



## Community Development Department

Planning, Building Safety, Environmental Soils, Code Enforcement  
 PO Box 6005, Bend, Oregon 97708-6005  
 117 NW Lafayette Avenue  
[www.deschutes.org/cd](http://www.deschutes.org/cd)

### Deschutes County Marijuana Advisory Committee

Meeting #6: Thursday, March 31, 2016, 4:00-8:00 pm  
 Barnes and Sawyer Rooms, Deschutes Services Building, 1300 NW Wall Street, Bend

NOTICE: A QUORUM OF THE BOARD OF COUNTY COMMISSIONS MAY BE IN ATTENDANCE AT THIS MEETING.

TIME	TOPIC	DESIRED OUTCOME
3:30 (:30)	<b>Optional pre-meeting refreshments for MAC members</b> (DeArmond Room)	
4:00 (:05)	<b>1. Welcome from Deschutes County:</b> Nick Lelack, Director, Community Development Department	Welcome attendees
4:05 (:05)	<b>2. Introductions and overview of agenda:</b> Mary Orton, The Mary Orton Company, LLC (facilitator) <i>See Packet: Agenda</i>	Clarity on the agenda.
4:10 (:15)	<b>3. Public Comments</b> Those who wish to speak will be limited to no more than 3 minutes, and perhaps less to allow time for everyone who wishes to speak. In addition, written comments will be accepted at any time, and will be posted to the County's website where all MAC members will be expected to read them.  Please note that this is a time for giving your views to the MAC members, not asking questions. If you have a question, please ask a County staff person during a break, or send your question to <a href="mailto:mac@Deschutes.org">mac@Deschutes.org</a> .	Opportunity to hear from members of the public who are present.
4:25 (:15)	<b>4. Review and discussion on draft report format</b> <i>See Packet: Draft final report format</i>	Feedback and possible agreement on the format of the report to the Board of County Commissioners.

TIME	TOPIC	DESIRED OUTCOME
4:40 (1:20)	<p><b>5. Discussion and consensus building on medical and recreational marijuana regulations: <u>Production and Processing in EFU</u></b></p> <p><i>See Packet: Matrices on zoning and standards from the last two meetings</i></p> <p><u>Production of marijuana</u>: “Manufacturing, planting, cultivation, growing or harvesting of marijuana in Oregon.”</p> <p><u>Processing marijuana</u>: “Processing, compounding or conversion of marijuana into cannabinoid products, concentrates, or extracts; excluding packaging or labeling.”</p> <p>Order of consideration of standards from the matrices, EFU only:</p> <ol style="list-style-type: none"> <li>a. Maximum building floor size / Enclosed production only / Indoor-outdoor (including indoor processing)/ Limit the number of licenses / Size limits (production only)</li> <li>b. Minimum separation / Setbacks / Additional setback / Minimum lot or parcel size</li> <li>c. Screening / Fencing / Security / Security cameras / Secure disposal</li> <li>d. Access</li> <li>e. Inspections</li> <li>f. Fire protection</li> <li>g. Water</li> <li>h. Temporary residences prohibited</li> <li>i. Outdoor storage prohibited (processing only)</li> <li>j. Processing method limitation (processing only)</li> <li>k. Minors</li> <li>l. Consumption</li> </ol> <p>Notes:</p> <p>The MAC will address non-conforming uses along with each standard. Should the standard apply to existing medical marijuana facilities and sites?</p> <p>There is probably no need for the MAC to address “On site residency” or “On site sales prohibited” since on this pass, the MAC is addressing EFU zones only.</p>	Provisional agreement on regulations.

TIME	TOPIC	DESIRED OUTCOME
6:00 (:10)	<b>Break</b>	
6:10 (1:45)	<b>6. Discussion and consensus building on medical and recreational marijuana regulations: <u>Production and Processing in EFU</u></b> (continued)	Provisional agreement on regulations.
7:55 (:05)	<b>7. Next steps</b> <ul style="list-style-type: none"> <li>▪ Next (and last!) meeting: #7, Thursday, April 7, 4-8 pm, Deschutes County Services Building <ul style="list-style-type: none"> <li>○ This agenda will include finalizing the provisional recommendations of the MAC.</li> </ul> </li> <li><b>!!!NOTE THIS!!!</b></li> <li>▪ Meeting evaluation</li> </ul>	Agreement on next steps, continual improvement
8:00	<b>8. Adjourn</b>	

NOTE: Items included in the packet can be located at:

<http://www.deschutes.org/marijuana>

Deschutes County encourages persons with disabilities to participate in all programs and activities.

This event/location is accessible to people with disabilities.

If you need accommodations to make participation possible, please call the ADA Coordinator at (541) 617-4747.

**To:** Deschutes County Board of County Commissioners  
**From:** Marijuana Advisory Committee members  
Andrew Anderson      Alison Hohengarten      Lindsey Pate  
Matt Cyrus              Jeff Ingeles              Josh Rodriguez  
Sam Davis                Glenn Kotara             Steve Swisher  
Tim Elliott                Liz Lotochinski  
Larry Fulkerson         Hunter Neubauer  
**Date:** April 8, 2016  
**Re:** Recommendations for your consideration

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The thirteen members of the Deschutes County Marijuana Advisory Committee (MAC) are pleased to forward to you the attached recommended regulations for recreation and medical marijuana-related uses in unincorporated Deschutes County for your consideration.

