



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

STAFF REPORT

TO: Board of County Commissioners

FROM: Nick Lelack, Director
Matthew Martin, Associate Planner

DATE: April 20, 2016

SUBJECT: Marijuana Advisory Committee Final Report

I. SUMMARY

On February 3, 2016, the Board of County Commissioners (Board) appointed the 13-member Marijuana Advisory Committee (MAC). The MAC was charged with developing and recommending reasonable time, place, and manner land use regulations to mitigate the impacts of medical and recreational marijuana uses – especially production. The MAC met for seven meetings between February 10 and April 7, 2016, for a total of 26 hours. The MAC worked under a consensus process rather than a direct up or down vote. Where full consensus was not reached on a particular issue, the parties were afforded the opportunity to submit a position report on the various points of view. Please note the write-ups were not approved by the full committee. The culmination of work of the MAC is presented in the attached report.

II. MAC FINAL REPORT/REFERENCE MATRICES OVERVIEW

The MAC report begins with a detailed overview of the committee and decision making process. The report goes on to identify the various regulatory standards that were evaluated and the resulting consensus/non-consensus conclusions and recommendations. For references, attached are matrices that include the following information:

Zoning Matrix - Marijuana Retail and Wholesale

- Zones
- Original Proposal
- Planning Commission Recommendation
- MAC Recommendations

(Zoning matrices for production and processing are not included because the MAC did not address zoning for these uses. Instead, the Board directed the MAC to focus only on production and processing regulations applicable to the Exclusive Farm Use zone.)

Specific Use Standards Matrix

- Specific Use Standard
- MAC Recommendations
- Original Proposal
- Planning Commission Recommendation
- Clackamas County Adopted Standards
- Jackson County Planning Commission Recommendation
- Oregon Liquor Control Commission Rules (recreational marijuana)
- Oregon Health Authority Rules (medical marijuana)

Note that while Lane and Jackson County's adopted provisions are not included in the matrices, they were distributed to and considered by the MAC. Staff will provide these ordinances to the Board in a binder with all of the above information above at its April 27 work session.

The MAC has completed review of marijuana retail and wholesale, both specific use standards and zones. The MAC also reviewed many specific use standards for marijuana production and processing in the Exclusive Farm Use (EFU) zones but, due to time constraints, was unable to discuss all the standards under consideration.

III. NEXT STEPS

With the completion of the MAC meetings and report, the following next steps are scheduled:

- 4/27/16 Board Work Session - Staff will present the MAC report to the Board, providing an overview of the recommendations and issues discussed.
- 5/2/16 Board Public Hearing - The Board will hold a public hearing at 10:00 am to 12:00 pm and 1:00 pm to 3:00 pm to receive testimony regarding:
 1. Status of "Opt Out" moratorium prohibiting medical marijuana processing and dispensaries and recreational marijuana production, processing, wholesale, and retail; and
 2. 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.
- 5/4/16 Board Deliberations – The Board will deliberate and decide on the various issues. The Board's options include, but are not limited to:

Continue the Opt Out

1. Continue opt out moratorium as adopted and refer to voters in November.
2. Decide whether to regulate existing medical marijuana production/grow sites. If yes, then

- a. Proceed to deliberations; or
- b. Conduct public hearing with the Board; or
- c. Send it back to the Planning Commission to conduct work sessions or public hearings prior to a Board hearing; or
- d. Establish a process to complete and adopt recreational marijuana regulations if voters rescind the opt-out ordinance at the November 2016 General Election; or ¹
- e. Take no further action; or
- f. Other.

Opt In

1. Rescind the Opt Out ordinance for one, some, or all of the six (6) marijuana related uses. If the Board selects this option, staff recommends commissioners adopt reasonable regulations prior to rescinding the opt out ordinance. The Board will need to decide whether to adopt the reasonable regulations by emergency (take effect immediately or, for example, in 30 days) or standard procedure (effect in 90 days).
2. Initiate review/adoption process to regulate medical and recreational marijuana uses. The process may consist of:
 - a. Proceed to deliberations; or
 - b. Conduct public hearing with the Board; or
 - c. Send it back to the Planning Commission to conduct work session or public hearings prior to a Board hearing; or
 - d. Take no further action; or
 - e. Other.

Attachments:

MAC Final Report
 Marijuana Retail/Wholesale Zoning Matrix
 Marijuana Retail Specific Use Standards Matrix
 Marijuana Wholesale Specific Use Standards Matrix
 Marijuana Production Specific Use Standards Matrix
 Marijuana Processing Specific Use Standards Matrix

¹ The Board has approximately 30 days to enact reasonable regulations after the election.



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To: Deschutes County Board of Commissioners
Alan Unger, Chair
Tammy Baney, Co-Chair
Anthony DeBone, Commissioner at Large

From: Marijuana Advisory Committee Members

Andrew Anderson
Matt Cyrus
Sam Davis
Tim Elliott
Larry Fulkerson

Alison Hohengarten
Jeff Ingelse
Glenn Kotara
Liz Lotochinski
Hunter Neubauer

Lindsey Pate
Josh Rodriguez
Steve Swisher

Date: April 20, 2016

Re: MAC Recommendations for Your Consideration

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

You 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, in whole or in part, 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 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 14 of the 26 subjects we addressed. In three of the subjects (Retail: Separation, Retail: Minors, and

Production and Processing in EFU: Separation), you will see both consensus and non-consensus items, mostly because we tried several approaches before being able to reach consensus.

Where we were unable to reach consensus, we had the opportunity to write a brief synopsis of our points of view, or position statements, for each proposal, and then indicate which of those we agree with. These position statements, and the names of those who agree with them, are included below and comprise most of the report.

Please note that the full MAC did not consider or agree to the various position statements expressed in the report. In addition, some MAC members would like you to know that their support for a position does not necessarily indicate support for the entire content of a submitted position statement.

You will also 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.

We were not able to address all the important issues that would help you make the difficult decisions on regulating marijuana. Following is a partial list of those issues we felt were important and we did not discuss:

- Access (additional issues beyond what we discussed)
- Abandonment bonding
- Business licenses and a lottery to award them
- Fire protection
- Greenhouses, hoop houses, and other ancillary buildings in the Landscape Management Combining Zones
- Hoop house regulation
- Inspections (production and processing)
- Minors (production and processing)
- Setbacks (additional issues)
- Temporary residences
- Zones beyond EFU for production and processing (where it would be allowed and what standards would be applied)
- Application of these additional standards to legally-established medical grows

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

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Recommendations: Wholesale Marijuana

CONSENSUS ITEMS: WHOLESALER

Wholesale: Office Only

1. Wholesale operations are office only with no on-site storage of marijuana items or products.

Wholesale: Zones

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: WHOLESALER

Wholesale: Home Occupation

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: Andy Anderson, Matt Cyrus, Alison Hohengarten, Jeff Ingelse, Glenn Kotara, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez

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, and Liz Lotochinski

Wholesale: Inspections

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 and 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: Andy Anderson, Matt Cyrus, Alison Hohengarten, Jeff Ingelse, Glenn Kotara, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez

Recommendations: Retail Marijuana
CONSENSUS ITEMS: RETAIL

Retail: Home Occupation

5. Marijuana retail is prohibited as a home occupation.

Retail: Waste

6. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the licensee.

Retail: Separation

7. Separation:

- Require a separation of 1,000 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 1,000 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.

Retail: Window Service

8. No window service at retail outlets.

Retail: Minors

9. Minors: A minimum age to enter the retail establishment of 18 years for medical marijuana and 21 years for recreational marijuana.

Retail: Co-Location

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.

Retail: Zones

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: RETAIL

Retail: Separation

12. Add churches to the list of locations that must be 1,000 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 1,000-foot 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 pm-4 pm: children's activities*
- *Monday-Friday 8 am-4 pm: preschool*

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 6:00-7:30 pm. Park in rear of church.*
- *Sunday school and services Sunday*

Terrebonne Assembly of God (379 NW Smith Rock Way)

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

Supporters: Sam Davis, Tim Elliott, and 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: Andy Anderson, Matt Cyrus, Alison Hohengarten, Jeff Ingelse, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez

Addition to the position against:

This requirement is not supported in statute and violates the "reasonable regulation" test.

Supporters: Andy Anderson, Matt Cyrus, Hunter Neubauer, and Lindsey Pate

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: Liz Lotochinski

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: Andy Anderson, Matt Cyrus, Alison Hohengarten, Hunter Neubauer, Lindsey Pate, Josh Rodriguez, and Steve Swisher

Addition to the position in favor:

This is in keeping with the current statutory form of measurement. ORS 475B.345 uses premises to premises when measuring distances between retail sites. Some parcels are fairly large and a property line to property line measurement could unfairly prohibit some properties even though the actual premises exceed the 1,000-foot setback.

Supporters: Andy Anderson, Matt Cyrus, Hunter Neubauer, and Lindsey Pate

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 1,000 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 and 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, and 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 1,000 feet from a school; however, its lot line is within 1,000 feet.

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Jeff Ingelse, Glenn Kotara, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez

Addition to the position against:

This measurement would result in an unfair prohibition of a number of larger parcels that could easily meet the 1,000-foot premises setback, but because of their size have a portion of the property within the 1,000-foot radius. This type of measurement is not supported by statute and would constitute an unreasonable restriction.

Supporters: Andy Anderson, Matt Cyrus, Hunter Neubauer, and 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: Matt Cyrus and Josh Rodriguez

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, Tim Elliott, Larry Fulkerson, and Liz Lotochinski

Position against:

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: Andy Anderson, Matt Cyrus, Alison Hohengarten, Jeff Ingelse, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez

Addition to the position against:

This proposal is not supported in statute and would only serve to create a de facto prohibition on another group of properties in violation of the “reasonable restriction” rule.

Supporters: Andy Anderson, Matt Cyrus, Hunter Neubauer, and Lindsey Pate

Retail: Hours of Operation

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: Andy Anderson, Matt Cyrus, Alison Hohengarten, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez

Addition to the position in favor:

Business hours should be a business decision based on the needs and wants of the business and their customers. It is unlikely that any of the businesses will remain open for the full 7:00 am until 10:00 pm, but they should be able to determine what hours are best for them, whether it be from 4:00 pm until 10:00 pm or 7:00 am until 2:00 pm. They could also change seasonally based on customer needs and patterns.

Supporters: Andy Anderson, Matt Cyrus, Hunter Neubauer, and Lindsey Pate

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. The 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 and Liz Lotochinski

19. 10:00 a.m. until 5:00 p.m.

Position in favor: None submitted.

Supporters: Liz Lotochinski

Position against: None submitted.

Supporters: Josh Rodriguez

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: Liz Lotochinski

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

Position in favor: None submitted.

Supporters: Liz Lotochinski

Position against: None submitted.

Supporters: Josh Rodriguez

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

Position in favor: None submitted.

Supporters:

Position against: None submitted.

Supporters: Liz Lotochinski

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 (first of two):

- *No one area, such as Spring River (Sunriver), shall be permitted to have marijuana retail operating hours different than any other area in unincorporated Deschutes County.*

- *The County's planning commission recommended 10:00 a.m. to 7:00 p.m. A suggestion was made for Spring River/Sunriver marijuana retail store to have hours of operation from 7:00 a.m. to 10:00 p.m.*
- *Tourists and residents will know (via web research) or become familiar with the posted operating hours of any type of retail store, marijuana or otherwise, and will plan appropriately.*
- *If all marijuana retail stores operate on the same hours, then there would be no reason for Spring River residents or tourists to drive on Hwy 97 (during inclement weather or otherwise) to reach Bend-based retail stores since all hours would be the same.*
- *If a Spring River (Sunriver) marijuana retail store were to have expanded hours as the suggested 7:00 a.m. to 10:00 p.m., then the opposite traffic pattern would occur: residents and tourists of Bend, La Pine and other surrounding areas would travel on the high-traffic corridor of Hwy 97 to reach the one retail store open for business during early morning and late evening hours.*
- *Spring River/Sunriver residents and tourists understand their remoteness and will plan accordingly to shop at locations of their choice during posted open hours.*
- *As a unique industry with inherent risks (high-value product, cash-based business with cash on hand totaling over \$20,000), ALL retail marijuana business operating hours in Deschutes County's rural service centers should be 10:00 a.m. to 7:00 p.m.*
- *Keeping all retail store hours the same is the best way to provide some protection for public safety, quality of life, and property values in rural Deschutes County.*

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

Position against (second of two):

I do not think treating one geographic area differently based on tourism (or anything else) is fair to locals. I think all retail locations in rural Deschutes County should have the option to be open 7 a.m. to 10 p.m., giving both medical and recreational customers the opportunity to shop before or after work. If a customer has an average 8-5 job, this only gives them 6 hours in a day for shopping. Obviously, shopping is just one small portion of an average person's after-hours life, and they should not be penalized by people who have no negative consequences from the hours of a retail store.

Supporters: Andy Anderson and Alison Hohengarten

Retail: Minors

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

Position in favor: None submitted.

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Hunter Neubauer, and Lindsey Pate

Position against: None submitted.

Supporters:

Retail: Odor

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:

This would allow for a business to be a good neighbor without unreasonable restrictions. Given the rural nature of the properties that could be affected, there might not be affected neighbors within one-quarter mile of the premises and expensive odor control equipment may not be necessary. It is reasonable to allow the business to address odor control on a manner that makes sense for that site.

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Jeff Ingelse, Hunter Neubauer, and Lindsey Pate

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 is 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, Tim Elliott, Larry Fulkerson, and 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: Andy Anderson, Matt Cyrus, Alison Hohengarten, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez

Retail: Grandfathering

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.

(NOTE: Josh Rodriguez abstained from participating in discussion or determination of consensus on this item because he owns an existing permitted medical marijuana facility in the County and so had a conflict of interest.)

Position in favor:

A pre-existing medical dispensary that currently serves both medical and adult use customers 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. Currently, the County has only a single pre-existing licensed dispensary.

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, for instance, the licensing change would not be relevant to land use rules and would not require a conditional use permit. This is very similar to the situation of the single pre-existing dispensary in Deschutes County. Because this business is already serving both medical and adult use customers, there is no change to the facility's core business operation except that the business and its suppliers are about to undergo a more rigorous licensing process than has previously been required by the state. If the County is going to impose a conditional use conversion on a dispensary, it would seem that fairness and precedent would require that the County impose this on all similar types of conversions.

It should also be noted that Suzanna Julber from the City of Bend said the City granted existing permitted medical marijuana dispensaries a grandfathered time period of a year to convert to adult use retail. A Bend applicant does not have to go through the conditional use process and is treated like any other use in the retail zone.

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: Andy Anderson, Matt Cyrus, Alison Hohengarten, Glenn Kotara, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez

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, Jeff Ingelse, and Liz Lotochinski

Retail: Patio Space

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 and 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 already 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: Andy Anderson, Matt Cyrus, Alison Hohengarten, Jeff Ingelse, Glenn Kotara, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez

Recommendations: Processing and Production of Marijuana (EFU only)

CONSENSUS ITEMS: PROCESSING AND PRODUCTION, EFU

Production and Processing in EFU: Home Occupation

29. Production and processing are prohibited as home occupations.

Production and Processing in EFU: Odor

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. Odor standards for production and process in EFU:

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

Production and Processing in EFU: Noise

32. Marijuana processing and production sites in EFU shall comply with the Noise Control Standards of DCC 8.08. This standard applies to existing medical marijuana sites, as well as any prospective sites.

Production and Processing in EFU: Lighting

33. Production and processing sites in EFU shall meet the following lighting 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.**

Production and Processing in EFU: Separation

34. For production and processing in EFU, there shall be a separation of 1,000 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; 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.

35. For production and processing in EFU, the 1,000-foot separation shall be measured from the lot line of the school to the premises.

36. Existing lawfully-established medical marijuana processing and production sites are exempt from the separation standard; however, if they apply for a new type of license, the separation rules would apply.

NON-CONSENSUS ITEMS: PROCESSING AND PRODUCTION, EFU

Production and Processing in EFU: Production Outside

37. Prohibit outdoor/no-building cannabis grow sites.

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.*
- *MAC members had consensus on odor control for indoor (in a building) grow sites. 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. Many 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.*
- *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 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, and 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 might 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.

An outright ban on outdoor cannabis production also goes against the Deschutes County's Comprehensive Plan, Section 2.2, Agricultural Lands Policies. Goal 2 offers clear guidelines for assessing land use regulations in light of a new agricultural technology, especially one that is revenue generating and well-suited to our unique environment. Our county's comprehensive plan supports stakeholders in studying and promoting economically viable agricultural opportunities and practices. It calls upon us to encourage small farming enterprises, including, but not limited to, niche markets, organic farming, farm stands and value-added products.

While most cannabis farmers will likely use greenhouses, rigid frames, and indoor growing for cannabis production, there are some pragmatic reasons for allowing outdoor cultivation. For example, a cannabis farmer may find summer months to be particularly helpful to phenotype for new cannabis genetics, with an end result of culling the majority of the cohort. With low overhead and minimal initial startup expenses, outdoor production serves a small-farm model in a large way. Vegetative, or juvenile growth, is another example of a relevant use of outdoor cannabis production in our county. It may serve a cannabis business model to use outdoor production for Vegetative growth exclusively; during this part of the plant's life cycle, there is no detectable odor coming from the plant. The above examples are two of many unique outdoor cultivation methods; an outright prohibition on outdoor cannabis production would be a great disservice to the niche markets and for the value added products of cannabis.

