



Deschutes County Board of Commissioners  
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## **AGENDA REQUEST & STAFF REPORT**

### **For Board Business Meeting of May 25, 2016**

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**DATE:** 5/19/16

**FROM:** Matthew Martin                      Community Development Department                      541-330-4620

**TITLE OF AGENDA ITEM:**

Consideration of First Reading by Title Only of:

Ordinance Nos. 2016-013 through 2016-018 amending Deschutes County Code (DCC) Titles 8, 18, 19, 20, and 21 to define, permit, and regulate marijuana related businesses in unincorporated Deschutes County, and Title 15 to define and regulate greenhouse lighting.

**PUBLIC HEARING ON THIS DATE?** No

**BACKGROUND AND POLICY IMPLICATIONS:**

On May 2, 2016, The Board of County Commissioners (Board) conducted a public hearing to consider regulations of marijuana related land uses and the status of the "opt out" moratorium (Ord. 2015-009) prohibiting several marijuana related land uses. On May 4, 9, and 11, 2016, the Board deliberated and provided direction to staff to develop land use regulations for marijuana-related businesses in unincorporated Deschutes County. In addition, the Board decided to initiate the process to rescind Ord. 2015-009. Staff has converted that direction into draft text amendments to Deschutes County Code (DCC) for the Board to review, amend, and/or adopt.

**FISCAL IMPLICATIONS:**

Unknown

**RECOMMENDATION & ACTION REQUESTED:**

The purpose of this agenda item is for the Board to consider the draft text amendments, and then:

1. Provide direction and clarification to staff on revisions to incorporate into the text amendments to bring back for Board approval and First Reading on June 6 or June 8; or
2. Conduct First Reading on some or all ordinances to adopt the amendments into DCC; Second Reading would occur on or after June 8.

In addition, the Board may consider conducting First Reading of an ordinance to rescind the opt-out.

MOTION 1: First Reading by title only of Ordinance 2016-013.

(Repeat first reading a process for Ordinances 2016-014 through 2016-018)

**ATTENDANCE:**

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

**DISTRIBUTION OF DOCUMENTS:**

Matthew Martin, CDD, Legal Counsel



# Community Development Department

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## MEMORANDUM

**TO:** Deschutes County Board of Commissioners

**FROM:** Nick Lelack, AICP, Director  
Matthew Martin, AICP, Associate Planner

**DATE:** May 19, 2016

**SUBJECT:** Proposed Marijuana Related Business Regulations. County Land Use File No. 247-15-000542-TA.

### I. SUMMARY

On May 11, 2016 the Board of County Commissioners (Board) deliberated and provided direction to staff to develop land use regulations for marijuana-related businesses in unincorporated Deschutes County. Following that direction, staff drafted text amendments to Deschutes County Code (DCC) and, in the process, identified key issues that require Board direction and/or clarification.

The purpose of this agenda item is for the Board to consider the draft text amendments, and then either:

1. Provide direction and clarification to staff on revisions to incorporate into the text amendments to bring back for Board approval and First Reading on June 6 or June 8; or
2. Conduct First Reading on some or all ordinances to adopt the amendments into DCC; Second Reading would occur on or after June 8.

In addition, the Board may consider conducting First Reading of an ordinance to rescind the opt-out.

A list of all ordinances is provided on page 5 of this memorandum. Please note, of primary interest:

1. Exhibit J to Ordinance 2016-015 provides the specific use standards for marijuana production, processing and retail.
2. Exhibit K to Ordinance 2016-015 provides the findings demonstrating that these reasonable regulations are compliant with State law and the County's Comprehensive Plan.

## II. KEY ISSUES

### 1. Setback Exceptions

The Board directed staff to allow for exceptions to the setback requirements under certain conditions. Staff proposes the following:

Exception: Any reduction to these setback requirements may be granted by the Planning Director or Hearings Body provided the applicant demonstrates the reduced setbacks afford equal or greater mitigation of visual, odor, noise, lighting, privacy, and access impacts.

### 2. Access

The Board directed staff to apply access restrictions to Tier 2 or similarly large marijuana production and processing operations. Staff proposes the same general provisions recommended by the Planning Commission, but only applicable to properties with marijuana production over 5,000 square feet of canopy area for mature marijuana plants.

### 3. Odor

The Board generally supported the Marijuana Advisory Committee's recommendation, while also stating that that the odor control requirements should not be too specific to preclude new technologies or other effective mitigation measures. Staff proposes two options to address odor. One option is the MAC recommendation as conceptually refined by the Board during deliberations. The second is an alternative that provides significantly greater flexibility to mitigate this impact.

#### Option 1

Odor. As used in Subsection 18.116.330(B)(10), building means the building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing.

- a. The building shall be equipped with an effective odor control system which must at all times prevent unreasonable interference of neighbors' use and enjoyment of their property.
- b. An odor control system is deemed permitted only after the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the system will control odor so as not to unreasonably interfere with neighbors' use and enjoyment of their property.
- c. Private actions alleging nuisance or trespass associated with odor impacts are authorized, if at all, as provided in applicable state statute.
- d. The odor control system shall consist of one or more fans.
- e. The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three.
- f. The filter(s) shall be rated for the required CFM.
- g. The system shall be maintained in working order and shall be in use.

## **Option 2**

Odor. All marijuana production and processing shall install an effective odor control system in all buildings, including but not limited to, greenhouses, hoop houses, and similar non-rigid structures. The effective odor control system shall:

- a. Prevent marijuana plant odor from disturbing people of normal sensitivity owning or residing on properties within one-quarter mile of all property lines on which the marijuana production and processing is sited;
- b. Designed and stamped by a mechanical engineer licensed in the State of Oregon; and
- c. Continually maintained in working order and in use when plants are in the building.

In addition, staff proposes to separately draft an amendment to the Code Enforcement Policy and Procedures Manual to permit affected residents within a specified distance to submit anonymous complaints pertaining to odor impacts.

## **4. Screening and Fencing**

The proposed screening standards are intended to:

- a. Require all marijuana production and processing-related buildings, greenhouses, hoop houses, and similar structures to comply with the Landscape Management standards requirements when they are located in that combining zone.
- b. Outside the Landscape Management Combining Zone, preserve existing vegetation and landscape features.
- c. Outside the Landscape Management Combining Zone, require fencing, razor wire, etc. to blend in with the natural environment by finishing in earth tones, and prohibit the use of temporary materials.

## **5. Water**

Staff proposes the same text that was adopted by Clackamas and Jackson counties:

Water. The applicant shall provide:

- a. A water right permit or certificate number; or
- b. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
- c. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.

## **6. Nonconformance**

The proposed standards aim to require all lawfully established medical marijuana grow sites by the date of Second Reading of the ordinances (possibly June 8, 2016) to comply with the following standards at the time the ordinance is in effect (lighting) or within six (6) months of the adoption of the ordinances:

1. Lighting
2. Odor
3. Noise

4. Screening
5. Security Cameras
6. Secure Waste Disposal

Existing lawfully established medical marijuana grow sites would not be required to comply with the standards below. The reason is that it is unknown if or how compliance may be achieved, or if - compliance would be legal. As a result, existing lawfully established medical marijuana grow sites not in compliance with the standards below would become legal nonconforming uses. Conversion to recreational marijuana production would require compliance with all applicable standards. In addition, Clackamas County provided similar exemptions in its Code for the same reasons.

1. Zoning District
2. Minimum Lot Size
3. Maximum Mature Plant Canopy Size
4. Indoor Production and Processing
5. Maximum Building Floor Area
6. Limitation on License/Grow Site per Parcel
7. Setbacks
8. Minimum Separation Distances
9. Access
10. Water
11. Fire Protection
12. Utility Verification
13. Residency

#### 7. **Prohibited Uses**

Staff proposes to include uses specifically prohibited by HB 3400 into DCC similar to Clackamas and Jackson counties. In addition, per Board direction, staff proposes to prohibit agri-tourism and other commercial events and activities related to marijuana. There is no requirement that any of these prohibitions be included in DCC. If State law changes, then Deschutes County's more restrictive regulations would remain in effect until or unless DCC is amended to allow these uses.

Prohibited Uses. In the EFU zone, the following uses are prohibited:

- 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;
- 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; and
- d. Agri-tourism and other commercial events and activities in conjunction with a marijuana crop.

### III. BOARD DIRECTION / DECISIONS

Staff seeks Board direction on next steps.

1. Provide direction and clarification to staff on revisions to incorporate into the text amendments based on the issues discussed above or any other issue in the package of amendments and ordinances to bring back for Board approval and First Reading on June 6 or June 8; or
2. Conduct First Reading on some or all ordinances to adopt the amendments into DCC; Second Reading would occur on or after June 8.
3. Consider conducting First Reading of the ordinance to rescind the opt-out.

### IV. ATTACHMENTS

1. Ordinance 2016-013, Title 8
2. Ordinance 2016-014, Title 15
3. Ordinance 2016-015, Title 18
4. Ordinance 2016-016, Title 19
5. Ordinance 2016-017, Title 20
6. Ordinance 2016-018, Title 21

REVIEWED  
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending DCC Title 18 to Define, Permit, and Establish Standards for Marijuana Related Businesses in Conjunction with State Law. \*  
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ORDINANCE NO. 2016-015

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File No. 247-15-000253-TA) to the Deschutes County Code (DCC) Title 18, Chapter 18.04, Title, Purpose and Definitions; Chapter 18.16, Exclusive Farm Use Zones; Chapter 18.32, Multiple Use Agricultural Zone; Chapter 18.65, Rural Service Center-Unincorporated Community Zone; Chapter 18.66, Terrebonne Rural Community Zoning Districts; Chapter 18.67, Tumalo Rural Community Zoning Districts; Chapter 18.74, Rural Commercial; Chapter 18.100, Rural Industrial Zone; Chapter 18.108, Urban Unincorporated Community Zone-Sunriver; and Chapter 18.116, Supplementary Provisions to incorporate changes that define, permit and establish standards for marijuana related businesses; and

WHEREAS, the Deschutes County Planning Commission held public hearings on November 5 and 12 2015, to review the amendments and recommended adoption; and

WHEREAS, the Board of County Commissioners considered this matter after a duly noticed public hearings on December 2, 2015, and May 2, 2016, and concluded that the public will benefit from the changes to Title 18; and

WHEREAS, the Board finds it in the public interest to adopt amendments to the DCC to define “permit,” and establish standards for Medical Marijuana Dispensaries in conjunction with Deschutes County Code (Title 18) and state law (including HB 3400, SB 1598, and ORS 30.395); now, therefore,

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

Section 1. AMENDMENT. DCC 18.04.030, Definitions, is amended to read as described in Exhibit “A,” attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 2. AMENDMENT. DCC 18.16.020, Uses Permitted Outright, and DCC 18.16.030, Conditional Uses Permitted High Value and Non-high Value Farmland, are amended to read as described in Exhibit “B,” attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 3. AMENDMENT. DCC 18.32.030, Conditional Uses Permitted, is amended to read as described in Exhibit “C,” attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 4. AMENDMENT. DCC 18.65.020, RSC – Commercial/Mixed Use District (Brothers, Hampton, Millican, Whistlestop and Wildhunt), and DCC 18.65.022, Alfalfa RSC - Residential District, are amended to read as described in Exhibit “D,” attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 5. AMENDMENT. DCC 18.66.040, Commercial (TeC) District, and DCC 18.66.050, Commercial-Rural (TeCR) District, are amended to read as described in Exhibit “E,” attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 6. AMENDMENT. DCC 18.67.040, Commercial (TuC) District, and DCC 18.67.060, Industrial (TuI) District, are amended to read as described in Exhibit “F,” attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 7. AMENDMENT. DCC 18.74.020, Uses Permitted – Deschutes Junction and Deschutes River Woods Store, DCC 18.74.025, Uses Permitted – Spring River, and DCC Section 18.74.027. Uses Permitted – Pine Forest and Rosland, are amended to read as described in Exhibit “G,” attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 8. AMENDMENT. DCC 18.100.010, Uses Permitted Outright, and DCC 18.100.020, Conditional Uses, are amended to read as described in Exhibit “H,” attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 9. AMENDMENT. DCC Chapter 18.108.050, Commercial-C District, DCC 18.108.055, Town Center – TC District, and DCC 18.108.110, Business Park - BP District, are amended to read as described in Exhibit “I,” attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 10. AMENDMENT. DCC 18.116.280, Home Occupations, DCC 18.116.320, Medical Marijuana Dispensary, and DCC 18.116.330, Marijuana Production, Processing, and Retailing, are amended to read as described in Exhibit “J,” attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 11. FINDINGS. The Board adopts as its findings Exhibit “K,” attached and incorporated by reference herein.

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Dated this \_\_\_\_\_ of \_\_\_\_\_, 2016

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
ALAN UNGER, Chair

\_\_\_\_\_  
TAMMY BANEY Vice Chair

ATTEST:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
ANTHONY DEBONE, Commissioner

Date of 1<sup>st</sup> Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Date of 2<sup>nd</sup> Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Alan Unger	_____	_____	_____	_____
Tammy Baney	_____	_____	_____	_____
Anthony DeBone	_____	_____	_____	_____

Effective date: \_\_\_\_\_ day of \_\_\_\_\_, 2016.

“\*\*\*\*” Denotes portions of this Section not amended by Ordinance 2016-015.

#### 18.04.030. Definitions.

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“Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.

“Cannabinoid concentrate” means a substance obtained by separating cannabinoids from marijuana by a mechanical extraction process; a chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol, or ethanol; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or dried marijuana leaves or flowers have been incorporated.

“Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid product” means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers. Cannabinoid product does not include usable marijuana by itself, a cannabinoid concentrate by itself, a cannabinoid extract by itself, or industrial hemp as defined in Oregon Revised Statutes 571.300.

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“Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. Marijuana does not include industrial hemp as defined in Oregon Revised Statutes 571.300.

“Marijuana items” means marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.

“Marijuana Processing” means the processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.”

“Marijuana production” means the manufacture, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Liquor Control Commission, or registered with the Oregon Health Authority and a “person designated to produce marijuana by a registry identification cardholder.”

“Marijuana retailing” means the sale of marijuana items to a consumer, provided that the marijuana retailer is licensed by the Oregon Liquor Control Commission for recreational marijuana sales or registered with the Oregon Health Authority for medical marijuana sales.

“Marijuana wholesaling” means the purchase of marijuana items for resale to a person other than a consumer, provided that the marijuana wholesaler is licensed by the Oregon Liquor Control Commission.

“Person designated to produce marijuana by a registry identification cardholder” means person designated to produce marijuana by a registry identification cardholder under Oregon Revised Statutes 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 marijuana plants are produced.