The Board of County Commissioners (Board) charged the MAC with developing and recommending reasonable time, place, and manner land use regulations to mitigate the impacts of medical and recreational marijuana-related uses. Regulations could address sight, sound, smell, size/scale, location, security, and other impacts associated with marijuana land uses. The regulations would be necessary if either the Board or county voters decide to rescind the opt-out ordinance prohibiting all recreational marijuana-related uses and medical marijuana dispensaries and processing.

We met for five weekly meetings in February and March, then after a short break, we met for two additional weekly meetings in March and April. The first two meetings were three hours long, and the last five were four hours, for a total of 26 hours.

The members of the MAC worked collaboratively and efficiently to develop these recommendations. We reviewed approaches by other counties in the state and studied and discussed the issues. We also considered public input that was provided during a brief public comments section at each meeting and had the opportunity to read many messages submitted by the concerned public,

The MAC sought consensus on all of our agreements and we were able to reach consensus on many of them. Our short timeframe, however, sometimes precluded a full discussion of differences of opinion that might have resulted in consensus. Where we were unable to reach consensus, we had the opportunity to write a brief synopsis of our points of view, and then indicate which point of view we agree with. These different points of view, and the names of those who agree with which point of view, are included below. You will see reference below to red, yellow, and green cards. When we tested for consensus, a green card meant "I support the proposal," yellow meant "I can live with it," and red meant "I cannot live with the proposal." One red card blocked consensus.

Thank you for the opportunity to serve and help you make these important decisions.

# Recommendations: Wholesale Marijuana

## CONSENSUS ITEMS

1. Wholesale operations are office only with no on-site storage of marijuana items or products.
2. Wholesale operations with no storage are permitted in the following commercial zones: 18.65.020, 18.65.021, 18.66.040, 18.66.050, 18.67.040, 18.74.027, 18.108.050, 18.108.110, and not allow them in 18.67.060, 18.74.020, 18.74.025, 18.100, and 18.108.055.

## NON-CONSENSUS ITEMS

3. Allow wholesale operations as a home occupation.

### Position in favor:

- *Once we decided no product storage is allowed at all for wholesalers, the prohibition of what boils down to a broker who uses their phone to arrange contracts seemed too restrictive. We went back to this issue because it is viewed differently once storage was taken off the table. We understand that the planning commission also decided on prohibition of home office use PRIOR to the discussion of storage and its related concerns.*
- *We see little harm in allowing one to use their home as an office for this purpose as OLCC regulations will also control under the license they are required to obtain.*
- *There is a small likelihood of extra package delivery traffic, customer traffic, etc., because no product will be stored there.*
- *There is a small likelihood of extra package delivery, given Amazon's prime service that delivers to homes as late as 10 pm now anyway.*
- *Cost prohibitive to rent office space for a business that needs very little space (perhaps just a smart phone).*
- *Hard to reverse in future if outright prohibited now.*
- *Industry committee members predict a small number of applicants interested in this license as it is more likely for producers to deal directly with processors or dispensaries.*

**Supporters:** Alison Hohengarten, Hunter Neubauer, Lindsey Pate

### Position against:

- *MAC committee prohibited storage of marijuana at wholesale locations.*
- *Despite the ban of marijuana co-located with a wholesale site, having that business located in a home would remove the facility from a commercial or industrial location (higher traffic areas compared with rural residential or EFU parcels) and make it more difficult to determine code violations.*
- *Prohibiting home occupation wholesale greatly reduces the potential of violations regarding product storage at a home residence.*
- *Potential non-permitted storage of marijuana at a home location would increase*

*delivery vehicle traffic around residential areas.*

- *Potential of crime (robberies, burglaries and theft) to obtain the valuable, cash-based product would occur in unincorporated residential areas of Deschutes County that do not have local police protection.*
- *Protecting public safety, quality of life, and property values is of utmost importance in residential areas.*
- *Establishing an office space in a designated zone to facilitate a wholesale operation becomes a cost of doing business.*

**Supporters:** Sam Davis, Tim Elliott, Larry Fulkerson, Liz Lotochinski

#### **4. Require random, annual, unannounced inspections by County Code Enforcement.**

##### Position in favor:

- *MAC committee prohibited storage of marijuana at wholesale locations.*
- *Since Deschutes County code is enforced on a complaint-driven basis, wholesale office business owners may find the convenience of on-site storage of marijuana greater than risk of code violation.*
- *Random, annual, unannounced inspections would thwart such violations.*
- *Suggest initial unannounced inspection occur within six months of license approval, with the potential for annual random unannounced inspections.*
- *Since the public would not typically enter these wholesale marijuana businesses, the opportunity for a complaint of code violation is minimal and therefore the County must take responsibility to protect public safety, quality of life, and property values.*

**Supporters:** Sam Davis, Liz Lotochinski

##### Position against:

- *Redundancy because OLCC already requires and performs inspections.*
- *Cost prohibitive for county.*
- *Potential Jurisdictional problems.*
- *Expertise problems with county official inspecting for unknown reasons.*
- *Without anything allowed to be stored on site, not sure what inspector would be inspecting from a compliance standpoint.*
- *Again, number of licenses in this category likely to be low, so very inefficient use of county time considering what “might” be gained or discovered as a result of said inspections.*

**Supporters:** Alison Hohengarten, Hunter Neubauer, Lindsey Pate

## Recommendations: Retail Marijuana

### CONSENSUS ITEMS

5. Marijuana retail is prohibited as a home occupation.
6. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the licensee.
7. Separation:
  - Require a separation of 1000 feet from public and private elementary and secondary schools, licensed child care centers (excluding in-home child care), licensed pre-schools, national monuments and state parks, and all approved/licensed youth activity centers; and require a separation of 1000 feet between all retail outlets (medical and recreational).
  - A change in use (e.g., a new school) shall not cause a violation of this standard.
  - Separation is to be measured from the lot line of the school.
8. No window service at retail outlets.
9. Minors: A minimum age of 18 years for medical marijuana and 21 years for recreational marijuana.
10. Retail outlets shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.
11. Retail is allowed as a conditional use in 18.65.020, 18.65.021, 18.66.040, 18.66.050, 18.67.040, 18.67.060, 18.74.020, 18.74.025, 18.74.027, 18.100, 18.108.050, 18.108.055, and 18.108.110.