If there is deep concern over the impacts of outdoor production, please consider the following alternatives to an outright ban in order to stay in line with the purpose of EFU lands as defined in the Deschutes County Code chapter 18.16.010:

- *Allow outdoor cannabis production to occur under standards until December 2017. This date is important to outdoor farmers, as it will allow them to complete a single crop if Deschutes County adopts regulation before the end of this year. By adopting a sunset clause, we are giving our county a chance to test outdoor production under our state laws and we have the opportunity to redefine the regulations at the end of a harvest.*
- *Create a pilot program: a second alternative to an outright ban on outdoor production is to create a pilot program. A small, controlled program with 15 participants would allow farmers to demonstrate the workability of outdoor cultivation while minimizing the administrative burden on the county.*

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Jeff Ingelse, Glenn Kotara, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez

Addition to the position against:

The state has allowed the county to adopt “reasonable” regulations in its opt-out of Right to Farm. An outright prohibition of outdoor production of any crop in an EFU zone cannot fit the definition of “reasonable” by any standard. There are EFU parcels in Deschutes County that are hundreds of acres in size and places where neighbors are miles away. None of these properties would have any impact on neighboring properties. It should be noted that EFU is reserved for commercial agriculture and was intended to protect the ability of farmers’ use of their land over the competing residential uses that may encroach on agricultural zones.

Supporters: Andy Anderson, Matt Cyrus, Hunter Neubauer, and Lindsey Pate

38. Allow marijuana grow sites without a building in EFU if they do not unreasonably interfere with the use and enjoyment of neighbors’ properties.

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.

Supporting language that shows good intention from the cannabis producers who are on the MAC is line with the Board of County Commissioners’ intention to create a friendly neighbor policy. This policy strikes a fair balance between livability for all county residents and a farmer’s guaranteed opportunity to farm on EFU land. In our County Code, Chapter 18.16.010, EFU zoned land is purposed to preserve and maintain agricultural lands and to serve as a sanctuary for farm use. At the same time, the cannabis producers on the MAC recognize that our crop is unique and we support regulations that arose through the committee’s efforts to reach consensus.

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Jeff Ingelse, Glenn Kotara, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez

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.*
(NOTE: Several MAC members disagreed with and objected to this characterization of their point of view.)
- *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, Larry Fulkerson, and Liz Lotochinski

39. Allow non-building marijuana grow sites in EFU if the neighbors signed a petition to allow it.

Position in favor: None submitted.

Supporters:

Position against: None submitted.

Supporters: Liz Lotochinski

Production and Processing in EFU: Access

40. 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 (first of two):

Easements are legal documents between landowners for the purpose of use of an ingress or egress. This ordinance should not impact those agreements. For example, if farmer A sells his neighbor an easement to access a property on the other side of his farm, he should not face limitations on the use of his land simply because he was being a good neighbor and allowing someone else to cross his property.

Easements address the types of uses allowed and the county should not impose itself into a civil matter between neighbors or allow one neighbor to unreasonably veto the uses of another.

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez

Position against (second of two):

- *Private roads and easements often traverse one or more properties to reach the destined marijuana operation.*
- *In unincorporated Deschutes County, especially with the subdivision of large parcels into smaller ones, many parcels of land are indeed served by these private roads or easements.*
- *The proposed item indicates marijuana operation traffic would be permitted on said road/easement if a "majority" of property owners with access rights to that private road or easement agree to allow it.*
- *This item should require **ALL** property owners with access rights to agree to allow marijuana operation traffic on the road or easement.*
- *A single property owner with access rights to that private road or easement may be more seriously impacted with ingress and egress traffic resulting from a commercial marijuana grow operation. Their dwelling may be located closer, their personal use and enjoyment of their property may be adjacent to that road or easement, their children may ride bikes on such roadway or easement, and the impact of such traffic could substantially reduce their property values.*
- *Since marijuana is a unique industry with inherent risks, requiring ALL property owners to agree to allow marijuana business traffic is necessary.*

Supporters: Sam Davis, Larry Fulkerson, and Liz Lotochinski

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

Position in favor:

Easements are legal documents between landowners for the purpose of use of an ingress or egress. This ordinance should not impact those agreements. For example, if farmer A sells his neighbor an easement to access a property on the other side of his farm, he should not face limitations on the use of his land simply because he was being a good neighbor and allowing someone else to cross his property.

Easements address the types of uses allowed and the county should not impose itself into a civil matter between neighbors or allow one neighbor to unreasonably veto the uses of another.

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez

Position against: None submitted.

Supporters: Tim Elliott and Liz Lotochinski

Production and Processing in EFU: Lot Size (production)

42. The minimum lot size for recreational marijuana production in EFU is 20 acres, and growing outside an enclosed building is prohibited.

Position in favor:

- *Protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County.*
- *Some residents of rural Deschutes County are currently suffering from the reduction in quality of life and reduction in property values due in part to the consequences of the unregulated "Skunk-Like" odor emanating from some of the over 1,800 currently licensed medical marijuana grow sites in Deschutes County.*

- *MAC members had consensus on odor control at grow sites in a building. Since it is not possible to contain odors from outdoor grows, and because outdoor grows would likely be larger than indoor grows, we propose 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. Many of these rural residents live in EFU areas and enjoy all that country living has to offer. The county is unique because it is an area of many destination resorts, offers a very desirable place to live for retirees, and provides ample opportunities for activity and outdoor enthusiasts. Marijuana grow sites are changing the nature of the county in ways that none of us could have imagined even a few years ago.*
- *Most of the thousands of parcels of EFU land in Deschutes County of less than 20 acres are not economical to farm and are typically not used for farming as defined in Oregon Statutes. They were purchased by people desiring the rural lifestyle. Prohibiting marijuana grow sites from intruding on this idyllic lifestyle would go a long ways towards preventing conflict between and complaints against neighbors.*
- *Almost all owners of 20 acres or less EFU parcels are not able to make a living growing anything without the use of a greenhouse or other indoor grow facility in order to ensure their crops will not suffer frost damage and fail. Limiting all marijuana grow sites to more than 20 acres and requiring all marijuana grow sites to be indoors would mitigate the nuisance aspect and would prevent a substantial number of complaints from being filed regarding odor emanating from outdoor marijuana grow sites. This regulation would preserve the property values and expectations of rural landowners as per the Deschutes County Comprehensive Plan.*
- *Only five of the MAC members who are not in the marijuana industry showed green or yellow cards for the regulation against 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 licensees must provide security systems that include commercial grade, non-residential door locks installed on every external door of 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.*
- *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 counties such as Boulder and Denver 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, and Larry Fulkerson

Position against:

The proposal to require a minimum EFU lot size of 20 acres with no outdoor production represents an unreasonable restriction on small farmers. The proposal was poorly received by MAC members, as it received 2 green cards, 8 red cards, and 3 yellow cards.

Cannabis producers on the MAC have demonstrated a commitment to "friendly neighbor" regulations and have supported proposals that restrict production on EFU land. Our committee has approved noise, odor, and lighting regulations for cannabis production on EFU land by consensus agreement. When combined with reasonable setbacks, these regulations strike the right balance between the concerns of

hobby landowners and EFU farmers. Imposing a minimum lot size would confer no functional benefit to the community in terms of nuisance reduction, but it would have the unintended consequence of unreasonably restricting the ability of small farmers to improve the value of their land and create a better life for their families by using their EFU farmland as it was intended.

*Furthermore, a 20-acre minimum with no outdoor production does not support the goals outlined in the **Deschutes County Comprehensive Plan, Section 2.2, Agricultural Lands Policies**. These goals include*

- *promoting diverse agricultural economies,*
- *supporting stakeholders in viable activities, and*
- *supporting small farmers and encouraging niche markets and high value farm products.*

A study referenced in the same section of the Comprehensive Plan found that Deschutes County's unique climate and short growing season mean that it is harder to create economic stability on large lots in our county. A crop like cannabis that can be farmed on small lot sizes means that there is real economic potential for small farmers on properties that have been properly zoned and classified.

Finally, it is worth noting that hog farms on EFU have no minimum acreage requirements. Wineries are allowed on lots of 15 acres and above. If the county wishes to move forward with a minimum EFU lot size, a 10-acre minimum would be a more reasonable limitation that takes into account setbacks and nuisance regulations as well as the smaller lot size needed for successful cannabis farming.

*This proposal would also disallow outdoor production. Outdoor growing has previously been discussed and non-consensus reports have been included in this report that represent those views (see item #37). An outright prohibition to grow an outdoor farm crop is unreasonable on its face, especially on large parcels, as this would prevent even one plant from being grown at an outdoor location where it potentially would not cause any disturbance to any neighbors. Most importantly, an outright prohibition does not seem to be based on any particular reason, as conditions of use still have to be applied. In our **County Code Chapter 18.16.010**, EFU zoned land has the clear purpose to be used for farming, and to disallow outdoor cannabis cultivation would not support agricultural opportunities or farm stakeholders. This type of regulation, if adopted, discourages an economically viable and value-added farm crop, in addition to creating a high barrier of entry for small farming enterprises and niche markets. Please refer to item #37 (above) for a more detailed discussion on outdoor cannabis production in our county and creative ways in which MAC members attempted to reach consensus.*

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Jeff Ingelse, Hunter Neubauer, and Lindsey Pate

43. There is no minimum lot size for recreational marijuana production in EFU.

Position in favor:

We support no minimum lot size in EFU zone given the fact that it is unreasonable to restrict recreational marijuana production as a potential use for the majority of EFU-zoned properties in the county. All EFU properties still have to meet state restrictions in order to obtain a license, which may prevent some smaller lots from being potential sites anyway. Plus, if only big parcels can have production operations, we are really encouraging the big operations as opposed to allowing the smaller, family farmers have a chance at making their farm productive. According to the numbers given at this meeting, in Deschutes County, 4,428 lots are less than 5 acres, 980 are between 5 and 10 acres, 1084 are between 10 and 20 acres, 956 are between 20 and 40 acres, and 960 parcels are larger than 40 acres.

Minimum lot sizes were intended to try to mitigate nuisance issues. The MAC has reached consensus for mitigating odor, noise, and light, which are the nuisance concerns for most people and therefore minimum lot sizes are no longer needed to serve that purpose. The Exclusive Farm Use zone was intended to preserve lands for commercial agricultural production. There is no differentiation within the zone for different types or intensities of agricultural uses. To create minimum lot size requirements within the same zone would create a slippery slope of de-facto sub-zones and increased restrictions within the EFU zone. The more proper way to address smaller zones that some may feel are inappropriate for all farm uses is to rezone them to MUA or RR, where the county can legally impose limitations on agricultural uses. Imposing arbitrary cropping restrictions on some EFU parcels is not a “reasonable restriction” under the statute.

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Hunter Neubauer, and Lindsey Pate

Position against:

- *The MAC was charged with considering the Planning Commission’s recommendations as a starting point to discussions.*
- *Since the MAC is responsible for considering both reasonable and balanced regulations for both sides of every issue, having no minimum lot size is a disservice to the intent of the committee.*
- *While some existing medical marijuana grow site owners have demonstrated a total lack of regard for the rural residents around them and have been called the “few bad apples,” what proof can be offered to ensure that all recreational grow sites will have kind, cooperative, supportive and accommodating owners?*
- *By requiring some minimum parcel size, the number of total available marijuana grow sites is lessened and therefore the total affected neighboring or nearby parcels is reduced.*
- *Because there tends to be a clustering of smaller parcels in a given geographic area of Deschutes County, the nuisance of marijuana grow sites to their neighbors in those denser areas will be mitigated by having some minimum lot size.*
- *Without question, the public safety, quality of life, and property values of rural property owners surrounded by nuisance-generating marijuana grows will be negatively impacted on an ongoing basis.*
- *It has been suggested that owners of smaller EFU lots have not been able to make a living on their land. Those same owners chose to buy those parcels knowing that farming is not a sustainable economic activity in Deschutes County. The MAC should not consider bolstering up these smaller lot owners’ income at the risk of destroying or significantly reducing other residents’ enjoyment of their land, their peace, quiet, comfort and safety, and the value of their property or the ability to sell it in the future.*

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

44. The minimum lot size for recreational marijuana production in EFU is 20 acres, growing outside of an enclosed building is prohibited, and no production is allowed if adjacent parcels are zoned MUA-10 or RR-10.

Position in favor:

- *Protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County.*
- *Deschutes County has allowed former farm properties to be divided into small parcels (RR-10, MUA, and EFU) <20 acres for residential development. When this occurred, Deschutes County effectively changed the designation of these areas from farm to residential without changing the zoning. These*

small parcels are not economic to farm. They are residential neighborhoods where residents might grow a little hay or have a few farm animals, but they are not viable farms.

- *If a large parcel borders RR-10 or MUA properties, the public safety, quality of life, and property values of the RR-10 and MUA-10 residential properties are negatively impacted.*
- *Some residents of rural Deschutes County are currently suffering from the reduction in quality of life and reduced property values due, in part, to the consequences of the unregulated "Skunk-Like" odor emanating from some of the over 1,800 currently licensed medical marijuana grow sites in Deschutes County.*
- *MAC members had consensus on odor control at grow sites in a building. Since it is not possible to contain odors from outdoor grows, and because outdoor grows would likely be larger than indoor grows, we propose 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. Many of these rural residents live in RR-10, MUA-10, and EFU areas and enjoy all that country living has to offer. The county is unique because it is an area of many destination resorts, offers a very desirable place to live for retirees, and provides ample opportunities for recreational activities and outdoor enthusiasts. Marijuana grow sites are changing the nature of the county in ways that none of us could have imagined a few years ago.*
- *Most of the thousands of parcels of RR-10, MUA-10, and EFU land in Deschutes County that are less than 20 acres are not economical to farm and are typically not used for farming as defined in Oregon Statutes. They were purchased by people desiring the rural lifestyle. Prohibiting marijuana grow sites from intruding on this idyllic lifestyle would go a long way towards preventing conflict between and complaints against neighbors.*
- *Almost all owners of 20 acres or less RR-10, MUA-10, and EFU parcels are not able to make a living growing anything without the use of a greenhouse or other indoor grow facility in order to ensure their crops will not suffer frost damage and fail. Limiting all marijuana grow sites to more than 20 acres and requiring all marijuana grow sites to be indoors would mitigate the nuisance aspect and would prevent a substantial number of complaints from being filed regarding odor emanating from outdoor marijuana grow sites. This regulation would preserve the property values and expectations of rural landowners per the Deschutes County Comprehensive Plan.*
- *Only four of the MAC members who are not in the marijuana industry showed green cards for the regulation against 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 licensees must provide security systems that include commercial grade, non-residential door locks installed on every external door of 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.*
- *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 counties such as Boulder and Denver 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, and Liz Lotochinski

Position against:

The proposal to ban licensed and regulated cannabis farming on Exclusive Farm Use land that is adjacent to Mixed Use Agricultural and Rural Residential zoned parcels is unreasonable and unworkable. Using restrictions on MUA and RR as a mechanism to forbid allowed uses on EFU farmland goes against the letter and the spirit of Oregon's and Deschutes County's agricultural policies and goals to preserving our productive farmlands. The MAC members, receiving 2 green cards, 8 red cards, and 3 yellow cards, poorly received this proposal.

*The **Deschutes County Code, Chapter 18.32.010** states that the purpose of MUA land is to preserve and maintain agricultural lands not suited for full-time commercial farming. Its primary purpose is not exclusive to residential use and the MUA is considered a valuable transition zone to reinforce farming practices in our county. Because of its purpose in preserving farmland, an adjacent MUA property should not be a burden of entry to a licensed cannabis producer on an EFU parcel.*

Similarly, RR zones have a role in preserving the farming lifestyle in Deschutes County. Purchasers of RR properties are subject to the same warnings about the realities of living in rural country near farmland. An adjacent RR property should not be disqualifier for a licensed cannabis producer.

This proposal would also require a minimum EFU lot size of 20 acres. This represents an unreasonable restriction on small farmers.

Cannabis producers on the MAC have demonstrated a commitment to "friendly neighbor" regulations and have supported proposals that restrict production on EFU land. Our committee has approved noise, odor, and lighting regulations for cannabis production on EFU land by consensus agreement. When combined with reasonable setbacks, these regulations strike the right balance between the concerns of hobby landowners and EFU farmers. Imposing a minimum lot size would confer no functional benefit to the community in terms of nuisance reduction, but it would have the unintended consequence of unreasonably restricting the ability of small farmers to improve the value of their land and create a better life for their families by using their EFU farmland as it was intended.

*Furthermore, a 20-acre minimum with no outdoor production does not support the goals outlined in the **Deschutes County Comprehensive Plan, Section 2.2, Agricultural Lands Policies**. These goals include*

- *promoting diverse agricultural economies,*
- *supporting stakeholders in viable activities, and*
- *supporting small farmers and encouraging niche markets and high value farm products.*

A study referenced in the same section of the Comprehensive Plan found that Deschutes County's unique climate and short growing season mean that it is harder to create economic stability on large lots in our county. A crop like cannabis that can be farmed on small lot sizes means that there is real economic potential for small farmers on properties that have been properly zoned and classified.

