and 215.283.
- (4)
 - (a) Prior to the issuance of a license under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, the Oregon Liquor Control Commission shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The commission may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.
 - (b) A city or county that receives a request for a land use compatibility statement under this subsection must act on that request within 21 days of:
 - (A) Receipt of the request, if the land use is allowable as an outright permitted use; or
 - (B) Final local permit approval, if the land use is allowable as a conditional use.
 - (c) A city or county action concerning a land use compatibility statement under this subsection is not a land use decision for purposes of ORS chapter 195, 196, 197 or 215.

STAFF COMMENT: It appears that marijuana production is permitted outright in the Exclusive Farm Use (EFU) District. In addition, the definition of farm use at ORS 215.203 permits wholesaling and certain levels of processing (i.e., 10,000-square-foot maximum processing space with a minimum of 25% of processed crops grown onsite). ORS 30.930 prohibits the county from regulating farm practices as nuisances or trespass on land zoned for farm use. This may in fact

limit the degree to which farming practices associated with marijuana may be restricted by the county. Outside of the EFU zone, HB 3400 provides less clarity. However, the use of the word “may” (A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones under this section and ORS 215.213 and 215.283.) strongly suggests that the County is not required to permit marijuana production in its forest and rural residential zones. However, these zones currently permit a broad range of farm uses, including horticulture, raising of crops, and marketing of farm products. In some cases, processing of farm products is permitted.

D. MEDICAL MARIJUANA

Definitions (HB 3400)

- a. Registry identification cardholder: *a person to whom a registry identification card has been issued under ORS 475.309*
- b. Marijuana grow site: *a location registered under ORS 475.304 where marijuana is produced for use by a registry identification holder.*
- c. Person designated to produce marijuana by a registry identification card holder: *a person designated to produce marijuana by a registry identification cardholder under ORS 475.304 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature plants are produced.*

The Oregon Medical Marijuana Act (OMMA) is codified in ORS 475.300-475.346. The Oregon Health Authority (OHA) adopted Oregon Administrative Rules (OAR 333, Division 8) necessary for the implementation and administration of the Oregon Medical Marijuana Act. The County is not responsible for administering the OAR's relative to medical marijuana. Registration is required through the Oregon Health Authority for production and processing of medical marijuana and for medical marijuana dispensaries.

- a. Deschutes County adopted an ordinance in 2014 establishing a moratorium prohibiting *medical* marijuana dispensaries until May 1, 2015. On April 22, 2015, the Board adopted a time, place and manner ordinance regulating all medical marijuana dispensaries. The ordinance permits medical marijuana dispensaries in areas where similar uses (i.e. pharmacy) are permitted, establishes hours of operation, and requires registration and compliance with ORS 475.300-475.346 and all OHA rules. The ordinance also specifies that the addition or conversion of a dispensary to recreation use marijuana sales and distribution is a change of use and requires land use review and approval. To date, no dispensaries have been approved in the unincorporated county.

GROW SITE POSSESSION LIMITS: Section 82 of HB 3400 establishes limits on the number of plants and amount of marijuana that may be at a grow site. *SECTION 82. ORS 475.320 is amended to read:*

- (1) *Subject to subsection (2) of this section, a registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess six or fewer mature marijuana plants.*

- (2)
- (a) *A person may be designated to produce marijuana under ORS 475.304 by no more than four registry identification cardholders.*
 - (b) *A person who is designated to produce marijuana by a registry identification cardholder may produce no more than six mature marijuana plants per registry identification cardholder.*
- (3) *If the address of a person responsible for a marijuana grow site under ORS 475.304 is located within city limits in an area zoned for residential use:*
- (a) *Except as provided in paragraph (b) of this subsection, no more than 12 mature marijuana plants may be produced at the address; or*
 - (b) *Subject to subsection (5) of this section, if each person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475.304 before January 1, 2015, no more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 12 mature marijuana plants, not to exceed 24 mature marijuana plants, may be produced at the address.*
- (4) *If the address of a person responsible for a marijuana grow site under ORS 475.304 is located in an area other than an area described in subsection (3) of this section:*
- (a) *Except as provided in paragraph (b) of this subsection, no more than 48 mature marijuana plants may be produced at the address; or*
 - (b) *Subject to subsections (5) and (6) of this section, if each person responsible for a marijuana grow site located at the address first registered with the authority under ORS 475.304 before January 1, 2015, no more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 48 mature marijuana plants, not to exceed 96 mature marijuana plants, may be produced at the address.*
- (5) *If the authority suspends or revokes the registration of a person responsible for a marijuana grow site that is located at an address described in subsection (3)(b) or (4)(b) of this section:*
- (a) *No more than 12 mature marijuana plants may be subsequently produced at any address described in subsection (3) of this section at which the person responsible for that marijuana grow site produces marijuana.*
 - (b) *No more than 48 mature marijuana plants may be subsequently produced at any address described in subsection (4) of this section at which the person responsible for that marijuana grow site produces marijuana.*
- (6) *If a registry identification cardholder who designated a person to produce marijuana for the registry identification cardholder pursuant to ORS 475.304 terminates the designation, the person responsible for the marijuana grow site whose designation has been terminated may not be designated to produce marijuana by another registry identification cardholder, except that the person may be designated by another registry identification cardholder if no more than 48 mature marijuana plants are produced at the address for the marijuana grow site at which the person produces marijuana.*

STAFF COMMENT: Medical marijuana grows currently are permitted in several ways under the Deschutes County Code (e.g., as a farm or agricultural use in several zones, as a production use in industrial zones, or accessory to a residential use). Amendments to the DCC to prohibit or restrict medical marijuana production would not prevent existing approved grow sites from continuing to operate but would convert those sites to nonconforming uses. Nonconforming uses enjoy statutory protections but are also limited in some ways.

MEDICAL MARIJUANA PROCESSORS: Section 85 of HB 3400 provides, in pertinent part:

- (3) To qualify for registration under this section, a marijuana processing site:
 - (a) May not be located in an area that is zoned for residential use if the marijuana processing site processes cannabinoid extracts;**

MEDICAL MARIJUANA DISPENSARIES: Section 86 of HB 3400 provides, in pertinent part:

- (3) To qualify for registration under this section, a medical marijuana dispensary:
 - (a) May not be located in an area that is zoned for residential use;*
 - (b) May not be located at the same address as a marijuana grow site;*
 - (c) Must be registered as a business, or have filed an application to register as a business, with the office of the Secretary of State;*
 - (d) May not be located within 1,000 feet of:
 - (A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or*
 - (B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a);**
 - (e) Must not be located within 1,000 feet of another medical marijuana dispensary;**

SECTION 86a. If a school described in ORS 475.314 (3)(d) that has not previously been attended by children is established within 1,000 feet of a medical marijuana dispensary, the medical marijuana dispensary may remain at its current location unless the Oregon Health Authority revokes the registration of the medical marijuana dispensary.

REASONABLE REGULATIONS: Section 89 of HB 3400 authorizes the County to impose reasonable regulations on the operation of medical marijuana uses.

(1) For purposes of this section, “reasonable regulations” includes:

(a) Reasonable limitations on the hours during which the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may operate;

(b) Reasonable conditions on the manner in which a marijuana processing site or medical marijuana dispensary may transfer usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts, immature marijuana plants and seeds;

(c) Reasonable requirements related to the public’s access to the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary; and

(d) Reasonable limitations on where the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may be located.

(2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of marijuana grow sites of persons designated to produce marijuana by registry identification cardholders, marijuana processing sites and medical marijuana dispensaries that are located in the area subject to the jurisdiction of the city or county.