(Ord. 2016-015 §1, 2016; Ord. 2015-004 §1, 2015; Ord. 2014-009 §1, 2014; Ord. 2013-008 §1, 2013; Ord. 2012-007 §1, 2012; Ord. 2012-004 §1, 2012; Ord. 2011-009 §1, 2011; Ord. 2010-022 §1, 2010; Ord. 2010-018 §3, 2010; Ord. 2008-007 §1, 2008; Ord. 2008-015 §1, 2008; Ord. 2007-005 §1, 2007; Ord. 2007-020 §1, 2007; Ord. 2007-019 §1, 2007; Ord. 2006-008 §1, 2006; Ord. 2005-041 §1, 2005; Ord. Chapter 18.04 35 ( 04/2015) 2004-024 §1, 2004; Ord. 2004-001 §1, 2004; Ord. 2003-028 §1, 2003; Ord. 2001-048 §1, 2001; Ord. 2001-044 §2, 2001; Ord. 2001-037 §1, 2001; Ord. 2001-033 §2, 2001; Ord. 97-078 §5, 1997; Ord. 97-017 §1, 1997; Ord. 97-003 §1, 1997; Ord. 96-082 §1, 1996; Ord. 96-003 §2, 1996; Ord. 95-077 §2, 1995; Ord. 95-075 §1, 1995; Ord. 95-007 §1, 1995; Ord. 95-001 §1, 1995; Ord. 94-053 §1, 1994; Ord. 94-041 §§2 and 3, 1994; Ord. 94-038 §3, 1994; Ord. 94-008 §§1, 2, 3, 4, 5, 6, 7 and 8, 1994; Ord. 94-001 §§1, 2, and 3, 1994; Ord. 93-043 §§1, 1A and 1B, 1993; Ord. 93- 038 §1, 1993; Ord. 93-005 §§1 and 2, 1993; Ord. 93-002 §§1, 2 and 3, 1993; Ord. 92-066 §1, 1992; Ord. 92-065 §§1 and 2, 1992; Ord. 92-034 §1, 1992; Ord. 92-025 §1, 1992; Ord. 92-004 1 and 2, 1992; Ord. 91-038 §§3 and 4, 1991; Ord. 91-020 §1, 1991; Ord. 91-005 §1, 1991; Ord. 91-002 §11, 1991; Ord. 90-014 §2, 1990; Ord. 89-009 §2, 1989; Ord. 89-004 §1, 1989; Ord. 88- 050 §3, 1988; Ord. 88-030 §3, 1988; Ord. 88-009 §1, 1988; Ord. 87-015 §1, 1987; Ord. 86-056 2, 1986; Ord. 86-054 §1, 1986; Ord. 86-032 §1, 1986; Ord. 86-018 §1, 1986; Ord. 85-002 §2, 1985; Ord. 84-023 §1, 1984; Ord. 83-037 §2, 1983; Ord. 83-033 §1, 1983; Ord. 82-013 §1, 1982)

### **18.16.020. Uses Permitted Outright.**

The following uses and their accessory uses are permitted outright:

- A. Farm use as defined in DCC Title 18.
- B. Propagation or harvesting of a forest product.
- C. Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(2)(a) or (b).
- D. Accessory buildings customarily provided in conjunction with farm use.
- E. Climbing and passing lanes within the right of way existing as of July 1, 1987.
- F. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
- G. Temporary public road and highway detours that will be abandoned and restored to original condition or use when no longer needed.
- H. Minor betterment of existing public road and highway-related facilities such as maintenance yards, weigh stations and rest areas, within a right of way existing as of July 1, 1987, and contiguous public owned property utilized to support the operation and maintenance of public roads and highways.
- I. Creation, restoration or enhancement of wetlands.
- J. A lawfully established dwelling may be altered, restored or replaced, subject to DCC 18.16.023.
  - 1. The replacement dwelling is subject to OAR 660-033-0130(30) and the County shall require as a condition of approval of a single-family replacement dwelling that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 to 30.937.
- K. A replacement dwelling to be used in conjunction with farm use if the existing dwelling is listed on the National Register of Historic Places and on the County inventory as a historic property as defined in ORS 358.480, and subject to 18.16.020(J)(1)above.
- L. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- M. Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:
  - 1. A public right of way;
  - 2. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
  - 3. The property to be served by the utility.
- N. The land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone, subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246 to 215.251.
- O. Fire service facilities providing rural fire protection services.
- P. Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(2)(a) or (b).
- Q. Outdoor mass gathering described in ORS 197.015(10)(d), and subject to DCC Chapter 8.16.

R. Composting operations that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract as allowed under OAR 660-033-0130(29).

S. Marijuana processing, subject to the applicable provisions of DCC 18.16.025(I) and 18.116.330.

T. Marijuana production, subject to the provisions of DCC 18.116.330.

(Ord. 2016-015 §2, 2016; Ord. 2014-010 §1, 2014; Ord. 2012-007 §2, 2012; Ord. 2010-022 §2, 2010; Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 2004-001 §2, 2004; Ord. 2001-039 §1, 2001; Ord. 2001-016 §2, 2001; Ord. 98-030 §1, 1998; Ord. 95-007 §10, 1995; Ord. 92-065 §3, 1992; Ord. 91-038 §§1 and 2, 1991; Ord. 91-024 §1, 1991; Ord. 91-020 §1, 1991; Ord. 91-005 §4, 1991; Ord. 91-002 §3, 1991; Ord. 86-007 §1, 1986; Ord. 81-025 §1, 1981; Ord. 81-001 §1, 1981)

### **18.32.030. Conditional Uses Permitted.**

The following uses may be allowed subject to DCC 18.128:

- A. Public use.
- B. Semipublic use.
- C. Commercial activities in conjunction with farm use. The commercial activity shall be associated with a farm use occurring on the parcel where the commercial use is proposed. The commercial activity may use, process, store or market farm products produced in Deschutes County or an adjoining County.
- D. Dude ranch.
- E. Kennel and/or veterinary clinic.
- F. Guest house.
- G. Manufactured home as a secondary accessory farm dwelling, subject to the requirements set forth in DCC 18.116.070.
- H. Exploration for minerals.
- I. Private parks, playgrounds, hunting and fishing preserves, campgrounds, motorcycle tracks and other recreational uses.
- J. Personal use landing strip for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. No aircraft may be based on a personal-use landing strip other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal use landing strip lawfully existing as of September 1, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.
- K. Golf courses.
- L. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
- M. A facility for primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in DCC 18.32.030, means the use of a portable chipper or stud mill or other similar method of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in DCC 18.32.030, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
- N. Destination resorts.
- O. Planned developments.
- P. Cluster developments.
- Q. Landfills when a written tentative approval by the Department of Environmental Quality (DEQ) of the site is submitted with the conditional use application.
- R. Time-share unit or the creation thereof.
- S. Hydroelectric facility, subject to DCC 18.116.130 and 18.128.260.
- T. Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland cement concrete, when such uses are in conjunction with the maintenance or construction of public roads or highways.
- U. Bed and breakfast inn.
- V. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to DCC 18.120.050 and 18.128.270.
- W. Churches, subject to DCC 18.124 and 18.128.080.
- X. Private or public schools, including all buildings essential to the operation of such a school.
- Y. Utility facility necessary to serve the area subject to the provisions of DCC 18.124.
- Z. Cemetery, mausoleum or crematorium.
- AA. Commercial horse stables.
- BB. Horse events, including associated structures, not allowed as a permitted use in this zone.

- CC. Manufactured home park or recreational vehicle park on a parcel in use as a manufactured home park or recreational vehicle park prior to the adoption of PL-15 in 1979 and being operated as of June 12, 1996, as a manufactured home park or recreational vehicle park, including any expansion of such uses on the same parcel, as configured on June 12, 1996.
- DD. A new manufactured home/recreational vehicle park, subject to Oregon Administrative Rules 660-004-0040(7)(g) that:
1. Is on property adjacent to an existing manufactured home/recreational vehicle park;
  2. Is adjacent to the City of Bend Urban Growth Boundary; and
  3. Has no more than 10 dwelling units.
- EE. The full or partial conversion from a manufactured home park or recreational vehicle park described in DCC 18.32.030 (CC) to a manufactured home park or recreational vehicle park on the same parcel, as configured on June 12 1996.
- FF. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
- GG. Guest lodge.
- HH. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
- II. Marijuana processing, subject to the provisions of DCC 18.116.330.
- JJ. Marijuana production subject to the provisions of DCC 18.116.330.  
(Ord. 2016-015 §3, 2016; Ord. 2015-002 §1, 2015; Ord. 2009-018 § 1, 2009; Ord. 2004-002 §4, 2004; Ord. 2001-039 §2, 2001; Ord. 2001-016 §2, 2001; Ord. 97-063 §3, 1997; Ord. 97-029 §2, 1997; Ord. 97-017 §2, 1997; Ord. 96-038 §1, 1996; Ord. 94-053 §2, 1994; Ord. 94-008 §11, 1994; Ord. 93-043 §§4A and B, 1993; Ord. 92-055 §2, 1992; Ord. 91-038 §1, 1991; Ord. 91-020 §1, 1991; Ord. 90-014 §§27 and 35, 1990; Ord. 91-005 §§19 and 20, 1991; Ord. 91-002 §7, 1991; Ord. 86-018 §7, 1986; Ord. 83-033 §2, 1983; Ord. 80-206 §3, 1980)

**18.65.020. RSC – Commercial/Mixed Use District (Brothers, Hampton, Millican, Whistlestop and Wildhunt).**

- A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright, subject to applicable provisions of this chapter:
1. Single-family dwelling.
  2. Manufactured home, subject to DCC 18.116.070.
  3. Type 1 Home Occupation, subject to DCC 18.116.280.
  4. Residential home and residential facility.
  5. Two-family dwelling or duplex.
  6. Agricultural uses, as defined in Title 18, and excluding livestock feed lot or sales yard, and hog or mink farms.
  7. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
  8. Class III road and street project.
  9. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- B. Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted, subject to applicable provisions of this chapter, DCC 18.116, Supplementary Provisions, and DCC 18.124, Site Plan Review, of this title:
1. Retail store, business office and/or commercial establishment in a building or buildings each not exceeding 4,000 square feet of floor space. The aggregate area for any one type of use that takes place in multiple buildings may not exceed 4,000 square feet.
  2. Residential use in conjunction with a permitted commercial use.
  3. Park or playground.
  4. Community building.
  5. Public or semipublic building or use.
  6. Highway maintenance facility.
  7. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~ Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
- C. Conditional Uses Permitted. The following uses and their accessory uses are permitted subject to applicable provisions of this chapter, DCC 18.116, Supplementary Provisions, DCC 18.124, Site Plan Review, and DCC 18.128, Conditional Use, of this title:
1. Multi-family dwelling with three or more units.
  2. Church.
  3. School.
  4. Cemetery.
  5. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
  6. Medical clinic or veterinary clinic.
  7. Community Center.
  8. Manufactured home park.
  9. Recreational vehicle or trailer park.
  10. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A).
  11. Marijuana retailing, subject to the provisions of DCC 18.116.330.
- D. Yard and Setback Requirements.
1. The front yard setback shall be a minimum of 20 feet from a property line fronting on a local street right of way and 50 feet from an arterial right of way.
  2. The minimum side yard setback shall be 10 feet.
  3. The minimum rear yard setback shall be 20 feet.



4. The minimum side and rear yard setbacks for property that is adjacent to land zoned exclusive farm use shall be 50 feet.

E. Lot Requirements.

1. Residential Uses:

- a. The minimum lot size for residential uses in Brothers, Hampton and Millican is 2.5 acres.
- b. Each lot shall have a minimum width of 200 feet.
- c. Each lot must be served by an on-site well.
- d. On-site sewage disposal. For new lots or parcels, an applicant shall demonstrate that the lot or parcel can meet DEQ on-site sewage disposal rules prior to final approval of a subdivision or partition.
- e. Lot coverage for a dwelling and accessory buildings used primarily for residential purposes shall not exceed twenty-five (25) percent of the total lot area. Lot coverage for buildings used primarily for commercial purposes shall be determined by spatial requirements for sewage disposal, landscaping, parking, yard setbacks and any other elements under site plan review.

2. Commercial and Public Uses.

- a. The minimum lot size in Brothers, Hampton, Millican, Whistlestop and Wildhunt for a commercial use served by an on-site septic system and individual well shall be the size necessary to accommodate the use.
- b. In Alfalfa, the minimum lot size shall be the size necessary to accommodate the use, but not less than one acre.
- c. Each lot shall have a minimum width of 150 feet.
- d. On-site sewage disposal. For new lots or parcels, an applicant shall demonstrate that the lot or parcel can meet DEQ on-site sewage disposal rules prior to final approval of a subdivision or partition.

(Ord. 2016-015 §4, 2016; Ord. 2015-004 §2, 2015; Ord. 2004-002 §11, 2004; Ord. 2002-028 §1, 2002; Ord. 2002-002 §2, 2002)

#### 18.66.040. Commercial (TeC) District.

The Terrebonne Commercial District is intended to allow a range of commercial and limited industrial uses to serve the community and surrounding rural area.

- A. Permitted Uses. The following uses and their accessory uses are permitted outright and do not require site plan review:
1. Single-family dwelling or two-family on a lot or parcel existing on June 4, 1997.
  2. Manufactured home on a lot or parcel existing on June 4, 1997, subject to DCC 18.116.070.
    3. Type 1 Home Occupation, subject to DCC 18.116.280.
  4. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards of DCC 18.66.070 and 18.116.230.
  5. Class III road or street project.
  6. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- B. Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.66, 18.116 and 18.1248:
1. A building or buildings not exceeding 4,000 square feet of floor space to be used by any combination of the following uses:
    - a. Retail or service business.
    - b. Eating or drinking establishment.
    - c. Offices.
    - d. Veterinary clinic and kennel entirely within an enclosed building.
    - e. Residential use in the same building as a use permitted by DCC 18.66.040(B)(1).
    - f. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~  
Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
  2. Any of the uses allowed under DCC 18.66.040 proposing to occupy more than 4,000 square feet of floor area in a building or buildings, subject to provisions of DCC 18.66.040(E).
- C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.66, 18.116, 18.124 and 18.128:
1. Motel, with a maximum of 35 units, only if served by a community sewer system as defined in OAR 660-22-010(2).
  2. Recreational vehicle park.
  3. Church.
  4. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
  5. Public or private school.
  6. Child care center.
  7. Park.
  8. Public or semi-public building.
  9. Medical center in a building or buildings not exceeding 4,000 square feet of floor space.
  10. Utility facility.
  11. Water supply or treatment facility.
  12. Vehicle and trailer sales, service, repair or rental in a building or buildings not exceeding 4,000 square feet of floor space.
  13. Uses listed below carried on in a building or buildings not exceeding 4,000 square feet of floor space with no exterior displays or storage of industrial equipment, industrial vehicles or industrial products:
    - a. Manufacturing and production.
    - b. Wholesale sales.
    - c. Mini-storage.
  12. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).

15. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.

16. Marijuana processing, subject to the provisions of DCC 18.116.330.

17. Marijuana retailing, subject to the provisions of DCC 18.116.330.

D. Use Limitations. The following use limitations shall apply to the uses listed in DCC 18.66.040(B) and (C).

1. Sewer and Water Requirements. Applicant must obtain approval for an on-site sewage disposal system, or if applicable, obtain a Department of Environmental Quality (DEQ) Waste Water Pollution Control Facility (WPCF) permit before approval or as condition of approval of the land use permit.
2. The County shall notify the Terrebonne Domestic Water District of land use actions made under DCC 18.66.

E. Requirements for Large Scale Uses.

1. All uses listed in DCC 18.66.040(B) and 18.66.040(C)(9) may have a total building floor area exceeding 4,000 square feet if the Planning Director or Hearings Body finds:
  - a. The use is intended to serve the community and surrounding rural area or the travel needs of people passing through the area;
  - b. The use will primarily employ a work force from the community and surrounding rural area; and
  - c. It is not practical to locate the use in a building or buildings with floor area of 4,000 square feet or less.
2. For purposes of DCC 18.66.040, the surrounding rural area includes the area described by the Terrebonne zip code, which extends south to the boundary of the Redmond zip code, west to the boundary of the Sisters zip code, east into Crook County to the boundary of the Prineville zip code and north into Jefferson County to include Crooked River Ranch.

F. Design Standards.

Ground Floor Windows. The following criteria for ground floor windows apply to all new commercial buildings in the TeC District except those containing uses listed in DCC 18.66.040(C)(13). The provisions of DCC 18.124 also apply.

1. The window area shall equal at least 50 percent of the length and 25 percent of the height of the ground level wall area. Ground level wall area includes all exterior wall area up to nine feet above the finished grade. The window requirement applies to the ground level of exterior building walls that abut sidewalks or roads.
2. Required window areas shall be windows that allow views into either working areas, lobbies, pedestrian entrances or display windows.

G. Lot Requirements. Minimum size requirements for this district will be determined by spatial requirements for on-site sewage disposal, required landscaped areas and off-street parking. No lot or parcel shall be created of less than a minimum of 10,000 square feet.

H. Dimensional Standards.

Lot Coverage. No lot coverage requirements, provided spatial requirements for parking, sewage disposal and landscaping are satisfied.

I. Yard Standards.

1. Front Yard. The front yard shall be a maximum of 15 feet, except as otherwise allowed by DCC 18.124.070(D)(3).

The street setback for buildings may be reduced, but not increased, to the average building setback distance of existing buildings on adjoining lots.
2. Side Yard. No requirement, subject to DCC 18.66.040(I)(4).
3. Rear Yard. No specific requirements, subject to DCC 18.66.040(I)(4).
4. Exceptions to Yard Standards.
  - a. Lot line adjacent to a residential district. Any new structure requiring a building permit sited on a lot adjacent to a residential district shall be set back a minimum of 15 feet from the common property line. The required yard shall be increased by one foot for each foot by which the building height exceeds 20 feet.

- b. Lot line adjacent to an EFU zone. Any new structure requiring a building permit on a lot or parcel adjacent to EFU-zoned land that is receiving special assessment for farm use shall be set back a minimum of 100 feet from the common property line,

(Ord. 2016-015 §5, 2016; Ord. 2015-004 §3, 2015; Ord. 2004-002 §15, 2004; Ord. 97-063 §3, 1997; Ord. 97-003 §2, 1997)

#### **18.66.050. Commercial-Rural (TeCR) District.**

The Terrebonne Commercial-Rural District allows a mix of commercial and industrial uses common to a farming community.