Finally, it is worth noting that hog farms on EFU have no minimum acreage requirements. Wineries are allowed on lots of 15 acres and above. If the county wishes to move forward with a minimum EFU lot size, a 10-acre minimum would be a more reasonable limitation that takes into account setbacks and nuisance regulations as well as the smaller lot size needed for successful cannabis farming.

This proposal would also disallow outdoor production. Outdoor growing has previously been discussed and non-consensus reports have been submitted that represent those views (see item #37). An outright

*prohibition to grow an outdoor farm crop is unreasonable on its face, especially on large parcels, as this would prevent even one plant from being grown at an outdoor location where it potentially would not cause any disturbance to any neighbors. Most importantly, an outright prohibition does not seem to be based on any particular reason, as conditions of use still have to be applied. In our **County Code Chapter 18.16.010**, EFU-zoned land has the clear purpose to be used for farming, and to disallow outdoor cannabis cultivation would not support agricultural opportunities or farm stakeholders. This type of regulation, if adopted, discourages an economically viable and value-added farm crop, in addition to creating a high barrier of entry for small farming enterprises and niche markets. Please refer to item #37 (above) for a more detailed discussion on outdoor cannabis production in our county and creative ways in which MAC members attempted to reach consensus.*

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Jeff Ingelse, Hunter Neubauer, and Lindsey Pate

45. The minimum lot size for recreational marijuana production in EFU is 10 acres for Tier 1 and 20 acres for Tier 2.

Position in favor: None submitted.

Supporters:

Position against: None submitted.

Supporters:

46. There is no minimum lot size for medical marijuana production in EFU.

Position in favor:

We support no minimum lot size in EFU zone given the fact that it is unreasonable to restrict recreational marijuana production as a potential use for the majority of EFU-zoned properties in the county. All EFU properties still have to meet state restrictions in order to obtain a license, which may prevent some smaller lots from being potential sites anyway. Plus, if only big parcels can have production operations, we are really encouraging the big operations as opposed to allowing the smaller, family farmers have a chance at making their farm productive. According to the numbers given at this meeting, in Deschutes County, 4,428 lots are less than 5 acres, 980 are between 5 and 10 acres, 1084 are between 10 and 20 acres, 956 are between 20 and 40 acres, and 960 parcels are larger than 40 acres.

Minimum lot sizes were intended to try to mitigate nuisance issues. The MAC has reached consensus for mitigating odor, noise, and light, which are the nuisance concerns for most people and therefore minimum lot sizes are no longer needed to serve that purpose. The Exclusive Farm Use zone was intended to preserve lands for commercial agricultural production. There is no differentiation within the zone for different types or intensities of agricultural uses. To create minimum lot size requirements within the same zone would create a slippery slope of de-facto sub-zones and increased restrictions within the EFU zone. The more proper way to address smaller zones that some may feel are inappropriate for all farm uses is to rezone them to MUA or RR, where the county can legally impose limitations on agricultural uses. Imposing arbitrary cropping restrictions on some EFU parcels is not a “reasonable restriction” under the statute.

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Jeff Ingelse, Hunter Neubauer, and Lindsey Pate

Position against:

- *The MAC was charged with considering the Planning Commission’s recommendations as a starting point to discussions.*
- *Since the Planning Commission established a minimum of 20+ acres on EFU parcels, the suggestion to remove even that very lenient lot size suggests the intention from the marijuana industry is to open every available EFU lot to the potential of a medical marijuana grow site.*
- *Since the MAC is responsible for considering both reasonable and balanced regulations for both sides of every issue, having no minimum lot size is a disservice to the intent of the committee.*
- *While some existing medical marijuana grow site owners have demonstrated a total lack of regard to the rural residents around them and have been called the “few bad apples,” what proof can be offered to ensure that all additional new medical grow sites will have kind, cooperative, supportive and accommodating owners?*
- *By requiring some minimum parcel size, the number of total available marijuana grow sites is lessened and therefore the total affected neighboring or nearby parcels is reduced.*
- *Because there tends to be a clustering of smaller parcels in a given geographic area of Deschutes County, the nuisance of marijuana grow sites to their neighbors in those denser areas will be mitigated by having some minimum lot size.*
- *Without question, the public safety, quality of life, and property values of rural property owners surrounded by nuisance-generating marijuana grows will be negatively impacted on an ongoing basis.*
- *It has been suggested that owners of smaller EFU lots have not been able to make a living on their land. Those same owners chose to buy those parcels knowing that farming is not a sustainable economic activity in Deschutes County. The MAC should not consider bolstering up these smaller lot owners’ income at the risk of destroying or significantly reducing other residents’ enjoyment of their land, their peace, quiet, comfort and safety, and the value of their property or the ability to sell it in the future.*

Supporters: Sam Davis, Larry Fulkerson, and Liz Lotochinski

47. The minimum lot size for medical marijuana production in EFU is 20 acres and growing outside of an enclosed building is prohibited.

Position in favor:

- *Protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County.*
- *Some residents of rural Deschutes County are currently suffering from the reduction in quality of life and reduction in property values due in part to the consequences of the unregulated "Skunk-Like" odor emanating from some of the over 1,800 currently licensed medical marijuana grow sites in Deschutes County.*
- *MAC members had consensus on odor control at grow sites in a building. Since it is not possible to contain odors from outdoor grows, and because outdoor grows would likely be larger than indoor grows, we propose 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. Many of these rural residents live in EFU areas and enjoy all that country living has to offer. The county is unique because it is an area of many destination resorts, offers a very desirable place to live for retirees, and provides ample opportunities for activity and outdoor enthusiasts. Marijuana grow sites are changing the nature of the county in ways that none of us could have imagined even a few years ago.*

- *Most of the thousands of parcels of EFU land in Deschutes County of less than 20 acres are not economical to farm and are typically not used for farming as defined in Oregon Statutes. They were purchased by people desiring the rural lifestyle. Prohibiting marijuana grow sites from intruding on this idyllic lifestyle would go a long ways towards preventing conflict between and complaints against neighbors.*
- *Almost all owners of 20 acres or less EFU parcels are not able to make a living growing anything without the use of a greenhouse or other indoor grow facility, in order to ensure their crops will not suffer frost damage and fail. Limiting all marijuana grow sites to more than 20 acres and requiring all marijuana grow sites to be indoors would mitigate the nuisance aspect and would prevent a substantial number of complaints from being filed regarding odor emanating from outdoor marijuana grow sites. This regulation would preserve the property values and expectations of rural landowners per the Deschutes County Comprehensive Plan.*
- *Only four of the MAC members who are not in the marijuana industry showed green cards for the regulation against 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 licensees must provide security systems that include commercial grade, non-residential door locks installed on every external door of 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.*
- *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 counties such as Boulder and Denver 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, and Liz Lotochinski

Position against:

The proposal to require a 20-acre minimum on licensed medical cannabis production is unnecessary and was poorly received by the MAC members, receiving 2 green cards, 8 red cards, and 3 yellow cards.

The Oregon Health Authority has created a new system for licensing and regulating medical cannabis production, including a significant limitation on plant counts. There is no need to impose further regulations on medical cannabis producers on EFU land. It is important to be particularly sensitive to the smaller farmers who continue to produce medical cannabis as they support the needs of local patients in our county.

This proposal would also require a minimum EFU lot size of 20 acres. This represents an unreasonable restriction on small farmers.

Cannabis producers on the MAC have demonstrated a commitment to "friendly neighbor" regulations and have supported proposals that restrict production on EFU land. Our committee has approved noise, odor, and lighting regulations for cannabis production on EFU land by consensus agreement. When combined with reasonable setbacks, these regulations strike the right balance between the concerns of hobby landowners and EFU farmers. Imposing a minimum lot size would confer no functional benefit to the community in terms of nuisance reduction, but it would have the unintended consequence of

unreasonably restricting the ability of small farmers to improve the value of their land and create a better life for their families by using their EFU farmland as it was intended.

*Furthermore, a 20-acre minimum with no outdoor production does not support the goals outlined in the **Deschutes County Comprehensive Plan, Section 2.2, Agricultural Lands Policies**. These goals include*

- *promoting diverse agricultural economies,*
- *supporting stakeholders in viable activities, and*
- *supporting small farmers and encouraging niche markets and high value farm products.*

A study referenced in the same section of the Comprehensive Plan found that Deschutes County's unique climate and short growing season mean that it is harder to create economic stability on large lots in our county. A crop like cannabis that can be farmed on small lot sizes means that there is real economic potential for small farmers on properties that have been properly zoned and classified.

Finally, it is worth noting that hog farms on EFU have no minimum acreage requirements. Wineries are allowed on lots of 15 acres and above. If the county wishes to move forward with a minimum EFU lot size, a 10-acre minimum would be a more reasonable limitation that takes into account setbacks and nuisance regulations as well as the smaller lot size needed for successful cannabis farming.

*This proposal would also disallow outdoor production. Outdoor growing has previously been discussed and non-consensus reports have been submitted that represent those views (see item #37). An outright prohibition to grow an outdoor farm crop is unreasonable on its face, especially on large parcels, as this would prevent even one plant from being grown at an outdoor location where it potentially would not cause any disturbance to any neighbors. Most importantly, an outright prohibition does not seem to be based on any particular reason, as conditions of use still have to be applied. In our **County Code Chapter 18.16.010**, EFU-zoned land has the clear purpose to be used for farming, and to disallow outdoor cannabis cultivation would not support agricultural opportunities or farm stakeholders. This type of regulation, if adopted, discourages an economically viable and value-added farm crop, in addition to creating a high barrier of entry for small farming enterprises and niche markets. Please refer to item #37 (above) for a more detailed discussion on outdoor cannabis production in our county and creative ways in which MAC members attempted to reach consensus.*

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Hunter Neubauer, and Lindsey Pate

48. The minimum lot size for medical marijuana production in EFU is 10 acres for up to 48 plants.

Position in favor: None submitted.

Supporters:

Position against: None submitted.

Supporters:

Production and Processing in EFU: Number of Licenses

49. Production in EFU is limited to one license on up to 10 acres, two licenses on 11-20 acres, and one additional license for every additional 10 acres or portion thereof.

Position in favor:

We support one license per each 10-acre parcel or portion thereof, given the fact that it is unreasonable to restrict recreation marijuana production as a potential use for the majority of EFU-zoned properties in the county. All EFU properties still have to meet state restrictions in order to obtain a license, which may

prevent some smaller lots from being potential sites anyway. Plus, if only big parcels can have production operations, we are really encouraging the big operations as opposed to allowing the smaller, family farmers have a chance at making their farm productive. According to the numbers given at this meeting, in Deschutes County, 4,428 lots are less than 5 acres, 980 are between 5 and 10 acres, 1084 are between 10 and 20 acres, 956 are between 20 and 40 acres, and 960 parcels are larger than 40 acres.

Current rules do not impose a limit on the number of indoor grow licenses that may be located on the same tax lot. In keeping with the position that all EFU parcels should be entitled to a license, but as a compromise to limit impacts, we feel that limiting the number of licenses based on parcel size is reasonable and fair. This formula restricts small parcels and allows for more production on larger parcels in what we believe to be a reasonable density.

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Hunter Neubauer, and Lindsey Pate

Position against:

We oppose the proposal as presented above (Case 1). We support, instead this proposal (Case 2): 0-10 Acres = 0 license, 10-20 Acres = 0 licenses, 20+ Acres = 1 license.

- Protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County.
- There should be no more than one license per parcel. With more than one license, it will be nearly impossible to control the nuisances. One marijuana industry grower will likely take responsibility to be a good neighbor; multiple licenses without a single grower in control of all licensed growers on a parcel will be unmanageable from a responsibility and liability standpoint and will exponentially expand the nuisances created by these multiple sub-let tenants.
- Deschutes County has allowed former farm properties to be divided into small parcels (RR-10, MUA, and EFU) < 20 acres for residential development. The table below, based on County data, indicates there are 11,508 parcels < 10 acres, 12,841 < 20 acres and 14,800 total parcels in Deschutes County.
- The proposal in Case #1 would allow a potential of well over (data not available for exact calculation) 14,174 licenses in Deschutes County, far more than are “needed.” Case #2 would “limit” it to 1,959 licenses, which are still far more marijuana licenses than we need or can control.
- If we allow licenses on less than 20 acres, 12,841 rural parcels could be impacted. This is every rural neighborhood.
- Rural residents also have rights, not just the marijuana industry. Since protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County, Case 1 should not be allowed, only Case 2.

Parcel Size	Number of Parcels			Cumulative Total
	EFU Zone	MUA Zone	EFU + MUA	
0-5 Acres	4,428	4,803	9,231	9,231
5-10 Acres	980	1,297	2,277	11,508
10-20 Acres	1,084	249	1,333	12,841
20-40 Acres	956	30	986	13,827
40+ Acres	966	8	974	14,801

Estimated Number of Licenses in EFU and MUA-10

Parcel Size	# Parcels in EFU and		
	MUA-10	Case 1 Licenses	Case 2 Licenses
<=5 Acres	9,231		
<=10 Acres	11,508	11,508	0
<=20 Acres	12,841	14,174	
>20 Acres*	1,959	14,174+++	1,959

* Data on parcel size breakdown above 20 acres not available to perform the exact calculation

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

50. Production in EFU is limited to one license on up to 80 acres, two licenses on 81-100 acres, and one additional license for every additional 20 acres or portion thereof.

Position in favor:

- *The MAC was charged to develop reasonable time, place, and manner land use regulations to mitigate the impacts of medical and recreational businesses in unincorporated Deschutes County.*
- *Since Oregon’s lawmakers unfortunately disfranchised voters (who narrowly passed Measure 91) by expanding the legalization of recreational marijuana from four plants per household to expansive commercial grow operations on all agricultural lands protected by Right to Farm with the designation of pot as a crop, nuisances to all nearby property owners to current legal (or not) medical grows and an unknown number of recreational grows will occur.*
- *Stacking marijuana grow and processing licenses on a single parcel of land – effectively subletting portions of any given parcel – will exponentially increase the nuisances of these grows which are effectively operated by tenants who do not reside on the property.*
- *These pot grow and processing tenants will have no appreciation for or respect of the nearby residents who have owned and lived on their properties for years, invested significant amounts to maintain and/or improve their real property, and enjoy their properties for the rural lifestyle they provide.*
- *Multiple sublessees will have their own employees, supplier contracts, and operating hours, which will increase the comings and goings of various individuals and their vehicles thereby directly expanding the nuisances to nearby neighbors.*
- *An alternate suggestion was made to allow one license for every 10 acres or portion thereof:*
- *Each recreational license can have the following canopy limits:*

	Indoor	Outdoor
Tier I	Up to 5,000 sq. ft.	Up to 20,000 sq. ft.
Tier II	5,001–10,000 sq. ft.	20,000–40,000 sq. ft.
<i>(For comparison’s sake, football field = 48,000 sq. ft.)</i>		

- *Deschutes County has, in land zoned EFU:*
 - *4,428 parcels of 0-5 acres*
 - *980 parcels of 5-10 acres*
 - *1,084 parcels of 10-20 acres*
 - *956 parcels of 20-40 acres*
 - *966 parcels of greater 40 acres*
- *Multiple licenses per EFU parcel based on a 10-acre (or portion thereof) division would increase the number of subletting tenants on EFU parcels in rural Deschutes, overwhelm the county’s law and*

code enforcement and planning staff, and create nuisances that could not possibly be mitigated with even the most stringent regulations.

- **Limiting one marijuana license per 80-acre parcel, and then allowing only one additional license for every additional 20 acres or portion thereof, is the most reasonable method of nuisance mitigation for a federally illegal, high-value, cash-based product.**

Supporters: Sam Davis, Jeff Ingelse, and Liz Lotochinski

Position against:

This proposal was not well received by the majority of MAC members. It received 9 red cards, 2 yellow cards, and 2 green cards.

State law already addresses limits on the number of licenses for tax lots. Imposing county-level restrictions wastes county resources without adding any clear benefit to our community.

*When we consider our **County Code, Chapter 18.16.010**, the purpose of EFU land is to preserve and maintain agricultural lands and to serve as a sanctuary for farm use. When a new farm technology has become available to our farming community, it is unreasonable to disallow farmers to utilize that new technology (in this case, a high value farm crop that uses minimal resources) that is well suited to our particular environment and is profitable on a small lot size.*

*In the study referenced in our **Deschutes County Comprehensive Plan, Chapter 2, section 2.2, Agricultural Lands**, our unique climate and short growing season resulted in a change in our minimum parcel size from the standard larger parcels seen in other states. For local farmers who have a larger parcels, this presents a unique opportunity to utilize their farmland as it was intended per our **County Code Chapter 18.16.010** referencing the purpose of EFU-zoned land.*

*An outright prohibition to grow an outdoor farm crop is unreasonable on its face, especially on large parcels, as this would prevent even one plant from being grown at an outdoor location where it potentially would not cause any disturbance to any neighbors. Most importantly, an outright prohibition does not seem to be based on any particular reason, as conditions of use still have to be applied. In our **County Code Chapter 18.16.010**, EFU-zoned land has the clear purpose to be used for farming, and to disallow outdoor cannabis cultivation would not support agricultural opportunities or farm stakeholders. This type of regulation, if adopted, discourages an economically viable and value-added farm crop, in addition to creating a high barrier of entry for small farming enterprises and niche markets.*

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Hunter Neubauer, and Lindsey Pate
Production and Processing in EFU: Setbacks and Minimum Lot Size for Processing Extracts

51. Extract processing is prohibited in EFU; or, if this conflicts with state law, allow extract processing in EFU only on 80-acre minimum parcels with 500-foot setbacks.