### NON-CONSENSUS ITEMS

12. Add churches to the list of locations that must be 1000 feet from a marijuana retail or dispensary operation.

#### Position in favor:

*Because the goals of the restrictions are to minimize youth access, keep children safe, and reduce youth's perceived marijuana consumption as normal behavior, and because churches frequently have children's events (see below) where the County's rural youth could be exposed, churches should have the same 1000' separation distance from marijuana retail locations as schools, parks, and playgrounds.*

#### *Impacted Churches*

*Three Rivers (Sun River) Church Children's activities*

*Community Bible Church (#1 Theater Sun River, OR 97707)*

- *Wednesday evenings, 6-8 pm Youth groups, kids club*
- *Sunday – children most of the day, services and Sunday school*
- *Monday and Friday 1 p.m. – 4 p.m. children's activities*

- *Preschool – Monday-Friday 8 a.m. – 4 p.m.*

*Tumalo Church Children’s activities*

*Tumalo Community Church (64671 Bruce Ave, Bend, OR 97703)*

- *Sunday school and services Sunday*
- *Intermittent children’s activities during the week*

*Terrebonne Churches Children’s activities*

*Cascade Missionary Baptist Church (8515 7th St)*

- *Sunday school and services Sunday*
- *Assort evening activities during the week*

*Dayspring Christian Church (7801 NW 7th St)*

- *Sunday school and services Sunday*
- *Monday 6 pm – 8 pm– junior high and high school youth programs*
- *Wednesday 6 pm – 8 pm– Children’s activities*
- *Intermittent children’s activities through the week*

*Smith Rock Community Church (8344 11th St)*

- *Children’s program from mid-September to mid-March which meets on Wednesday evenings from 6 - 7:30 p.m. Park in rear of church.*
- *Sunday school and services Sunday*

*Terrebonne Assembly of God (379 NW Smith Rock Way)*

- *Sunday school and services Sunday*
- *Fuel Up Kids Ministry, Front Line Youth Wednesday 6:30 - 8 p.m.*
- *Assort evening activities during the week*

**Supporters:** Sam Davis, Liz Lotochinski

Position against:

*We should not add “other youth oriented centers and churches (i.e., Tumalo Community Church and community Fellowship Hall)” to the Planning Commission recommended list of schools, etc., requiring a 1,000-foot setback. This is a very slippery slope and it is unreasonable to restrict retail in a way that is not well defined, that may include all kinds of different religions or youth-focused activities without a direct link to “protect” them from a retail facility.*

**Supporters:** Alison Hohengarten

**Separation**

**13. Defer to current state regulations for how separation [between uses] is measured, acknowledging that they may change; if the state makes those**

regulations less strict, the County will keep their stricter regulations. If the state makes their regulations stricter, the County would have to conform to the stricter standard.

Position in favor: None submitted.

**Supporters:**

Position against: None submitted.

**Supporters:**

**14. Use the Clackamas County measurement method, from the lot line of a school, etc., to the closest point of the space occupied by a marijuana retailer.**

Position in favor:

*School sites contain not only school buildings but are usually surrounded by playgrounds and play equipment, parking lots, athletic fields, and other places students often gather outside of the building on school grounds. Students often enter the school grounds from multiple access points in different locations on the property boundary by walking or driving in the case of high school students. Therefore, it is important to measure the distance from the school's lot line – not the building itself – to the closest point of a marijuana retailer to provide a reasonable distance from points where students may gather on a school property.*

*With the inclusion of preschools, licensed daycare facilities, and youth activity centers for students outside of school hours along with schools, the setback from the property line should apply to those facilities also.*

**Supporters:** Steve Swisher

Position against:

*Clackamas County Distance Calculation: "The distance shall be measured from the lot line of the affected property (e.g., a school) to the closest point of the building space occupied by the marijuana retailer. For retail to retail separation 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."*

- *MAC discussion ensued regarding how to measure distance with these variables:
  - "Premises" (i.e., building perimeter) to premises
  - Lot line to lot line
  - Premises to lot line*
- *The current Deschutes County separation distance is 1000 feet. Clackamas separation distances are 2,000 feet from elementary or secondary schools, including property and parking lots, 1,500 feet from public parks, playgrounds, libraries;*

government-owned recreational use, licensed treatment center, light rail transit station or multifamily dwelling owned by a public housing authority.