A. Permitted Uses. The following uses and their accessory uses are permitted outright and do not require site plan review:

1. Single-family dwelling on a lot or parcel existing on June 4, 1997.
2. Manufactured home on a lot or parcel existing on June 4, 1997, subject to DCC 18.116.070.
3. Type 1 Home Occupation, subject to DCC 18.116.280.
4. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards of DCC 18.66.070 and 18.116.230.
5. Class III road or street project.
6. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.

B. Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.66, 18.116 and 18.124:

1. A building or buildings not exceeding 4,000 square feet of floor space to be occupied by any combination of the following uses:
  - a. Retail or service business.
  - b. Eating or drinking establishment.
  - c. Office.
  - d. Residential use in the same building as a use listed in DCC 18.66.050.
  - e. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~  
Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
2. Any of the uses listed under DCC 18.66.050(B) proposing to occupy more than 4,000 square feet of floor area in a building or buildings, subject to provisions of DCC 18.66.050(E).

C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.66, 18.116, 18.124 and 18.128:

1. Church.
2. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
3. Park.
4. Public or semi-public building.
5. Utility facility.
6. Water supply or treatment facility.
7. Vehicle and trailer sales, service, repair and rental in a building or buildings not exceeding 4,000 square feet of floor area.
8. Uses listed below carried on in a building or buildings not exceeding 10,000 square feet of floor space to be occupied by any combination of the following uses:
  - a. Manufacturing or production.
  - b. Wholesale sales.
  - c. Mini-storage.
  - d. Truck terminal.
  - e. Farm or contractor equipment storage, sales, service or repair.
  - f. Uses that require proximity to rural resources, as defined in OAR 660-04-022- (3)(a).

9. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
  10. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
  11. Marijuana processing, subject to the provisions of DCC 18.116.330.
  12. Marijuana retailing, subject to the provisions of DCC 18.116.330.
- D. Use Limitations. The following use limitations shall apply to the uses listed in DCC 18.66.050(B) and (C).
1. Sewer and Water Requirements.
    - a. Applicant must obtain approval for an on-site sewage disposal system, or if applicable, obtain a Department of Environmental Quality (DEQ) Waste Water Pollution Control Facility (WPCF) permit before approval or as condition of approval of the land use permit.
    - b. The County shall notify the Terrebonne Domestic Water District of land use actions made under DCC 18.66.
  2. Compatibility.
    - a. Any use on a lot adjacent to a residential district shall not emit odor, dust, fumes, glare, flashing lights, noise, or similar disturbances perceptible without instruments more than 200 feet in the direction of the affected residential lot.
    - b. Any use expected to generate more than 50 truck-trailer, contractors and/or farm heavy equipment trips per day to and from the subject property shall not locate on a lot or parcel adjacent to or across a local or collector road from a lot or parcel in a residential district.
    - c. No use shall be permitted that has been declared a nuisance by state statute, County ordinance or a court of competent jurisdiction.
    - d. No use requiring an air containment discharge permit shall be approved by the Planning Director or Hearings Body before review by the applicable state or federal permit-reviewing authority. Such uses shall not be located adjacent to or across a local or collector road from a lot or parcel in a residential district.
  3. Traffic and Parking.
    - a. A use that generates more than 20 auto or truck trips during the peak hour of the day to and from the premises shall document with facts that the affected transportation facilities are adequate to serve the proposed use, considering the functional classification, capacity and level of service of the affected transportation facility.
    - b. All parking demand generated by uses permitted by DCC 18.66 shall be accommodated entirely on the premises.
    - c. Site design shall not require backing of traffic onto a public or private road right-of-way.
  4. Additional Requirements. As a condition of approval of any use proposed, the Planning Director or Hearings Body may require:
    - a. An increased setback requirement.
    - b. Additional off-street parking and loading facilities.
    - c. Limitations on signs, lighting, hours of operation and points of ingress and egress.
    - d. Additional landscaped buffering and screening improvements.
- E. Requirements for Large Scale Uses.
1. All uses listed in DCC 18.66.050(B) may be allowed to occupy a total floor area exceeding 4,000 square feet if the Planning Director or Hearings Body finds:
    - a. The use is intended to serve the community and surrounding rural area or the traveling needs of people passing through the area;
    - b. The use will primarily employ a work force from the community and surrounding rural area; and
    - c. It is not practical to contain the proposed use within 4,000 square feet of floor area.
  2. This provision does not apply to uses listed in DCC 18.66.050(C)(8).
  3. For purposes of DCC 18.66.050(E), the surrounding rural area described by the Terrebonne zip code, which extends south to the boundary of the Redmond zip code, west to the boundary of the Sisters zip code, east

into Crook County to the boundary of the Prineville zip code and north into Jefferson County to include Crooked River Ranch.

- F. Design Standards. Ground Floor Windows. The following criteria for ground floor windows apply to all new commercial buildings in the TeCR District except those containing uses listed in DCC 18.66.050(C)(8). The provisions of DCC 18.124 also apply.
1. The window area shall be at least 50 percent of the length of the ground level wall area and 25 percent of height of the ground level wall area. Ground level wall area includes all exterior wall area up to nine feet above the finished grade. The window requirement applies to the ground level of exterior building walls that abut sidewalks or roads.
  2. Required window areas shall be windows that allow views into either working areas, lobbies, pedestrian entrances or display windows.
- G. Lot Requirements. No lot shall be created less than a minimum of 10,000 square feet. Lot requirements for this district shall be determined by spatial requirements for sewage disposal, required landscaped areas and off-street parking.
- H. Dimensional Standards.
1. Lot Coverage: No lot coverage requirements, provided spatial requirements for parking, sewage disposal and landscaping are satisfied.
  2. No use listed in DCC 18.66.050(C)(8) that is located adjacent to or across a local or collector road from a lot or parcel in a residential district shall exceed 70 percent lot coverage by all buildings, outside storage or off-street parking and loading areas.
- I. Yard Standards.
1. Front Yard. The front yard shall be a maximum of 15 feet, except as otherwise allowed by DCC 18.124.070(D)(3)(b).  
The street setback for buildings may be reduced, but not increased, to the average building setback distance of existing buildings on adjoining lots.
  2. Side Yard. No requirement, subject to DCC 18.66.050(I)(4).
  3. Rear Yard. No specific requirement, subject to DCC 18.66.050(I)(4).
  4. Exceptions to Yard Standards.
    - a. Lot line adjacent to a residential zone. For all new structures requiring a building permit on a lot adjacent to a residential district, the setback shall be a minimum of 15 feet. The required yard will be increased by one foot for each foot by which the building height exceeds 20 feet.
    - b. Lot line adjacent to an EFU zone. Any structure requiring a building permit on a lot adjacent to EFU-zoned land that is receiving special assessment for farm use, shall be set back a minimum of 100 feet from the common property line.
- (Ord. 2016-015 §5, 2016; Ord. 2015-004 §4, 2015; Ord. 2004-002 §16, 2004; Ord. 2001-039 §7, 2001; Ord. 2001-016 §2, 2001; Ord. 97-003 §2, 1997)

“\*\*\*\*” Denotes portions of this Section not amended by Ordinance 2016-015.

**18.67.040. Commercial (TuC) District.**

The Tumalo Commercial District is intended to allow a range of limited commercial and industrial uses to serve the community and surrounding area.

- A. Permitted Uses. The following uses and their accessory uses are permitted outright and do not require site plan review.
1. Single-family dwelling or duplex.
  2. Manufactured home subject to DCC 18.116.070.
  3. Type 1 Home Occupation, subject to DCC 18.116.280.
  4. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards of DCC 18.67.060 and 18.116.230.
  5. Class III road or street project.
  6. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- B. Uses Permitted, Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.67, 18.116 and 18.124:
1. A building or buildings, none of which exceeds 4,000 square feet of floor space to be used by any combination of the following uses:
    - a. Retail or service business.
    - b. Eating and/or drinking establishment.
    - c. Offices.
    - d. Residential use in the same building as a use permitted in DCC 18.67.040.
    - e. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~  
Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
  2. Any of the uses listed under DCC 18.67.040 proposing to occupy more than 4,000 square feet of floor area in a building subject to the provisions of DCC 18.67.040(E).
- C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.116, 18.124, and 18.128:
1. Church.
  2. Bed and breakfast inn.
  3. Child care center.
  4. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
  5. Park.
  6. Public or semi-public building.
  7. Utility facility.
  8. Water supply or treatment facility.
  9. Manufactured home/RV park on a parcel in use as a manufactured home park or recreational vehicle park prior to the adoption of PL-15 in 1979 and being operated as of June 12, 1996 as a manufactured home park or recreational vehicle park, including any expansion of such uses on the same parcel as configured on June 12, 1996.
  10. The following uses and their accessory uses may be conducted in a building or buildings not to exceed 4,000 square feet of floor space.
    - a. Farm equipment, sales, service or repair.
    - b. Trailer sales, service or repair.
    - c. Vehicle service or repair.
    - d. Veterinary clinic.
  11. The following uses may be conducted in a building or buildings not to exceed 10,000 square feet of floor space:

- a. Manufacturing or production.
  - b. Wholesale sales.
  - c. Marijuana processing, subject to the provisions of DCC 18.116.330.
  - d. Marijuana retailing, subject to the provisions of DCC 18.116.330.
12. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
13. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
- D. Use Limitations. The following use limitations shall apply to the uses listed in DCC 18.67.040(C)(11).
- 1. Compatibility.
    - a. Any use expected to generate more than 50 truck-trailer and/or heavy equipment trips per day to and from the subject property shall not be permitted to locate on a lot or parcel adjacent to or across a local or collector street from a lot or parcel in a residential district.
  - 2. Traffic and Parking.
    - a. A use that generates more than 20 auto or truck trips during the peak hour of the day to and from the premises shall document with facts that the affected transportation facilities are adequate to serve the proposed use, considering the functional classification, capacity and level of service of the affected transportation facility.
    - b. All parking demand generated by uses permitted by DCC 18.67 shall be accommodated entirely on the premises.
- E. Requirements for Large Scale Uses.
- 1. All uses listed in DCC 18.67.040(B) may have a total floor area exceeding 4,000 square feet but not greater than 10,000 square feet if the Planning Director or Hearings Body finds:
    - a. The use is intended to serve the community and surrounding rural area or the traveling needs of people passing through the area;
    - b. The use will primarily employ a work force from the community and surrounding rural area; and
    - c. It is not practical to contain the proposed use within 4,000 square feet of the floor area.
  - 2. This provision does not apply to uses listed in DCC 18.67.040(C)(10).
  - 3. For the purposes of DCC 18.67.040, the surrounding rural area is described as the following: extending north to the Township boundary between Townships 15 and 16; extending west to the boundary of the public lands managed by the U.S. Forest Service in T16S-R11E; extending south to the south section lines of T17S-R12E sections 4,5,6 and T17S-R11E sections 1,2,3; and extending east to Highway 97.
- F. Design Standards. Ground Floor Windows. The following criteria for ground floor windows apply to new buildings in the TuC district except those uses listed in DCC 18.67.040(C)(10) and any residential use. The provisions of DCC 18.124 also apply.
- 1. The windows must be at least 50 percent of the length of the ground level wall area and 25 percent of height of the ground level wall area. Ground level wall area includes all exterior wall area up to nine feet above the finished grade. The window requirement applies to the ground level of exterior building walls which abut sidewalks or streets.
  - 2. Required window areas shall be either windows that allow views into working areas, lobbies, pedestrian entrances or display windows.
- G. Lot Requirements. No lot shall be created having less than a minimum of 10,000 square feet. Lot requirements for this district shall be determined by spatial requirements for sewage disposal, required landscaped areas and off-street parking.
- H. Dimensional Standards.
- 1. Lot Coverage: No lot coverage requirements, provided spatial requirements for parking, sewage disposal and landscaping are satisfied.



2. No use listed in DCC 18.67.040(C)(10) that is located adjacent to or across a local or collector from a lot or parcel in a residential district shall exceed 70 percent lot coverage by all buildings, outside storage, or off-street parking and loading areas.

I. Yard Standards.

1. Front Yard. The front yard shall be a maximum of 15 feet, except as otherwise allowed by DCC 18.124.070 (D)(3).

The street setback for buildings may be reduced, but not increased, to the average building setback distance of existing buildings on adjoining lots.

2. Side Yard. No requirement, subject to DCC 18.67.040(I)(4).
3. Rear Yard. No specific requirement, subject to DCC 18.67.040 (I)(4).
4. Exceptions to Yard Standards.

- a. Lot line adjacent to a residential zone.

For all new structures or substantial alteration of a structure requiring a building permit on a lot adjacent to a residential district, the setback shall be a minimum of 15 feet. The required yard will be increased by one foot for each foot by which the building height exceeds 20 feet.

- b. Lot line adjacent to an EFU zone. Any structure requiring a building permit on a lot adjacent to EFU-zoned land that is receiving special assessment for farm use shall be set back a minimum of 100 feet from the common property line.

(Ord. 2016-015 §6, 2016; Ord. 2015-004 §5, 2015; Ord. 2004-013 §7, 2004; Ord. 2004-002 §19, 2004; Ord. 2001-039 §8, 2001; Ord. 2001-016 §2, 2001; Ord. 2000-033 §11, 2000; Ord. 97-063 §3, 1997; Ord. 97-033 §2, 1997)

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**18.67.060. Industrial (TuI) District.**

The purpose of the Industrial District is to allow a limited range of industrial uses to serve the community and the surrounding area.

A. Uses permitted outright. The following uses and their accessory uses are permitted outright:

1. Industrial uses in existence on the date of adoption of the Unincorporated Communities rule, OAR 660-022 (October 28, 1994);
2. Office buildings associated with industrial uses in existence on the date of adoption of the Unincorporated Communities rule, OAR 660-022 (October 28, 1994);
3. Restaurants and cafeteria facilities associated with industrial uses in existence on the date of adoption of the Unincorporated Communities rule, OAR 660-022 (October 28, 1994);
4. Residence for caretaker or night watchman on property with industrial uses in existence on the date of adoption of the Unincorporated Communities rule, OAR 660-022 (October 28, 1994);
5. Equipment storage associated with industrial uses in existence on the date of adoption of the Unincorporated Communities rule, OAR 660-022 (October 28, 1994);
6. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards of DCC 18.67.080 and 18.116.230.
7. Class III road or street project.
8. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.

B. Uses Permitted, Subject to Site Plan Review. The following uses and their accessory uses are permitted in a building or buildings not to exceed 40,000 square feet of floor area, subject to the applicable provisions of DCC 18.67, 18.116, and 18.124.