Position in favor:

- *OLCC Division 25 Recreational Marijuana Section 845-025-1015 defines “cannabinoid extract” as a substance obtained by separating cannabinoids from marijuana by:*
 - (a) *A chemical extraction process using a **hydrocarbon-based solvent, such as butane, hexane, or propane;***
 - (b) *A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the **process uses high heat or pressure;** or*
 - (c) *Any other process identified by the commission, in consultation with the authority, by rule.*

- *Butane and propane are highly combustible.*
- *Deschutes County is in the dry desert.*
- *Parcels of EFU land in Deschutes County have been divided into smaller parcels since the 1970s, resulting in a patchwork of properties in EFU, MUA, and RR zones.*
- *Since one extract processing facility on an EFU parcel can have devastating consequences to nearby properties in the event of a blast or explosion, **no** extract processing on EFU land shall be permitted.*
- *The county's dry climate and abundant vegetative tinder fuels of grasses, shrubs, and trees combined with (at times) strong, blustery winds could spread an unintended fire to a very large area, affecting a number of uninvolved residents and their properties and other county and federal lands.*
- *Why take one chance with this scenario?*
- *Prohibiting pot extract processing on EFU land is the surest way to safeguard public safety, quality of life, and property values.*
- *Since it was suggested during the seventh MAC meeting that marijuana processing cannot be restricted on EFU land (even though the county has been granted the authority to create regulations pertaining to marijuana), this position statement goes further to say that if prohibiting extract processing on EFU is not permitted, then:*
 - *Allow extract processing only on 80-acre minimum EFU parcels with 500-foot setbacks.*
 - *The parcel size and setback requirement provides enough buffer to ensure any explosion and associated escaped fire could be contained on the marijuana property until the fire district is able to contain the burn without it affecting any nearby parcels.*

Supporters: Liz Lotochinski and Sam Davis

Position against:

*In our **County Code, Chapter 18.16.025**, the processing of farm crops has reasonable regulations already in place. These regulations include*

- *Requiring that processing facilities located on a farm operation provide at least one-quarter of the farm crop processed at the facility.*
- *Limiting farmers to 10,000 square feet of building to be used in matters of processing.*
- *Processing facilities must comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility.*

*An 80-acre lot size minimum is not in line with the goals outlined in the **Deschutes County Comprehensive Plan, Section 2.2, Agricultural Lands Policies** as a workable policy for farmers and considerate to our county residents. These goals include*

- *promoting diverse agricultural economies,*
- *supporting stakeholders in viable activities, and*
- *supporting small farmers and encouraging niche markets and high value farm products.*

Processing provides an important outlet for small and large farmers alike to retain more value from their cannabis production.

As reflected by the cards displayed by the MAC (2 green cards, 1 yellow card, and 10 red cards), this proposal is unreasonable to its core.

*Extract processing should not be banned outright on EFU land. Our **County Code, Chapter 18.16.010** clearly states that the purpose of EFU land is to preserve and maintain agricultural lands and to serve as a sanctuary for farm use. When a new farm technology has become available to our farming community, it is unreasonable to disallow local farmers to utilize the new technology. **State statute and***

administrative rule set out rigorous regulations for cannabis processing, operator training, and compliance to ensure the safety of employees and the public.

Supporters: Andy Anderson, Matt Cyrus, Hunter Neubauer, and Lindsey Pate

52. Extract processing is allowed in EFU only with a closed-loop engineered system, a 25-foot setback from the lot line, and a 300-foot setback from a residence (or the proposed location of a dwelling unit under application) not on the same property.

Position in favor:

As Cited from Deschutes County Code: “Chapter 18.16. EXCLUSIVE FARM USE ZONES 18.16.010.

Purpose. A. The purpose of the Exclusive Farm Use zones is to preserve and maintain agricultural lands and to serve as a sanctuary for farm uses.”

Main Purpose of this proposal: *To protect residences. To protect farmers. To help defend and give guidance to those who have complied and wish to comply with the purpose outlined in Deschutes County Code cited above and specifically to reasonably regulate a farm use. The purpose of this proposal is to allow residences a greater chance to mitigate the potential nuisances of noise, odor, and light associated with cannabis extract processing by establishing a larger than normal setback from legally-established single family residences. While protecting residents is at the front of our minds, we also remind ourselves this is Exclusive Farm Use property. Keeping the rights of farmers in mind, we also wish to allow farmers the right to process cannabis so long as they meet the larger than normal setback requirement and are not restricted by unreasonable further regulations or additional setback requirement in property that is zoned Exclusive Farm Use.*

How it helps residences: *Keeping in mind that this zone is meant for farming, and that producing and processing cannabis clearly meets the definition of a farming activity, our feeling is that a 300’ set back is a very generous buffer that will help give proper distance should any unfortunate event happen at the licensed location no matter how unlikely that may be. We realize that this buffer may indeed disqualify several Exclusive Farm Use properties in Deschutes County from producing or processing cannabis, which is a farm crop; but protection and respect of those residences and the people that occupy them was a large consideration. That is why we proposed such a large buffer. The feeling from our side is that anything beyond this proposal or imposing any further setback restrictions or requirements in the Exclusive Farm Use Zone would be unreasonable because, again, this is Exclusive Farm Use.*

How it helps farmers: *While 300 feet is arguably an unreasonable setback requirement that may harm several Exclusive Farm Use properties, we feel that a compensating factor for the benefit of farmers would be to allow them no further setback requirement from the property line than what Deschutes County already requires, which is 25 feet. This helps ensure that we minimize the negative impact a borderline unreasonable distance ban may have on smaller farm parcels, and helps insure that the distance requirement does not become a de facto ban. In Deschutes County, we have several irregularly shaped parcels as well; so affording as many of these small farmers the opportunity to continue to farm their properties needs to be a high-priority consideration for regulating cannabis in a fair and unbiased manner.*

Closed-Loop Engineered System: *This is a requirement of all processing facilities prior to being issued a license by any State of Oregon regulatory agency, so there is no need to discuss this part of the proposal further.*

Supporters: Andy Anderson, Matt Cyrus, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez

Position against:

- *Protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County.*
- *Processing to recover extracts uses solvents and/or high pressure and/or temperature, and have a high risk of explosions and fires. **Marijuana concentrate extraction is an industrial process and should only be allowed in industrial areas where fire protection and police oversight are readily available.** Processing should not be allowed on RR-10, MUA-10, or EFU independent of setbacks.*
- *The use of closed-loop systems is relatively infrequent and there are not many suppliers with experience to design and construct these systems. Because of the lack of control over the marijuana industry, design standards for these systems are not well developed, making it difficult to know what standard to apply. A safe closed-loop system using dangerous solvents, heat, and pressure will be difficult to adequately certify as Deschutes County has no standard for closed-loop marijuana industry extraction systems.*
- *Any closed-loop system should have annual inspections to verify the condition of the equipment and operability of safety systems. Unfortunately, Deschutes County has no standard or requirement for annual inspections.*
- *Closed-loop systems are dangerous by their nature and standards for the qualifications and training of the personnel operating them do not exist.*
- *A 25-foot setback from a property line and 300-foot setback from the nearest residence does not provide adequate buffer to protect the residential neighborhoods, because of the challenges associated with design standards and dangers of fire and explosion, even with a closed-loop system. Rural residents should not have to live with industrial facilities in a residential neighborhood. There is no acceptable setback for extraction facilities in RR-10, MUA-10, or EFU that are not in industrial settings. These are rural residential neighborhoods, not industrial parks.*
- *If situated in an industrial area, the standard for the setback in the industrial area should apply.*
- *The proposal references a “residence (or the proposed location of a dwelling unit under application) not on the same property.” If an extraction unit is built next to a residential property in RR-10, MUA-10, or EFU, the value of the all properties in the area, not just adjacent properties, will be negatively impacted as long as the extraction unit exists.*

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

53. Processing extracts in EFU requires a minimum parcel size of 10 acres and setbacks of 100 feet from the lot line and 300 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property; closed-loop engineered system required.

Position in favor: None submitted.

Supporters:

Position against: None submitted.

Supporters:

54. Processing extracts in EFU requires setbacks of double the current County Code requirement plus additional setback of 300 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property.

Position in favor:

In an effort to reach consensus, we proposed double the regular implemented setback for processing on EFU land. The required county setback is variable depending on whether the setback is from a road or property line.

*While consensus was not reached with 6 green cards, 3 yellow cards, and 4 red cards, this proposed regulation for processing is line in with our **Deschutes County Comprehensive Plan, Section 2.2, Agricultural Lands Policies**, as processed cannabis is a viable niche market and results in high value farm products.*

*These proposed setbacks are additional standards that would be used in conjunction with the clear regulations already in place for the processing of farm crops in our **County Code, Chapter 18.16.025**. These regulations include*

- *Requiring that processing facilities located on a farm operation provide at least one-quarter of the farm crop processed at the facility.*
- *Limiting farmers to 10,000 square feet of building to be used in matters of processing.*
- *Processing facilities must comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility.*

Supporting onsite processing is beneficial as it reduces any potential risk to public safety in regards to the transportation of large quantities of raw material into the city or another processing facility.

In addition, farmers will benefit from in-house processing by allowing them to specialize in craft products. In-house processing also benefits our community by creating more jobs and greater economic growth.

Because processing will occur inside a building, implementing greater setbacks offer no added value to the proposed regulations. Large property line setbacks may also have the unintended consequence of pushing infrastructure into areas less suitable for agricultural technology and away from areas that are more suited for it.

After an in-depth discussion on this by our committee, the question remains: what nuisance is a large lot line setback mitigating?

Coupling the doubled lot line setback with a 300-foot setback from a permitted residence not located on the same tax lot directly addresses the potential nuisance related to cannabis processing, as cannabis processing must take place inside a building per state statute and our MAC came to consensus on odor control.

Supporters: Andy Anderson, Matt Cyrus, Hunter Neubauer, and Lindsey Pate

Position against:

- *Protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County.*
- *All processing to recover extracts uses solvents, high pressure, and/or temperature and have a high risk of explosions and fires. **Marijuana concentrate extraction is an industrial process and should only be allowed in industrial areas where fire protection and police oversight is readily available.** This should not be allowed on RR-10, MUA-10, or EFU.*
- *Use of closed-loop systems is relative infrequent, and there are not many suppliers with the required experience to design and construct these systems. Because of the lack of control over the marijuana*

industry, design standards for these systems are not well developed, making it difficult to know what standard to apply. A safe closed-loop system using dangerous solvents, heat, and pressure may be difficult to certify, and Deschutes County has no standard for closed-loop marijuana industry extraction systems.

- *Any closed-loop system should have annual inspections to verify the condition of the equipment and operability of safety systems. Unfortunately, Deschutes County has no standard or requirement for annual inspections.*
- *Closed-loop systems are dangerous by their nature and standards for the qualifications and training of the personnel operating them do not exist.*
- *Doubling Deschutes County standards from a property line and requiring a 300-foot setback from the nearest residence does not provide an adequate buffer to protect the residential neighborhoods because of the challenges associated with design standards and dangers of fire and explosion, even with a closed-loop system.*
- *There is no acceptable setback for extraction facilities in RR-10, MUA-10, or EFU that are not industrial settings. These are rural residential neighborhoods, not industrial parks.*
- *If situated in an industrial area, the standard for the setbacks in the industrial area should apply.*
- *The proposal refers to a “residence (or the proposed location of a dwelling unit under application) not on the same property.” If an extraction unit is built next to a residential property in RR-10, MUA-10, or EFU the value of the all properties in the area, not just adjacent properties, will be negatively impacted as long as the extraction unit exists.*

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

55. Processing extracts in EFU requires setbacks of 200 feet from the lot line and 300 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property.

Position in favor: None submitted.

Supporters:

Position against: None submitted.

Supporters:

56. Processing extracts in EFU requires a setback of 300 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property.

Position in favor:

The Marijuana Advisory Committee convened to recommend regulations that would address community livability concerns related to cannabis processing. Eleven of us agreed that a 300-foot setback from a permitted residence not located on the same tax lot is an effective way to mitigate nuisance of the agricultural practice. The near-unanimous support for this proposal followed our discussion of extract processing and it assumes that extracts would be subject to more stringent regulations than production, but would not be banned outright.

Unlike a lot line setback, which can have unintended consequences such as disallowing the use of an existing structure that has been well tolerated by neighbors or pushing farming infrastructure closer to a residence, a residential setback creates a buffer around a permitted dwelling that is not located on the same property.

Furthermore, a 300-foot setback from a permitted residence not located on the same tax lot supports the goals outlined in the **Deschutes County Comprehensive Plan, Section 2.2, Agricultural Lands Policies** as a workable policy for farmers and considerate to our county residents. These goals include

- Promoting diverse agricultural economies,
- Supporting stakeholders in viable activities, and
- Supporting small farmers and encouraging niche markets and high value farm products.

It is important to note that these setbacks are additional standards that would be used in conjunction with the clear regulations already in place for processing of farm crops in our **County Code, Chapter 18.16.025**. These regulations include

- Requiring that processing facilities located on a farm operation provide at least one-quarter of the farm crop processed at the facility.
- Limiting farmers to 10,000 square feet of building to be used in matters of processing.
- Processing facilities must comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility.

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Hunter Neubauer, and Lindsey Pate
Position against:

- Protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County.
- All processing to recover extracts uses solvents, high pressure, and/or temperature and have a high risk of explosions and fires. **Marijuana concentrate extraction is an industrial process and should only be allowed in industrial areas where fire protection and police oversight is readily available.** This should not be allowed on RR-10, MUA-10, or EFU.
- Use of closed-loop systems is relative infrequent. Therefore, there are not many suppliers with required experience to design and construct these systems. Because of the lack of control over the marijuana industry, design standards for these systems are not well developed, which makes it difficult to know what standard to apply. A safe closed-loop system using dangerous solvents, heat, and pressure will be difficult to certify because Deschutes County has no standard for marijuana industry closed-loop extraction systems.
- Every closed-loop system should have annual inspections to verify the condition of the equipment and operability of safety systems. Unfortunately, Deschutes County has no standard or requirement for annual inspections.
- Closed-loop systems are dangerous by their nature and standards for the qualifications and training of the personnel operating them do not exist.
- There is no acceptable setback for extraction facilities in RR-10, MUA-10, or EFU that are not industrial settings, because of the challenges associated with design standards and dangers of fire and explosion, even with a closed-loop system. A 300-foot setback from the nearest residence does not provide an adequate buffer to protect the residence. These are rural residential neighborhoods, not industrial parks.
- If situated in an industrial area, the standard for the setbacks in the industrial area should apply.
- The proposal refers to a “residence (or the proposed location of a dwelling unit under application) not on the same property.” If an extraction unit is built next to a residential property in RR-10, MUA-10, or EFU the value of the all properties in the area, not just adjacent properties, will be negatively impacted as long as the extraction unit exists.

Supporters: Sam Davis and Liz Lotochinski

Production and Processing in EFU: Setbacks (not including processing extracts)

(Please note: The following setback proposals, #57-64, assumed that processing extracts would not be banned, but rather addressed with perhaps more stringent standards, as noted above in proposals #51-56.)

57. For new production and processing operations in EFU, not including extracts, require the County minimum setbacks plus a 300-foot setback from any residence (or the proposed location of a dwelling unit under application) not on the same property.

Position in favor:

As cited from Deschutes County Code: Chapter 18.16. EXCLUSIVE FARM USE ZONES 18.16.010. Purpose.

A. The purpose of the Exclusive Farm Use zones is to preserve and maintain agricultural lands and to serve as a sanctuary for farm uses.

Main purpose of this proposal: *To protect residences. To protect farmers. To help defend and give guidance to those who have and wish to comply with the purpose outlined in Deschutes County Code cited above and specifically to reasonably regulate a farm use.*

The purpose of this proposal is to allow residences a greater chance to mitigate the potential nuisances of noise, odor, and light associated with cannabis processing and production by establishing a larger than normal setback from legally established single family residences. While protecting residents is at the front of our minds, we also remind ourselves this is Exclusive Farm Use property. Keeping the rights of farmers in mind, we also wish to allow farmers the right to produce and process cannabis, as long as they meet the larger than normal setback requirement and are not restricted by unreasonable further regulations or additional setback requirement in property that is zoned Exclusive Farm Use.