- *If the marijuana industry is willing to accept the Clackamas distances, which are 1.5 to 2 times greater than the current Deschutes County proposal, then we will accept the Clackamas County separation distance calculation technique (lot line to building perimeter). Otherwise, because the Deschutes County separation distance proposal is so much less than the Clackamas distances, to protect our children, we believe that lot line to lot line is the correct distance measurement for Deschutes County.*
- *The MAC and Board of County Commissioners' responsibility is to develop a reasonable compromise between protecting public safety, quality of life, and property values in our rural areas and the interests of the marijuana industry.*
- *Marijuana dispensaries and retail stores are bulk purchase stores just like OLCC liquor stores. There are 10 OLCC bulk liquor stores in Deschutes County (Bend South, Bend East, Bend North, Bend West, Redmond North, Redmond South, La Pine, Sunriver North, Sunriver South and Sisters) in comparison to current ~20+ Deschutes County dispensaries that will soon sell both medical and recreational marijuana.*
- *The Deschutes County can develop restrictions that are more stringent than state code but cannot be more lenient.*
- *The City of Bend has set the precedent of using lot line to lot line as the distance calculation. It is a clear way to measure the distance and is not a function of the premises definition, which could change depending on how the retail facility might want to use the land outside of the original premises definition. For example, many typical businesses have temporary vehicles for storage or unloading in areas surrounding their retail shops. If needed, this gives the retail facilities the ability to expand beyond the original premises definition without conflict.*

**Supporters:** Sam Davis, Liz Lotochinski

### **15. Measure separation from property line to property line to avoid encroachment where children are located.**

Position in favor:

- *Protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County.*
- *MAC committee discussed various methods to measure distance separation between a "protected" space (i.e., school, playground, child care facilities, parks, public gathering venues, churches, etc.) and a marijuana retail business.*
- *Some MAC members were in favor of measuring protected space to marijuana retail business from **property line to property line** for the following reasons:*
  - *Provides utmost protection of children and avoids encroachment of where children are located and/or frequent.*
  - *Ensures rural service centers remain safe places for youth and adults alike.*

- *Recognizes the high-value nature of marijuana and associated retail businesses operating on a cash basis, which may entice a criminal element.*
- *Avoids clustering of marijuana retail businesses in a finite locale such as the rural service centers.*
- *Recognizes a building may be removed and replaced with another facility elsewhere on the site locating new structure closer than the measured distance.*
- *Recognizes Deschutes County has no method to locate and measure from a building's perimeter.*

**Supporters:** Sam Davis, Larry Fulkerson, Liz Lotochinski

Position against:

*The distance should be measured from the lot line of the affected property (e.g., a school) to the closest point of the building space occupied by the marijuana retailer. For retail to retail, separation 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.*

*This wordage of the parameters strikes a fair balance between reasonable regulations for the business owners, but also takes into consideration the areas in which children will be present. For example, if a retail store is located on a large parcel or flag lot, the cannabis premises may be over 1000 feet from a school, however its lot line is within 1000 feet.*

**Supporters:** Lindsey Pate

**16. Measure separation in the way that the state regulations or law prescribes, even as it changes.**

Position in favor: None submitted.

**Supporters:**

Position against: None submitted.

**Supporters:**

**17. Allow no retail marijuana facilities be allowed near public playgrounds, meeting places available for rent such as The Grange, and Deschutes public libraries.**

Position in favor:

- *Protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County.*
- *MAC committee discussed variety of “protected locations” in addition to those proposed by the Planning Commission (public/private elementary and secondary schools, licensed child care centers, licensed preschools, parks, approved/licensed youth activity centers such as the Boys & Girls Clubs).*

- *MAC members suggested the addition of the following: public playgrounds, meeting places available for rent such as The Grange, Deschutes public libraries, and other locations which offer children/youth programs such as Kids Clubs.*
- *MAC members suggested these additional protected locations have a minimum distance separation of 1,000 feet from lot line of protected location lot line to lot line of marijuana business.*

**Supporters:** Sam Davis, Larry Fulkerson, Liz Lotochinski

Position against:

*To my knowledge, this was something that was brought up after the committee had already discussed all similar distance setbacks. The committee didn't have proper time to discuss this and so I reply to this in protest of "fair process." To allow this to even be a discussion is a discredit to the committee and its time spent on the similar issues. We clearly discussed setbacks to state parks and other types of places where children might be often present. There was time for all members to consider these points and weigh in. There were give and takes from committee members on this and then to bring these specific building types up at a later time when we had so much to get to is not congruent with the process of the committee.*

*This letter is in opposition of a proposal regarding retail cannabis dispensaries that states "no retail marijuana facilities be allowed near public playgrounds, meeting places available for rent such as The Grange, and Deschutes public libraries." I am opposed to this for the following reasons:*

- *"Public Playgrounds" is an overly general term that leaves far too much to interpretation.*
- *This proposal is an attempt to achieve a de facto ban for certain areas of rural Deschutes County.*
- *The proposal lines out buildings that all types of people may use or rent, not just children.*
- *The State setback to schools already protects children.*
- *This would be in my opinion "over regulation" or an "unreasonable regulation" and overly constrictive to the cannabis business community.*
- *Over regulation of cannabis businesses is not the intent of the State nor should it be the intent of the County.*
- *"Meeting places for rent" is far too loose of a term.*
- *As a principal feeling, I do not feel we should allow people that may use a building for a short term rental of varying uses including non specific "social events" to have any effect on permanent local businesses. We do not apply this to bars and restaurants that serve alcohol, so why would we limit legal cannabis like this?*

**Supporters:** Josh Rodriguez

**Hours of Operation**

**There was no consensus reached on several proposals for hours of operation, as follows:**

## **18.7:00 a.m. until 10:00 p.m.**

### Position in favor:

*This serves to advocate for all Medical and Recreational Cannabis Dispensaries in Unincorporated Deschutes County to be able to operate from 7 am to 10 pm. Below are the bullet points of why this is the right decision for everyone involved.*