High Desert Cannabis Cooperative
Justin L. Gottlieb, Community Organizer
503-810-6557

c

- Action -

7:00 pm on Thursday, August 27: High Desert Cannabis Cooperative - General organizing meeting
-Contact: Justin Gottlieb (503) 810-6557
-Location: Dead Format Music (541) 550-0632. 250 NE 3rd St, Prineville, OR 97754.

- Talking Points -

August 20, 2015 - **Bend Bulletin** ('Crook County bans pot businesses'):

August 21, 2015 - **Central Oregonian** ('County bans pot operations'):

"Crook County commissioners just turned a bunch of hard-working people into criminals and made it harder for them to feed their families."

"This (Measure 91 and the legalization of marijuana in Oregon) is a great way to get folks back to work."

"This is similar to Facebook and some of the other economic opportunities in Crook County."

"We're looking at this as a way to increase revenue. There's so many hours that go into growing and cultivating plants, that's a lot of jobs."

"A (growing operation) adds to the economy as the county's able to take some tax dollars and increases employment opportunities."

"There'll be skids of jobs, especially come October when you're pulling plants."

"For 30 years, the federal government has placed billions of dollars to stop the use of Marijuana. It wasn't successful by any means. To put up barriers, you are not going to stop the use of cannabis."

"I'd like to see Crook County say, 'OK, let's bring some industry in here and stop closing businesses down.'"

"We are looking at new avenues of creating an income on the farm and with Measure 91 passing, we are looking at the possibility of producing cannabis there."

"It is frustrating to sit here and have the county potentially tell us we can't. We are just trying to make money for our family."

"Is there going to be a specific group that oversees and makes sure this stuff isn't happening in the county?"

High Desert Cannabis Cooperative/Community

Justin L. Gottlieb, Community Organizer
503-810-6557

For Immediate Release
Contact: Justin Gottlieb (503-810-6557)

August 25, 2015

The Pro-Cannabis Community of Crook County will hold an emergency, general Membership Meeting on Thursday, August 27, 2015 at 7 pm in response to the recent county 'Opt-Out' Vote.

Location

Dead Format Music
250 NE 3rd St.
Prineville, OR 97754
7 pm - 9 pm

A dozen individuals attended a Leadership Meeting in Prineville on Saturday, August 22, 2015. In Attendance; Justin Gottlieb, Scott Stanely, Ron Radabaugh, Darren Hepperle, Geof and Brooke York, Kyle Henon, John and Melissa Kriner, Logan Landen, Destiny Hepperle and Branden Flemming.

"The Cannabis Community of the High Desert has stated its position: After years of economic chaos, the Region should be pursuing all legal economic opportunities to create living wage jobs and bring new revenue into the region. This industry creates an environment of communication, cooperation, understanding and compassion with a stated goal of good stewardship and empathy. The Crook County commission's actions/decisions stood in direct conflict to those values in Central Oregon.

We urge our Elected Officials to reconsider."

-Justin Gottlieb, Community Organizer

The High Desert Cannabis Cooperative/Community, in partnership with the OMMP Co-Op, is hosting a Fundraiser for the Canyon Creek Fire Victims at 15019 NE Ochoco Hwy, Prineville on September 5, 2015 at 2 pm. We welcome the opportunity to support all hard-working Oregonians and invite the community to donate supplies, money and household goods.



DenverDA

Mitchell R. Morrissey, District Attorney - Second Judicial District

201 W. Colfax Avenue, Dept. 801, Denver, CO 80202

Bus. Phone: 720-513-9000
Fax: 720-513-9015

July 27, 2015

Clackamas County
Commissioner Chair Ludlow
Commissioner Bernard
Commissioner Smith
Commissioner Schrader
Commissioner Savas
2051 Kaen Road Road
Oregon City, Oregon 97045

Dear Commissioners,

As you know, Colorado legalized small amounts of marijuana for medical use several years ago and then approved a measure allowing retail marijuana for personal use in January 2014, just about seven months ago. While the full impact may not be known for some time, we already are seeing some of the effects. This includes seeing retail marijuana explode into a multi-million dollar industry that exists simultaneously with a continuing black market. Recent findings from the Rocky Mountain High Intensity Drug Trafficking Area give us a snapshot of what is happening, and it is concerning.

We now have nearly 500 medical marijuana dispensaries in Colorado, and 212 retail stores. Most are in Denver (215 medical marijuana dispensaries and 77 retail stores). There are also hundreds of cultivation facilities and dozens of infused marijuana product businesses.

While pro-marijuana groups are touting selected statistics to the media suggesting that crime is down since the legalization of marijuana, we are beginning to see the effects in our emergency rooms, junior and senior high schools, on our roadways and in our homes.

Since 2007, there have been 15 violent deaths related to medical marijuana in Colorado. In each of these deaths, the victim was a medical marijuana caregiver, was killed in the presence of a caregiver or was trying to rob a caregiver. Dispensaries and stores are lucrative targets for burglaries and robberies. The large sums of cash at these sites have led to execution-style murders and shootouts in residential neighborhoods. There have also been more than 300 burglaries and 7 armed robberies in Denver in the last two years; I do not expect the figures this year to improve.

From 2011 to 2013, there was a 57-percent increase in emergency room visits related to marijuana, and ER doctors noted they treated more small children for accidental overdoses of marijuana. Children are also being exposed when mothers use pot during pregnancy or breastfeeding, as an increasing number of women now report they are trying marijuana for morning sickness or other uses while pregnant. There has also been an increase in calls to our local poison control center involving marijuana and children.

July 27, 2015

The National Institute on Drug Abuse reports marijuana use among high school seniors is increasing and may soon become more common than cigarette smoking. This may be connected to the increase we are seeing in the number of adults who encourage marijuana use among young people and adults who are actually using marijuana with a minor. There was a 26-percent increase in monthly marijuana use in Colorado among young people, ages 12-17, in the three years after medical marijuana was commercialized (2009) compared to the three years prior to commercialization.

There was a 32-percent increase in drug-related suspensions and expulsions in Colorado for academic school years 2008/2009 to 2012/2013. A June 2014 Rocky Mountain HIDTA survey of 100 Colorado school resources officers revealed 89-percent have seen an increase in student marijuana-related incidents since retail marijuana was legalized. And, it appears there is a greater likelihood of young people trying marijuana. A study found that 10-percent of high school students who would otherwise be at low risk for habitual pot smoking now say that they *would* use marijuana if it were legal. It is not my intent in this letter to discuss the health impacts of marijuana on young adults, such as lowered IQ and memory impairment, but there is clearly cause for concern.

We have seen a sharp increase in dangerous hash oil explosions. In the first six months of 2014 there have been 26 confirmed explosions and 27 reported injuries. The number of confirmed explosions directly related to the illegal processing and extraction of hash oil in just six months is more than double the total reported in all of last year.

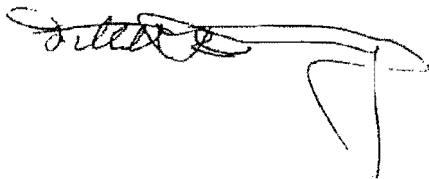
And we have seen an impact on our roads. One in nine drivers in fatal crashes now test positive for marijuana. While the overall number of car crash fatalities were down in Colorado between 2007 and 2012 (down by 14%), fatalities involving drivers who test positive for marijuana are up 100%.

The Colorado State Patrol DUID program (Driving Under the Influence of Drugs), initiated in 2014, show in the first six months of 2014 that 77% of the 454 DUIDs involved marijuana and 42% of the 454 DUIDs involved marijuana only. I do not expect this to improve as another study from 2013 shows marijuana causes more car accidents than any other illicit drug.

The advent of medical marijuana and retail marijuana has not, unfortunately, eliminated the illegal cultivation, possession and sale of marijuana. There remains a robust black market that carries all the risk of illegal drug dealing and continues to require significant public safety resources. Our Crime Lab has requested an additional forensic scientist just to test the volume of marijuana seized over the legal limit.