How it helps residences: *Keeping in mind that this zone is meant for farming, and that producing and processing cannabis clearly meets the definition of a farming activity, our feeling is that a 300-foot setback is a very generous buffer that will help give proper distance should any unfortunate event happen at the licensed location no matter how unlikely that may be. We realize that this buffer may indeed disqualify several Exclusive Farm Use properties in Deschutes County from producing or processing cannabis, which is a farm crop; but protection and respect of those residences and the people who occupy them was a large consideration and why we proposed such a large buffer. The feeling from our side is that anything beyond this proposal or imposing any further setback restrictions/requirements in the Exclusive Farm Use Zone would be unreasonable because, again, this is Exclusive Farm Use.*

How it helps farmers: *While 300 feet is arguably an unreasonable setback requirement that may harm several Exclusive Farm Use properties, we feel that a compensating factor for the benefit of farmers would be to allow them no further setback requirement from the property line than what Deschutes County already requires, which is 25 feet. This helps ensure that we minimize the negative impact a borderline unreasonable setback may have on smaller farm parcels and help insure that the distance requirement doesn't become a de facto ban. In Deschutes County, we have several irregularly shaped parcels as well; so affording as many of these small farmers the opportunity to continue to farm their properties needs to be a high-priority consideration for regulating cannabis in a fair and unbiased manner.*

Supporters: Andy Anderson, Matt Cyrus, Jeff Ingelse, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez

Position against:

- *The MAC was charged to develop reasonable time, place, and manner land use regulations to mitigate the impacts of medical and recreational businesses in unincorporated Deschutes County.*
- *County setbacks are currently as follows:*
 - 18.16.070. Yards.
 - A. The front yard shall be a minimum of: 40 feet from a property line fronting on a local street, 60 feet from a property line fronting on a collector street, and 100 feet from a property line fronting on an arterial street.
 - B. Each side yard shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on property with side yards adjacent to property currently employed in farm use, and receiving special assessment for farm use, the side yard shall be a minimum of 100 feet.
 - C. Rear yards shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on property with a rear yard adjacent to property currently employed in farm use, and receiving special assessment for farm use, the rear yard shall be a minimum of 100 feet. Chapter 18.16 32 (03/2016)
 - D. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.
- *Nuisances include visual impact of Fort Knox-looking processing and production sites surrounded by fencing, security cameras, no-trespassing signs, and the number of employees and suppliers frequenting these locations.*
- *Actually, Fort Knox (see photo to the right) looks pretty good compared with some marijuana grow sites.*
- *Many marijuana grow sites have ancillary, unsightly clutter such as repurposed cargo storage containers, old truck trailers, propane tanks, pesticide holding tanks, outbuildings, old vehicles, delivery containers, and support equipment. This blight is typically located around the grow buildings.*
- *Marijuana grows invite theft and encourage criminal elements to prey on rural areas.*
- *Odors from outdoor grows travel thousands of feet, effectively trespassing onto nearby properties and public areas.*
- *Highly impressionable youth, even those educated by their parents or schools on the dangers of pot consumption by young people, will view marijuana as a normalized element of the community if grow and processing facilities are sited without sufficient setbacks.*
- *Setbacks as proposed here will destroy views, increase risk to public safety, create odor pollution, influence youth by normalizing pot in their lives, and detrimentally affect the enjoyment of all individuals who use and enjoy Deschutes County: residents, owners, children, visitors, cyclists, guests, tourists, etc.*
- *Protecting public safety, quality of life, and property values should be the priorities of Deschutes County Commissioners.*



Supporters: Sam Davis and Liz Lotochinski

58. For production and processing operations in EFU, not including extracts, require setbacks of 200 feet from a lot line and 300 feet from any residence (or the proposed location of a dwelling unit under application) not on the same property.

Position in favor: None submitted.

Supporters:

Position against: None submitted.

Supporters:

59. For production and processing operations in EFU, not including extracts, require setbacks of 100 feet from the lot line and 300 feet from any residence (or the proposed location of a dwelling unit under application) not on the same property.

Position in favor:

This proposal received only 2 red cards, the rest green and yellow. This proposal is very similar to the County's original staff proposal and came about after extraction standards were discussed. It is important to note this proposal assumes that extract processing would have a more stringent set of standards, but not be banned outright.

*In our **County Code Chapter 18.16.010**, land zoned for Exclusive Farm Use has the clear purpose to be used for farming. A larger residential setback coupled with a reasonable lot line setback supports agricultural opportunities and farm stakeholders while showing consideration for adjacent rural residents.*

A 300-foot setback from any residence not on the same tax lot is a regulation that gets straight to the issue at hand, mitigating any potential nuisance from farming practices.

Enforcement of a property line setback greater than 100 feet, on the other hand, would push agricultural infrastructure to land that is less suitable for production or processing and closer to roads and dwellings not located on the same tax lot. This is especially true for unconventionally shaped lots and larger parcels.

*In our **County Code Chapter 18.16.038**, EFU zoned land greater than 15 acres may operate a winery with a lot line setback of at least 100 feet, unless the County grants an adjustment or variance allowing the setback of less than 100 feet. There is no additional setback from adjacent neighbors.*

*A study referenced in the **Deschutes County Comprehensive Plan, Section 2.2, Agricultural Lands Policies** found that Deschutes County's unique climate and short growing season mean that it is harder to create economic stability on large lots in our county. A crop like cannabis that can be farmed in our harsh climate offers is real economic potential for local farmers on properties that have been properly zoned and classified. Reasonable setbacks, like the ones in this proposal, support appropriate agricultural uses on our EFU land.*

Supporters: Andy Anderson, Matt Cyrus, Jeff Ingelse, Hunter Neubauer, and Lindsey Pate

Position against:

- *The MAC was charged to develop reasonable time, place, and manner land use regulations to mitigate the impacts of medical and recreational businesses in unincorporated Deschutes County.*
- *Nuisances include the visual impact of Fort Knox-looking processing and production sites surrounded by fencing, security cameras, no-trespassing signs, and the number of employees and suppliers frequenting these locations.*
- *Many marijuana grow sites have ancillary, unsightly clutter such as repurposed cargo storage containers, old truck trailers, propane tanks, pesticide holding tanks, outbuildings, old vehicles, delivery containers, and support equipment. This blight is typically located around the grow buildings.*
- *Marijuana grows invite theft and encourages criminal elements to prey on rural areas.*

- *Odors from outdoor grows travel thousands of feet, effectively trespassing onto nearby properties and public areas.*
- *Highly impressionable youth, even those educated by their parents or schools on the dangers of pot consumption by young people, will view marijuana as a normalized element of the community if grow and processing facilities are sited without sufficient setbacks.*
- *Setbacks as proposed here will destroy views, increase risk to public safety, create odor pollution, influence youth by normalizing pot in their lives, and detrimentally affect the enjoyment of all individuals who use and enjoy Deschutes County: residents, owners, children, visitors, cyclists, guests, tourists, etc.*
- *Protecting public safety, quality of life, and property values should be the priorities of Deschutes County Commissioners.*

Supporters: Sam Davis and Liz Lotochinski

60. For production and processing operations in EFU, not including extracts,

- **Require setbacks of 200 feet from the lot line and 300 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property for grow sites in a building; and**
- **Require setbacks of 200 feet from the lot line and 1,000 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property for grow sites outside of a building.**

Position in favor:

- *Protecting public safety, quality of life, and property values is of utmost importance in rural Deschutes County.*
- *Visual impacts are a major concern to neighborhoods. These larger setbacks will help mitigate the visual impacts. Division 25 Section 845-025-1410 states that licensees must provide security systems that include commercial grade, non-residential door locks installed on every external door of licensed premises where marijuana items are present and fences topped with razor or barbed wire. Fences topped with razor or barbed wire create a prison-like atmosphere. These impacts cannot be mitigated with only questionable screening that will take years to develop even if adequately maintained. These greater setbacks are necessary to increase the buffer between the grow facilities and neighboring residences.*
- *The majority of marijuana industry facilities typically have ancillary, unsightly clutter associated with them: 'temporary' large storage containers, old 40-foot truck trailers, propane tanks, outbuildings, old vehicles, delivery containers, and support equipment that are allowed under insufficient County codes that do not require permits for 'temporary' facilities (which typically exist for years). This ancillary clutter is typically located near the grow buildings. The larger setbacks proposed here are more likely to keep this clutter further from neighboring residences.*
- *Marijuana grows invite theft and encourages criminal elements to prey on our rural areas. These greater setbacks would increase the buffer between this type of negative activity and neighboring residences.*
- *The odors from an outdoor grow will travel far in excess of 1,000 feet, which makes a 1,000-foot setback the minimum that should be required.*

Supporters: Sam Davis, Larry Fulkerson, and Liz Lotochinski

Position against:

This proposal is not workable for cannabis producers and processors, and specifically the 200-foot setback from a lot line and the 1,000-foot setback from a residence not located on the same tax lot.

*Because it is harder to create economic stability in our harsh growing environment as found in a study referenced in the **Deschutes County Comprehensive Plan, Section 2.2, Agricultural Lands Policies**, smaller parcels of EFU land were created to ensure that agricultural land was preserved. Large setbacks work against the goals laid out in the same section of the Comprehensive Plan. These goals include*

- *promoting diverse agricultural economies,*
- *supporting stakeholders in viable activities, and*
- *supporting small farmers and encouraging niche markets and high value farm products.*

A crop like cannabis that can be farmed on small lot sizes means that there is real economic potential for small farmers on properties that have been properly zoned and classified.

The 300-foot setback from a permitted residence not located on the same tax lot is adequate to address mitigation concerns for residences on adjacent properties.

The 200-foot setback holds no pragmatic purpose in our code. In many cases, enforcement of a 200-foot property line setback will push agricultural infrastructure to land that is less suited for the production or processing and closer to roads and dwellings not located on the same tax lot. This is especially true for non-traditional shaped lots and larger parcels. A 200-foot setback takes up valuable farmland that can be used without a direct correlation to a neighboring residence as the primary concern.

The 1,000-foot setback from all lot lines for cannabis production not inside a building, as defined by our production talks, is unnecessarily large; however, it is a workable concession in order to reach consensus.

It is noteworthy that when this proposal was tested by changing the 200-foot lot line setback to 100 feet, the change in the property setback to 100 feet was enough to gain support by the cannabis business community represented on the MAC. Our committee very nearly reached consensus on this alternative proposal – it received only two red cards.

*In our **County Code Chapter 18.16.010**, EFU-zoned land has the clear purpose to be used for farming. Unnecessarily burdensome setback requirements on EFU will not support local farm stakeholders and agricultural opportunities. Instead, the suggestions in this proposal would discourage an economically viable and value-added farm crop, in addition to creating a high barrier of entry for small farming enterprises and niche markets.*

Supporters: Andy Anderson, Matt Cyrus, Hunter Neubauer, and Lindsey Pate

61. For production and processing operations in EFU, not including extracts, include language in the setback regulations similar to, “unless a variance is granted.”

Position in favor:

This proposal was put forward, in part, to address the fact that there are so many odd-shaped parcels and varying acreage sizes and situations that are best decided on a case-by-case basis. There certainly may be circumstances where particular geographical considerations, adjacent property owner relations, etc., are such that the stated setback requirements actually cause a non-desirable or unreasonable outcome for the properties at issue. This is where the application for a variance is the perfect option. Given the fact that applying for a variance is already a possibility in most land use applications, this proposal seemed like a slam-dunk consensus recommendation, yet it was met with opposition. This proposal merely recited what is already law in Deschutes County and was proposed because we wanted

to make sure people specifically understood that applying for a variance under these potential zoning laws was an option, in order to promote our efforts to be reasonable in time, place, and manner. We used the example of what is currently allowed for wineries in Deschutes County and tried to present language that mimicked the same. Deschutes County Code Chapter **18.16.038**, EFU zoned land greater than 15 acres is permitted to operate a winery with a lot line setback of at least 100 feet, unless the County grants an adjustment or variance allowing the setback of less than 100 feet. **Deschutes County Code 18.132.010-040.**

Additionally, a purpose of the variance language in this case was to better fulfill the Deschutes County Comprehensive Plan, Section 2.2, Agricultural Lands Policies, as a potential workable option for farmers that is specifically considerate to their nearby neighbors. There is no reasonable argument to oppose this proposal since it is essentially already the law of the land that variances are possible. There was no argument offered against this proposal, yet we did not reach consensus. The outcome of this offered proposal speaks for itself.

Supporters: Andy Anderson, Matt Cyrus, Alison Hohengarten, Hunter Neubauer, and Lindsey Pate
Position against: None submitted.

Supporters: Liz Lotochinski

62. For production and processing operations in EFU, not including extracts, allow neighbors to sign an agreement to allow lesser or no setbacks, which agreement would be binding on future owners.

Position in favor: None submitted.

Supporters:
Position against: None submitted.

Supporters:

63. For production and processing operations in EFU, not including extracts, existing fully-enclosed lawfully-permitted agricultural buildings (not including hoop houses), that were in place as of the date of the Board’s decision, are exempt from the lot line setback requirement, and are required to be 300 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property.

Position in favor:

As Cited from Deschutes County Code: Chapter 18.16. EXCLUSIVE FARM USE ZONES, 18.16.010.

Purpose. A. The purpose of the Exclusive Farm Use zones is to preserve and maintain agricultural lands and to serve as a sanctuary for farm uses.

Definition of “Grandfathering Clause:” *A clause exempting certain classes of people or things from the requirements of a piece of legislation affecting their previous rights, privileges, or practices.*

Main Purpose of this proposal: *To reduce environmental impact. To protect existing lawfully-established farm structures and promote the use and/or reuse of them to reduce the environmental impact from new construction on EFU-zoned land. To protect residences. To protect farmers. To help defend property rights and give guidance to those who have complied and wish to comply with the purpose outlined in Deschutes County Code cited above and specifically to reasonably regulate a farm use.*

How it helps residences: *Though we cannot say for sure, it would be reasonable to surmise there are several existing lawfully-established farm structures on EFU property in Deschutes County. Keeping in mind that this zone is meant for farming, and that producing and processing cannabis clearly meets the definition of a farming activity, our feeling is that a 300-foot setback is a very generous buffer in any zone, let alone EFU, and that will help give proper distance should any unfortunate event happen at the licensed location no matter how unlikely that may be. We realize that this buffer may indeed disqualify several Exclusive Farm Use properties in Deschutes County from producing or processing cannabis, which is a farm crop, but protection and respect of those residences and the people that occupy them was a large consideration. This is why we proposed such a large buffer. We wanted to specifically carve out these existing farm structures so as long as they meet the requirements of setback requirements from existing residences regardless of future legislation or regulation standards.*

Any regulation that goes into effect should not negatively affect these existing structures. We should protect these existing structures regardless of any new legislation or change in setback requirements that are made specific to the production and processing of cannabis. Many of these structures were built for the purpose of farm production and processing and should not be disqualified from any farm practice including cannabis.

How it helps farmers: *While 300 feet from a residence is arguably an unreasonable setback requirement that may harm several Exclusive Farm Use properties, we feel that a compensating factor for the benefit of farmers would be to allow them no further setback requirement from the property line than what Deschutes County already requires, which is 25 feet, so long as the building was built as stated in the proposal. This helps ensure that we minimize the negative impact a borderline unreasonable distance requirement may have on smaller farm parcels and help insure that the distance requirement doesn't become a de facto ban. In Deschutes County, we have several irregularly shaped parcels as well; so affording as many of these small farmers the opportunity to continue to farm their properties needs to be a high-priority consideration for regulating cannabis in a fair and unbiased manner.*

Supporters: Andy Anderson, Matt Cyrus, Hunter Neubauer, Lindsey Pate, and Josh Rodriguez
Position against: None submitted.

Supporters: Liz Lotochinski

64. For production and processing operations in EFU, not including extracts, unless a variance is granted or waivers (that would run with the land) are signed by adjoining property owners, require setbacks of 100 feet from the lot line and 300 feet from any residence (or the proposed location of a dwelling unit under application) not on the same property; except that for production sites that are not fully enclosed in a building, the setback from that residence shall be 1,000 feet.

Position in favor:

The MAC came close to consensus on this item with 11 in favor or indicating they could “live with” the proposal and 2 opposed. This proposal requires a 100-foot setback from the property line as a minimum in all instances for indoor grows, a 300-foot setback from any residence, and with regard to outdoor grows, a 1,000-foot setback. This would potentially mitigate multiple impacts attendant to the required eight-foot fences, security cameras, signs at entrances to that portion of a property constituting a licensed premises, the presence of security cameras, the noise of filters and machinery, traffic, etc. While some members feel that with an outdoor grow odor cannot be mitigated, this proposal represents a reasonable attempt to limit the effects of odor by

providing a larger setback for such. This proposal also gives some control to affected property owners by allowing neighbors to agree to a covenant (“waiver”) that would run with the land, similar to what is allowed by DCC related to surface mining.

Supporters: Tim Elliott and Larry Fulkerson

Position against: None submitted.