- *Bend operating hours are 7 am to 10 pm.*
- *Restricting hours in rural areas of Deschutes County would force patients and patrons to drive up to an hour each way to get their medicine before 10 am or after 7 pm.*
- *Encouraging more trips from rural Deschutes County to Bend during early morning and evening hours is a public safety concern in any other than normal driving conditions, especially winter driving conditions.*
- *Restricting this one type of legal business would be unfair unless you restrict all other “like” types of businesses to include pharmacies, bars, breweries, and liquor stores.*

**Supporters:** Josh Rodriguez

### Position against:

- *Protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County.*
- *MAC committee discussed various operating hours of retail marijuana businesses in rural service centers in Deschutes County.*
- *The County’s planning commission recommended 10:00 a.m. to 7:00 p.m.*
- *A proposal for 7:00 a.m. until 10:00 p.m. was suggested.*
- *Because retail stores carry high-value product, and*
- *Because retail stores are cash-based businesses having over \$20,000 cash on hand, and*
- *Because rural service centers have no local police protection, and*
- *Because rural service centers are the community space where residents – including youth – frequent for goods, services and social settings, and*
- *Because there is limited space in these rural service centers, therefore*
- *Hours as proposed are far too expansive.*
  - *A proponent of 7:00 a.m. until 10:00 p.m. hours suggested reduced hours would require consumers to drive long distances to reach an open retail store between 7:00 a.m. and 10:00 a.m., and between 7:00 p.m. and 10:00 p.m. BOCC should consider that rural service center residents understand their remoteness and plan accordingly to shop at locations of their choice during posted open hours.*
- *As a unique industry with inherent risks, retail marijuana business operating hours in Deschutes County’s rural service centers should be 10:00 a.m. to 7:00 p.m.*

**Supporters:** Sam Davis, Liz Lotochinski

## **19.10:00 a.m. until 5:00 p.m.**

Position in favor: None submitted.

Supporters:

Position against: None submitted.

Supporters:

**20. March 1 through October 31, 7 a.m. to 10 p.m. and November 1 to the end of February, 9 a.m. to 7 p.m.**

Position in favor: None submitted.

Supporters:

Position against: None submitted.

Supporters:

**21. 10:00 a.m. until 7:00 p.m.**

Position in favor: None submitted.

Supporters:

Position against: None submitted.

Supporters:

**22. 9:00 a.m. until 9:00 p.m.**

Position in favor:

Supporters: None submitted.

Position against:

Supporters: None submitted.

**23. 10:00 a.m. until 7:00 p.m. everywhere except in the Spring River area due to the level of tourism there, where hours would be 7:00 a.m. until 10:00 p.m.**

Position in favor:

*This sets forth the factual bases on which to provide for extended hours of operation of both medical and recreational marijuana dispensaries in the unincorporated community of Sunriver, and specifically the Spring River Rural Commercial Zone which would serve the Sunriver community from 7:00 a.m. to 10:00 p.m. Concern was expressed at the last meeting of the MAC that all dispensaries in Deschutes County should be regulated and restricted to the same hours of operation, which are 10:00 a.m. to 7:00 p.m. It's important to understand this proposition received only one red (opposition) card. The proposition to restrict hours further in Spring River Rural Commercial Zone does not take into account the unique circumstances associated with the Sunriver area that warrant the proposed extended hours.*

*Sunriver is a private residential and resort community located approximately 17 miles south of Bend in Deschutes County. Located at the base of the Cascade Mountains,*

Sunriver's 3,300 acres wind along the eastern side of the Deschutes River. It has over 40 miles of pathways for pedestrians and bicycle riders, three swimming pools, 26 tennis courts, two parks, and other common areas are private. The community is home to more than 4,000 privately owned residences and has a permanent population of approximately 1,700, though during peak vacation season it may swell to upwards of 20,000. This increase in population makes Sunriver the third most populated city in Central Oregon during the summer. I believe it is important to note because of sheer number of people that restricted hours would be pushing onto the roads in the morning and evening hours. Sunriver consists of residential areas, recreational facilities, a commercial development known as Sunriver Village Mall, and Sunriver Resort. The mall offers a variety of business and services, including restaurants, retail shops, and vacation rental and property management companies. Tourists visit Sunriver year-round for the recreational opportunities offered in this part of Central Oregon. Sunriver is served by a private airport.

Marijuana dispensaries are permitted within the City of Bend from 7:00 a.m. to 10:00 p.m. As I mentioned above, Sunriver residents and tourists that desire to take advantage of these extended hours of operation would have to drive to and from Bend. Travel time to the nearest dispensary is approximately 24 minutes each way in normal weather and traffic conditions and requires passage over the Lava Butte Pass at an elevation of 4420 feet. During winter months, road conditions are often significantly worse along this stretch of the highway south of Bend than elsewhere in the County. People living in or visiting Sunriver should not be required to get on the road during early morning or late evening times to travel to Bend for the opportunity to obtain marijuana products before 10:00 a.m. or after 7:00 p.m. This additional traffic on Highway 97 is a significant public safety concern in anything other than normal driving conditions that can be mitigated by permitting dispensaries in Sunriver to operate from 7:00 a.m. to 10:00 p.m.

**Supporters:** Josh Rodriguez

Position against: None submitted.

**Supporters:**

**24. No minors allowed, unless accompanying a parent or guardian as allowed by state law.**

Position in favor: None submitted.

**Supporters:**

Position against: None submitted.

**Supporters:**

**25. It shall be unlawful for any person to cause an emission of a detectable odor that unreasonably interferes with the use and enjoyment of neighboring premises, with reasonable being judged as someone with normal sensibilities.**

Position in favor: None submitted.

**Supporters:**

Position against: None submitted.