1. Expansion or replacement of uses allowed under DCC 18.67.060(A);
2. Office buildings associated with industrial uses;
3. Restaurant and cafeteria facilities associated with industrial uses;
4. Residence for caretaker or night watchman on property with industrial uses;

5. Equipment storage associated with industrial uses;
  6. Primary processing, packaging, treatment, bulk storage and distribution of the following products:
    - a. Agricultural products, including foodstuffs, animal and fish products, and animal feeds.
    - b. Ornamental horticultural products and nurseries.
    - c. Softwood and hardwood products excluding pulp and paper manufacturing.
    - d. Sand, gravel, clay and other mineral products.
  7. Freight depot, including the loading, unloading, storage and distribution of goods and materials by railcar or truck;
  8. Contractor's or building materials business and other construction-related business including plumbing, electrical, roof, siding, etc.;
  9. Welding, sheet metal, or machine shop provided such is wholly enclosed within a building or all outside storage is enclosed by site-obscuring fencing.
  10. Mini-storage facility.
  11. Manufacturing, storage, sales, rental, repair and servicing of equipment and materials associated with farm and forest uses, logging, road maintenance, mineral extraction, construction or similar rural activities;
  12. Any industrial use proposing to occupy more than 40,000 square feet of floor area in a building or buildings is subject to the provisions of DCC 18.67.060(C) and (D).
  13. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~  
Marijuana processing of cannabinoid concentrates and cannabinoid products, subject to the provisions of DCC 18.116.330.
- C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.116, 18.124, and 18.128:
1. Any use permitted by DCC 18.67.060(B) which will exceed 40,000 square feet of floor area;
  2. Concrete or ready mix plant;
  3. Stockpiling, storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland Cement Concrete;
  4. Buildings, structures, apparatus, equipment and appurtenances necessary for the above uses to be carried on.
  5. Marijuana processing including cannabinoid extracts, subject to the provisions of DCC 18.116.330.
  6. Marijuana retailing, subject to the provisions of DCC 18.116.330.
- D. Use limitations. The following limitations and standards shall apply to all permitted uses:
1. A new industrial use may occupy more than 40,000 square feet of floor area in a building or buildings provided an analysis set forth in the comprehensive plan demonstrates and land use regulations ensure:
    - a. The use will primarily employ a work force from the community and surrounding rural area and will not rely upon a work force served by uses within urban growth boundaries. The determination of the work force of the community shall consider the total industrial employment in the community and surrounding rural area and be coordinated with employment projections for nearby urban growth boundaries; and
    - b. It is not practical to contain the proposed use within 40,000 square feet of the floor area.
  2. For the purposes of DCC 18.67.060, the surrounding rural area is described as the following: extending north to the Township boundary between Townships 15 and 16; extending west to the boundary of the public lands managed by the U.S. Forest Service in T16S-R11E; extending south to the south section lines of T17S-R12E sections 4,5,6 and T17S-R11E sections 1,2,3; and extending east to Highway 97.
- E. Dimensional standards. In the Industrial Zone, the following dimensional standards shall apply:
1. The minimum lot size shall be determined subject to the provisions of DCC 18.67.060 relative to setback requirements, off-street parking and loading, and as deemed necessary by the Planning

- Director or Hearings Body, to maintain air, water and land resource quality and to protect adjoining and area land uses.
2. The minimum building setback between a structure and a street, road or railroad right-of-way line shall be 25 feet unless a greater setback is required for compliance with Comprehensive Plan policies.
  3. The minimum setback between a structure and a property line adjoining a residential lot or use in a platted subdivision or residential zone shall be 50 feet.
  4. The minimum setback between a structure and an existing use shall be three feet from the property line and six feet from a structure on the adjoining property.
  5. The maximum building height shall be 45 feet on any lot adjacent to a residential use or lot in a platted subdivision or residential zone.
  6. The minimum lot frontage shall be 50 feet.
  7. Exception to Yard Standards. Any new structure requiring a building permit on a lot adjacent to EFU-zoned land that is receiving special assessment for farm use shall be set back a minimum of 100 feet from the common property line.
- F. Industrial Site design. The site design of any permitted use shall make the most effective use reasonably possible of the site topography, existing landscaping and building placement so as to preserve existing trees and natural features, preserve vistas and other views from public ways and neighboring residential uses and to minimize intrusion into the character of existing developments in the immediate vicinity of the proposed use.
- G. Design and use criteria. In the consideration of an application for a new industrial use, the Planning Director or Hearings Body shall take into account the impact of the proposed use on nearby residential and commercial uses, on resource carrying capacities and on the capacity of transportation and other public facilities and services. In approving a proposed use, the Planning Director or Hearings Body shall find that:
1. The new use is in compliance with the Comprehensive Plan.
  2. The new use is in compliance with the intent and provisions of DCC Title 18.
  3. That any adverse social, economical, physical or environmental impacts are minimized.
- H. Additional requirements. As a condition of approval, the Planning Director or Hearings Body may require:
1. An increase in required setbacks.
  2. Additional off-street parking and loading facilities.
  3. Limitations on signs or lighting, hours of operation, and points of ingress and egress.
  4. Additional landscaping, screening and other improvements.
  5. Any other conditions considered necessary to achieve compliance with the intent and purposes of DCC Title 18 and policies of the Comprehensive Plan.
- I. For purposes of this chapter, a new industrial use does not include industrial uses in existence on the date of Ord. 2005-16. Unless expanded or altered, industrial uses in existence on the date of adoption of the TUI District are not subject to the requirements of 18.67.060(B) or 18.67.060(C).
- (Ord. 2016-015 §6, 2016; Ord. 2015-004 §6, 2015; Ord. 2005-016 §2, 2005

**18.74.020. Uses Permitted – Deschutes Junction and Deschutes River Woods Store.**

B. Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116 and 18.128:

1. A building or buildings not exceeding 2,500 square feet of floor space to be used by any combination of the following uses.
  - a. Restaurant, café or delicatessen.
  - b. Grocery store.
  - c. Tavern.
  - d. Retail sporting goods and guide services.
  - e. Barber and beauty shop.
  - f. General store.
  - g. Video store.
  - h. Antique, art, craft, novelty and second hand sales if conducted completely within an enclosed building.
  - i. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~
2. Expansion of a nonconforming use listed under section B(1)(a-h), existing as of 11/05/2002, the date this chapter was adopted, shall be limited to 2,500 square feet or 25 percent of the size of the building as of said date, whichever is greater.
3. A building or buildings not exceeding 3,500 square feet of floor space to be used by any combination of the following uses.
  - a. Retail sales of agricultural or farm products.
  - b. Farm machinery sales and repair.
  - c. Kennel.
  - d. Veterinary clinic.
  - e. Automobile service station and repair garage, towing service, fuel storage and sales.
  - f. Public or semi-public use.
  - g. Residential use in the same building as a use permitted by this chapter.
  - h. Park or playground.
4. Expansion of a nonconforming use listed under section B(3)(a-h), existing as of 11/05/2002, the date this chapter was adopted, shall be limited to 3,500 square feet or 25 percent of the size of the building as of said date, whichever is greater.

C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116, 18.124 and 18.128:

1. A building or buildings not exceeding 3,500 square feet of floor space to be used by any combination of the following uses.
  - a. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
  - b. Utility facility.
  - c. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
  - d. Child care center.
  - e. Church.
  - f. School.
2. Recreational vehicle park
3. Mini-storage facilities limited to 35,000 square feet in size.
4. Marijuana retailing, subject to the provisions of DCC 18.116.330.

(Ord. 2016-015 §7, 2016; Ord. 2015-004 §7, 2015; Ord. 2008-008 §1, 2008; Ord. 2004-002 §20, 2004; Ord. 2002-019 §2, 2002)

**18.74.025. Uses Permitted – Spring River.**

A. Uses Permitted subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116 and 18.124:

1. A building or buildings not exceeding 2,500 square feet of floor space to be used by any combination of the following uses:
    - a. Fishing supplies and equipment.
    - b. Snowmobiling accessories.
    - c. Marine accessories.
    - d. General store.
    - e. Hardware store.
    - f. Convenience store with gas pumps.
    - g. Fast food restaurant, cafe, or coffee shop.
    - h. Recreational rental equipment store.
    - i. Excavation business.
    - j. Landscaping business/service.
    - k. Health care service.
    - l. Beauty shop.
    - m. Video store.
    - o. Post office.
    - p. Party supply.
    - q. Equipment sales and rental.
    - r. Appliance store.
    - s. Bank.
    - t. Exterminator.
    - u. Private mailing and packaging store.
    - v. Bakery.
    - w. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~
  2. Expansion of a nonconforming use listed in section A(1)(a-v), existing as of 11/05/02, the date this chapter was adopted, shall be limited to 2,500 square feet or 25 percent of the size of the building as of said date, whichever is greater.
  3. A building or buildings not exceeding 3,500 square feet of floor space to be used by any combination of the following uses:
    - a. Pet and livestock supply.
    - b. Farm machinery sales and repair.
  4. Expansion of a nonconforming use listed in section A(3)(a-b), existing as of 11/05/02, the date this chapter was adopted, shall be limited to 3,500 square feet of floor space or 25 percent of the size of the building as of said date, whichever is greater.
- B. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116, 18.124 and 18.128:
1. A building or buildings not exceeding 2,500 square feet of floor space to be used by any combination of the following uses:
    - a. Full service gas station with automobile repair services.
    - b. Welding shop.
    - c. Mini-storage units
    - d. Marijuana retailing, subject to the provisions of DCC 18.116.330.
  2. Expansion of a nonconforming use listed in section B(1)(a-c), existing as of 11/05/02, the date this chapter was adopted, shall be limited to 2,500 square feet or 25 percent of the size of the building as of said date, whichever is greater.
- C. Definitions. For the purposes of DCC 18. 74.120, the following definitions shall apply:
1. Landscaping business/service: Includes designing landscapes, site grading and preparation, placing boulders, planting trees and shrubbery, installing sod, installing irrigation systems and equipment, installing fencing, and landscape maintenance, but does not include on-site cultivation of plants or plant materials or any on-site retail sales.

2. Health care service: A business providing the diagnosis, treatment and care of physical and/or mental disease, injury and/or disability, but not including a hospital facility or a nursing home as defined in DCC 18.04.
3. Beauty Shop: A full service beauty salon which would include haircuts, permanents, washes, nails, etc., and the retail sales of incidental beauty supplies typical of any beauty salon.
4. Mini-storage units: Self service mini-storage units of various sizes from 5' x 10' up to 12' x 24'.
5. Video store: The sale and rental of videotapes, compact disc movies and audio books.
6. Laundry and dry cleaners: Dry cleaners, shirt laundry and laundromat with self-service washers and dryers along with the sale of detergents, bleaches, etc.
7. Post office: United States Postal Service office including mail pick-up and distribution.
8. Party supply: The sale and rental of party supplies such as balloons, streamers, costumes, dishes, linens and silverware.
9. Equipment sales and rental: The rental of construction, home repair and maintenance equipment such as ladders, mowers, saws, gardening supplies, etc., and the sales of related equipment.
10. Appliance store: The sale and service of household appliances such as televisions, ranges, refrigerators, etc.
11. Bank: Full service consumer bank for checking, savings, loans, safety deposit boxes, etc.
12. Exterminator: Exterminator of insects and other pests such as rodents, spiders, etc.
13. Private mailing and packaging store: Private mail boxes and packaging services, which would include the holding and distribution of mail, packing, mailing supplies, FEDEX and UPS pick-up, and FAX and copy machine availability.
14. Bakery: The manufacture and sale of bread, donuts and pastries.
15. Pet and livestock supplies: The sale of pet supplies such as dog and cat food, collars, grooming needs, shelters and some large animal supplies such as hay, feeds and grains.

(Ord. 2016-015 §7, 2016; Ord. 2015-004 §7, 2015; Ord. 2008-008 §1, 2008; Ord. 2006-008 §7, 2006; Ord. 2002-019 §2, 2002; Ord. 97-015 §1, 1997; Ord. 96-046 §1, 1996; Ord. 96-023 §1, 1996)

**Section 18.74.027. Uses Permitted – Pine Forest and Rosland.**

- A. Uses Permitted Outright. Any use listed as a use permitted outright by DCC 18.74.020(A).
- B. Uses Permitted subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116 and 18.124:
  1. A building or buildings each not exceeding 2,500 square feet of floor space to be used by any combination of the following uses that serve the surrounding rural area or the travel needs of persons passing through the area:
    - a. Eating and drinking establishments.
    - b. Retail store, office and service establishments.
    - c. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~ Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
  2. Expansion of a nonconforming use existing as of 11/05/2002 shall be limited to 2,500 square feet or 25 percent of the size of the building (or portion of the building) housing the nonconforming use as of said date, whichever is greater.
  3. A building or buildings each not exceeding 3,500 square feet of floor space to be used by any combination of the following uses:
    - a. Sales of agricultural or farm products.
    - b. Farm machinery sales and repair.
    - c. Kennel or veterinary clinic.
    - d. Automobile service station, repair garage, towing service, fuel storage and fuel sales.
    - e. Public or semi-public use.
    - f. Residential use in the same building as a use permitted in this chapter.

- g. Park or playground.
  - 4. Expansion of a nonconforming use existing as of 11/05/2002 shall be limited to 3,500 square feet each or 25 percent of the size of the building (or portion of the building) housing the nonconforming use as of said date, whichever is greater.
  - C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116, 18.124 and 18.128:
    - 1. A building or buildings each not exceeding 3,500 square feet of floor space to be used by any of the following uses:
      - a. Home occupation as defined in DCC 18.04.
      - b. Utility facility.
      - c. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
      - d. Child care center.
      - e. Church.
      - f. School.
      - g. Marijuana retailing, subject to the provisions of DCC 18.116.330.
    - 2. Recreational vehicle park.
    - 3. Mini-storage facilities limited to 35,000 square feet in size.
- (Ord. 2016-015 §7, 2016; Ord. 2015-004 §7, 2015, Ord. 2008-008 §1, 2008; Ord. 2007-007 §1, 2007; Ord. 2003-080, §1, 2003)

### **18.100.010. Uses Permitted Outright.**

In an R-I Zone, the following uses and their accessory uses are permitted outright except as limited by DCC 18.100.040, and unless located within 600 feet from a residential dwelling, a lot within a platted subdivision or a residential zone.

- A. Farming or forest use.
- B. Primary processing, packaging, treatment, bulk storage and distribution of the following products:
  - 1. Agricultural products, including foodstuffs, animal and fish products, and animal feeds.
  - 2. Ornamental horticultural products and nurseries.
  - 3. Softwood and hardwood products excluding pulp and paper manufacturing.
  - 4. Sand, gravel, clay and other mineral products.
- C. Residence for caretaker or night watchman on property.
- D. Freight Depot, including the loading, unloading, storage and distribution of goods and materials by railcar or truck.
- E. Contractor's or building materials business and other construction-related business including plumbing, electrical, roof, siding, etc., provided such use is wholly enclosed within a building or no outside storage is permitted unless enclosed by sight-obscuring fencing.
- F. Ice or cold storage plant.
- G. Wholesale distribution outlet including warehousing, but excluding open outside storage.
- H. Welding, sheet metal or machine shop provided such is wholly enclosed within a building or all outside storage is enclosed by sight-obscuring fencing.
- I. Kennel or a Veterinary clinic.
- J. Lumber manufacturing and wood processing except pulp and paper manufacturing.
- K. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
- L. Class III road or street project.
- M. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- N. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~  
Marijuana processing of cannabinoid concentrates and cannabinoid products, subject to the provisions of DCC 18.116.330.  
(Ord. 2016-015 §8, 2016; Ord. 2015-004 §8, 2015; Ord. 2002-126, §1, 2002; Ord. 2001-039 §12, 2001; Ord. 2001-016 §2, 2001; Ord. 93-043 §16, 1993; Ord. 91-038 §1, 1991)

### **18.100.020. Conditional Uses.**

The following uses may be allowed subject to DCC 18.128:

- A. Any use permitted by DCC 18.100.010, which is located within 600 feet of a residential dwelling, a lot within a platted subdivision or a residential zone.
- B. Any use permitted by DCC 18.100.010, which involves open storage.
- C. Concrete or ready-mix plant.
- D. Petroleum products storage and distribution.
- E. Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland Cement Concrete.
- F. Commercial feedlot, stockyard, sales yard, slaughterhouse and rendering plant.
- G. Railroad trackage and related facilities.
- H. Pulp and paper manufacturing.
- I. Any use permitted by DCC 18.100.020010, which is expected to exceed the following standards:
  - 1. Lot coverage in excess of 70 percent.
  - 2. Generation of any odor, dust, fumes, glare, flashing lights or noise that is perceptible without instruments 500 feet from the property line of the subject use.



- J. Manufacture, repair or storage of articles manufactured from bone, cellophane, cloth, cork, feathers, felt, fiber, glass, stone, paper, plastic, precious or semiprecious stones or metal, wax, wire, wood, rubber, yarn or similar materials, provided such uses do not create a disturbance because of odor, noise, dust, smoke, gas, traffic or other factors.
  - K. Processing, packaging and storage of food and beverages including those requiring distillation and fermentation.
  - L. Public Landfill Transfer Station, including recycling and other related activities.
  - M. Mini-storage facility.
  - N. Automotive wrecking yard totally enclosed by a sight-obscuring fence.
  - O. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
  - P. Utility facility.
  - Q. Manufacturing, storage, sales, rental, repair and servicing of equipment and materials associated with farm and forest uses, logging, road maintenance, mineral extraction, construction or similar rural activities.
  - R. Electrical substations.
  - S. Marijuana retailing, subject to the provisions of DCC 18.116.330.
  - T. Marijuana processing including cannabinoid extracts, subject to the provisions of DCC 18.116.330
  - U. Marijuana production in the vicinity of Deschutes Junction, subject to the provisions of DCC 18.116.330.
- (Ord. 2016-015 §8, 2016; Ord. 2004-013, §10, 2004; Ord. 2002-126, §1, 2002; Ord. 2001-039 §12, 2001; Ord. 2001-016 §2, 2001; Ord. 97-063 §3, 1997; Ord. 91-038 §1, 1991; Ord. 91-020 §1, 1991; Ord. 90-014 §38, 1990; Ord. 86-018 §15, 1986)

**18.108.050. Commercial - C District.**

- A. Uses Permitted Outright. Any combination of the following uses and their accessory uses are permitted outright in the C district.
1. Recreational path.
  2. Ambulance service.
  3. Library.
  4. Church.
  5. Bus stop.
  6. Community center.
  7. A building or buildings each not exceeding 8,000 square feet of floor space housing any combination of:
    - a. Retail/rental store, office and service establishment.
    - b. Art galleries
    - c. Dry cleaner and/or self-service laundry establishment.
    - d. Radio and television sales and service.
    - e. Radio and television broadcasting studios and facilities, except towers.
    - f. Restaurant, bar and cocktail lounge, including entertainment.
    - g. Automobile service station.
    - h. Technical and business school.
    - i. Catering establishment.
    - j. Crafts in conjunction with retail sales (occurring on premises, such as stained glass/pottery, etc.).
    - k. Medical and dental clinic, office and laboratory.
    - l. Theater not exceeding 4,000 square feet of floor area.
    - m. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~  
Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
  8. Multiple-family residential dwelling units, subject to the provisions of DCC 18.108.050(C)(1).
  9. Residential dwelling units constructed in the same building as a commercial use, subject to the provisions of DCC 18.108.050(C)(2).
  10. Post Office.
  11. Administrative and office facility associated with a community association or community use.
  12. Police facility.
- B. Conditional Uses Permitted. The following conditional uses may be permitted subject to DCC 18.128 and a conditional use permit.
1. Public buildings and public utility buildings and structures.
  2. Club, lodge or fraternal organization.
  3. Commercial off-street parking lot.
  4. Bus passenger station.
  5. Interval ownership and/or time-share unit or the creation thereof.
  6. Miniature golf.
  7. Bed and breakfast inn.
  8. Inn.
  9. Residential facility.
  10. A building or buildings each not exceeding 8,000 square feet of floor space housing any combination of:
    - a. Bowling alley.
    - b. Car wash.
    - c. Dancing or music school, nursery school, kindergarten and day-care facility.
    - d. Theater exceeding 4,000 square feet in floor area.