Supporters:

Production and Production in EFU: Separation

65. For production and processing in EFU:

- **Separation is required of 1,000 feet from “protected locations” defined as public and private elementary and secondary schools, licensed child care centers (excluding in-home child care), licensed pre-schools, national monuments and state parks, all approved/licensed youth activity centers, churches, public playgrounds, meeting places available for rent, and public libraries.**
- **Separation is required of 3 miles between all OLCC licenses for production and processing.**
- **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 “protected location.”**

Position in favor:

- *The MAC was charged to develop reasonable time, place, and manner land use regulations to mitigate the impacts of medical and recreational businesses in unincorporated Deschutes County.*
- ***Consensus was reached on having a 1,000-foot separation between marijuana retail locations and protected locations, and requiring the same buffer for marijuana production and processing is just as necessary.***
- *Marijuana processing and production sites are highly visible with their required fencing, security cameras, no-trespassing signs, and the number of employees and suppliers frequenting these locations.*
- *These sites lure the criminal element seeking the high-value crop and the associated cash, since these businesses do not have easy access to banks.*
- *Rural Deschutes County is the home for numerous youth who use the rural roads for their bus stops, walks home, and bike paths.*
- *Highly impressionable youth, even those educated by their parents or schools on the dangers of pot consumption by young people, will view marijuana as a normalized element of the community if grow and processing sites are located near the protected locations.*
- ***The separation of three miles between production and processing facilities will prevent a cluster of marijuana sites excessively affecting nearby properties with 24/7 nuisances, and will reduce the localized pressure on utilities (water, power, roadways, etc.).***
- *Lot line to lot line measurement provides the county with a defined measurable distance.*

Supporters: Sam Davis and Liz Lotochinski

Position against: None submitted.

Supporters: Matt Cyrus

66. There is no separation requirement for production and processing in EFU.

Position in favor: None submitted.

Supporters: Matt Cyrus

Position against: None submitted.

**MARIJUANA RETAIL AND WHOLESALE
SUMMARY OF ZONES FOR CONSIDERATION TO ALLOW**

Zone	ORIGINAL PROPOSAL		PLANNING COMMISSION RECOMMENDATION		MAC RECOMMENDATIONS	
	Retail	Wholesale (Recreational)	Retail	Wholesale (Recreational)	Retail	Wholesale (Recreational)
Permitted (P) Conditional Use (CU) Not Allowed (-)						
		P-office only CU-with storage		Office Only NO storage		Consensus: Office Only
TITLE 18 – Deschutes County						
18.65 RURAL SERVICE CENTER - UC					Consensus	Consensus
18.65.020 Commercial Mixed Use District (Brothers, Hampton, Millican, Whistlestop, Wildhunt)	CU	P	CU	P	CU	P
18.65.021 Commercial Mixed Use (Alfalfa)	CU	P	CU	P	CU	P
18.66 TERREBONNE RURAL COMMUNITY						
18.66.040 Commercial - TeC	P	P/CU	CU	P	CU	P
18.66.050 Commercial Rural - TeCR	P	P/CU	CU	P	CU	P
18.67 TUMALO RURAL COMMUNITY						
18.67.040 Commercial - TuC	P	P/CU	CU	P	CU	P
18.67.060 Industrial - Tul	CU	-	CU	-	CU	-
18.74 RURAL COMMERCIAL						
18.74.020 Deschutes Junction and Deschutes River Woods Store	CU	-	CU	-	CU	-
18.74.025 Spring River	CU	-	CU	-	CU	-
18.74.027 Pine Forest and Rosland	CU	P	CU	P	CU	P
18.100 Rural Industrial	CU	-	CU	-	CU	-
18.108 SUNRIVER UUC						
18.108.050 Commercial - SUC	CU	P	CU	P	CU	P
18.108.055 Town Center - TC	CU	-	CU	-	CU	-
18.108.110 Business Park – SUBP	CU	P/CU	CU	P	CU	P
TITLE 19 – BEND URBAN AREA ZONING ORDINANCE						
No Marijuana Related Businesses Allowed						
TITLE 20 - REDMOND URBAN AREA ZONING ORDINANCE						
No Marijuana Related Businesses Allowed						
TITLE 21 - SISTERS URBAN AREA ZONING ORDINANCE						
No Marijuana Related Businesses Allowed						

Related definitions originally proposed and recommended by the Planning Commission

“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.

**MARIJUANA RETAIL
(RECREATIONAL AND MEDICAL)
SPECIFIC USE STANDARDS FOR CONSIDERATION**

Definition originally proposed and recommended by the Planning Commission

“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.

	MAC RECOMMENDATIONS	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY ADOPTED	JACKSON COUNTY PC RECOMMENDATION	OLCC (Recreational)	OHA (Medical)
Home Occupation	CONSENSUS Prohibited. (February 17)	Prohibited	Prohibited	Prohibited	Prohibited		
Waste Disposal	CONSENSUS Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the licensee. (February 17)	<ul style="list-style-type: none"> Secure disposal of discarded marijuana items shall be provided. Marijuana items shall not be placed within exterior refuse containers on the subject property. 	Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the licensee.	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.	No marijuana remnants or by-products shall be placed within the facility's exterior refuse containers.	Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.	
Minimum Separation Distances	<p>CONSENSUS</p> <ul style="list-style-type: none"> Require a separation of 1,000 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 1,000 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. (February 22) <p>NO CONSENSUS Add churches to the list of locations that must be 1,000 feet from a marijuana retail or dispensary operation. (March 2)</p> <p>NO CONSENSUS Allow no retail marijuana facilities be allowed near public playgrounds, meeting places available for rent such as The Grange, and Deschutes public libraries. (February 22)</p>	<ul style="list-style-type: none"> 1,000 from public/private elementary schools, licenses child care center, licensed preschool, and marijuana retailers. Change of use (i.e. new school) shall not cause violation of this standard. <p>Distance Calculation: All distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the property occupied by the marijuana retailer.</p>	<ul style="list-style-type: none"> 1000 from public/private elementary and secondary schools, licenses child care center, licensed preschool, parks, and all approved/licensed youth activity centers (i.e., Boys & Girls Club) with a 501c3 status or description stating youth activities, excluding in-home child care. Change of use (i.e. new school) shall not cause violation of this standard. <p>Distance Calculation: All distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the property occupied by the marijuana retailer.</p>	<ul style="list-style-type: none"> 100 feet from residentially-zoned property except if street frontage on principal interstate, expressway, etc. 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 multi-family dwelling owned by a public housing authority 500 feet from a licensed daycare facility or preschool, including associated property and parking lot 1,000 feet for other marijuana retailer of the same type (e.g., recreational or medical) 1,000 feet from any other marijuana retailer so licensed by the OLCC. 1,000 feet from any other marijuana retailer so registered with the OHA. Change of use to listed use shall not cause violation of this standard. 	<p>Shall not be within:</p> <ul style="list-style-type: none"> One mile of the Veterans Administration Southern Oregon Rehabilitation Center and Clinics. 1,000 feet of the Jackson County Transition Center. 250 feet of residentially zoned property within the White City Urban Unincorporated Community Boundary. 1,000 feet of a public park, excluding the Bear Creek Greenway. 1,000 feet of an Interstate 5(1-5) interchange. The interchange is defined as the bridge structure over 1-5 including all on and off ramp termini. 1,000 feet from a public elementary or secondary school. 1,000 feet of another marijuana retail sales facility. 1,000 feet of another medical marijuana facility. <p>Distance Calculation: For the purposes of determining the distance between a marijuana retail sales facility/medical marijuana facility and another marijuana retail sales facility/medical</p>	<ul style="list-style-type: none"> May not be located within 1,000 feet of public/private/parochial elementary or secondary school. Local standard cannot require greater than 1,000 feet from another retail marijuana premises. 	<ul style="list-style-type: none"> 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors. Must not be located within 1,000 feet of another medical marijuana facility.

	MAC RECOMMENDATIONS	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY ADOPTED	JACKSON COUNTY PC RECOMMENDATION	OLCC (Recreational)	OHA (Medical)
	<p>NO CONSENSUS There was no consensus reached on several proposals for measuring separation distance, as follows (however, there was consensus in the above recommendation).</p> <p>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. (February 22)</p> <p>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. (February 22)</p> <p>Measure separation from property line to property line to avoid encroachment where children are located. (February 22)</p> <p>Measure separation in the way that the state regulations or law prescribes, even as it changes. (February 22)</p>			<p>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</p>	<p>marijuana facility "within 1,000 feet" means a straight line measurement in a radius extending 1,000 feet or less in every direction from the closest point anywhere on the premises of a marijuana retailer to the closest point anywhere on the premises of a marijuana retailer.</p>		
Hours	<p>NO CONSENSUS There was no consensus reached on several proposals for retail hours of operation, as follows:</p> <p>7:00 a.m. until 10:00 p.m. (February 22)</p> <p>10:00 a.m. until 5:00 p.m. (February 22)</p> <p>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. (February 22)</p> <p>10:00 a.m. until 7:00 p.m. (February 22)</p>	10:00 to 7:00 p.m.	10:00 to 7:00 p.m.	10:00 a.m. to 9 p.m.	9:00 a.m. to 7:00 p.m.	7:00 a.m. to 10:00 p.m.	

	MAC RECOMMENDATIONS	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY ADOPTED	JACKSON COUNTY PC RECOMMENDATION	OLCC (Recreational)	OHA (Medical)
	<p>9:00 a.m. until 9:00 p.m. (February 22)</p> <p>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. (February 22)</p>						
Window Service	<p>CONSENSUS</p> <p>No window service at retail outlets. (February 22)</p>	Shall not have a walk-up window or drive-thru window service.	Shall not have a walk-up window or drive-thru window service.	Shall not have a walk-up window or drive-thru window service.		A licensee may not sell any marijuana item through a drive-up window.	
Minors	<p>CONSENSUS</p> <p>A minimum age to enter a retail establishment of 18 years for medical marijuana and 21 years for recreational marijuana. (February 22)</p> <p>NO CONSENSUS</p> <p>No minors allowed, unless accompanying a parent or guardian as allowed by state law. (February 22)</p>	No minors allowed, unless accompanying a parent or guardian as allowed by state law.	No minors allowed, unless accompanying a parent or guardian as allowed by state law.	No minors allowed, unless accompanying a parent or guardian as allowed by state law.		No minors permitted anywhere on premises.	
Co-Location	<p>CONSENSUS</p> <p>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. (February 22)</p>	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.	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.	No retail on same lot as marijuana smoking or social club.			
Odor Control	<p>NO CONSENSUS</p> <p>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. (February 22)</p> <p>NO CONSENSUS</p> <p>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. (February 22)</p>			<ul style="list-style-type: none"> The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, 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 applicable CFM. 3. The filtration system shall be maintained in working order and shall be in use. 	<ul style="list-style-type: none"> A building used for marijuana retailing shall be equipped with a carbon filtration system for odor control. The system shall consist of one or more fans and filters. 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. The filtration system shall be maintained in working order and shall be in use. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that 		

	MAC RECOMMENDATIONS	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY ADOPTED	JACKSON COUNTY PC RECOMMENDATION	OLCC (Recreational)	OHA (Medical)
				<p>The filters shall be changed a minimum of once every 365 days.</p> <ul style="list-style-type: none"> Negative air pressure shall be maintained inside the building. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building. The filtration system shall be designed by a mechanical engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with Subsection 841.04(B). An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. 	the alternative system will control odor as well or better than the carbon filtration system otherwise required		
Grandfather existing medical marijuana dispensaries	<p>NO CONSENSUS</p> <p>Any existing permitted medical marijuana facility in the County would be permitted to expand to recreational marijuana as a permitted use, and subject to any OLCC or other rules and regulations. (March 2)</p>			•	•		
Outdoor Patio Space	<p>NO CONSENSUS</p> <p>No public outdoor patio space for marijuana-only retailers, that would be visible from the public view. (March 2)</p>			•	•		

**MARIJUANA WHOLESALER
(RECREATIONAL MARIJUANA ONLY)
SPECIFIC USE STANDARDS FOR CONSIDERATION**

Definition originally proposed and recommended by the Planning Commission:

“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.

	MAC RECOMMENDATIONS	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY ADOPTED	JACKSON COUNTY PC RECOMMENDATION	OLCC (Recreational)
Home Occupation	NO CONSENSUS Allow wholesale operations as a home occupation. (February 17)	Prohibited	Prohibited	Prohibited	Prohibited	
Office Only	CONSENSUS Office only with no on-site storage of marijuana items or products. (February 17)		Office only with no on site storage of marijuana items or products.			
Minimum Separation Distances	N/A because no storage is allowed.	<ul style="list-style-type: none"> 1000 from public/private elementary or secondary schools, licenses child care center, and licensed preschool. Change of use (i.e. new school) shall not cause violation of this standard. Distance Calculation: All distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the property occupied by the marijuana wholesaler.				
Co-Location	N/A because no storage is allowed.	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.				
Outdoor Storage	N/A because no storage is allowed.				Outdoor storage is prohibited.	
Samples/Consumption	N/A because no storage is allowed.				Samples may be provided to marijuana licensee but product may not be consumed on the property.	
Inspections	NO CONSENSUS Require random, annual, unannounced inspections by County Code Enforcement. (February 17)	Not considered.	Not considered.			

**MARIJUANA PRODUCTION
(RECREATIONAL AND MEDICAL)
SPECIFIC USE STANDARDS FOR CONSIDERATION**

Related Definition Originally Proposed And Recommended By The Planning Commission:

“**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.”

LAND USE / DEVELOPMENT STANDARDS	MAC RECOMMENDATIONS EFU ONLY	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY	JACKSON COUNTY PLANNING COMMISSION RECOMMENDATION	OLCC (RECREATIONAL)	OHA PROPOSED RULES (MEDICAL)
Home Occupation	CONSENSUS Prohibited. (March 2)	Prohibited	Prohibited	Prohibited	Prohibited		
Minimum Lot Size	<p>NO CONSENSUS</p> <p>Recreational marijuana: The minimum lot size for recreational marijuana in EFU is 20 acres, and growing outside an enclosed building is prohibited. (March 31)</p> <p>There is no minimum lot size for recreational marijuana in EFU. (March 31)</p> <p>The minimum lot size for recreational marijuana in EFU is 20 acres, growing outside an enclosed building is prohibited, and and no production is allowed if adjacent parcels are zoned MUA-10 or RR-10. (March 31)</p> <p>The minimum lot size for recreational marijuana in EFU is 10 acres for Tier 1 and 20 acres for Tier 2. (March 31)</p> <p>Medical marijuana: There is no minimum lot</p>	<p><u>In the RR-10, MUA-10, F-1, and F-2 Zones:</u> Minimum parcel size shall be 5 acres.</p>	<p><u>In the EFU zone:</u> Minimum parcel size shall be 20 acres.</p> <p>Production not permitted in the RR-10, MUA-10, F-1, and F-2 Zones. Therefore, the originally proposed minimum parcel size is not applicable.</p>	<p><u>In the FF-10 and RRF-5 Districts:</u> 5-acre minimum, except that if the majority of abutting properties are equal to or greater than 2 acres, the subject property shall be a minimum of 2 acres. Abutting properties include properties that are contiguous to the subject property, as well as properties directly across any access drive, or private, public, or county road, provided the functional classification of the road is below that of a collector.</p> <p><u>In the AG/F, EFU, and TBR Districts:</u> 2-acre minimum, except that if outdoor production is proposed, the subject property shall be a minimum of five acres. Outdoor production means producing marijuana:</p> <ol style="list-style-type: none"> 1. In an expanse of open or cleared ground; or 2. In a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources. A mature marijuana plant is a marijuana plant that is flowering. 			

LAND USE / DEVELOPMENT STANDARDS	MAC RECOMMENDATIONS EFU ONLY	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY	JACKSON COUNTY PLANNING COMMISSION RECOMMENDATION	OLCC (RECREATIONAL)	OHA PROPOSED RULES (MEDICAL)
	<p>size for medical marijuana in EFU. (March 31)</p> <p>The minimum lot size for medical marijuana production in EFU is 20 acres, and growing outside an enclosed building is prohibited. (March 31)</p> <p>The minimum lot size for medical marijuana production in EFU is 10 acres for up to 48 plants. (March 31)</p>						

LAND USE / DEVELOPMENT STANDARDS	MAC RECOMMENDATIONS EFU ONLY	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY	JACKSON COUNTY PLANNING COMMISSION RECOMMENDATION	OLCC (RECREATIONAL)	OHA PROPOSED RULES (MEDICAL)
Yard Setback	<p>NO CONSENSUS</p> <p>For new production in EFU, require the County minimum setbacks plus a 300-foot setback from any residence (or the proposed location of a dwelling unit under application) not on the same property. (April 7)</p> <p>For production in EFU, require setbacks of 200 feet from a lot line and 300 feet from any residence (or the proposed location of a dwelling unit under application) not on the same property. (April 7)</p> <p>For production in EFU, require setbacks of 100 feet from the lot line and 300 feet from any residence (or the proposed location of a dwelling unit under application) not on the same property. (April 7)</p> <p>For production in EFU, require setbacks of 200 feet from the lot line and 300 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property for grow sites in a building; and require setbacks of 200 feet from the lot line and 1,000 feet from a residence (or the proposed location of a dwelling unit under</p>	No land area or structure used for marijuana production shall be located closer than 100 feet from any lot line.	No land area or structure used for marijuana production shall be located closer than 200 feet from any lot line.	<p><u>In the FF-10 and RRRF-5 Districts:</u> 50 feet minimum setback from all property lines for any structure used for marijuana production.</p> <p><u>In the AG/F, EFU, and TBR Districts:</u> Outdoor production, as defined above, shall be a minimum of 100 feet from all lot lines.</p>	<p><u>In the Rural Residential and Rural Use Zoning Districts:</u></p> <ol style="list-style-type: none"> No land area or structure used for medical marijuana production shall be located closer than 250 feet from any property line. If the property line abuts a public or private road or a waterway those features will be included in the setback area. Setback requirement will not take effect until March 1, 2017. If permitted before March 1, 2017, medical marijuana production not meeting the setbacks above will not be considered non-conforming uses as defined in Jackson County Code. 		