I believe when the majority of people in Colorado voted to approve Amendment 64, their intention was to de-criminalize the private, personal use of marijuana by adults and that they had no idea marijuana would become the latest multi-million dollar industry in our state. I also believe they did not anticipate the impacts I've outlined in this letter. We will see what the rest of the year holds and what other unintended consequences we discover.


Sincerely,



Mitch Morrissey
Denver District Attorney

High Crimes: Robber Gangs Terrorize Colorado Pot Shops

BY TONY DOKOUPIL AND BILL BRIGGS

 ``

Former special operations soldiers who fought in Afghanistan and Iraq now work for Blue Line Protection Group, like the guard shown here, and specialize in the protection of the marijuana industry in Colorado. Ed Kashi / VII for NBC News

- [SHARE](#)
- [Share](#)
- [Tweet](#)
- [Share](#)
- [Email](#)
- [Print](#)
- [Comment](#)

One thief, posing as a delivery man, pulled a can of bear mace on employees and ransacked their marijuana shop, fleeing in a defensive cloud of "ultra-pepper" spray. Another opened the wall of a dispensary with an ax and attacked the store's safe with a circular saw. Still another stuck to the basics. He kicked in the front door and pointed his

gun at the counterman. An accomplice kicked in the back door and filled a duffel bag with more than \$10,000 worth of high-quality cannabis.

For weeks now, the Mile High state has allowed the sale of recreational pot to adults, and so far the Rockies still stand. But crimes like the ones above, all of which occurred in Colorado in the last six months, have produced an acid-drip of anxiety in the industry, highlighting the dangers faced by those hoping to drag America's most popular illegal drug into the light. Because marijuana remains banned by Congress, banks and security firms deny services to most dispensaries. That leaves them cash-based and vulnerable, a magnet for criminals who like the idea of unguarded counting rooms and shelves lined with lucrative horticulture.



Customers wait in line at the Dank Colorado Dispensary to purchase recreational marijuana in Denver. Ed Kashi / VII for NBC News

"Everyone in the industry is having nightmares," says Michael Elliott, executive director of the Marijuana Industry Group, a powerful young lobby in Colorado. "You hit a 7-Eleven, you'll get 20 bucks. You hit a dispensary, you'll get \$300,000 on a good day," adds Mitch Morrissey, District Attorney for Denver. "It's only a matter of time before someone gets shot."

Since 2010, the new pot barons have been required to install alarms and surveillance cameras, and most secure all cash and retail pot in a floor-bolted safe overnight. That helps limit losses, but the thieves keep coming. They throw bricks through windows, and

tunnel under floors. One team tore away the locks on a grow house with a set of chains and a Subaru Outback. Another crashed an Audi through a warehouse door.

At first, most of the heists were softened by a kind of likable idiocy. Owners joked about the hapless fellow who zip-lined through an opening in a greenhouse roof, then lacked the oomph to climb his way out. Or the thief who kicked into an apartment above a pot shop, only to be chased off by the apartment's surprised owner, a member of the Denver Nuggets. Or the team that crowbarred into a dispensary in 2012, leaving with a broken scale and \$8 from a "karma jar" on the counter.

More recently, however, the crimes have sent a forked bolt of fear through the industry. Last summer, for example, a trio of gunmen "demanded Weed" from the workers at a dispensary called 420 Wellness, according to documents provided by the district attorney's office. As two of the gunmen filled "several trash bags" with award-winning marijuana, the third leapt over the counter and took a female employee by the elbow, leading her around the shop as a human insurance policy. Police caught up with that squad soon after they fled the scene, charging the ringleader with aggravated robbery and kidnapping.

But over the next six weeks, a different team of burglars hit at least eight dispensaries, and a third team is still on the loose after a stick-up at New Age Wellness in nearby Boulder County. Moments after closing time, two men dressed in baby-blue ski-masks burst in, pointed guns, and cleaned out the little mountain depot. "It's an epidemic," says one of the employees, who declined to give his name for safety reasons. "Everything is a lot tighter now. It isn't so homey anymore."

"It's like they think: 'If we can precipitate some sort of public safety issue, maybe we can stop it.'"

To judge by the data, it's not so homey anywhere in the region's marijuana market, where attempted theft has gone from a concern to a near-certainty. In 2009, the Denver Police Department estimated that about 17 percent of marijuana retail shops had been robbed or burglarized in the last year. That was good news: a bit less than liquor stores (20 percent) and banks (34 percent), and on par with pharmacies.

Today, however, a darker picture has emerged. There are about 325 marijuana companies in Denver, based on an analysis of licensing data done for NBC News by Marijuana Business Daily, a leading trade publication. (Most companies hold numerous licenses.) At the same time, there have been about 317 burglaries and seven robberies reported by these companies in the last two years, according to police data. That's an annual robbery and burglary rate of about 50 percent, more than double what it was in 2009.

<img class="img-responsive img_inline" src="http://media3.s-nbcnews.com/j/newscoms/2014_06/161376/140203-pot-culture-kashi-06_e5c58e567e7ac661703cb1ae746524a7.nbcnews-fp-360-360.jpg" alt="Image: Medicine Man marijuana dispensary and grow house" title="Image: Medicine Man

marijuana dispensary and grow house" itemprop="image"/>



Workers tend the grow houses at the Medicine Man marijuana dispensary and grow house. It is one of the largest in Denver. Ed Kashi / VII for NBC News

While a Denver Police spokesperson disputed these figures, the department doesn't have its own. What is available suggests a troubling parallel development: as the industry has grown, its access to banking and security has declined, and crime has soared. What spurred the sudden loss of services remains a mystery, although many dispensary owners blame it on pressure from the Drug Enforcement Administration, which has called Colorado's experiment "reckless and irresponsible."

"It's like they're trying to precipitate some sort of disaster," says Norton Arbelaez, the founder of River Rock, one of the Denver's larger dispensaries. "It's like they think: 'If we can precipitate some sort of public safety issue, maybe we can stop it.'"

The Obama administration says that it's working on new regulations that will allow banks to hold accounts for legal marijuana businesses. But Jack Finlaw, the chief legal counsel to Colorado's governor doesn't think that will be enough. As long as marijuana remains illegal under the Controlled Substances Act, he says, banks, security firms and indeed most traditional businesses will be wary of aiding what amounts to a state-sanctioned federal crime. "Congress really needs to act," he says. "I don't see a quick fix."

Meanwhile, the collateral damage continues to mount. Some dispensaries may be hit five times and others none at all, but on average every marijuana-related business in Denver can now expect a taste of the crowbar or the gun at least once every two years.

"I think everyone has been robbed at least once," says Jonathan Salfeld, the owner of Local Product of Colorado, which has been broken into twice, despite being located a block from Denver Police headquarters. "It leaves you feeling less than safe," adds Elan Nelson, the director of business development at Medicine Man, one of the largest dispensaries in Denver. She says her last dispensary was broken into four or five times, and employees began to watch the door, wondering when the thieves would decide to try work hours.



Broken windows and doors are evidence of a recent burglary at the Timberline Herbal Clinic, owned by Yvette Williams. Ed Kashi / VII for NBC News

Yvette Williams of Timberline Herbal Clinic is facing that same feeling, after suffering three break-ins in four years. The most recent heist was last month, amid a rash of seven burglaries in Denver in the first 11 days of legalization. The thieves came at night, taking \$1,000 in edible pot and leaving \$6,000 in damages. "We just don't know what to do," she says. "We're at a loss."

"To understand the importance of fixing banking, please read this story: 'Marijuana clinic owner penis cut off.'"