- e. Veterinary clinic or kennel operated entirely within an enclosed building.
- f. Automotive repair and maintenance garage, or tire store, provided the business is wholly conducted within an enclosed building.
- g. Marijuana retailing, subject to the provisions of DCC 18.116.330.

C. Use Limits.

1. Multiple-family residential dwelling units, allowed on the nine acres vacant as of December 31, 1997 in the C District, shall be subject to the provisions of DCC 18.108.040(C) and (D), and the following requirements:
  - a. No dwelling unit shall have more than three bedrooms.
  - b. Individual dwelling units shall not exceed 2,250 square feet of habitable floor area.
  - c. One off-street parking space shall be provided for each bedroom within each dwelling unit, with a maximum of two spaces allowed per dwelling unit.
2. Residential dwelling units constructed in the same building as a commercial use developed in the C district shall be subject to the following requirements:
  - a. Residential dwelling units shall be developed above first floor commercial use.
  - b. No dwelling unit shall have more than two bedrooms.
  - c. Individual dwelling units shall not exceed 850 square feet of floor area.
  - d. One off-street parking space shall be provided for each bedroom within each dwelling unit.
3. Uses permitted either outright or conditionally in the C District shall not involve the transport of chemicals which would present a significant hazard.

D. Special Requirements for Large Scale Uses. Any of the uses listed in DCC 18.108.050(A)(7) or DCC 18.108.050(B)(10) may be allowed in a building or buildings each exceeding 8,000 square feet of floor space if the Planning Director or Hearings Body finds:

1. That the intended customers for the proposed use will come from the community and surrounding rural area, or the use will meet the needs of the people passing through the area. For the purposes of DCC 18.108.050(D), the surrounding rural area shall be that area identified as all property within five miles of the boundary of the Sunriver Urban Unincorporated Community;
2. The use will primarily employ a work force from the community and surrounding rural area; and
3. That it is not practical to locate the use in a building or buildings under 8,000 square feet of floor space.

E. Height Regulations. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed 30 feet in height.

F. Lot Requirements. The following lot requirements shall be observed:

1. Lot Area. No requirements.
2. Lot Width. No requirements.
3. Lot Depth. 100 feet.
4. Front Yard. The front yards shall be a minimum of 10 feet.
5. Side Yard. None, except when a side lot line is adjoining a lot in an RS or RM District, and then the side yard shall be a minimum of 10 feet. The required side yards shall be increased by one-half foot for each foot by which the building height exceeds 20 feet.
6. Rear Yard. None, except when a rear lot line is adjoining a lot in an RS or RM District, and then the rear yard shall be a minimum of 10 feet. The required rear yard shall be increased by one-half foot for each foot by which the building height exceeds 20 feet.
7. Lot Coverage. No requirements.

(Ord. 2016-015 §9, 2016; Ord. 2015-004 §9, 2015; Ord. 2003-026 §1, 2003; Ord. 98-016 §1, 1998; Ord. 97-078 §2, 1997)

**18.108.055. Town Center – TC District**

A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright in the TC District.

1. Park or plaza.
  2. Library.
  3. Community center.
  4. Visitors center.
  5. A building, or buildings each not exceeding 8,000 square feet of floor space, unless approved as a Large Scale Use pursuant to DCC 18.108.055(C), including any of the following uses:
    - a. Retail/rental store, office, civic and service establishment.
    - b. Grocery store.
    - c. Art gallery.
    - d. Restaurant, bakery, delicatessen, pub, cocktail lounge, including entertainment.
    - e. Health care service including medical and dental clinic, office, pharmacy, and laboratory but excluding nursing homes.
    - f. Health & fitness facility.
    - g. Barber, beauty shop or spa.
    - h. Child care center, preschool and daycare facility.
    - i. Bank.
    - j. Post office.
    - k. Veterinary clinic (without animal boarding facilities).
    - l. Crafts in conjunction with retail sales (occurring on premises such as sculpture, stained glass, pottery, etc.).
    - m. Meeting room, convention and banquet facility.
    - n. Property sales, mortgage, management or rental office.
    - o. Movie theater.
    - ~~p. Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~
  6. Multi-family Residential, subject to paragraphs (E)(1) and (2).
  7. Developed recreational facilities, outdoors or in a building or buildings each not exceeding 8,000 square feet of floor space, unless approved as a Large Scale Use pursuant to DCC 18.108.055(C), including, but not limited to the following facilities:
    - a. Indoor and outdoor swimming pools.
    - b. Ice skating rink.
    - c. Indoor and outdoor tennis courts.
    - d. Indoor and outdoor basketball court or other ball field.
    - e. Physical fitness facilities.
    - f. Park, playground and picnic and barbeque area.
    - g. Walkways, bike paths, jogging paths.
    - h. Bowling alley.
    - i. Arcade.
  8. Hotel with up to 100 hotel units in a single building.
  9. Mixed Use Structure, subject to the rules of DCC 18.108.055(E)(3) and a limit of 8,000 square feet of floor space for commercial uses listed in DCC 18.108.055(A)(5) or recreational uses listed in DCC 18.108.055(A)(7), unless said uses are approved as large scale uses pursuant to DCC 18.108.055(C).
  10. Residential Facility.
  11. Senior housing/assisted living or active adult development, excluding nursing homes.
  12. Townhomes, subject to paragraphs (E)(1) and (2).
  13. Accessory uses to uses permitted outright, including, but not limited to, parking facilities, private roads, storage facilities, trash receptacles and recycling areas.
  14. Similar uses to those allowed outright, provided they are approved by the County in the decision approving the Conceptual Site Plan described in DCC 18.108.055(K).
- B. Conditional Uses Permitted. The following conditional uses may be permitted pursuant to the provisions of DCC 18.128, Conditional Use Permits.

1. Public buildings and public utility buildings and structures.
  2. Bed and breakfast inn.
  3. Ambulance service.
  4. Fire station.
  5. Police station.
  6. Bus passenger station.
  7. Live/work residence.
  8. Stand-alone parking structure.
  9. Accessory uses to the above-listed conditional uses.
  10. Marijuana retailing, subject to the provisions of DCC 18.116.330.
- C. Special Requirements for Large Scale Uses. Any of the uses listed in DCC 18.108.055(A)(5) or (A)(7) may be allowed in a building or buildings each exceeding 8,000 square feet of floor space if the Planning Director or Hearings Body finds:
1. That the intended customers for the proposed use will come from the Sunriver community and surrounding rural area. The surrounding rural area is the area identified as all property within five miles of the boundary of the Sunriver Urban Unincorporated Community; and/or
  2. The use will meet the needs of the people passing through the area.
- D. Form of Ownership/List of Uses.
1. Any lawful form of ownership is allowed in the TC District.
  2. The listing of uses permitted in the TC District is not intended to prohibit other uses allowed elsewhere in Sunriver.
  3. When a general use listed in the TC District includes a use or type of ownership that is more specifically described in another zone in Sunriver, the specific listing elsewhere does not prohibit that use from being conducted in the TC District.
- E. Use Limits.
1. Commercial uses, except for Type 1 home occupations as defined in DCC 18.116.280, are not allowed in Multi-family Residential buildings or Townhomes.
  2. Notwithstanding subsection (E)(1), above, the following uses are allowed in Multi-family Residential buildings or Townhomes:
    - a. Live/work residences.
    - b. Lock-off areas.
    - c. Accessory uses to the residential use of the building, such as parking and storage areas.
  3. In a Mixed Use Structure, any ground floor unit that has primary frontage along a public plaza approved as part of a Conceptual Site Plan shall be used only for commercial, recreational or community/governmental uses, but not for hotel units.
  4. A live/work residence is subject to the following conditions.
    - a. One or more walls of the residence adjoin another residential or commercial building.
    - b. The first floor above the garage is the ground floor, where a parking garage is provided below a residence, below the average finished grade and is completely obscured from view on at least one side of the building.
    - c. The commercial area of the live/work residence may not exceed fifty percent (50%) of the square footage of the entire unit, excluding the garage.
    - d. The commercial area shall not exceed 8,000 square feet in combination with other commercial uses in the same building unless the building has been approved as a part of a Large Scale Use pursuant to DCC 18.108.055(C).
- F. Building Height Regulations.
1. Except as provided in subsection (2), below, no Mixed Use Structure shall be erected, enlarged or structurally altered to exceed 60 feet in height.
  2. One Mixed Use Structure shall be permitted with a maximum height not to exceed 75 feet in height, so long as the building footprint of that portion of said building that exceeds 60 feet in height is not greater than 40,000 square feet of the footprint.

3. Townhomes may not exceed 40 feet in height.
  4. Multi-family Residential buildings that are not Mixed Use Structures may not exceed 50 feet in height.
  5. The height of all other buildings for uses other than those described in subsections (F)(1)-(4), above, may not exceed 45 feet in height.
  6. Where a parking garage is provided beneath buildings or structures described in subsection (F)(1) and (2), above, the height of the building shall be measured from the highest point of the roof to one of the following points:
    - a. A point equal to the elevation of the highest adjoining sidewalk or ground surface within a five foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above the lowest elevation adjacent to the building; or
    - b. A point equal to the elevation that is 10 feet higher than the lowest grade from the sidewalk or ground surface described in subsection (a), above, when the sidewalk or ground surface described in subsection (a) is more than 10 feet above lowest grade adjacent to the building.
  7. Projections and architectural elements such as chimneys, spires, clock towers, skylights, atriums, flag poles, mechanical equipment and screens and other similar items that do not add habitable interior floor area may be allowed to exceed the height limit by a maximum of 10 feet.
  8. Buildings that comply with the height limitations of this subsection also comply with the view protection requirement imposed by DCC 18.124.060(A).
- G. Lot Requirements. The following lot requirements shall be observed.
1. Front yard: the front yard shall be a minimum of 10 feet.
    - a. Where a lot has more than one front yard, only one front yard must meet the 10 feet minimum.
    - b. Below-grade parking structures that are built under private streets do not need to meet front yard setback requirements.
  2. Side yard: 0 feet.
  3. Rear yard: 0 feet.
  4. Frontage: 0 feet.
  5. Road Access.
    - a. Each lot shall have access to any required parking areas and driveways, and to a private road, via a perpetual easement recorded for the benefit of the subject lot.
- H. District Setback.
1. All development, including structures and sight-obstructing fences over three feet in height, shall be set back from exterior TC District boundaries by the following distances:
    - a. Where the TC District boundary borders an RS or RM District, the minimum setbacks will be:
      - 1) 15 feet from the TC District boundary for any portion of a building that is 45 feet or lower
      - 2) 20 feet from the TC District boundary for any portion of a building that is over 45 feet in height and that does not exceed 50 feet in height.
      - 3) 50 feet from the TC District boundary for any portion of a building that is over 50 feet in height.
    - b. Where the TC District boundary borders a CL District, the minimum setbacks will be:
      - 1) Five feet from the TC District boundary for any portion of a building that is 45 feet or lower.
      - 2) 10 feet from the TC District boundary for any portion of a building that is over 45 feet in height and that does not exceed 50 feet in height.
      - 3) 20 feet from the TC District boundary for any portion of a building that is over 50 feet in height and that does not exceed 60 feet in height.
      - 4) 50 feet from the TC District boundary for any portion of a building that is over 60 feet in height.
    - c. Where the TC District boundary borders any other zoning district, the minimum setback will be:

- 1) 10 feet from the TC District boundary for any portion of a building that is 45 feet in height or lower.
  - 2) 15 feet from the TC District boundary for any portion of a building that is over 45 feet in height and that does not exceed 50 feet in height.
  - 3) 20 feet from the TC District boundary for any portion of a building that is over 50 feet in height.
2. Items allowed in the District Setback include, but are not limited to, parking, roads, signage, pedestrian pathways, street trees, planters, driveways, landscaping, and outdoor seating.
- I. Floor Area Ratio.
1. The maximum Floor Area Ratio in the TC District is 1.0.
  2. Floor Area Ratio is determined by dividing the enclosed floor area of all floors of all buildings that are proposed by a Conceptual Site Plan by the land area to be bound by the Conceptual Site Plan.
  3. The following areas are not a part of the “enclosed floor area of all buildings”:
- a. Below-grade parking garages and mechanical rooms and storage areas located on the same floor as the parking garage.
  - b. Crawl spaces and attics that are not suited to human occupancy.
- J. Zone Coverage.
1. The total square footage of the building footprints of buildings and enclosed structures is limited to fifty percent (50%) of the gross acreage bound by a Conceptual Site Plan in the TC District.
  2. The total square footage of the building footprints of Multi-family Residential and Townhome buildings allowed by DCC 18.108.055(A)(6) and (12) is limited to a maximum of twenty percent (20%) of the gross acreage of the TC District.
  3. When calculating the building footprint, buildings and enclosed structures include any deck that is more than 12 inches above finished grade and all areas within any screened enclosure permanently affixed to the ground.
  4. The following are not included as building or structures for purposes of calculating building footprint:
- a. Eaves and any driveway, road, walkway, deck, patio, plaza, or porch that is 12 inches or less above finished grade (except with affixed improvements that exceed 12 inches); and
  - b. Parking areas on or below finished grade.
- K. Conceptual Site Plan.
1. Prior to or concurrent with approval of a site plan or conditional use permit, an applicant must file for approval of a Conceptual Site Plan.
  2. A Conceptual Site Plan shall provide a master plan that depicts the approximate location of all of the applicant’s proposed land uses.
  3. All land owned or controlled by the applicant in the TC District must be shown on and will be bound by the applicant’s Conceptual Site Plan.
  4. A Conceptual Site Plan application must include all of the following information:
    - a. Types of uses.
    - b. Site circulation.
    - c. Pedestrian Facilities.
    - d. Traffic impact study, as described in DCC 17.16.115.
    - e. The following additional information:
      - 1) An analysis of site access points to Abbott Drive and Beaver Drive by a registered professional engineer who specializes in traffic analysis work that describes operational, capacity and sight distance issues of those access points and the impact of Conceptual Site Plan development on those access points.
      - 2) Identification of street system improvements needed to support the proposed development based on the information provided by the reviews required by this subsection (d).
      - 3) A schedule for the construction of needed street improvements, if any, keyed to development benchmarks.