LAND USE / DEVELOPMENT STANDARDS	MAC RECOMMENDATIONS EFU ONLY	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY	JACKSON COUNTY PLANNING COMMISSION RECOMMENDATION	OLCC (RECREATIONAL)	OHA PROPOSED RULES (MEDICAL)
	<p>application) not on the same property for grow sites outside a building. (April 7)</p> <p>For production in EFU, include language in the setback regulations similar to, “unless a variance is granted.” (April 7)</p> <p>For production in EFU, allow neighbors to sign an agreement to allow lesser or no setbacks, which agreement would be binding on future owners. (April 7)</p> <p>For production in EFU, existing fully-enclosed lawfully-permitted agricultural buildings (not including hoop houses) that were in place as of the date of the Board’s decision are exempt from the lot line setback requirement, and are required to be 300 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property. (April 7)</p> <p>For production in EFU, unless a variance is granted or waivers (that would run with the land) are signed by adjoining property owners, require setbacks of 100 feet from the lot line and 300 feet from any</p>						

LAND USE / DEVELOPMENT STANDARDS	MAC RECOMMENDATIONS EFU ONLY	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY	JACKSON COUNTY PLANNING COMMISSION RECOMMENDATION	OLCC (RECREATIONAL)	OHA PROPOSED RULES (MEDICAL)
	residence (or the proposed location of a dwelling unit under application) not on the same property; except that for production sites that are not fully enclosed in a building, the setback from that residence shall be 1,000 feet. (April 7)						
Additional Setback	See "Yard Setback" (immediately above) for recommendations regarding additional setbacks from existing dwellings not on the same property.	No land area or structure used for marijuana production can be within 300 feet from an existing dwelling unit not located on the same property.	No land area or structure used for marijuana production can be within 300 feet from an existing dwelling unit not located on the same property.				
Minimum Separation Distances	<p>CONSENSUS</p> <p>1. There shall be a separation of 1,000 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; 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.</p> <p>2. The 1000-foot separation shall be measured from the lot line of the school to the premises.</p> <p>3. Existing lawfully-established medical marijuana processing and production sites [are] exempted from the separation</p>	<p>1. 1000 feet from public/private elementary schools, licenses child care center, and licensed preschool</p> <p>2. Change of use (e.g. new school) shall not cause violation of this standard.</p> <p>Distance Calculation: All distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the property occupied by the marijuana producer.</p>	<p>1. 1000 feet from public/private elementary and secondary schools, licenses child care center, licensed preschool, parks, and all approved/licensed youth activity centers (e.g., Boys & Girls Club) with a 501c3 status or description stating youth activities, excluding in-home child care.</p> <p>2. Change of use (e.g. new school) shall not cause violation of this standard.</p> <p>Distance Calculation: All distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the property occupied by the marijuana producer.</p>				

LAND USE / DEVELOPMENT STANDARDS	MAC RECOMMENDATIONS EFU ONLY	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY	JACKSON COUNTY PLANNING COMMISSION RECOMMENDATION	OLCC (RECREATIONAL)	OHA PROPOSED RULES (MEDICAL)
	<p>standard; however, if they apply for a new type of license, the separation rules would apply. (April 7)</p> <p>NO CONSENSUS There is no separation requirement for production in EFU. (April 7)</p> <p>For production in EFU:</p> <ol style="list-style-type: none"> 1. Separation is required of 1,000 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, all approved/licensed youth activity centers, churches, public playgrounds, meeting places available for rent, and public libraries 2. Separation is required of 3 miles between all OLCC licenses for production and processing. 3. A change in use (e.g., a new school) shall not cause a violation of this standard. 4. Separation is to be measured from the lot line of the "protected location." <p>(April 7)</p>						

LAND USE / DEVELOPMENT STANDARDS	MAC RECOMMENDATIONS EFU ONLY	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY	JACKSON COUNTY PLANNING COMMISSION RECOMMENDATION	OLCC (RECREATIONAL)	OHA PROPOSED RULES (MEDICAL)
Odor	<p style="text-align: center;">CONSENSUS</p> <p>A “building” is any building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing. (March 2)</p> <p style="text-align: center;">CONSENSUS</p> <ol style="list-style-type: none"> 1. 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 2. 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. 3. Private citizen complaints about odor are authorized, as judged by persons of ordinary sensibilities. 4. The system shall consist of one or more fans. 5. 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. 6. The filter(s) shall be rated for the required CFM. 7. The system shall be maintained in working order and shall be in 	<p>Buildings and Greenhouses shall:</p> <ol style="list-style-type: none"> 1. Be equipped with carbon filtration system for odor control. 2. Consist of 1 or more fans. 3. 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. 4. The filter(s) shall be rated for the required CFM. 	<p>Buildings and Greenhouses shall:</p> <ol style="list-style-type: none"> 1. Be equipped with carbon filtration system for odor control. 2. Consist of 1 or more fans. 3. 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. 4. The filter(s) shall be rated for the required CFM. 5. The filtration system shall be maintained in working order and shall be in use. 6. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required. 	<p>The building shall be:</p> <ol style="list-style-type: none"> 1. Equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. 2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, 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 applicable CFM. 3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days. 4. Negative air pressure shall be maintained inside the building. 5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building. 6. The filtration system shall be designed by a mechanical engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with Subsection 841.03(G). 7. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. 	<p><u>In the Rural Residential and Rural Use Zoning Districts (it is unclear but assumed this is also applicable to EFU and Forest Zoning Districts):</u> A building used for marijuana production shall be:</p> <ol style="list-style-type: none"> 1. Equipped with a carbon filtration system for odor control. 2. The system shall consist of one or more fans and filters. 3. 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. 4. The filter(s) shall be rated for the applicable CFM. The filtration system shall be maintained in working order and shall be in use. 5. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required. 		

LAND USE / DEVELOPMENT STANDARDS	MAC RECOMMENDATIONS EFU ONLY	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY	JACKSON COUNTY PLANNING COMMISSION RECOMMENDATION	OLCC (RECREATIONAL)	OHA PROPOSED RULES (MEDICAL)
	use. 8. These standards shall be applied to existing medical marijuana production sites in EFU after one year. (March 9 and April 7)						

LAND USE / DEVELOPMENT STANDARDS	MAC RECOMMENDATIONS EFU ONLY	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY	JACKSON COUNTY PLANNING COMMISSION RECOMMENDATION	OLCC (RECREATIONAL)	OHA PROPOSED RULES (MEDICAL)
Lighting	<p style="text-align: center; color: red; margin: 0;">CONSENSUS</p> <ol style="list-style-type: none"> 1. 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. 2. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day. 3. Light cast by exterior light fixtures other than marijuana grow lights (i.e. security lights) shall not trespass onto adjacent lots. 4. 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. 5. This lighting standard will apply to existing production and processing sites after one year. <p>(March 9)</p>	<ol style="list-style-type: none"> 1. Light cast by light fixtures inside any building, including greenhouses, shall be screened or shielded from view outside the building to the maximum extent possible from sunset to sunrise the following day. 2. Outdoor marijuana grow lights shall not be illuminated from sunset to sunrise the following day. 3. Light cast by exterior light fixtures shall comply with the outdoor lighting standards of DCC 15.10. 	<p>General consensus to mitigate light and preserve dark skies, but no consensus on to what extent or method (e.g. require shielding or obscuring roof/walls of greenhouses).</p> <ol style="list-style-type: none"> 1. Light cast by light fixtures inside any building, including greenhouses, shall be screened or shielded from view outside the building to the maximum extent possible from sunset to sunrise the following day. 2. Outdoor marijuana grow lights shall not be illuminated from sunset to sunrise the following day. 3. Light cast by exterior light fixtures shall comply with the outdoor lighting standards of DCC 15.10. 	<ol style="list-style-type: none"> 1. Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day. 2. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day. 3. Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall not be directed skyward and shall be directed within the boundaries of the subject property. 	<ol style="list-style-type: none"> 1. 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. 2. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day. 3. Light cast by exterior light fixtures other than marijuana grow lights (i.e. security lights) shall not trespass onto adjacent lots. 4. 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. 		
Noise	<p style="text-align: center; color: red; margin: 0;">CONSENSUS</p> <ol style="list-style-type: none"> 1. Marijuana production sites in EFU shall comply with the Noise Control Standards of DCC 8.08. 2. This standard applies to existing medical marijuana sites, as well as any prospective sites. <p>(March 9 and April 7)</p>	<ol style="list-style-type: none"> 1. Comply with the Noise Control Standards of DCC 8.08 2. Noise from mechanical equipment used shall not produce sound that, when measured at any lot line of the subject property, exceed 50 dB(A) anytime between 10:00 p.m. and 7:00 a.m. the following day. 	<p>Move to Noise Control Ordinance 8.08, and apply to all marijuana production building and mechanical equipment outside of an industrial zone.</p>	<p>The applicant shall submit a noise study by an acoustic engineer licensed in the State of Oregon. The study shall demonstrate that generators as well as mechanical equipment used for heating, ventilating, air conditioning, or odor control will not produce sound that, when measured at any lot line of the subject property, exceeds 50 dB(A).</p>	<p><u>In the Rural Residential and Rural Use Zoning Districts:</u> The applicant shall submit a noise study by an acoustic engineer licensed in the State of Oregon. The study shall demonstrate that the mechanical equipment used for heating, ventilating, air conditioning, or odor control will not produce sound that when measured at any lot line of the subject property, exceeds 60 dB(A).</p>		

LAND USE / DEVELOPMENT STANDARDS	MAC RECOMMENDATIONS EFU ONLY	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY	JACKSON COUNTY PLANNING COMMISSION RECOMMENDATION	OLCC (RECREATIONAL)	OHA PROPOSED RULES (MEDICAL)
Limit the Number of licenses per parcel	<p>Production in EFU is limited to one license on up to 10 acres, two licenses on 11-20 acres, and one additional license for every additional 10 acres or portion thereof. (March 31)</p> <p>Production in EFU is limited to one license on up to 80 acres, two licenses on 81-100 acres, and one additional license for every additional 20 acres or portion thereof. (March 31)</p>		Consider limiting the number of OLCC production licenses of one type on a parcel to 1 indoor and 1 outdoor license per 10 or 20 acres.				
Enclosed Production Only		<u>In the RR-10, MUA-10, F-1, F-2 zones:</u> Marijuana production shall be located entirely within one or more completely enclosed buildings, including greenhouses.	Production not permitted in the RR-10, MUA-10, F-1, and F-2 Zones. Therefore, the originally proposed indoor production requirement is not applicable.	<u>In the FF-10 and RRRF-5 Districts:</u> Marijuana production shall be located entirely within one or more completely enclosed buildings.			

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Maximum Building Floor Space		<p>In the RR-10, MUA-10, F-1, F-2 zones:</p> <ol style="list-style-type: none"> A maximum of 5,000 square feet of building space may be used for all activities associated with marijuana production on the subject property. If only a portion of a building is authorized for use in marijuana production, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the marijuana production space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the marijuana production space and the remainder of the building. 	<p>Production not permitted in the RR-10, MUA-10, F-1, and F-2 Zones. Therefore, the originally proposed maximum building space requirement is not applicable.</p>	<p>In the FF-10 and RRF-5 Districts:</p> <ol style="list-style-type: none"> A maximum of 5,000 square feet of building floor space may be used for all activities associated with marijuana production on the subject property. If only a portion of a building is authorized for use in marijuana production, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the marijuana production space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the marijuana production space and the remainder of the building. 			
Screening		<p>Land area and buildings, including greenhouses, shall be screened in the following manner:</p> <ol style="list-style-type: none"> A row of evergreen trees or shrubs along the outside perimeter of the land area and buildings, including greenhouses, shall be no less than 4 feet in height when planted, and spaced in such a way as to reduce the visual impacts of the land areas and buildings as viewed from roads, rivers, streams, and abutting private properties. Vegetation shall be continuously maintained. Combination of existing vegetation, berming, topography, wall, fence, or other can be used. All materials used for buildings, structures, and fencing, excluding greenhouses shall be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the marijuana production and processing area. 	<p>Do not apply to buildings and greenhouses for new operations because OLCC's security and site obscuring requirements combined with Planning Commission recommendations (e.g. increased setbacks) will mitigate impacts.</p> <p>These standards should only apply to existing, non-conforming operations, including buildings and greenhouses to mitigate impacts:</p> <ol style="list-style-type: none"> A row of evergreen trees or shrubs along the outside perimeter of the land area and buildings, including greenhouses, shall be no less than 4 feet in height when planted, and spaced in such a way as to reduce the visual impacts of the land areas and buildings as viewed from roads, rivers, streams, and abutting private properties. Vegetation shall be continuously maintained. Combination of existing vegetation, berming, topography, wall, fence, or other can be used. All materials used for buildings, structures, and fencing, excluding greenhouses shall be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the marijuana production and processing area. 				

LAND USE / DEVELOPMENT STANDARDS	MAC RECOMMENDATIONS EFU ONLY	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY	JACKSON COUNTY PLANNING COMMISSION RECOMMENDATION	OLCC (RECREATIONAL)	OHA PROPOSED RULES (MEDICAL)
Water		Proof of a water right for the proposed marijuana production or marijuana processing, or proof of access to a public or community water system.	Proof from the Watermaster that proposed water supply complies all applicable local, state, and federal laws.	The applicant shall submit: 1. A water right permit or certificate number for the proposed marijuana production; 2. 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 3. Proof from the Oregon Water Resources Department that the water to be used for marijuana production is from a source that does not require a water right.	The applicant shall provide: 1. A water right permit or certificate number; or 2. A statement that water is supplied from a water provider, along with the name and contact information of the public water provider; or 3. Proof from the Oregon Water Resources Department that the water to be used for production is from a source that does not require a water right. 4. Private water provision is allowed, only as a secondary water source, to be used only when the other sources described herein are not available.	The applicant shall provide: 1. A water right permit or certificate number; 2. 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 3. Proof from the Oregon Water Resources Department that the water to be used for production is from a source that does not require a water right.	1. A medical marijuana producer must have: a. A water right for irrigation or nursery use; b. Water supplied from a public or private water provider that has a legal authorization to use water; or c. Proof from the Oregon Water Resources Department that the water to be used for producing marijuana is from a source that does not require a water right. 2. A medical marijuana producer must document the information in section (1) of this rule and provide that information to the Authority upon request.

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Access	<p>NO CONSENSUS 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. (March 9)</p> <p>NO CONSENSUS No access restrictions to marijuana processing and production sites in EFU. (March 9)</p>	<ol style="list-style-type: none"> 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 all 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. 	<ol style="list-style-type: none"> 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 all 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. 	<ol style="list-style-type: none"> 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. However, this standard will be waived if the property takes access via a private road or easement which also serves other properties and evidence is provided by the applicant, in the form of a petition, that all other property owners who have access rights to the private road or easement agree to allow the specific marijuana production described in the application. Such evidence shall include any conditions stipulated in the agreement. 	<p><u>In the Rural Residential and Rural Use Zoning Districts:</u></p> <ol style="list-style-type: none"> The subject property shall have frontage on, and direct access from, a constructed public, county, or state road, or take access on a private 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, which a majority of other property owners who have access rights to the private road or easement agree to allow the specific marijuana production described in the application. The petition shall include any conditions stipulated to, by the parties, and shall be recorded. 		
Security Cameras		Shall be directed to record only the subject property and public rights-of-way.	If used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with licensing requirements of the Oregon Liquor Control Commission (OLCC) or registration requirements of the Oregon Health Authority (OHA).	If used, security cameras shall be directed to record only the subject property and may be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the Oregon Liquor Control Commission (OLCC).	If are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with licensing requirements of the Oregon Liquor Control Commission or registration requirements of the Oregon Health Authority.	See OAR 845-025-1430, Video Surveillance Equipment	See OAR 333-008-2110 (Draft), Video Surveillance Equipment

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Secure Disposal		<ol style="list-style-type: none"> Secure disposal of discarded marijuana items shall be provided Marijuana items shall not be placed within exterior refuse containers on the subject property. 	Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.	Store marijuana waste in a secured waste receptacle in the possession of and under the control of the OLCC licensee.	<p>In the Rural Residential and Rural Use Zoning Districts:</p> <ol style="list-style-type: none"> Marijuana waste shall be stored in a secured waste receptacle, and in the possession of and under the control of the licensee. Composting of marijuana waste is limited to waste from the permitted premises. Marijuana waste burning is prohibited. <p>In the EFU and Forest Zoning Districts:</p> <ol style="list-style-type: none"> Marijuana waste shall be stored in a secured waste receptacle, and in the possession of and under the control of the licensee. Marijuana waste burning is prohibited. 	Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.	Store marijuana waste in a secured waste receptacle in the possession of and under the control of the Person Responsible for the Grow Site (PRMG).
On Site Residency		<u>In the RR-10, MUA-10, F-1, F-2 zones:</u> An owner of the subject property shall reside in a dwelling unit on the subject property.	Production not permitted in the RR-10, MUA-10, F-1, and F-2 Zones. Therefore, the originally proposed residency requirement is not applicable.	<u>In the FF-10 and RRF-5 Districts,</u> a minimum of one of the following shall reside in a dwelling unit on the subject property: <ol style="list-style-type: none"> An owner of the subject property; or A holder of an OLCC license for marijuana production, provided that the license applies to the subject property. 			