**Supporters:**

**26. Adopt the Jackson County odor control regulations, plus the requirement that filters be changed according to manufacturers' minimum standards, and requesting the BOCC to ensure the CFM of the fan be appropriate to the building.**

Position in favor:

- *Protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County.*
- *MAC committee discussed various ways to mitigate retail marijuana business odor.*
- *These odors may be intrusive to neighboring businesses and passersby.*
- *These odors may cause loss of property values, difficulty maintaining tenants in neighboring retail spaces, and/or difficulty renting former marijuana retail spaces to new tenants due to permeation of odor into the interior area.*
- *Jackson County's recommended odor control regulations were sufficient to mitigate odor control with the addition of:*
  - *Filters on ventilation system must be replaced according to manufacturers' minimum standards, and*
  - *BOCC to ensure the cubic feet of air cleaned per minute (CFM) specifications of the fan be sized according to manufacturers' rating as appropriate for the building size.*

**Supporters:** Sam Davis, Larry Fulkerson, Liz Lotochinski

Position against:

*While the regulations regarding odor in Jackson County are a good start, if it is decided that odor should be controlled in a retail store, there are some concerns with the language of the regulations. Specifically, the verbiage "At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the square footage of the building floor space (i.e., one CFM per square foot of building floor space). The filter(s) shall be rated for the applicable CFM."*

*It is important to consult experts, such as building official Randy Scheid, to determine what is appropriate for a retail business in comparison to a production facility. The above regulations appear to be unreasonable in that it would far exceed what is needed to control retail odor, waste unnecessary energy, and be a burden of entry for a business owner.*

*It would be more appropriate to impose odor regulations on a retail business after a valid complaint has been received.*

**Supporters:** Lindsey Pate

**27. Any existing permitted medical marijuana facility in the County would be permitted to expand to recreational marijuana as a permitted use, and be subject to any OLCC or other rules and regulations.**

Position in favor:

*A proposal was made that any existing permitted medical marijuana facility in the County would be allowed to expand to recreational marijuana as a permitted use, and therefore subject to any regulations set by the OLCC, and other rules and regulations pertaining to this issue.*

*A pre-existing medical dispensary that is approved to currently sell both medical and recreational cannabis should not be required to go back through a conditional use process because it is an unnecessary waste of County resources, and an unreasonable burden on the business owner.*

*It is important to draw from HB 1598 to consider when a proposed regulation is significantly different from pre-existing land use code. If a bar or restaurant had a limited liquor license and was converting to a full liquor license, it would have nothing to do with Land Use, or require a C/U. This is very similar to the situation of the current dispensary because they can already sell to both medical patients and the public, so there is no change to what the core business operation is. If the County is going to impose a C/U conversion on a dispensary, then to make this a "reasonable requirement" it would seem the County should impose this on all similar types of conversions in Deschutes County because you have now set a precedent.*

*It should also be noted that Suzanna Julber from the City of Bend said the city gave existing permitted medical marijuana dispensaries a year to change over to retail, a grandfathered time period. An applicant does not have to go through conditional use in the City of Bend, and it is treated like any other use in the retail zone.*

*While it is important to consider if this will set a dangerous precedent for other medical dispensaries entering recreational sales, it does not appear to be relevant to our County's current situation. There is only one pre-existing medical dispensary that would be eligible, as it is the only approved dispensary in rural Deschutes County that was approved before the Opt-Out.*

*In summary, it is unnecessary to require a pre-existing medical dispensary approved to sell both medical and recreational cannabis and have them go back through a conditional use process even though the function of the business has not changed. It would be burdensome both the county and the business owner.*

**Supporters:** Lindsey Pate

Position against:

*Any existing permitted medical marijuana facility in the County shall adhere to specific use standards and shall secure all required County permits and OLCC, OHA, or other rules and regulations before altering the business model to a recreational marijuana facility.*

- *Protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County.*
- *Existing permitted medical marijuana facilities in the County were permitted for a specific business type, that being medical.*
- *Since, for example, retail marijuana stores in unincorporated Deschutes County require a conditional use permit, and because a conditional use permit is much more involved compared to a permitted use, all marijuana businesses shall be required secure permits as required when the business undergoes any change in type or classification to ensure compliance with County time/place/manner restrictions that are required to control nuisances.*
- *While the type of product being sold may be similar between dispensaries and retail stores, the number, frequency, and type of customers frequenting a retail store will be far different than the medical patients visiting the dispensary.*
- *Conditional use permits allow for public notice and sometimes public comment. Any change of business type or classification can have significant impact on surrounding businesses and/or property owners or tenants and those entities and/or individuals should be provided an opportunity to understand the impacts and comment as appropriate.*
- *Allowing any marijuana business type to circumvent new County regulations as allowed by state law would create a very dangerous precedent and allow current medical marijuana businesses to be easily modified to recreational entities.*
- *Since medical grow sites have never been licensed under the OHA, grandfathering those locations would effectively allow them to operate unencumbered by County regulations.*
- *It should be noted this issue arose due to one MAC member having a permitted medical dispensary business in Sunriver area, and significant time was spent discussing this one exception as requested by the involved MAC member. While that MAC individual did not engage in discussion nor participate in determining consensus, the intent of the MAC should not be to support self-interests of an individual or a unique business entity.*

**Supporters:** Sam Davis, Tim Elliott, Larry Fulkerson, Liz Lotochinski

**28. No public outdoor patio space for marijuana-only retailers that would be visible from the public view.**

Position in favor:

- *Protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County.*
- *Avoiding normalization of consumption, purchase and/or socialization of marijuana among local youth is a primary concern for Deschutes County.*
- *Outdoor patio space is a natural attraction for individuals to socialize. If outdoor patio space associated with marijuana retail establishments is located in public view, youth and others will witness fraternization of purchasers/consumers of recreational marijuana.*
- *Such outdoor patio spaces would naturally invite consumption of marijuana products, and edibles or topicals would be difficult to detect by law enforcement or others.*
- *Since public consumption of marijuana products is illegal in the state of Oregon, and since all marijuana is illegal on a federal level, no visible outdoor patio space should be permitted to avoid appeal of consumption while in close proximity to the retail establishment.*
- *Indoor seating accommodations can offer a comfortable space for relaxation and socialization.*
- *Outdoor patio space in the rear of the retail marijuana establishment and screened by opaque, 6' tall fences will keep all social activities and possible consumption out of sight for passersby of all ages. This could also be used as a tobacco smoking area.*
- *There were five green or yellow cards and eight red cards to this suggested regulation.*

**Supporters:** Sam Davis, Liz Lotochinski

Position against:

*Prohibiting an outdoor patio space is an unnecessary regulation for a lawful business to adhere to, and for an authority to enforce. State laws prohibit using cannabis in public; an example is the new open container law, HB 4014. If cannabis consumption is prohibited in an outdoor patio space, the proposed regulation has little pragmatic value.*

*A regulation prohibiting outdoor patio space forces people and pets to stay in a car if they do not intend to enter the retail store. Prohibiting outdoor space seems to go against the culture of The High Desert, and stands in opposition to normalizing cannabis as we have done with breweries and distilleries.*

**Supporters:** Sam Davis, Liz Lotochinski

## **Recommendations: Processing and Production of Marijuana (EFU only)**

### **CONSENSUS ITEMS**

- 29. Production and processing are prohibited as home occupations.**
- 30. For odor, the definition of “building” is, “Any building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing.”**
- 31. Buildings for production and processing in EFU shall**
- **Be equipped with an effective odor control system that prevents unreasonable interference of neighbors’ use and enjoyment of their property**
  - **An odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the system will control odor.**
  - **Private citizen complaints about odor are authorized, as judged by persons of ordinary sensibilities.**
  - **The system shall consist of one or more fans.**
  - **The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three.**
  - **The filter(s) shall be rated for the required CFM.**
  - **The system shall be maintained in working order and shall be in use.**
- 32. Marijuana processing and production sites in EFU shall comply with the Noise Control Standards of DCC 8.08. Noise from mechanical equipment used shall not produce sound that, when measures at any lot line of the subject property, exceed 50 dB(A) anytime between 10:00 pm and 7:00 am the following day. This standard applies to existing medical marijuana sites, as well as any prospective sites.**
- 33. Production and processing sites in EFU shall meet the following standards:**
- **Inside building lighting 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.**
  - **Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.**
  - **Light cast by exterior light fixtures other than marijuana grow lights (i.e. security lights) shall not trespass onto adjacent lots.**
  - **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.**

- These standards shall be applied to existing production and processing sites after one year.

## NON-CONSENSUS ITEMS

### 34. Prohibit outdoor/no-building cannabis grow sites. (production only)

#### Position in favor:

- *Protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County.*
- *The residents of rural Deschutes County are currently suffering from the reduction in quality of life and reduction in property values due in large part to the consequences of the unregulated "Skunk Like" odor emanating from the over 1800 currently licensed medical marijuana grow sites in Deschutes County.*
- *The need for odor control on indoor grow sites was unanimously confirmed by the MAC when all MAC members agreed that marijuana grow sites had odors that would unreasonably interfere with the use and enjoyment of neighbors' properties and therefore odor control was required. Since it is not possible to contain odors from outdoor grows and outdoor grows would likely be larger than indoor grows, it is not possible to control odors from outdoor marijuana grow sites. Therefore no outdoor grow sites shall be allowed.*
- *In Deschutes County, we have a unique rural population. Unlike any other County in Oregon, we have approximately one third, or over 55,000 residents, living in rural areas. Many live in small unincorporated communities and many thousand others are spread throughout the rural areas. Unlike any other County, most of our rural residents do not farm. A lot of these rural residents live in EFU areas and enjoy all that country living has to offer. The county is unique in that it is an area of many destination resorts, offers a very desirable area to live for retirees, and provides ample opportunities for health and outdoor enthusiasts. Marijuana grow sites are changing this wonderful county in ways that none of us could have imagined even a few years ago.*
- *Marijuana industry proponents have stated that it is not economical for marijuana to be grown outdoors and would probably hardly ever happen. When the proposal to limit grow sites to indoor only was made all of the marijuana industry representatives, without hesitation, showed red cards against this proposal. A marijuana business representative (Hunter) did state that if marijuana was grown outdoors it would probably need at least a thousand foot setback and should probably be on at least 80 acres. Only the four MAC members who are currently living near marijuana grow sites showed green cards for the prohibition of outdoor grow sites.*
- *Outdoor grows will also invite theft and encourage the criminal element to prey on our rural areas. Division 25 Section 845-025-1410 states that licensee must provide security systems that include commercial grade, non-residential door locks installed*

on every external door of a licensed premises where marijuana items are present. A valid question would be how an outdoor grow site could be similarly protected even with fences topped with razor or barbed wire. Significant negative impact to public safety should be of utmost concern to the County when considering this issue.