For the moment, Coloradans can still cling to a pebble of solace: no one has ever been killed in a state-licensed marijuana dispensary. Expect that to change, says Denver

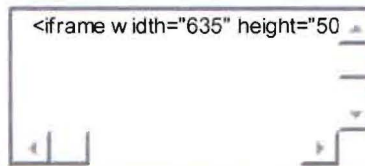
District Attorney Mitch Morrissey. Last summer he told the city council that there have been a dozen homicides “directly” related to mom-and-pop residential marijuana grows, which have been legal in the state since 2000.

The editorial page director of the Denver Post accused him of “blowing smoke,” but Morrissey is now going further, predicting a spike in “strong-arm, bank-style, mask-and-gun robberies,” as the old violence of the residential market spills into the new world of legalized marijuana from seed to sale. “You know, they say this is going to bring in tax revenue for our schools. Well, I don’t deal with that. I deal with dead bodies.”

- [Facebook](#)
- [Twitter](#)
- [Google Plus](#)
- [Embed](#)

Legal pot opens door to more crime 1:22

autoplay autoplay



Copy this code to your website or blog

The worst violence has been in California, where in 2010 a gunman forced workers down on the ground, robbed their medical marijuana dispensary, and returned moments later to shoot both in the back of the head. But the fate that’s really spreading terror in Colorado fell just shy of murder.

It began when three men broke into the home of a dispensary owner in Newport Beach, Calif., according to police reports that surfaced last fall. They zip-tied the man, dragged him into a van, burned him with a blow-torch, doused him in bleach, severed his penis, and then drove away with it—all in a bid to learn where he was hiding his cash. Now Elliott, the industry lobbyist, appends press releases with an unusual note: “To understand the importance of fixing banking, please read this story: ‘Marijuana clinic owner penis cut off.’”

The industry is certainly taking the crime threat seriously. Dispensaries are sinking cash into bulletproof glass, Mission Impossible-style fingerprint scanners, and guards—lots of guards. A marijuana militia of sorts is building across the state, a force big enough to safeguard six-figure cash transports, seven-figure inventories and assets, and thousands of justifiably paranoid employees.

As with the criminals, some of the guards are less than intimidating. The owner’s elderly (and doze-prone) uncle is the designated watchman inside one Denver dispensary. At another dispensary a guard considers his biceps “the only guns I need.” But at least two major security firms—one purely marijuana-focused, the other an all-purpose global heavyweight—have ridden in to rescue Denver in the last year.

The first was Blue Line Protection Group, launched in August by Ted Daniels, a retired police officer and U.S. Army veteran who served in Afghanistan. He cuts a rather secure figure himself, with muscle that jumps from shoulder to ear, and shades wrapped around a bald pate. He has hired more than 40 guards, most with special ops experience.

"If you're going to fight the best," as he likes to say, "you better have the best."

Steps from the counter where the peace buds are sold, a warning sign is emblazoned with the words, "DEADLY FORCE."

His firm has landed about 30 contracts so far and is adding about one a day, according to Daniels, who charges between \$5,000 and \$15,000 a month. Most of the contracts come right after a break-in or a robbery, he says, and none have been hit again with his team on the scene. "I think criminals are afraid," he says. "I don't think they want to deal with my guys."



The New Age Wellness marijuana dispensary was attacked by masked gunmen recently, where Alan Pedersen, 23, was assaulted and \$6,000 worth of merchandise

was stolen. Now a Blue Line Protection Group officer stands guard in Longmont, Colo.
Ed Kashi / VII for NBC News

At Medicine Man, where Daniels has provided security since January 1st, there are now six cash registers and an armed guard for each one, plus another at the door. At the end of the day, after spraying the cash with Febreze to mask the scent, employees stuff it into tamper-resistant clear plastic bags, which Blue Line escorts downtown and into the company's vault.

If they face a robbery, they may call 911, but they're authorized to return fire. Every day now at New Age Wellness, in Boulder County, steps from the counter where the peace buds are sold, a warning sign is emblazoned with the words, "DEADLY FORCE." In front of the sign is a Blue Line guard, Glock on his hip.

"One of my guys, I think, can probably easily hold off five to 10 guys by himself," says Daniels, who appreciates the irony of blending what is essentially police work with the protection of a product that he used to bust people for using. For most of his guys, however, the product doesn't matter.

Daniels allows them to partake of the plant they're guarding, as long as they quit it at least 10 hours before reporting to duty, but they're in it for the conflict.

"We thrive on going out," says Keith Wood, a former Army Ranger who deployed to both Iraq and Afghanistan, before coming home to become Blue Line's operations manager. "I'm not going to run away," he said in an interview. "I could die today on the job. We don't know. But that's another reason to bring veterans in. That's how we're trained to think."

The competition comes from former Denver city councilman Ed Thomas, a 23-year veteran of the Denver Police Department. He recently partnered with CSC-USA, a California-based company that touts security gigs during two World Cups, four presidential inaugurations, and 30 Super Bowls. He's got two contracts so far and expects that number to grow.

"There are some really bad guys out there," he says. "It's just a matter of time until ... well, I don't even want to go there."



CRIME & DRUGS (/TOPIC/CRIME-DRUGS)

How America's Legal Weed Is Changing the Black Market and Influencing Mexican Cartels

f t p +

By Keegan Hamilton (/contributor/keegan-hamilton)

August 25, 2015 | 10:10 am

Drive an hour east of Portland, Oregon, through the stunning Columbia River gorge, and you'll arrive in the idyllic town of Hood River. Tourists come to windsurf and fly kites in the stiff breeze that blows off the river, and to tour the "fruit loop," a circuit of wineries and fruit vendors supplied by the area's abundant orchards.

But there are no tours — at least not yet — that introduce visitors to the region's other signature crop: marijuana.

Tucked away in an industrial park warehouse is Otis Gardens, a 9,200-square-foot, state-of-the-art grow-op. In the midday heat, beads of sweat form on the stubbly head and face of owner Rob Acken as he opens the door to one of eight partitioned rooms, revealing several rows of enormous plants, each at least five feet tall with thick foliage and stalks like axe handles. The smell — earthy, dank, and vaguely sweet — hits first, followed by a cool rush of air conditioning. The temperature has cracked 100 degrees outside, but the grow rooms are kept at a steady 78 degrees.

Using his thumb and index finger, the 46-year-old Acken delicately pinches the tip of a bud with brown fibers and thick white crystals and brings it to his nose. A strain called Super Lemon Haze, it smells like lemon-scented furniture polish.

"These are happy plants," Acken says.

And these are mostly happy days for the legal weed industry, whose sales revenues grew from an estimated (<http://www.arcviewmarketresearch.com/>) \$1.5 billion in 2013 to \$2.7 billion last year; one projection (https://www.greenwaveadvisors.com/wp-content/uploads/GreenWave_Report_ES.pdf) has them hitting \$35 billion by 2020. All across Oregon, which legalized medical marijuana in 1998, people are attempting to carve out niches, hawking a dizzying array of weed sodas, candies, extracts, and other products. Oregonians overwhelmingly approved a ballot initiative last year that sanctioned pot sales to recreational users, making the state the next frontier of the so-called "green rush" that began in Colorado and Washington in 2012.

"It's an interesting time in the industry," Acken says. "Right now, everybody is still holding hands and singing songs. There's a lot of cooperation. I hope the competition doesn't kill that."

In many ways, Acken and his warehouse full of happy plants are living proof that legalization is working. He insists that he never grew for the black market, sticking to the letter of Oregon's medical marijuana law, but the risk of arrest was still very real. He says he got busted once when he was a 20-something college student in Florida, ending up in jail over four knee-high plants that he swears to this day belonged to his roommate.

Those worries are now mostly a thing of the past, however. Instead of a criminal, he's just another local farmer who wears Carhartt to work and takes pride in the quality of his crop.