- f. Approximate location of phase boundaries, if phased development is proposed, and notation of the phasing sequence.
  - g. The projected location and projected range of building or structure size, in square feet, for commercial uses.
  - h. The projected location and projected range of the number of dwelling units for residential use.
  - i. The projected location and approximate size, in square feet, of plazas and public gathering areas.
  - j. Elevations throughout the site that represent general elevations of each use.
    - 1) Examples of uses for which such elevations should be shown on the Conceptual Site Plan are residential, hotel or commercial structures, pedestrian plazas, parking areas, road intersections, and at length along all roadways.
    - 2) Such elevations must show existing and projected finished elevations.
  - k. The projected footprint and location of new buildings or parking areas. The exact footprints and locations of buildings and parking areas shall be determined during site plan review.
  - l. Existing uses on lands owned or controlled by persons other than the applicant.
5. A Conceptual Site Plan shall be approved if it demonstrates that future development is located on the subject property so that, in addition to the requirements of DCC 18.108.055, the following standards can be met at the time of site plan review:
    - a. DCC 23.40.025; and
    - b. DCC 18.124.060 (A) - (E) and (I); interpreted as described in DCC 23.40.025(E)(1)(d)(3).
  6. Approval of a Conceptual Site Plan does not authorize uses or development.
  7. An applicant shall commence development within five years of the date of final approval of the Conceptual Site Plan unless an extension of the duration of approval of the Conceptual Site Plan has been granted pursuant to DCC 22.36.010(C).
  8. Substantial construction of a Conceptual Site Plan development, for purposes of DCC 22.36.020(A)(2), occurs when the first building authorized by the Plan has been substantially constructed, as defined by DCC 22.36.020(B).
- L. Application and approval process.
1. A site plan or conditional use application shall be consistent with the Conceptual Site Plan with the following exceptions.
    - a. Existing structures or features can be used or altered to meet the requirements of subsections (5) and (10)-(13) of this subsection.
    - b. If the existing structures or features were included in a site plan approval under DCC 18.108.055 and the existing structures or features are proposed to be altered by subsequent site plan, that subsequent site plan must demonstrate compliance with the requirements of subsections (5) and (10)-(13) of this subsection.
  2. A site plan application shall include the number of all uses by type, their ITE code and their pm peak hour trips.
  3. Each site plan, cumulatively with any previously approved site plan, shall demonstrate that the development will not generate traffic at a rate that will exceed the number of pm peak hour vehicle trips for residential and commercial uses assumed in the traffic study required by subsection (K)(4) above.
  4. Adjustments may be made to building locations, sizes, footprints, unit counts and phase boundaries shown on the Conceptual Site Plan during site plan review if such adjustments do not constitute a change requiring modification of approval of the Conceptual Site Plan pursuant to DCC 22.36.040.
  5. An applicant seeking site plan approval shall demonstrate that, when the development that is subject to the site plan approval is complete, a ratio of 150 square feet of commercial space to one dwelling unit will be met.
  6. The term “dwelling unit” used in subsection (5), above, includes:
    - a. All hotel and residential dwelling units, including Multi-family Dwellings and Townhomes.



- b. Lock-off Areas shall be counted as a half dwelling unit for purposes of calculating the ratio described in subsection (5), above.
  - 7. The development in the TC District, cumulatively with any previously approved site plan, must meet the ratio in subsection (5) above.
  - 8. When a second or subsequent site plan is approved a commercial area shown on a prior site plan may be counted toward meeting the required ratio in Subsection (5) above only if construction of the commercial area approved on a prior site plan has been commenced.
  - 9. The site plan shall include the projected finished and existing grade elevations of the site indicating every foot of elevation change on the subject property.
  - 10. Each site plan, cumulatively with all previously approved site plans, shall demonstrate compliance with the fifteen percent (15%) lot area landscaping requirement of DCC 18.124.070(B)(1)(a).
    - a. Landscape areas existing as of the adoption of Ordinance 2008-105 may be used to determine compliance with the fifteen percent (15%) rule as long as the existing landscaping is included in the site plan.
    - b. In the TC District, plazas available to the public may be included to demonstrate compliance with the fifteen percent (15%) landscaping requirement.
  - 11. Each site plan, cumulatively with all previous site plans, shall demonstrate compliance with the FAR requirements of DCC 18.108.055(I).
  - 12. Each site plan, cumulatively with all previously approved site plans, shall demonstrate compliance with the recreation space requirements of DCC 18.124.070(A)(2).
  - 13. Each site plan, cumulatively with all previously approved site plans, shall demonstrate compliance with the zone coverage requirements of DCC 18.108.055(J).
  - 14. Where improved bike paths cross land proposed for site plan development, the applicant shall retain or relocate and rebuild the bike path.
- M. Any application for a zone change to the Town Center District shall include a copy of a signed development agreement between the property owner, the applicant, if different than the property owner, and the homeowners association.
- (Ord. 2016-015 §9, 2016; Ord. 2015-004 §9, 2015; Ord. 2008-015 §2, 2008)

**18.108.110. Business Park - BP District.**

- A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright:
- 1. Residential uses existing as of March 31, 1997.
  - 2. Administrative, educational and other related facilities in conjunction with a use permitted outright.
  - 3. Library.
  - 4. Recreational path.
  - 5. Post office.
  - 6. Church in building or buildings not exceeding 5,000 square feet of floor area.
  - 7. A building or buildings each not exceeding 8,000 square feet of floor space housing any combination of:
 

Retail/rental store, office and service establishment, including but not limited to the following:

    - a. Automobile, motorcycle, boat, recreational vehicle, trailer or truck sales, rental, repair or maintenance business, including tire stores and parts stores.
    - b. Agricultural equipment and supplies.
    - c. Car wash.
    - d. Contractor's office, including but not limited to, building, electrical, plumbing, heating and air conditioning, painter, etc..
    - e. Construction equipment sales, rental and/or service.
    - f. Exterminator services.
    - g. Golf cart sales and service.
    - h. Lumber yard, home improvement or building materials store.

- i. Housekeeping and janitorial service.
  - j. Dry cleaner and/or self-service laundry facility.
  - k. Marine/boat sales and service.
  - l. Restaurant, bar and cocktail lounge including entertainment.
  - p. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~  
Marijuana processing cannabinoid concentrates and cannabinoid products, subject to the provisions of DCC 18.116.330.
  - q. Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
8. A building or buildings each not exceeding 20,000 square feet of floor space housing any combination of:
- a. Scientific research or experimental development of materials, methods or products, including engineering and laboratory research.
  - b. Light manufacturing, assembly, fabricating or packaging of products from previously prepared materials, including but not limited to cloth, paper, leather, precious or semi-precious metals or stones, etc.
  - c. Manufacture of food products, pharmaceuticals and the like, but not including the production of fish or meat products, or the rendering of fats and oils.
  - d. Warehouse and distribution uses in a building or buildings each less than 10,000 square feet of floor area.
- B. Conditional Uses Permitted. The following conditional uses may be permitted subject to DCC 18.128 and a conditional use permit:
- 1. Public buildings and public utility structures and yards, including railroad yards.
  - 2. A dwelling unit for a caretaker or watchman working on a developed property.
  - 3. Law enforcement detention facility.
  - 4. Parking lot.
  - 5. Radio and television broadcast facilities.
  - 6. A building or buildings each not exceeding 8,000 square feet of floor space housing any combination of:
    - a. Bowling alley.
    - b. Theater.
    - c. Veterinary clinic and/or kennel.
    - d. Marijuana processing including cannabinoid extracts, subject to the provisions of DCC 18.116.330.
    - e. Marijuana retailing, subject to the provisions of DCC 18.116.330.
  - 7. A building or buildings each not exceeding 20,000 square feet of floor space housing any combination of:
    - a. Warehouses and distribution uses in a building or buildings exceeding 10,000 square feet of floor area.
    - b. Distillery and beer/ale brewing facility, including wholesale sales thereof.
    - c. Self/mini storage.
    - d. Trucking company dispatch/terminal.
    - e. Solid waste/garbage operator, not including solid waste disposal or other forms of solid waste storage or transfer station.
- C. Use Limits. The following limitations and standards shall apply to uses listed in DCC 18.108.110(A) or (B):
- 1. A use expected to generate more than 30 truck-trailer or other heavy equipment trips per day to and from the subject property shall not be permitted to locate on a lot adjacent to or across the street from a lot in a residential district.
  - 2. Storage, loading and parking areas shall be screened from residential zones.

3. No use requiring air contaminant discharge permits shall be approved by the Planning Director or Hearings Body prior to review by the applicable state or federal permit reviewing authority, nor shall such uses be permitted adjacent to or across the street from a residential lot.

D. Special Requirements for Large Scale Uses.

Any of the uses listed in DCC 18.108.110(A)(6) or (B)(6) may be allowed in a building or buildings each exceeding 8,000 square feet of floor space if the Planning Director or Hearings Body finds:

1. That the intended customers for the proposed use will come from the community and surrounding rural area, or the use will meet the needs of the people passing through the area. For the purposes of DCC 18.108.110, the surrounding rural area shall be that area identified as all property within five miles of the boundary of the Sunriver Urban Unincorporated Community;
2. The use will primarily employ a work force from the community and surrounding rural area; and
3. That it is not practical to locate the use in a building or buildings under 8,000 square feet of floor space.

E. Height Regulations. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed 45 feet in height.

F. Lot Requirements. The following lot requirements shall be observed:

1. Lot Area. No requirements.
2. Lot Width. No requirements.
3. Lot Depth. Each lot shall have a minimum depth of 100 feet.
4. Front Yard. The front yard shall be a minimum of 25 feet.
5. Side Yard. No side yard required, except when adjoining a lot in an RS or RM District and then the required side yard shall be 50 feet. No side yards are required on the side of a building adjoining a railroad right of way.
6. Rear Yard. No rear yard required, except when adjoining a lot in an RS or RM District and then the rear yard shall be 50 feet. No rear yard is required on the side of a building adjoining a railroad right of way.
7. Lot Coverage. The maximum lot coverage by buildings and structures shall be 50 percent of the total lot area.

(Ord. 2016-015 §9, 2016; Ord. 2015-004 §9; 2015; Ord. 2012-002 §1, 2012; Ord. 97-078 §2, 1997)

**CORRECTED EXHIBIT 5/23/16**  
**(Correction to Proposed Subsection 18.116.330(B)(2))**

“\*\*\*\*” Denotes portions of this Section not amended by Ordinance 2016-015.

**Chapter 18.116. SUPPLEMENTARY PROVISIONS**

\*\*\*\*

**18.116.280. Home Occupations.**

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F. Prohibited Uses: The following marijuana uses shall be prohibited as any home occupation:

1. Marijuana production;
2. Marijuana processing;
3. Marijuana retailing; and
4. Marijuana wholesaling.

(Ord. 2016-015 §10, 2016; Ord 2007-021 §1, 2007; Ord 2004-002 §24, 2004)

\*\*\*\*

**18.116.330. Marijuana Production, Processing, and Retailing**

A. Applicability. Section 18.116.330 applies to:

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

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

1. Minimum Lot Area.

- a. In the EFU and MUA-10 zones, the subject property shall have a minimum area of five (5) acres.

2. Maximum Mature Plant Canopy Size. The maximum canopy area for mature marijuana plants shall apply as follows:

- a. Parcels from 5 acres to less than 10 acres in area: 2,500 square feet.
- b. Parcels equal to or greater than 10 acres to less than 20 acres in area: 5,000 square feet.
- c. Parcels equal to or greater than 20 acres to less than 40 acres in area: 10,000 square feet.
- d. Parcels equal to or greater than 40 acres to less than 60 acres in area: 20,000 square feet.
- e. Parcels equal to or greater than 60 acres in area: 40,000 square feet.

3. Indoor Production and Processing.

- a. In the MUA-10 zone, marijuana production and processing shall be located entirely within one or more fully enclosed buildings with conventional or post framed opaque, rigid walls and roof covering. Use of greenhouses, hoop houses, and similar non-rigid structures is prohibited.
- b. In the EFU zone, marijuana production and processing shall only be located in buildings, including greenhouses, hoop houses, and similar structures.
- c. In all zones, marijuana production and processing are prohibited in any outdoor area.

**CORRECTED EXHIBIT 5/23/16**  
**(Correction to Proposed Subsection 18.116.330(B)(2))**

4. Maximum Building Floor Area. In the MUA-10 zone, the maximum building floor area used for all activities associated with marijuana production and processing on the subject property shall be:
  - a. Parcels from 5 acres to less than 10 acres in area: 2,500 square feet.
  - b. Parcels equal to or greater than 10 acres: 5,000 square feet.
  
5. Limitation on License/Grow Site per Parcel. No more than one (1) Oregon Liquor Control Commission (OLCC) licensed marijuana production or Oregon Health Authority (OHA) registered medical marijuana grow site shall be allowed per legal parcel or lot.
  
6. Setbacks. The following setbacks shall apply to all marijuana production and processing areas and buildings:
  - a. Minimum Yard Setback/Distance from Lot Lines: 100 feet.
  - b. Setback from an off-site dwelling: 300 feet.  
For the purposes of this criterion, an off-site dwelling includes those proposed off-site dwellings with a building permit application submitted to Deschutes County prior to submission of the marijuana production or processing application to Deschutes County.
  - c. Exception: Any reduction to these setback requirements may be granted by the Planning Director or Hearings Body provided the applicant demonstrates the reduced setbacks afford equal or greater mitigation of visual, odor, noise, lighting, privacy, and access impacts.
  
7. Separation Distances. Minimum separation distances shall apply as follows:
  - a. The use shall be located a minimum of 1000 feet from:
    - i. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;
    - ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
    - iii. A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool;
    - iv. A youth activity center; and
    - v. National monuments and state parks.
  - b. For purposes of DCC 18.116.330(B)(7), all distances shall be measured from the lot line of the affected properties listed in DCC 18.116.330(B)(7)(a) to the premises of the marijuana producer or marijuana processor.
  - c. A change in use of another property to those identified in DCC 18.116.330(B)(7) shall not result in the marijuana producer or marijuana processor being in violation of DCC 18.116.330(B)(7) if the use is:
    - i. Pending a local land use decision;
    - ii. Licensed or registered by the State of Oregon; or
    - iii. Lawfully established.
  
8. Access. Marijuana production over 5,000 square feet of canopy area for mature marijuana plants shall comply with the following standards.
  - a. Have frontage on and legal direct access from a constructed public, county, or state road; or
  - b. Have access from a private road or easement serving only the subject property.
  - c. If the property takes access via a private road or easement which also serves other properties, the applicant shall obtain written consent to utilize the easement or private road for marijuana production access from all owners who have access rights to the private road or easement. The written consent shall:

**CORRECTED EXHIBIT 5/23/16**  
**(Correction to Proposed Subsection 18.116.330(B)(2))**

- i. Be on a form provided by the County and shall contain the following information;
  - ii. Include notarized signatures of all owners, persons and properties holding a recorded interest in the private road or easement;
  - iii. Include a description of the proposed marijuana production or marijuana processing operation; and
  - iv. Include a legal description of the private road or easement.
9. Lighting. Lighting shall be regulated as follows:
- a. Inside building lighting, including greenhouses, hoop houses, and similar structures, used for marijuana production shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. on the following day.
  - b. Lighting fixtures shall be fully shielded in such a manner that all light emitted directly by the lamp or a diffusing element, or indirectly by reflection or refraction, is projected below the horizontal plane through the lowest light-emitting part.
  - c. Light cast by exterior light fixtures other than marijuana grow lights shall comply with DCC 15.10, Outdoor Lighting Control.
- 10a. Odor. As used in Subsection 18.116.330(B)(10), building means the building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing.
- a. The building shall be equipped with an effective odor control system which must at all times prevent unreasonable interference of neighbors' use and enjoyment of their property.
  - b. An odor control system is deemed permitted only after the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the system will control odor so as not to unreasonably interfere with neighbors' use and enjoyment of their property.
  - c. Private actions alleging nuisance or trespass associated with odor impacts are authorized, if at all, as provided in applicable state statute.
  - d. The odor control system shall consist of one or more fans.
  - e. The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three.
  - f. The filter(s) shall be rated for the required CFM.
  - g. The system shall be maintained in working order and shall be in use.
- 10b. Odor. All marijuana production and processing shall install an effective odor control system in all buildings, including but not limited to, greenhouses, hoop houses, and similar non-rigid structures. The effective odor control system shall:
- a. Prevent marijuana plant odor from disturbing people of normal sensitivity owning or residing on properties within one-quarter mile of all property lines on which the marijuana production and processing is sited;
  - b. Designed and stamped by a mechanical engineer licensed in the State of Oregon; and
  - c. Continually maintained in working order and in use when plants are in the building.
11. Noise. Noise produced by marijuana production and marijuana processing shall comply with the following:
- a. Sustained noise from mechanical equipment used for heating, ventilation, air condition, odor control, fans and similar functions shall not exceed 30 dB(A) measured at any property line between 10:00 p.m. and 7:00 a.m. the following day.
  - b. Sustained noise from marijuana production is exempt from protections of DCC 9.12 and ORS 30.395, Right to Farm. Intermittent noise for accepted farming practices is permitted.