- Division 25 Section 845-025-2040 (2) (b) states outdoor production canopy limits:
  - Tier I: Up to 20,000 square feet.
  - Tier II: 20,001 to 40,000 square feet [nearly an acre]
- OAR 845-025-1115(1)(d)(B) offers a provision that suggests a single parcel could far exceed the canopy limits listed above, as long as licensees on that parcel are not held under “common ownership.” That essentially means producers could stack licenses similar to what is happening under OHA rules for growers, and the number of licensees – and canopies – would be limited only by the size of the relevant parcel of land. Read this to mean massive outdoor marijuana grows on a single tax lot wafting its skunk-like odor for thousands of feet.
- Since Deschutes County is not required to consider the "Right To Farm" statutes when adopting regulations controlling the nuisance aspects of marijuana, and given the fact that other political subdivisions such as Boulder and Denver Counties in Colorado have successfully implemented regulations that do not allow odor off the premises, we believe a requirement for marijuana to only be grown indoor with sufficient odor elimination systems is reasonable for our climate and unique diversity of rural residents and their lifestyles.

**Supporters:** Sam Davis, Tim Elliott, Larry Fulkerson, Liz Lotochinski,

Position against:

The outright prohibition of outdoor growing on EFU land option resulted in five red cards, five yellow cards, and three green cards. An outright prohibition to farm a crop is unreasonable on its face, because especially on large parcels this would prevent even one plant from being grown at a location outdoors where it may not cause any disturbance to any neighbors. It was also discussed that growing outdoors in this climate is extremely difficult, if not impossible, so the number of situations this would pertain to is very limited. Most importantly, an outright prohibition does not seem to be based on any particular reason as conditions of use still have to be applied.

**Supporters:** Alison Hohengarten

**35. Allow marijuana grow sites without a building in EFU if they do not unreasonably interfere with the use and enjoyment of neighbors’ properties. (production only)**

Position in favor:

It was suggested that we should say that growing outdoors and without a building is allowed with the condition that it does not unreasonably interfere with the use and

enjoyment of another's property, held to the standard of an individual with ordinary sensibilities. I think this is exactly the kind of regulation we are supposed to come up with if it is one that will satisfy landowners on both sides of the equation. This proposal had two red cards, one yellow card, and the rest green.

**Supporters:** Alison Hohengarten

Position against:

- *MAC members had consensus on odor control for indoor (in a building) grow sites because marijuana grow sites cannot avoid odors that do not unreasonably interfere with the use and enjoyment of neighbors' properties.*
- *It is not physically possible to install odor control systems on outdoor marijuana grow sites.*
- *Outdoor grows will create odors.*
- *No standard has been established in Deschutes County to determine what "unreasonably interfere with the use and enjoyment of neighbors' properties" means, therefore no odor measurement standard for odors emanating from outdoor grows can be performed. County enforcement personnel, already overloaded with other nuisance and compliance complaints (be they marijuana or other types), will encounter an administrative nightmare.*
- *Odors interfering with the use and enjoyment of properties will travel on prevailing winds and impact many properties around a multi-thousand-foot radius, not just to the properties adjacent to the grow site. Thus, if the County wants to approve an outdoor grow, it is not possible to determine how many feet away from said outdoor grow site staff must go to gain "approvals" from nearby property owners. This creates an administrative and enforcement nightmare.*
- *If an outdoor grow can be initiated **without** County approval, many outdoor grows may be started and any number of nearby residents' reasonable use and enjoyment of their property could be impacted. Once established, if the odors create a problem for nearby residents, the only method to mitigate the odor issue would be removal of the outdoor grows. This initiates a complicated and expensive administrative and legal confrontation driven by the impacted neighbors against the marijuana grower. The marijuana grower would claim they have the right to grow because they have been allowed to make the investment. The property owner would claim that their reasonable use and enjoyment of their property is being impacted.*
- *If nearby properties change ownership, the new residents could have different sensitivities than the previous residents and the grow site might interfere with the reasonable use and enjoyment of the new resident's properties. These new residents may not have line of sight to the grow site and thus may not be aware of potential odor issues when selecting their property. The marijuana grower who has made a significant financial and personal investment in the outdoor grow will come to believe they have the "right" to the outdoor grow due to the previous precedent of existence and will not want to remove the marijuana and terminate their income stream. Thus, a complicated and expensive administrative and legal confrontation would ensue. Until the issue is resolved, the reasonable use and enjoyment of the property would be negatively impacted. The confrontation period will continue for*

*months or years and during this period the use and enjoyment of neighbors' properties will be unreasonably interfered with.*

*To avoid significant future conflicts between neighbors and untold complication for the County, County enforcement staff, and legal system that will occur since outdoor grows cannot avoid odors, outdoor grows should not be allowed under any circumstances.*

**Supporters:** Sam Davis, Liz Lotochinski

**36. Allow non-building marijuana grow sites in EFU if the neighbors signed a petition to allow it. (production only)**

Position in favor: None submitted.

**Supporters:**

Position against: None submitted.

**Supporters:**

**37. The subject property shall have frontage on, and direct access from, a constructed public, county, or state road, or take access on an exclusive road or easement serving only the subject property. If property takes access via a private road or easement which also serves other properties, evidence must be provided by the applicant, in the form of a petition, that a majority of other property owners who have access rights to the private road or easement agree to allow the specific marijuana production or marijuana processing described in the application. Such evidence shall include any conditions stipulated in the agreement.**

Position in favor: None submitted.

**Supporters:**

Position against: None submitted.

**Supporters:**

**38. There shall be no access restrictions to marijuana processing and production sites in EFU.**

Position in favor: None submitted.

**Supporters:**

Position against: None submitted.

**Supporters:**