"We're right out in the open," Acken says. "We're the first permitted facility in Hood River. We set up shop not hiding who we are. We know all our neighbors. There's a part of me that has a little lingering fear from years of having the threat of going to prison for gardening, but it's really a new day."

* * *

That new day hasn't dawned entirely. The hodgepodge of pot laws nationwide — 23 states plus Washington, DC now allow some form of medical marijuana — has created a situation ripe for exploitation. One of the great promises of marijuana legalization has been the concurrent elimination of the black market for weed, putting local dealers out of business and sticking it to Mexican cartels by cutting into their bottom line.

But while that may happen eventually, the black market in the United States is still thriving.

Growers, consumers, dealers, and others in the industry told VICE News about operators that undercut prices at state pot shops, and several sources described illicit operations that ship large quantities of weed across the country from states

that have legalized pot to states that haven't. Mexican organized crime experts told us that cartels are still smuggling bricks of bud across the border, and are perhaps even improving the quality of their product to cater to the rising expectations of American stoners.

"You're not going to eliminate the black market overnight," Beau Kilmer, co-director of the RAND Drug Policy Research Center, told VICE News. "It's going to take some time, because essentially when you look at prices in the black market, whether it's marijuana or meth or cocaine, you're compensating drug dealers and everyone in the supply chain for the risk of arrest and incarceration. That goes away with legalization."



Plants at the Human Collective marijuana dispensary in Portland. (Photo by Kirsten Luce/VICE News)

Most experts agree with Kilmer, saying that in time, as more states repeal pot prohibition, the dynamics of the marijuana black market will begin to resemble those of America's tobacco and alcohol black markets. There are still people selling untaxed loose cigarettes and running moonshine even though the vast majority of consumers prefer going to the store to buy smokes and alcohol legally. Right now, it's extremely tempting for growers in legal states to export their product to prohibition states, where prices are far higher.

Sam Chapman, cofounder of New Economy Consulting, a firm that specializes in the marijuana industry, told VICE News it's widely known that a significant portion of the weed grown in Oregon and northern California gets exported to the East Coast.

"We've been seeing that product end up in Florida, end up in New York — places that don't have cannabis decriminalization and have very harsh punishments," he said. "When you have prohibition in other states, it drives the price up [there] because it's not regulated... I'd guess 80 percent of all product in Oregon is, unfortunately, leaving the state."

Related: [Is the NYPD Overstating the Dangers of 'Weaponized' Marijuana?](#) ↗

Chapman's assessment is backed up by both figures from law enforcement and firsthand accounts from dealers and growers. In Idaho, which shares a border with both Washington and Oregon, marijuana seizures by state police skyrocketed from 131 pounds in 2011 to more than 700 pounds in each of the last two years. That trend is holding so far in 2015, according to Idaho State Police spokeswoman Teresa Baker.

"It's not necessarily people trafficking into Idaho, but it's going through Idaho," Baker told VICE News. "We've seen quite a lot of drugs going on to other states. Not just marijuana, but other drugs going to the Dakotas because there's a large demand

over there with the oil fields... and then over to Minnesota. We had a big [marijuana] seizure that was coming from Washington state recently, and I believe it was going to Florida."

The owner of a Portland gardening store that specializes in outfitting weed grow-ops told VICE News that about 70 percent of his customers are buying gear with plans to grow for the black market. He said the bureaucratic hassle of getting into the legal market and the surprisingly high costs — as much as \$215 in expenses per pound by one estimate

(http://www.rand.org/content/dam/rand/pubs/working_papers/2010/RAND_WR764.pdf — and intensive labor involved with growing high-quality weed incentivizes illicit, out-of-state sales, which provide higher returns on investment.

"They have bills to pay," said the owner, who spoke to us on the condition we not use his name. "It takes money to buy lights, fertilizer, packaging materials. You have to pay people to trim and plant it. When you need more money to get your next crop in, you're going to go back East. That's where the money is at.... I see that with everybody."

* * *

The term "legal weed" is something of a misnomer. Marijuana is still a Schedule I controlled substance under federal drug laws, meaning every person in America — regardless of what state they're in — could be arrested and prosecuted for growing, selling, or possessing pot. So far, the feds have opted for a laissez-faire approach to the quasi-legal system, allowing state markets to exist with minimal interference. A new US president could unilaterally reverse that policy, however, and at least one Republican candidate, New Jersey Governor Chris Christie, has already vowed (<http://www.politico.com/story/2015/07/chris-christie-enforce-marijuana-illegal-2016-120769.html>) to do just that if he is elected.

Even states that have legalized pot for recreational use have made it difficult or impossible for users to get high without running afoul of the law. Oregon's recreational law took effect on July 1, but there are currently no stores open that sell pot to the general public. Recently enacted legislation will allow the state's 310 medical dispensaries to start selling recreational weed — but not until October 1.

"The reality is, most Oregonians that smoke cannabis right now, many get it from the black market that exists," Matt Walstatter, the owner of Portland's Pure Green dispensary and a founding member of the Oregon Cannabis PAC, told VICE News.

"What I think is silly is to incentivize the black market. If you create a situation where it's legal and the only place to buy it is the black market, that just makes it easier for them."

Oregon's law also allows counties where more than 55 percent of voters opposed the law to ban marijuana stores. That ended up being virtually the entire eastern half of the state, which is mostly rural and conservative. Unless people there are willing to grow their own (the law permits individuals to grow up to four plants) or drive several hours and cross a mountain range when pot shops finally open on the other side of the state, they won't be able to score weed legally.

"It's one of those good news, bad news things," Russ Belville, the president of Portland's chapter of the National Organization for the Reform of Marijuana Laws (NORML), told VICE News. "The good news is we're legal now, the bad news is that what we voted for isn't what we got. It's kind of a mockery of the democratic process."



A customer shops at the Pure Green marijuana dispensary in Portland. (Photo by Kirsten Luce/VICE News)

Alaska and Washington, DC are also stuck in a gray area where possessing and consuming pot recreationally is legal for adults, but legal purchases aren't possible. Dealers in the nation's capital have brazenly taken to advertising on Craigslist, stating that they aren't charging for weed, but giving it as a "gift" or taking "donations" in a dubious attempt to adhere to the District's law.

It took more than a year of bureaucratic wrangling for Washington state to open its first recreational pot shop, and customers faced long lines and steep prices due to high taxes. The state now has 160 stores and counting, and the tax system was recently overhauled from a convoluted three-tier excise tax system to a single 37 percent tax levied on consumers. The change lowered prices slightly, but not quite enough to match those on the black market. Legal sales in Washington are now

estimated (<http://bigstory.ap.org/article/c2d8935c75154fb9b53ec33c16f9f193/after-year-washington-legal-pot-sales-taxes-top-70m>) at \$1.4 million per day, and the state netted more than \$70 million in weed tax revenue last year. Still, black market dealers said their lower prices and personal relationships with customers have allowed them to continue with business pretty much as usual.

"Right now with the way the tax structure is in Washington, the black market is going to thrive," a dealer in Vancouver, Washington, told VICE News. "There's always going to be a black market, because there are going to be [dealers] who have clientele bases, and people are used to them because it's convenient and familiar. It's like bartenders — you find one you like and you keep coming back."

Meanwhile, Nebraska and Oklahoma have sued Colorado, claiming that weed is spilling across Colorado's borders and straining their criminal justice systems. Attorney generals for those states claim that the federal Controlled Substances Act (CSA) trumps Colorado's law, an argument that, depending on the outcome, could potentially lead to all state-level legalization laws being struck down. The case is pending before the US Supreme Court, which has asked (<http://www.thecannabist.co/2015/05/04/supreme-court-marijuana-colorado-lawsuit-oklahoma-nebraska/34383/>) the federal government to file a brief explaining its position on the issue.

Nebraska Attorney General Doug Peterson declined an interview request from VICE News, but he said previously that his primary concern is the marijuana black market.