**CORRECTED EXHIBIT 5/23/16**  
**(Correction to Proposed Subsection 18.116.330(B)(2))**

12. Screening and Fencing. The following screening standards shall apply to greenhouses, hoop houses, and similar non-rigid structures and land areas used for marijuana production and processing:
- a. Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.
  - b. Fencing shall be finished in a muted earth tone that blends with the surrounding natural landscape and shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc., and shall be subject to DCC 18.88, Wildlife Area Combining Zone, if applicable.
  - c. Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.
  - d. The existing tree and shrub cover screening the development from the public right-of-way or adjacent properties shall be retained to the maximum extent possible. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act; or agricultural use of the land.
13. Water. The applicant shall provide:
- a. A water right permit or certificate number; or
  - b. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
  - c. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.
14. Fire protection for processing of cannabinoid extracts. Processing of cannabinoid extracts shall only be permitted on properties located within the boundaries of or under contract with a fire protection district.
15. Utility Verification. A statement from each utility company proposed to serve the operation, stating that each such company is able and willing to serve the operation, shall be provided.
16. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with requirements of the OLCC or the OHA.
17. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA Person Responsible for the Grow Site (PRMG).
18. Residency. In the MUA-10 zone, a minimum of one of the following shall reside in a dwelling unit on the subject property:
- a. An owner of the subject property;
  - b. A holder of an OLCC license for marijuana production, provided that the license applies to the subject property; or
  - c. A person registered with the OHA as a person designated to produce marijuana by a registry identification cardholder, provided that the registration applies to the subject property.
19. Nonconformance. All medical marijuana grow sites lawfully established prior to June 8, 2016 by the Oregon Health Authority shall comply with the provisions of DCC 18.116.330(B)(9) by September 8, 2016 and with the provisions of DCC 18.116.330(B)(10-12, 16, 17) by December 8, 2016.

**CORRECTED EXHIBIT 5/23/16**  
**(Correction to Proposed Subsection 18.116.330(B)(2))**

20. Prohibited Uses. In the EFU zone, the following uses are prohibited:

- 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;
- c. A commercial activity, as described in ORS 215.213(2)(c) or 215.283(2)(a), carried on in conjunction a marijuana crop; and
- d. Agri-tourism and other commercial events and activities in conjunction with a marijuana crop.

B. Marijuana Retailing. Marijuana retailing, including recreational and medical marijuana sales, shall be subject to the following standards and criteria:

1. Hours. Hours of operation shall be no earlier than 9:00 a.m. and no later than 7:00 p.m. on the same day.
2. Odor. The building, or portion thereof, used for marijuana retailing shall be designed or equipped to prevent detection of marijuana plant odor off premise by a person of normal sensitivity.
3. Window Service. The use shall not have a walk-up or drive-thru window service.
4. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.
5. Minors. No person under the age of 21 shall be permitted to be present in the building, or portion thereof, occupied by the marijuana retailer, except as allowed by state law.
6. Co-Location of Related Activities and Uses. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot or parcel or within the same building with any marijuana social club or marijuana smoking club.
7. Separation Distances. Minimum separation distances shall apply as follows:
  - a. The use shall be located a minimum of 1,000 feet from:
    - i. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;
    - ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
    - iii. A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool;
    - iv. A youth activity center;
    - v. National monuments and state parks; and
    - vi. Any other marijuana retail facility licensed by the OLCC or marijuana dispensary registered with the OHA.
  - b. For purposes of DCC 18.116.330(B)(7), distance shall be measured from the lot line of the affected property to the closest point of the building space occupied by the marijuana retailer. For purposes of DCC 18.116.330(B)(7)(a)( vi), distance shall be measured from the closest point of the building space occupied by one marijuana retailer to the closest point of the building space occupied by the other marijuana retailer.
  - c. A change in use to another property to a use identified in DCC 18.116.330(B)(7), after a marijuana retailer has been licensed by or registered with the State of Oregon shall not result in the marijuana retailer being in violation of DCC 18.116.330(B)(7).

C. Annual Reporting

1. An annual report shall be submitted to the Community Development Department by the real property owner or licensee, if different, each February 1, documenting all of the following as of



**CORRECTED EXHIBIT 5/23/16**  
**(Correction to Proposed Subsection 18.116.330(B)(2))**

December 31 of the previous year, including the applicable fee as adopted in the current County Fee Schedule and a fully executed Consent to Inspect Premises form:

- a. Documentation demonstrating compliance with the:
  - i. Land use decision and permits.
  - ii. Fire, health, safety, waste water, and building codes and laws.
  - iii. State of Oregon licensing requirements.
- b. Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance with DCC 18.116.330(C)(1)(a) shall serve as acknowledgement by the real property owner and licensee that the otherwise allowed use is not in compliance with Deschutes County Code; authorizes permit revocation under DCC Title 22, and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.
- c. Other information as may be reasonably required by the Planning Director to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
- d. Marijuana Control Plan to be established and maintained by the Community Development Department.
- e. Conditions of Approval Agreement to be established and maintained by the Community Development Department.
- f. This information shall be public record subject to ORS 192.502(17).

(Ord. 2016-015 §10, 2016)

# Findings

## I. BACKGROUND

### A. State Law

Oregon voters approved Ballot Measure 67, the Oregon Medical Marijuana Act, in November 1998. The Oregon Legislature amended the Medical Marijuana Act in 2013, authorizing local government to adopt reasonable regulations related to the hours of operation, location, and manner in which medical marijuana dispensaries are regulated.<sup>1</sup>

Oregon voters approved Ballot Measure 91 in November 2014, legalizing the personal use and possession of adult recreational marijuana beginning on July 1, 2015, with certain limitations, including restrictions on use in public, no growing in public view, a restriction on minors attempting to buy or entering licensed premises, prohibiting the sale or use by persons under 21, and imposing licensing and other requirements on marijuana cultivation, processing, and dispensing facilities.

The measure, as implemented by the Oregon State Legislature in 2015 (HB 3400 A, Section 33), authorizes reasonable conditions on the manner in which:

- Licensed retailers, processors, producers, wholesalers may sell marijuana;
- Reasonable limitations on the hours during which a licensed marijuana facility may sell marijuana items;
- Reasonable requirements related to a public's access to a licensed premises;
- Reasonable distance between facilities (no more than 1,000 feet); and
- Reasonable limitations on where licensed premises may be located.

Such regulations must be consistent with the County's Comprehensive Plan, zoning ordinance, and public health and safety laws.

### B. Deschutes County Process

In September 2015, the Board of County Commissioners (Board) held a series of work sessions to draft proposed standards for marijuana-related businesses in unincorporated Deschutes County. On November 5 and 12, 2015, the Planning Commission conducted public hearings to receive testimony on the proposed regulations. The Planning Commission deliberated on November 16 and 23, 2015, and forwarded recommendations for the Board's consideration. The Board held a public hearing on December 2, 2015. Thereafter, on December 21, 2015, the Board unanimously approved Ordinance No. 2015-009, banning or "opting out" of marijuana businesses in unincorporated Deschutes County. Commissioners expressed a desire to have more time to assess "right to farm" impacts and to consider reasonable regulations for businesses that grow, process, and sell marijuana.

After convening a Marijuana Advisory Committee in February 2016 and receiving its recommendations in April 2016, the Board held another series of public hearings to take testimony on

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<sup>1</sup> Counties retain home rule authority to adopt regulations that are not unconstitutional or preempted by federal or state law.

- Status of “Opt Out” moratorium prohibiting medical marijuana processing and dispensaries and recreational marijuana production, processing, wholesale, and retail; and
- Amendments to Deschutes County Code to define, permit, and establish standards for marijuana related uses in unincorporated Deschutes County. The amendments would identify the zones where the various uses may be permitted (outright or conditional use) and prohibited, and time, place, and manner regulations for each allowed use.

On [date], the Board adopted Ordinance Nos. 2016-xxx, 2016-xxx, 2016-xxx, 2016-xxx, and 2016-xxx, defining, permitting, and establishing standards for marijuana related uses in unincorporated Deschutes County.

### **C. Deschutes County Distinguishing Land Use Characteristics**

When Senate Bill (SB) 100 was adopted in 1973, Deschutes County prepared a Comprehensive Plan, relying on the Bureau of Government and Research from the University of Oregon. It was sent to the voters of the County either by referendum or referral by the Board, and was rejected. Out of the thirty-six counties, Deschutes County was the only one to have its Comprehensive Plan repealed by voters. Negotiations between the State of Oregon and County subsequently took place to develop a Comprehensive Plan that could comply with State law. The State directed Deschutes County to protect resource lands consistent with the State Land Use Goals. Many people in Deschutes County felt the land was too marginal for farming and advocated for greater flexibility to allow development. The Legislature cited Deschutes County’s “sagebrush subdivisions,” created in the 1960s and early 1970s, as part of the reason to approve SB 100 and the State enabling planning legislation.

As outlined in the Comprehensive Plan’s Resource Element, Staff relied on soil maps and irrigation data provided by the irrigation districts to designate agricultural lands. Staff also examined topography, recognizing that elevation could affect land productivity (example: the Lower Bridge area is lower elevation and has the best agricultural lands in the County). Soil and irrigation were the two primary factors for determining agricultural land. The one exception was the eastern section of the County which was recognized as range land (Brothers, Millican, and Hampton). Pre-platted subdivisions, lacking development, utilities, or infrastructure, were deemed to be vacant and therefore suitable for agriculture uses, based on direction from the State. The County was also required to protect land for wildlife and open space values, as well as to direct development into areas that could be more efficiently served, thereby reducing required taxation. To designate rural residential land (Rural Residential - 10, Multiple Use Agricultural - 10), Deschutes County had to demonstrate that the land was committed to rural residential uses. There were extensive property owner negotiations. Many property owners wanted maximum flexibility to preserve their investment for retirement. Staff examined the level of development, utilities, roads, and infrastructure to make the determination. They examined every property, lot by lot in the County. If they could demonstrate the land was committed, even if it was not necessarily completely built-out, it was designated rural residential.

In 1992 a commercial farm study was completed for Deschutes County, concluding that irrigation is the controlling variable for defining farm lands. Soil classifications improve when water is available. Seven new agricultural subzones were identified based on the factual data provided in the 1992 study and minimum acreages were defined based on the typical number of irrigated acres used by commercial farms in that particular subzone (with the exception of the Horse Ridge subzone in the eastern portion of the County). The 1992 farm study noted the challenges of local commercial farming. The high elevation (2700-3500 feet), short growing

season (88-100 days), low rainfall, and distance to major markets hamper profitability. The 1992 study resulted in minimum lot sizes that are smaller than the State requirement of 80 acres for farm land and 160 acres for range land. These minimum lot sizes are unique in Oregon and were acknowledged as in compliance with Statewide Goal 3 (Agricultural Lands) by the Land Conservation and Development Commission. The County maintains a unique set of farm sub-zones based on the average number of irrigated acres for each type of farm land as determined in the 1992 farm study. Irrigated land divisions in each sub-zone must result in parcels that retain certain acreages.

Statewide Planning Goal 3 requires counties to preserve and maintain agricultural lands. However, in discussions on the future of agriculture in Deschutes County, there are still differences of opinion over which lands should be designated farm lands and which should not, as well as what land uses should be allowed. Farm lands contribute to the County in a number of ways. Agriculture is part of the ongoing local economy. Wide-open farm lands offer a secondary benefit by providing scenic open spaces that help attract tourist dollars. Farm lands also contribute to the rural character that is often mentioned as important to residents. Finally, it should be noted that agricultural lands are preserved through State policy and land use law because it is difficult to predict what agricultural opportunities might arise and once fragmented the opportunity to farm may be lost.

On the other hand, there seems to be widespread agreement that much of the local farm land is marginal at best, particularly without irrigation. The climate, especially the short growing season and the potential for freezing temperatures on almost any given night, makes commercial farming challenging and usually a losing proposition financially. Statewide Planning Goal 3 does not really account for the conditions in Deschutes County, resulting in agricultural zoning being applied to land with no history of farming and limited potential for profitable farming. The small size of agricultural parcels adds significantly to the challenges. It has been argued that preserving farm lands benefits the wider public at the expense of agricultural landowners. There is considerable pressure to convert agricultural land to residential or other uses. The debate is complicated because there are impacts to the farming community from converting agricultural lands to other uses. It can be difficult for a farmer who has residential neighbors because farming activities can have noise, odor and/or dust impacts. Oregon's right-to-farm law offers some protection to farmers, but as residential uses grow there is pressure to convert, leading to a greater loss of agricultural lands.

The introduction of marijuana production into these farming areas, particularly those areas of smaller lot patterns and nonfarm residential development, highlights the compatibility concerns expressed by both farm and nonfarm, rural residential property owners. The unique conditions and development patterns that exist in Deschutes County only amplify the concerns of these diverse populations and the challenge in mitigating potential impacts to maintain compatibility of nearby land uses.

## **II. PROPOSAL**

This is a legislative text amendment to Deschutes County Code (DCC), Title 8, Health and Safety; Title 15, Buildings and Construction; Title 18, County Zoning; Title 19, Bend Urban Area Zoning Ordinance; Title 20, Redmond Urban Area Zoning Ordinance, and Title 21, Sisters Urban Area Zoning Ordinance. The proposal defines four types of marijuana-related land use and specifies whether these uses are subject to administrative determinations, conditional uses, or prohibited in various zoning districts in unincorporated Deschutes County. The four uses generally are defined as follows:

- Production -- manufacture, planting, cultivation, growing, trimming, harvesting or drying of marijuana
- Processing -- processing, compounding or conversion of marijuana into cannabinoid products, concentrates, or extracts
- Wholesaling -- purchasing marijuana items for resale to a person other than a consumer
- Retailing -- selling marijuana items to a consumer

The proposed amendments are to:

- DCC Chapters 18.16 (Exclusive Farm Use Zones), 18.32 (Multiple Use Agriculture Zone), 18.65 (Rural Service Center Zone), 18.66 (Terrebonne Rural Community Zoning Districts), 18.67 (Tumalo Rural Community Zoning Districts), 18.74 (Rural Commercial Zone), 18.100 (Rural Industrial), 18.108 (Urban Unincorporated Community Zone – Sunriver), and 18.116 (Supplementary Provisions).
- DCC Chapters 19.12 (Urban Area Reserve Zone) and 19.20 (Suburban Low Density Residential Zone).
- DCC Chapter 20.12 (Urban Holding Zone).<sup>2</sup>
- DCC Chapter 21.16 (Urban Area Reserve Zone).

Key elements of the proposal are:

- The regulations would not apply to personal recreational marijuana or personal medical marijuana, as allowed by State law.
- The regulations would apply to recreational marijuana businesses (production, processing, wholesaling, retailing) licensed by the Oregon Liquor Control Commission (OLCC).
- The regulations would apply to medical marijuana businesses (production, processing, and dispensary) licensed by Oregon Health Authority (OHA).
- Exclusive Farm Use Zoning Districts

*Recreation*

Marijuana production (growing) and processing would be subject to an administrative determination. However, marijuana processing would be subject to limits in state law of agricultural processing (maximum 10,000 square feet of floor area; minimum of 25% of processed crops grown on site). Wholesaling and retailing would be prohibited.

Production and processing would be subject to special development standards for minimum setbacks, odor, lighting, water, secure disposal, noise, minimum lot size of 5 acres, and maximum mature plant canopy size.

*Medical*

Pursuant to HB 3400, marijuana production and processing would have these same standards with the exception of existing medical marijuana production sites (that portion

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<sup>2</sup> Deschutes County Code, Chapter 8.08 (Noise Control) and Chapter 15.10 (Outdoor Lighting Control) are also being amended. These chapters fall outside of zoning so no land use findings are required.

contained within a building structure) abiding by their preexisting setbacks established from their current operations.

- Multiple Use Agriculture

*Recreation*

Marijuana production (growing) and processing would be subject to conditional use permits. Production and processing would be subject to special development standards for minimum setbacks, odor, lighting, water, secure disposal, noise, property owner residency onsite, minimum lot size of 5 acres, operations limited to enclosed buildings, and maximum building size.

*Medical*

Marijuana production and processing would have these same standards with the exception of existing medical marijuana production sites (indoor building) abiding by their preexisting setbacks based on their current operations.

- Marijuana Wholesaling and Retailing are subject to site plan review in the following zones: Rural Service Center, Terrebonne, Tumalo, Rural Commercial, Rural Industrial, and Sunriver. Development standards address hours, window service, minors, co-location, separation distances, and secure disposal.
- Bend Urban Area Reserve and Suburban Low Density  
Marijuana processing, production, retailing, and wholesaling are prohibited on properties subject to the provisions of 19. Existing lawfully established medical marijuana production (grow sites) are allowed to continue operating subject to the provisions of DCC 19.92.
- Redmond Urban Holding Zone  
Marijuana processing, production, retailing, and wholesaling are prohibited on properties subject to the provisions of Title 20. Existing lawfully established medical marijuana production (grow sites) are allowed to continue operating subject to the provisions of DCC 20.16.
- Sisters Urban Holding Zone  
Marijuana processing, production, retailing, and wholesaling are prohibited on properties subject to the provisions of Title 21. Existing lawfully established medical marijuana production (grow sites) are allowed to continue operating subject to the provisions of DCC 21.60.
- Miscellaneous Amendments
  - Add marijuana related definitions to DCC 18.04.030, Definitions.
  - Add marijuana related definitions to DCC 19.04.040, Definitions.
  - Add marijuana related definitions to DCC 20.04.050, Definitions.
  - Add marijuana related definitions to DCC 21.04.040, Definitions.
  - Amend supplemental provisions to prohibit marijuana-related land uses as home occupations, with the exception of wholesaling as a Type 1 use.