Watch VICE News go inside America's billion-dollar weed business.

"This is bringing in the cartels from Mexico," Peterson told (<http://www.wowt.com/home/headlines/Special-Report---Nebraska-v-Colorado-The-War-on-Weed-295996161.html>) Omaha's WOWT 6 News in May. "They think they sanctified the process and the cartels went away. They're coming in stronger. I recently heard today that the Russian cartels are here to compete for the market. It's a terrible social experiment."

Though there have long been rumblings (<http://www.washingtonpost.com/wp-srv/inatl/longterm/russiagov/stories/mafia092997.htm>) that the Russian mafia and Latin American cartels collaborate to smuggle cocaine, there's no evidence to suggest they've started selling weed in Nebraska. By most accounts, strains of high-THC pot produced locally for the medical market (or illicitly by knowledgeable growers) long ago supplanted inferior Mexican "brick weed" as the product of choice for smokers in much of the US. There have been reports that cartel marijuana business has declined as a result, along with claims that the narcos have responded by pushing more meth and heroin.

In January, the *Washington Post* reported (https://www.washingtonpost.com/world/the_americas/losing-marijuana-business-mexican-cartels-push-heroin-and-meth/2015/01/11/91fe44ce-8532-11e4-abcf-5a3d7b3b20b8_story.html) that the amount of weed seized by US authorities along the Mexican border has fallen 37 percent since 2011, while border seizures of heroin and meth are up threefold and fivefold, respectively, since 2009. The paper previously reported (https://www.washingtonpost.com/world/tracing-the-us-heroin-surge-back-south-of-the-border-as-mexican-cannabis-output-falls/2014/04/06/58dfc590-2123-4cc6-b664-1e5948960576_story.html) that the wholesale price of marijuana in the Golden Triangle, the drug-producing region in Mexico's Sierra Madre mountains, had plummeted; cartels that had been offering farmers \$100 per kilogram began offering less than \$25 over the past five years. A kilo of raw opium, meanwhile, was reportedly fetching \$1,500, providing a strong incentive for impoverished *campesinos* to switch from growing pot to poppies.

But experts on organized crime in Latin America told VICE News that drawing a connection between marijuana and hard drug seizures is tenuous. The increase in heroin and meth seizures coincided with a US rise in opioid addiction linked to prescription pill abuse, and cartels came to dominate the meth business during that time after tighter restrictions on precursor ingredients shut down most labs in America.

"It is important to not confuse correlation with causation," cautioned Juan Carlos Garzón, a fellow at the Wilson Center who researches organized crime in the Americas. "There are about 600,000 regular heroin users and about 440,000 meth users in the US, but there are 10 to 20 million regular weed smokers. I don't think that it is realistic to state that cartels are going to entirely abandon the marijuana black market."

Alejandro Hope, security and justice editor at *El Daily Post* and a former Mexican intelligence official, said that in terms of cartel economics, "growing marijuana accounts for around a third of drug exports and significantly less in terms of revenue." (Garzón estimated that cartels make about a fifth of their profits from pot.) Hope told VICE News that US legal weed laws haven't had much impact south of the border, at least thus far.

"There's no strong evidence that marijuana exports have declined," Hope said. "The evidence that we have is subjective but not conclusive. Seizures at the border have declined, and eradication in Mexico has declined significantly. But having said that, it's unlikely that state-level legalization has had much effect on Mexico. It will in the future, but not right now."

A DEA spokesman declined a VICE News interview request, but recent cases indicate that Mexican cartels are still trafficking large quantities of marijuana, and suggest they may even be attempting to match the potency of America's finest pot. In June, Mexican authorities seized (<https://news.vice.com/article/with-45-tons-of-weed-seized-in-tijuana-it-looks-like-pot-is-still-a-cash-crop-for-cartels>) more than 45 tons of supposedly "high quality" weed in a Tijuana warehouse. In late July, police in Jalisco discovered three giant greenhouses staffed by a team of Colombians reportedly (<https://news.vice.com/article/mexico-busts-giant-weed-greenhouses-in-jalisco-allegedly-run-by-team-of-colombians>) imported for their pot-growing expertise. The facilities were described as being similar to American set-ups, with a sophisticated irrigation system to deliver water and nutrients to "genetically modified" plants.

Even in Portland, far removed from the Sierra Madre, vehement proponents of legalization acknowledge that the new status quo will likely have little effect on cartels. Donald Morse, director of the Oregon Cannabis Business Council and the owner of the Human Collective dispensary, told VICE News the current result of

legalization is "not the black market as most people visualize it," but friends buying from and selling to each other, often relying on those who have access to medical marijuana.



Product at Pure Green. (Photo by Kirsten Luce/VICE News)

"It's a mini black market of sorts," Morse said. "Some just call it the gray market. It's not going to be the cartels or that kind of thing, I don't believe they'll gain or lose from this. It will be business as usual for them."

Belville, the Portland NORML president, noted that weed legalization frees up resources for police to focus on other types of crime, and that weed users — who may have once been hesitant to call the cops for fear they'd end up getting busted themselves — are now more likely to report domestic violence and other crimes. (Violent crime and property crime have decreased

(https://www.drugpolicy.org/sites/default/files/Colorado_Marijuana_Legalization_One_ in Denver since Colorado's recreational pot law took effect.) As Belville sees it, Oregon's new "gray market" is relatively innocuous; the problem lies with strict prohibition states where gangs and organized crime groups still have the upper hand.

"The farther it gets from the original grower, the blacker the market gets," he said. "When it passes from hand to hand and turf becomes an issue, that's problematic. What the black market [in Oregon] will have will be the guy who grows and shares with his friends, not for \$300 an ounce but for friend prices."

* * *

After showing VICE News around his grow-op in Hood River, Acken hops in the driver's seat of his blue '69 Impala convertible, puts on a pair of sunglasses, and leads an impromptu tour of Hood River on the way to lunch at a local microbrewery. He points out pear and cherry orchards, marveling at the scenic landscape as though he's seeing it for the first time. He chuckles over the fact that the local medical marijuana dispensary with which he partners is just down the block from the town's police station. It's a far cry from how things used to be, he says.

"Everybody who has been in this business for a while has a story about getting burned, because before, if somebody screwed you over, who are you going to call?"

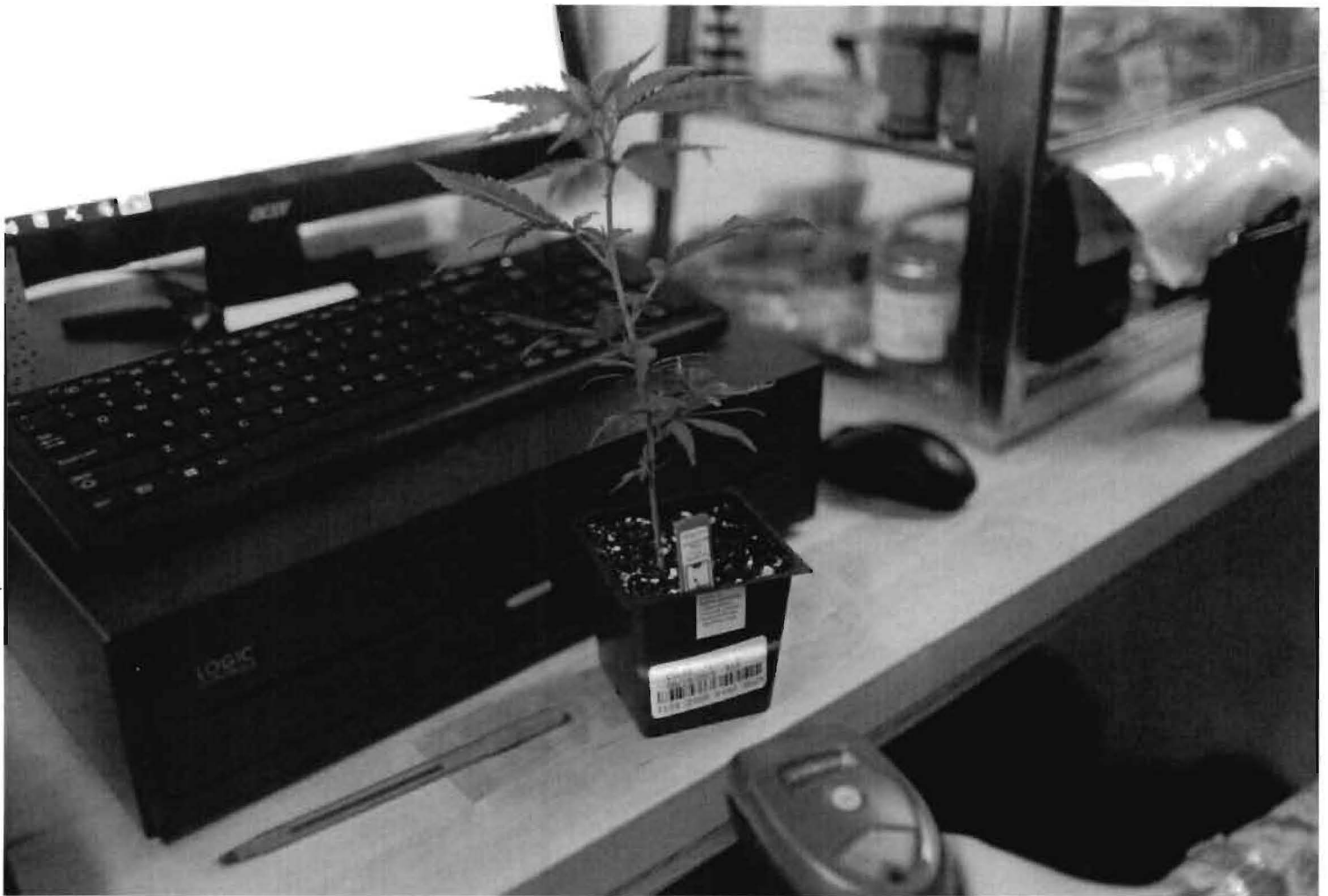
If, as many advocates argue, increased legalization is the key to solving the black market dilemma, it likely won't be long until that argument is put to the test. A proposal (<https://news.vice.com/article/ohios-legal-weed-proposal-could-create-the-worlds-first-pot-grower-oligarchy>) that would allow commercial pot sales in Ohio has qualified for the state's ballot in November, voters in Nevada are set to decide on a legalization proposal (<http://www.regulatemarijuanainnevada.org/>) next year, and

Californians will also have the chance to vote on several similar measures (<http://www.pressdemocrat.com/news/4214526-181/marijuana-supporters-unveil-plans-for?page=0>) in 2016.

"It's going to be a few years before we're able to say something definitive about the short-run consequences," Kilmer, the RAND expert, said. "The effect in the short run could be different than how things play out 10 years later, especially when you're calling for for-profit companies to get involved. There could be concentration in the market over time as bigger players purchase smaller business," a change that could dramatically lower production costs and therefore prices.

Efforts to end federal prohibition are also gaining momentum. Lawmakers in Washington, DC are increasingly tempted by the tax dollars to be gained from legalization, and the pot industry has stepped up its lobbying efforts. In July, Kentucky Senator Rand Paul held the first-ever marijuana fundraiser for a presidential candidate, raising more than \$100,000 for his campaign from pot industry bigwigs who paid \$2,700 each to hear the potential Republican nominee speak.

Paul has called long jail sentences for marijuana-related offenses "ridiculous," and said he supports allowing state-level legalization. The libertarian-leaning candidate's positions are likely to resonate with younger voters: According to the Pew Research Center, 68 percent (<http://www.pewresearch.org/fact-tank/2015/04/14/6-facts-about-marijuana/>) of millennials — people born between 1981 and 1997 — support legalization. Overall, 53 percent of all Americans are now in favor of ending pot prohibition, up from just 31 percent in 2000.



A plant being sold at Human Collective. (Photo by Kirsten Luce/VICE News)

In Oregon, Walstatter, the co-founder of the Oregon Cannabis PAC, said his organization recently hosted a fundraiser that netted \$100,000 for Democratic Congressman Earl Blumenauer, the largest fundraising event in the state since one held for Barack Obama in 2008. "We had other congressmen saying 'When are you going to raise me a hundred grand?'" Walstatter said, noting that his group is planning a lobbying trip to DC in the fall.

Both Walstatter and Chapman, the marijuana industry consultant, said they knew of several black market growers who had switched over to supply the medical or recreational industry. Chapman cautioned, however, that the ability to reap greater profits on the black market remains tempting.

"A lot of producers are having to ask themselves: 'Do we want to take a small hit on the bottom line in order to become compliant and eventually have a long-term, profitable legal business?' Or do they say 'Screw it, we're happy doing what we're doing, and we don't want to risk changing the model?'" Chapman said. "That's the fork in the road."

Acken still chafes at some of the hassles that come with legalization. Oregon's law limits the number of plants a grower can have rather than limiting canopy square footage, meaning it takes Acken longer to harvest his crop; a greater number of smaller plants would be more efficient. He's also apprehensive about the prospect of stringent tracking requirements and mandatory cameras in grow rooms (a regulation that has not yet actually been proposed).

"We expect pretty incredible surveillance on us and our plants," Acken said. "It's kind of weird and creepy."

But Acken is most wary about how changes in the marketplace could favor big business and drive growers back underground. Ohio's legal weed proposal would allow commercial pot growing at just 10 sites controlled by the initiative's wealthy backers, potentially creating what has been dubbed (<https://news.vice.com/article/ohios-legal-weed-proposal-could-create-the-worlds-first-pot-grower-oligarchy>) the world's first "pot grower oligarchy." Acken fears a future where Wall Street and the pharmaceutical industry call the shots.

Related: Massive Bust Brings Charges Against Puerto Rico Drug Syndicate [↗](#)

"Make it like the craft beer industry where people can bring their product directly to the market," he says. "You'll see retailers merge and have power over growers. Otherwise, it's the Wal-Mart effect — growers will have to take whatever [wholesalers] are offering."

He stops, then smiles as he admits that right now, he's got it pretty good. He's his own boss, he makes more than enough to make ends meet, and he's no longer looking over his shoulder worrying about getting arrested.

"I do know one thing for a fact," he says of the seemingly bright future of the pot business. "For all of this to happen someday and for everybody to get rich, somebody has to grow some pot. So I at least have some decent job security."

*Follow Keegan Hamilton on Twitter: @keegan_hamilton
(https://twitter.com/keegan_hamilton)*

TOPICS: *pot (/topic/pot), marijuana (/topic/marijuana), united states (/topic/united-states), oregon (/topic/oregon), crime & drugs (/topic/crime-drugs), americas (/topic/americas), legalized pot (/topic/legalized-pot), mexico (/topic/mexico), drug cartels (/topic/drug-cartels), mexican drug cartels (/topic/mexican-drug-cartels)*

RECOMMENDED



[\(/article/this-week-on-the-line-robert-eshelman-discusses-this-years-record-breaking-temperatures\)](#)

This Week On The Line: Robert Eshelman Discusses This Year's Record-Breaking Temperatures [\(/article/this-week-on-the-line-robert-eshelman-discusses-this-years-record-breaking-temperatures\)](#)



[\(/video/flooding-fields-in-californias-drought\)](#)

Flooding Fields in California's Drought [\(/video/flooding-fields-in-californias-drought\)](#)

Two killed in robbery of marijuana-growing operation in Fresno

By **ADOLFO FLORES**

LOS ANGELES TIMES – AUGUST 7, 2014

An apparent robbery of a marijuana-growing operation in Fresno resulted in a fatal gunfight Thursday that left two suspects dead and a 15-year-old girl being used as a human shield by fleeing robbers.