### III. REVIEW CRITERIA

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

#### A. Statewide Planning Goals and Guidelines

Goal 1: Citizen Involvement: The amendments do not propose to change the structure of the County's citizen involvement program. Notice of the proposed amendment was provided to the *Bulletin* for the Planning Commission and Board public hearings. Recently, the Board relied on recommendations from a Marijuana Advisory Committee. The committee convened in February 2016 and met seven times for a total of twenty-six hours.

Goal 2: Land Use Planning: This goal is met because ORS 197.610 allows local governments to initiate post acknowledgments plan amendments (PAPA). An Oregon Land Conservation and Development Department 35-day notice was initiated on November 2, 2015. The FINDINGS document provides the adequate factual basis for the amendments.

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

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

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

Goal 6: Air, Water and Land Resources Quality: Complies because the text amendments do not propose to change the County's Plan policies or implementing regulations for compliance with Goal 6.

Goal 7: Areas Subject to Natural Disasters and Hazards: Complies because the text amendment does not propose to change the County's Plan or implementing regulations regarding natural disasters and hazards.

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

Goal 9: Economy of the State: Goal 9 and its implementing regulations focus on economic analysis and economic development planning required in urban Comprehensive Plans. The proposed amendments apply to commercial and industrial lands but do not propose to amend the Comprehensive Plan. Goal 9 does identify land use controls and ordinances as one of a

suite of economic development tools. The proposal includes allowing specified marijuana related uses in certain commercial and industrial zones; however, these uses are already permitted in these zones as part of other more general use categories (e.g., manufacturing, wholesaling, retailing). Therefore the text amendments comply with Goal 9.

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

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

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

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

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

Goals 15 through 19 are not applicable to any amendments to the County's comprehensive plan because the county has none of those types of lands.

## **B. Deschutes County Comprehensive Plan**

Chapter 1 Comprehensive Planning: Sets the Goals and Policies of how the County will involve the community and conduct land use planning. The County, as described above, held numerous meetings with the Marijuana Advisory Committee (MAC), whose membership included diverse points of view. The proposed regulations were presented to the Planning Commission, which is the County's official committee for public involvement, and the Board. Both bodies received oral and written testimony. County staff also created and updated a webpage specifically for marijuana regulations and the process to craft them. The semi-monthly Community Development Department Update newsletter also contained synopses of the process with staff contact information. All of these actions demonstrate compliance with Section 1.2, Community Involvement. Goal 1 of this section, Community Involvement, is to maintain an active open community involvement program and are consistent specifically with Policies 1.2.3 through 1.2.5.

These actions also satisfy the Goals and relevant Policies of Section 1.3, Land Use Planning Policies. Goal 1 of this section is to maintain an open and public land use process in which decisions are based on the objective evaluation of facts. Staff, the Planning Commission, and the Board spent considerable efforts to ensure decisions were based on facts given the highly



emotional and charged topic at hand. Staff, the Planning Commission, and the Board reviewed state rules and regulations as well as those of other local governments when constructing the County's reasonable regulations for time, manner, and place of producing, processing, storing, and retailing marijuana. The above work sessions, staff reports, and public hearings comply with Section 1.3, Goal 1, but also its policies, specifically 1.3.1-1.3.4, and 1.3.6.

Goal 2 to promote regional cooperation and partnerships on planning issues and its policies were met. The County coordinated with the cities of Bend and Redmond on the regulations specific to Title 19 and 20, which implement those cities' General Plans. The County also reached out to local irrigation districts in the process of developing these regulations. This satisfies relevant Policy 1.3.11.

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

Section 2.2, Agricultural Lands Policies, sets Goal 1 to preserve and maintain agricultural lands and the agricultural industry. Policy 2.2.6 calls for a regular review of farm regulations to ensure compliance with State statutes and Oregon Administrative Rules. The marijuana regulations proposed under this text amendment are precisely the actions anticipated by this policy. Changes at the State level have led to the rise of a new agricultural industry in Deschutes County.

Goal 2 promotes a diversified, sustainable, revenue-generating agricultural sector. Policy 2.2.10 calls for the promotion of economically viable opportunities and practices while Policy 2.2.11 encourages small farming enterprises including but not limited to, niche markets and organic farming and valued-added projects. The marijuana regulations proposed under this text amendment will diversify agriculture in the County by adding a revenue-generating plant. By definition, the marijuana grown, processed, wholesaled, and sold at retail for recreational and medical uses is a niche market.

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

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

Section 2.4 deals with Goal 5 (Natural Resources, Scenic and Historic Areas, Open Spaces, and Aggregate, i.e., surface mining) resources. Goal 1 is to protect Goal 5 resources. The County has an acknowledged list of significant and protected Goal 5 properties and sites. These regulations would not repeal those protections or Goal 5 listings, therefore the text amendment is consistent with this portion of the Comprehensive Plan, in particular with Policy 2.4.2 (which is incorrectly listed as 2.2.2 in the Plan).

Section 2.5 concerns Water Resources and Goal 1 is to develop regional, comprehensive water management policies while balancing the diverse needs of water users and recognize Oregon

water law. Policy 2.5.1 calls for working cooperatively with stakeholders. During the development of the regulations, the County reached out to local irrigation districts and the Oregon Department of Water Resources (DWR) to participate in the process. Representatives of DWR and irrigation districts attended to varying degrees meetings of the MAC. DWR and irrigation districts to varying degrees submitted oral or written comments to the MAC, the Planning Commission, the Board, or staff. Goal 6 of this section calls for coordinating land use and water policies and Policies 2.5.22 and 2.5.24 concern assessing potential impacts of land use to river or riparian or wetlands and assessing the effects of significant land use developments upon water. The proposed regulations do not modify the County's land use notice requirements and the County's transmittal list, which includes DWR and local irrigation districts. Notification to these irrigation districts and state agency of marijuana-related land use applications will ensure water is a considered element in any County land use decision. Furthermore, applicants will be required to demonstrate that have a legal source of water under State law. Thus, the proposed regulations comply with the relevant Comprehensive Plan policies.

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

Section 2.7 focuses on Open Spaces, Scenic Views, and Sites. The proposed regulations will not modify the Goal 5 inventory nor lands zoned for Open Space and Conservation (OSC) nor rivers and roadways included in the Landscape Management (LM) overlay zone. Any development must conform to the setback, vegetative screening, downcast lighting, and allowable colors of building materials and paints in the LM zone. Thus, the proposed amendments are consistent with the relevant goals and policies of this section.

Section 2.8 devotes its energy to Energy Policies. Goal 1 is to promote energy conservation and applicable Policies 2.8.2 and 2.8.4 look at reducing energy demand through efficiency and conservation, respectively. Goal 2 promotes affordable, efficient, reliable, and environmentally sound energy systems for individual home and business consumers. In terms of growing operations, the combination of Central Oregon's numerous sunny days, greenhouses, and modern building technologies make for highly energy efficient operations. Midstate Electric and Central Electric Co-Op participated in panel discussions, encouraging growers to contact them well in advance for design review of their planned operations. Both agencies are on the County's transmittal list to be contacted as service providers for land use applications. This allows energy providers to plan their long-term infrastructure needs. Retail, wholesale, and processing are no different from any other user of energy. A Statement from each utility company proposed to serve the operation would be required, stating that each such company is able and willing to serve the operation. Taken together, the marijuana regulations thus comply with these goals and their relevant policies.

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

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

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

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

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

Section 3.4 sets Rural Economy Goals and Policies. Goal 1 is to maintain a stable and sustainable rural economy, compatible with rural lifestyles and a healthy environment. Given farming is one of the definitive rural activities, the regulations comply. Policy 3.4.1 promotes rural economic initiatives, yet maintains the County's rural character, and review land use regulations to identify legal and appropriate rural economic development opportunities. The proposed regulations, which deal with a newly legal agricultural crop and its potential products, are a perfect fit. The regulations are consistent with Policy 3.4.7 of permitting locally serving commercial uses in higher density rural communities which are consistent within State regulations. Policies 3.4.8 through 3.4.21 deal with lands zoned Rural Commercial and Policies 3.4.22 through 3.4.35 apply to lands zoned Rural Industrial. The proposed regulations would be consistent with or exceed the pre-existing standards (building size, intensity of use, general description of the market being served, floor area, etc.) for these zones. The proposed marijuana retail, wholesale, processing, and manufacturing uses allowed under the proposed regulation are consistent with uses already allowed under Rural Commercial and Rural Industrial zones. The proposed amendments are consistent with the relevant goals and policies of this section.

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

Section 3.6 is Public Facilities and Services and Goal 1 is to support the orderly, efficient, and cost-effective siting of rural public facilities and services. As these proposed regulations are for private development the goal and policies of this section do not apply, save for Policy 3.6.9 which states new development shall address impacts on existing facilities and plans through the land use entitlement process. While the language is mostly likely directed at the development of public buildings, it could be interpreted that private development must account for its impact on public roads, for instance. The County code does require traffic studies for developments that

will generate 50 or more new weekday trips. Either this section does not apply or the proposed amendments comply with the relevant Policy 3.6.9.

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

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

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

Section 3.10 Area Specific Policies describe the following geographic areas: South Deschutes County (which was completed and ultimately became the following Section 3.11), Oregon Military Site south of the fairgrounds, Crooked River Ranch, and Deschutes Junction. The underlying zoning in these areas remains unchanged and these proposed amendments will not change the zoning. The proposed regulated marijuana uses (retail, wholesale, processing, and manufacturing) are consistent with the underlying zones in these areas which include EFU, Rural Commercial, Rural Industrial, MUA-10; while there are also areas zoned F-1, F-2, and RR-10, the marijuana uses are not proposed for those zones. The marijuana regulations are proposed for Countywide implementation and thus the Goal and policies of this section are either inapplicable or the regulations are consistent with relevant policies of Policy 3.10.4 which requires coordination with Jefferson County and Crooked River residents and Policy 3.10.5 which requires protecting the rural character of Deschutes Junction. Both recognize the intended development of commercial, industrial, and agricultural areas.

Section 3.11 Newberry Country: A Plan for Southern Deschutes County. The vast majority of this area is zoned either F-1, F-2, RR-10, or Flood Plain, which are not being amended by this proposal. The only area where the proposed marijuana regulations would apply would be in the Spring River Rural Commercial Zone and the Rural Service Center Commercial sites of Whistle Stop and Wildhunt. The Newberry Country Plan expressly did not include Sunriver. The proposed text amendment contains land uses and dimensional standards which are consistent with the existing zones. Therefore the amendments comply with Section 3.11 and its goals and policies.

Chapter 4 Urban Growth Management: These policies deal with urban, rural and resort unincorporated communities of Sunriver, Terrebonne, and Tumalo, Black Butte Ranch and Inn of the 7<sup>th</sup> Mountain/Widgi Creek, and various Rural Service Centers. Section 4.1 has no goals or policies.

Section 4.2 is Urbanization Policies and the goals and policies concern urban growth boundaries (UGBs), urban reserves, and orderly transition from urban to rural land use patterns. Goal 1 calls for coordination with cities and special districts to support UGBs, urban reserves, and transition areas. Policy 4.2.2 promotes the use of urban reserve areas. Goal 2 calls for coordination on zoning for lands outside city limits but within UGBs and Policy 4.2.4 calls for urban growth area zoning to coordinate land use decisions within that same area. When properties develop on Title 19 or 20 lands, the County sends transmittal letters to the appropriate municipality. Also during the development of the regulations, the County reached out to the cities to determine the types of marijuana land use activities that would be appropriate for Title 19 and 20. Goal 3 calls for coordination on policies for lands outside the City limits but inside Urban Reserve areas and Policy 4.2.10 speaks specifically to the Redmond Urban Reserve U Area (RURA). The County did so during the development of these regulations,

adjusting the type of marijuana uses, their hours, and the dimensional standards. To the minimal extent the goals and polices are applicable, the amendments comply with the applicable goals and policies.

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

Section 4.4, La Pine, does not apply as the former La Pine Urban Unincorporated Community incorporated.

Section 4.5 pertains to Sunriver. No goals were established for this Urban Unincorporated Community (UUC). Policy 4.5.8 requires small-scale, low-impact commercial uses shall be developed in conformance with OAR 660-022, which the proposed regulations do. Policy 4.5.8 does allow larger more intense commercial uses if they serve the community, the surrounding rural area, and the travel needs of those passing through the area. Policy 4.5.11 requires analysis of the nearby residential and commercial uses along with impacts to the transportation system and other public facilities to serve the intended use. Town District Policy 4.5.12 and Business District Policy 4.5.17 have similar language to Policy 4.5.8. The proposed regulations' development standards address hours, window service, minors, co-location, separation distances, and secure disposal to ensure compliance with the underlying zone and the Sunriver policies.

Section 4.6, Terrebonne Community Plan, calls for the retention of the rural character of the community as a Land Use Goal. Land Use Policy 1 requires conformance with OAR 660-022. Commercial Area Policy 11, similar to Sunriver above, also references OAR 660-022, requiring small-scale, low-impact commercial uses shall be developed in conformance with OAR 660-022, but does allow larger commercial uses if they serve the community, the surrounding rural area, and the travel needs of those passing through the area. Commercial Area Policy 12 prohibits industrial uses from dominating the character of commercial districts. Water Facility Policy 5 requires notice be sent to the Terrebonne Domestic Water District for development that requires a land use application. The District is on the County's transmittal list. The proposed regulations' development standards address hours, window service, minors, co-location, separation distances, size dimensional standards, and secure disposal to ensure compliance with the underlying zone and thus are consistent with the Terrebonne Community Plan's goals and policies.

Section 4.7, Tumalo Community Plan as its Land Use Goal calls to protect and enhance the small-town character of the community by supporting public services, healthy active lifestyles, and social connections among residents and stakeholders. Community Policy 3 supports economic development initiatives and tourism in the Tumalo area. The legalization of marijuana and its retail aspects are both consistent with this policy. Land Use Policy 1 seeks to conform land use regulations to the requirements of the Unincorporated Communities in OAR 660-022. Land Use Policy 2 ensures County plans and land use regulations require that new uses authorized within Tumalo do not adversely affect agriculture in the surrounding EFU zones. Given the proposed regulations limit selected marijuana land use activities to the EFU zone and that the products can be sold at retail or wholesale in the Tumalo commercial district, the proposed regulations comply with the Tumalo Community Plan. Land Use Policy 17 requires conditional uses in the commercial district to consider the impact on nearby residential and commercial uses and the capacity of public functions and services. The County code requires

any use that will generate more than 50 new weekday trips to analyze its impacts on transportation facilities. Additionally, the County code for conditional uses already has language about suitability for uses in terms of limiting glare, odor, hours of operation, and similar aspects of general compatibility. Industrial Area Policy 19 only allows small-scale, low impact operations and new uses will not exceed the capacity of available water and sewer services. Public Facility Policies 2 and 4 concern availability of water and fire protection. County code requires transmittal notices be sent to the service providers of water and fire protection on land use applications for comments on the availability or adequacy for both. The proposed regulations' development standards address hours, window service, minors, co-location, separation distances, size dimensional standards, and secure disposal to ensure compliance with the underlying zone. The proposed text amendments are consistent with the Tumalo Community Plan's goals and policies.

Section 4.8 Resort Communities does not apply as none of the marijuana-related land uses is proposed to occur in these areas.

Section 4.9, Rural Service Centers has no goals for these areas. Policy 4.9.1 does require compliance with OAR 660-022. The proposed regulations comply. Policy 4.9.6 require County Comprehensive Plan policies and land use regulations ensure that new uses authorized in Alfalfa, Brothers, Hampton, Millican, Whistlestop, and Wildhunt Rural Service Centers (RSC) do not adversely affect agricultural or forest uses in the surrounding areas. Given the proposed regulations limit selected marijuana land use activities to the EFU zone and that the products can be sold at retail or wholesale in the RSCs, the proposed text amendment is consistent with this policy language. Policy 4.9.7 states zoning shall maintain the area's rural character and new commercial uses shall be limited to small-scale, low impact uses that are intended to serve the community and surrounding rural areas or the travel needs of people passing through the area. The proposed regulations' development standards address hours, window service, minors, co-location, separation distances, size dimensional standards, and secure disposal to ensure compliance with the underlying zone.