Two of the alleged gunmen who broke into the house in south Fresno are in custody and three remain at large, said Lt. Louis Hernandez with the Fresno County Sheriff's Office.

Deputies were called to the house in the 5100 block of South Orange Avenue about 4:10 a.m., initially for a report of a prowler. The suspects identified themselves as law enforcement to the residents of the house, Hernandez said, but the residents didn't believe them.

The alleged robbers then kicked in a door and a gunfight ensued between the suspects and people in the home. The gunmen kidnapped a 15-year-old girl from the home and used her as a human shield as they left.

As deputies arrived at the scene, Hernandez said, they spotted two cars fleeing at high speeds. Authorities lost the vehicle with the kidnapped girl, but were able to follow the other car to a hospital.

There were three suspects in the vehicle, one of whom was wounded and succumbed to his injuries. The suspects in the other car dropped the teenager off near downtown Fresno.

She called a friend for a ride and arrived back at the home shortly thereafter.

One of the alleged gunmen died at the house after being shot, Hernandez said.

Sergio Hernandez, 23, of San Bernardino and Chi Tang, 31, of Madera were arrested. They could face charges of home-invasion robbery, kidnapping and two counts of attempted murder, as well as charges of using of a firearm during the commission of a felony and felony evading, according to a statement from the Fresno County Sheriff's Office.

No one has been arrested in connection with the marijuana-growing operation, Lt. Hernandez said.

Marijuana grower says the same burglary crew has hit 8 Denver pot-grow operations in past six weeks

Amanda Kost, Alan Gathright

1:30 PM, Oct 4, 2013

7:09 PM, Oct 4, 2013

DENVER - Three Denver marijuana-growing businesses tell 7NEWS their operations have been hit recently by a rash of burglaries.

A Denver Police Department report shows the suspects got away with fourteen plants during one burglary at 2:30 a.m. Friday. An officer found the room containing the business' security equipment was intentionally damaged.

"This had obviously been done in an attempt to disable the recording equipment," the officer wrote in a report. "The location of this room was in a dark, remote location of the warehouse and led me to believe the suspect/s had intimate knowledge of the layout and operations of the dispensary."

One pot grower says his operation is one of two he knows of that were burglarized within the last 48 hours. He says a detective told him there have been at least eight burglaries of grow operations in the past six weeks.

All of the cases involved a two-tone Ford Bronco, the grower said he had been told. A surveillance camera at one of the grower's operations showed the Bronco driving outside the facility early Friday morning. Surveillance cameras also captured two hooded burglars roaming through the grow operation.

Though less specific, a police report does mention a blue Ford Bronco and says, "This vehicle matches the description of vehicle [sic] from other dispensary burglaries."

None of the targeted marijuana growers want their grow locations identified for obvious security reasons.

Violent Robbery At Medical Pot Dispensary Caught On Camera

April 28, 2015 10:03 AM
CBS Denver

DENVER (CBS4) – Surveillance video shows the distress during a violent armed robbery last week at a Denver medical marijuana dispensary.

Shortly after 9 a.m. last Wednesday four men broke into the High St Cannabis Station near the intersection of East 14th Avenue and High Street.

The owner said one man ordered a female employee to the ground, then fired two shots at another worker who tried to run into the alley. The shots missed, and the robbers ran out with edibles and hash oil.

“Somebody got shot or I thought it was a crash or something like that,” said neighbor Oscar Saucedo.

He saw two of the suspects get out of a dark blue Nissan Armada. He said the crime has rocked the neighborhood.

“Unsafe I guess. The dispensary is right in the neighborhood, near the houses, there’s a lot of children around here,” Saucedo said.

The group of suspects includes a white male with two teardrop tattoos near his left eye, two black males and a white or Hispanic man with a large tattoo near his left eye.



With no arrests made, Saucedo and his neighbors are worried the bandits may soon return.

He said it's "Pretty scary, 'cause they might be robbing the houses too."

The High St Cannabis Station added armed security guards during the day.

Denver Police Suspect Descriptions

The first suspect is described as a white male, 6-foot-2, 170 pounds with two tear drop tattoos next to his left eye.

The second suspect is described as a black male, 5-foot-5, wearing a #2 Ireland soccer jersey.

The third suspect is described as an Hispanic male, 5-foot-7, with a large tattoo near his left eye.

The fourth suspect is described as a black male with dreadlocks.

Denver police released the following information about this case:

Anyone with information regarding these crimes or recognizes the suspect in the sketch is asked to contact Crime Stoppers at 720-913-STOP (7867). You can text to CRIMES (274637) then title DMCS and enter your message or send an e-mail to metro-denvercrimestoppers.com. If the information you provide leads to the arrest and charging of a wanted individual, you can receive a cash reward up to \$2,000.

IE SWAT Standoff Ends in Arrests After Marijuana Dispensary Ambush Robbery: Police

Three people were zip-tied during the robbery ambush and one shot, said police, who tracked some of the suspects to a nearby Upland residence

By **Asher Klein** and **Jane Yamamoto**

Jane Yamamoto reports for the NBC4 News at 6 p.m. on Saturday, Jan. 31, 2015. (Published Saturday, Jan. 31, 2015)

Updated at 9:49 PM PDT on Saturday, Jan 31, 2015

An hours-long standoff ended in the arrests of two men and two boys in the Inland Empire, where a medical marijuana dispensary was robbed.

An hours-long standoff between a SWAT team and men believed to have violently robbed three other men at a nearby Inland Empire medical marijuana dispensary ended in four arrests Saturday morning.

Two men and two boys were arrested after police used a claw device to rip open the facade of the Upland apartment where the suspects were holed up.

"I saw cops, guns, rifles. I saw guys on the roofs, which I think were the sharpshooters," a witness said.

Three were arrested in that house, while the fourth suspect was found and taken into custody at a nearby apartment complex, Upland police said. The four suspects allegedly had five handguns in their possession.

Earlier, police said five men in hoods took money and a car from the marijuana dispensary, but they later revised that number to four.

The four suspects face charges of robbery, assault with a deadly weapon and kidnapping, police said.

The suspects are believed to have shot one of three men they tied up at the dispensary, in the 700 block of North Mountain Avenue, at about 10 p.m. Friday. The dispensary was about three miles from the apartment complex where the standoff took place.

The men were able to break free from zip ties and spoke to police.

A SWAT team arrived at the house in the 1400 block of Randy Street about 4:40 a.m. as police evacuated nearly 75 residents of the neighborhood. The long standoff ended at around 11 a.m.

Diego Sanchez, 19, of Upland, and Christopher Baca, 30, of Covina, were arrested along with two boys who haven't been named because of their ages, police said. It wasn't clear what their relationship was.

Police responded to Cal Med Express, located at 759 North Mountain Avenue, in Upland, just after 11 p.m. for a robbery call, Lt. Alan Ansara said. They found the three victims who had been tied up by the robbers, Ansara said.

The three men were leaving the medical marijuana dispensary about 10 p.m. Friday, when they were approached by males wearing gloves and hoods over their faces, police said. The victims were forced back into the business and were immediately zip-tied.

One of the victims suffered a non-life threatening gunshot wound to his leg and was later transported to Arrowhead Regional Medical Center, Ansara said. Another victim was pistol whipped during the incident but did not need any medical treatment.

The suspects allegedly took off in one of the victims' 2007 dark grey Lexus IS 250 with cash and marijuana, police said.

The shop was not zoned to sell medical marijuana, police said.