LAND USE / DEVELOPMENT STANDARDS	MAC RECOMMENDATIONS EFU ONLY	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY	JACKSON COUNTY PLANNING COMMISSION RECOMMENDATION	OLCC (RECREATIONAL)	OHA PROPOSED RULES (MEDICAL)
Inspections			<ol style="list-style-type: none"> 1. County to conduct inspections of each approved site in 1-2 years to determine compliance and to learn what's working and what's not. 2. Require property owner to grant County access to conduct the inspection. 			<ol style="list-style-type: none"> 1. The commission may conduct: <ol style="list-style-type: none"> a. A complaint inspection at any time following the receipt of a complaint that alleges a licensee or permittee is in violation of applicable State laws; b. An inspection at any time if it believes, for any reason, that a licensee or permittee is in violation of applicable State laws; or c. Compliance transactions in order to determine whether a licensee or permittee is complying with applicable State laws 2. A licensee, licensee representative, or permittee must cooperate with the Commission during an inspection. 3. If licensee, licensee representative or permittee fails to permit the Commission to conduct an inspection the Commission may seek an investigative subpoena to inspect the premises and gather books, payrolls, accounts, papers, documents or records. 	<ol style="list-style-type: none"> 1. The Authority may inspect the following to ensure compliance with applicable State laws: <ol style="list-style-type: none"> a. The marijuana grow site of a medical marijuana producer; and b. The records of a medical marijuana producer. 2. The Authority may inspect: <ol style="list-style-type: none"> a. A medical marijuana producer's grow site address at any reasonable time to determine whether a producer is in compliance with applicable State laws; and b. Any grow site address if there is a reasonable basis for believing that a PRMG is in violation of applicable State laws. 3. If an individual at a grow site address fails to permit the Authority to conduct an inspection or if the Authority requires access to a grow site address and cannot obtain permission the Authority may seek an administrative warrant authorizing the inspection pursuant to ORS 431.262.

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Non Conformance: Applying to lawfully established medical marijuana sites that continue to by only medical marijuana sites		Shall comply with odor, lighting, security camera, secure disposal, noise, and screening requirements by 12/31/16.	Shall comply with odor, lighting, security camera, secure disposal, noise, and screening requirements by 12/31/16.				
Fencing					Fencing, as required by State law, shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc.		
Temporary Residences Prohibited					Use of tents, and recreational or camping vehicles as living space is not allowed in conjunction with marijuana production.		
Minors						Minors are not permitted at the licensed premise except if minor is an employee, has a legitimate business purpose (e.g. plumber) or is resident of the property . Minor resident may not be present in areas where usable marijuana or cut and drying marijuana plants are located.	
Consumption						Product may not be consumed at a licensed premise.	

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Security						<p>1. In addition to the security requirements in OAR 845-025-1400 to 845-025-1460 a producer must effectively prevent public access and obscure from public view all areas of marijuana production. A producer may satisfy this requirement by:</p> <ul style="list-style-type: none"> a. Submitting a security plan as described in (x-ref); b. Fully enclosing indoor production on all sides so that no aspect of the production area is visible from the exterior satisfies; or c. Erecting a solid wall or fence on all exposed sides of an outdoor production area that is at least eight (8) feet high. <p>2. If a producer chooses to dispose of usable marijuana by any method of composting, as described in OAR 845-025-7750, the producer must prevent public access to the composting area and obscure the area from public view.</p>	<p>1. A PRMG must effectively prevent public access and obscure from public view all areas of where marijuana is being produced. A PRMG may satisfy this requirement by:</p> <ul style="list-style-type: none"> a. Fully enclosing indoor production on all sides so that no aspect of the production area is visible from the exterior; or b. Erecting a solid wall or fence on all exposed sides of an outdoor production area that is at least eight feet high. <p>2. A medical marijuana producer must comply with all applicable security requirements in OAR 333-008-2080 to 333-008-2120.</p> <p>3. A PRMG may request a waiver of a security requirement in accordance with OAR 333-008-2130.</p>
Size Limits						See OAR 845-025-2040, Production Size Limitations	See OAR 333-008-0560 (Draft), Grow Site Plant Limits

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Outdoor (no- building) grow sites	<p>NO CONSENSUS Prohibit outdoor/no- building grow sites. (March 9)</p> <p>NO CONSENSUS Allow marijuana grow sites without a building in EFU if they do not unreasonably interfere with the use and enjoyment of neighbors' properties. (March 9)</p> <p>NO CONSENSUS Allow non-building marijuana grow sites in EFU if the neighbors signed a petition to allow it. (March 9)</p>						

**MARIJUANA PROCESSING
(RECREATIONAL AND MEDICAL)
SPECIFIC USE STANDARDS FOR CONSIDERATION**

Related Definition Recommended By The Planning Commission:

“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.”

Related Definitions Originally Proposed:

“Marijuana processing, Type 1” means the processing of marijuana limited to trimming, drying, curing, and packaging of harvested marijuana, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.

“Marijuana processing, Type 2” means the processing of marijuana that extracts concentrates, infuses products, or involves mechanical and/or chemical processing in addition to drying, curing, trimming, and packaging, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority .

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Home Occupation	CONSENSUS Prohibited. (March 2)	Prohibited	Prohibited	Prohibited	Prohibited		
Minimum Parcel Size	See “yard setback” for some recommendations regarding minimum parcel size.	In the MUA-10 Zone: <ul style="list-style-type: none"> The subject property minimum parcel size shall be: <ul style="list-style-type: none"> Processing, Type 1: 5 acres. Processing, Type 2: 10 acres. 	Processing not permitted in the MUA-10 zone. Therefore, the originally proposed minimum parcel size is not applicable.	In the FF-10 and RRF-5 Districts: the subject property shall be a minimum of five acres, except that if the majority of abutting properties are equal to or greater than two acres, the subject property shall be a minimum of two acres. Abutting properties include properties that are contiguous to the subject property, as well as properties directly across any access drive, or private, public, or county road, provided the functional classification of the road is below that of a collector. In the AG/F, EFU, and TBR Districts: Tthe subject property shall be a minimum of two acres.			
Yard Setback	Extract processing: NO CONSENSUS Extract processing is prohibited in EFU; or, if this conflicts with state law, allow extract processing in EFU only on 80-acre minimum parcels with 500-foot setbacks. (April 7) Extract processing is allowed in EFU only with a closed-loop engineered system, a 25-foot setback from the lot line, and a 300-foot setback from a	No land area or structure used for marijuana production or marijuana processing shall be located closer than 100 feet from any lot line.	No land area or structure used for marijuana production or marijuana processing shall be located closer than 200 feet from any lot line.		In the EFU zone: No land area or structure used for all marijuana processing shall be located closer than 200 feet from any property line.		

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	<p>residence (or the proposed location of a dwelling unit under application) not on the same property. (April 7)</p> <p>Processing extracts in EFU requires a minimum parcel size of 10 acres and setbacks of 100 feet from the lot line and 300 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property; closed-loop engineered system required. (April 7)</p> <p>Processing extracts in EFU requires setbacks of double the current County Code requirement plus additional setback of 300 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property. (April 7)</p> <p>Processing extracts in EFU requires setbacks of 200 feet from the lot line and 300 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property. (April 7)</p> <p>Processing extracts in EFU requires a setback of 300 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property. (April 7)</p> <p>Processing other than extracts: NO CONSENSUS</p> <p>For new processing operations in EFU, excluding extracts, require the County minimum setbacks plus a 300-foot setback from any residence (or the proposed location of a dwelling unit under application) not on the same property. (April 7)</p> <p>For processing operations in EFU, excluding extracts, require setbacks of 200 feet from a lot</p>						

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	<p>line and 300 feet from any residence (or the proposed location of a dwelling unit under application) not on the same property. (April 7)</p> <p>For processing operations in EFU, excluding extracts, require setbacks of 100 feet from the lot line and 300 feet from any residence (or the proposed location of a dwelling unit under application) not on the same property. (April 7)</p> <p>For processing operations in EFU, excluding extracts, require setbacks of 200 feet from the lot line and 300 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property for grow sites in a building; and require setbacks of 200 feet from the lot line and 1,000 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property for grow sites outside a building. (April 7)</p> <p>For processing operations in EFU, excluding extracts, include language in the setback regulations similar to, “unless a variance is granted.” (April 7)</p> <p>For processing operations in EFU, excluding extracts, allow neighbors to sign an agreement to allow lesser or no setbacks, which agreement would be binding on future owners. (April 7)</p> <p>For processing operations in EFU, excluding extracts, existing fully-enclosed lawfully-permitted agricultural buildings (not including hoop houses) that were in place as of the date of the Board’s decision are exempt from the lot line setback requirement, and are required to</p>						

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	<p>be 300 feet from a residence (or the proposed location of a dwelling unit under application) not on the same property. (April 7)</p> <p>For processing operations in EFU, excluding extracts, unless a variance is granted or waivers (that would run with the land) are signed by adjoining property owners, require setbacks of 100 feet from the lot line and 300 feet from any residence (or the proposed location of a dwelling unit under application) not on the same property; except that for production sites that are not fully enclosed in a building, the setback from that residence shall be 1,000 feet. (April 7)</p>						
Additional Setback	See "Yard Setback" (immediately above) for recommendations regarding additional setbacks from existing dwellings not on the same property.	No land area or structures used for marijuana processing shall be located closer than 300 feet from an existing dwelling unit not located on the same property.	No land area or structures used for marijuana processing shall be located closer than 300 feet from an existing dwelling unit not located on the same property.				
Minimum Separation Distances	<p>CONSENSUS</p> <ol style="list-style-type: none"> There shall be a separation of 1,000 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; 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. The 1,000-foot separation shall be measured from the lot line of the school to the premises. Existing lawfully-established medical marijuana processing and production sites [are] exempted from the separation standard; however, if they apply for a new type of license, the separation rules would apply. (April 7) 	<ul style="list-style-type: none"> 1000 from public/private elementary schools, licenses child care center, and licensed preschool Change of use (i.e. new school) shall not cause violation of this standard <p>Distance Calculation: All distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the property occupied by the marijuana wholesaler.</p>	<ul style="list-style-type: none"> 1000 from public/private elementary and secondary schools, licenses child care center, licensed preschool, parks, and all approved/licensed youth activity centers (i.e., Boys & Girls Club) with a 501c3 status or description stating youth activities, excluding in-home child care. Change of use (i.e. new school) shall not cause violation of this standard. <p>Distance Calculation: All distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the property occupied by the marijuana wholesaler.</p>				

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	<p>NO CONSENSUS There is no separation requirement for processing in EFU. (April 7)</p> <p>For processing in EFU:</p> <ol style="list-style-type: none"> 1. Separation is required of 1,000 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, all approved/licensed youth activity centers, churches, public playgrounds, meeting places available for rent, and public libraries 2. Separation is required of 3 miles between all OLCC licenses for production and processing. 3. A change in use (e.g., a new school) shall not cause a violation of this standard. 4. Separation is to be measured from the lot line of the "protected location." (April 7) 						
Access	<p>NO CONSENSUS 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. (March 9)</p>	<ul style="list-style-type: none"> • 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. <p>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 all 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.</p>	<ul style="list-style-type: none"> • 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. <p>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 all 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.</p>	<ul style="list-style-type: none"> • 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. <p>However, this standard will be waived if the property takes access via a private road or easement which also serves other properties and evidence is provided by the applicant, in the form of a petition, that all 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.</p>			

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	<p>NO CONSENSUS No access restrictions to marijuana processing and production sites in EFU. (March 9)</p>						
Odor	<p>CONSENSUS A “building” is any building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing. (March 2)</p> <p>CONSENSUS</p> <ol style="list-style-type: none"> 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. These standards shall be applied to existing medical marijuana processing sites in EFU after one year. (March 9 and April 7) 	<p>Buildings and Greenhouses shall:</p> <ul style="list-style-type: none"> Equipped with carbon Filtration system Consist of 1 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. <p>The filter(s) shall be rated for the required CFM.</p>	<p>Buildings and Greenhouses shall:</p> <ul style="list-style-type: none"> Equipped with carbon Filtration system Consist of 1 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 filtration system shall be maintained in working order and shall be in use. <p>An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.</p>	<p>The building shall be:</p> <ul style="list-style-type: none"> Equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, 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 applicable CFM. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days. Negative air pressure shall be maintained inside the building. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building. The filtration system shall be designed by a mechanical engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with Subsection 841.03(G). <p>An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the</p>	<p>In the EFU Zone:</p> <ul style="list-style-type: none"> A building used for marijuana processing shall be equipped with a carbon filtration system for odor control. The system shall consist of one or more fans and filters. 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 The filtration system shall be maintained in working order and shall be in use. <p>An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.</p>		

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				alternative system will control odor as well or better than the activated carbon filtration system otherwise required.			
Lighting	<p>CONSENSUS</p> <ol style="list-style-type: none"> 1. 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. 2. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day. 3. Light cast by exterior light fixtures other than marijuana grow lights (i.e. security lights) shall not trespass onto adjacent lots. 4. 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. 5. This lighting standard will apply to existing production and processing sites after one year. (March 9) 	<ul style="list-style-type: none"> • Light cast by light fixtures inside any building, including greenhouses, shall be screened or shielded from view outside the building to the maximum extent possible from sunset to sunrise the following day. • Outdoor marijuana grow lights shall not be illuminated from sunset to sunrise the following day. • Light cast by exterior light fixtures shall comply with the outdoor lighting standards of DCC 15.10. 	<p>General consensus to mitigate light and preserve dark skies, but no consensus on to what extent or method (i.e., require shielding or obscuring roof/walls of greenhouses).</p> <ul style="list-style-type: none"> • Light cast by light fixtures inside any building, including greenhouses, shall be screened or shielded from view outside the building to the maximum extent possible from sunset to sunrise the following day. • Outdoor marijuana grow lights shall not be illuminated from sunset to sunrise the following day. <p>Light cast by exterior light fixtures shall comply with the outdoor lighting standards of DCC 15.10.</p>	<ul style="list-style-type: none"> • Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day. • Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day. <p>Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall not be directed skyward and shall be directed within the boundaries of the subject property.</p>	<p>In the EFU Zone:</p> <ul style="list-style-type: none"> • Outdoor marijuana processing lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day. • Light cast by exterior light fixtures (i.e. security lights) shall not trespass onto adjacent lots. <p>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.</p>		
Security Cameras		Shall be directed to record only the subject property and public rights-of-way.	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 licensing requirements of the Oregon Liquor Control Commission (OLCC) or registration requirements of the Oregon Health Authority (OHA).	Shall be directed to record only the subject property and may be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the Oregon Liquor Control Commission (OLCC).	In the EFU Zone: Shall be directed to record only the subject property and public rights-of-way, except as required to comply with licensing requirements of the Oregon Liquor Control Commission or registration requirements of the Oregon Health Authority.		
Secure Disposal		<ul style="list-style-type: none"> • Secure disposal of discarded marijuana items shall be provided. <p>Marijuana items shall not be placed within exterior refuse containers on the subject property.</p>	Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.	Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee.	In the EFU Zone: Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the licensee.	Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.	
Noise	<p>CONSENSUS</p> <ol style="list-style-type: none"> 1. Marijuana processing sites in EFU shall comply with the Noise Control Standards of 	<ul style="list-style-type: none"> • Compliance with the Noise Control Standards of DCC 8.08. <p>Noise from mechanical</p>	Move to Noise Control Ordinance 8.08, and apply to all marijuana processing building and mechanical equipment outside of	The applicant shall submit a noise study by an acoustic engineer licensed in the State of Oregon. The study shall			

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	DCC 8.08. 2. This standard applies to existing medical marijuana sites, as well as any prospective sites. (March 9 and April 7)	equipment used shall not produce sound that, when measured at any lot line of the subject property, exceed 50 dB(A) anytime between 10:00 p.m. and 7:00 a.m. the following day.	a commercial or industrial zone.	demonstrate that generators as well as mechanical equipment used for heating, ventilating, air conditioning, or odor control will not produce sound that, when measured at any lot line of the subject property, exceeds 50 dB(A).			
Screening		Land area and buildings, including greenhouses, shall be screened in the following manner: a. A row of evergreen trees or shrubs along the outside perimeter of the land area and buildings, including greenhouses, shall be no less than 4 feet in height when planted, and spaced in such a way as to reduce the visual impacts of the land areas and buildings as viewed from roads, rivers, streams, and abutting private properties. b. Vegetation shall be continuously maintained. c. Combination of existing vegetation, berming, topography, wall, fence, or other can be used. d. All materials used for buildings, structures, and fencing, excluding greenhouses shall be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the marijuana production and processing area.	Do not apply to buildings and greenhouses for new operations because OLCC's security and site obscuring requirements combined with Planning Commission recommendations (i.e., increased setbacks) will mitigate impacts. These standards should only apply to existing, non-conforming operations, including buildings and greenhouses to mitigate impacts: a. A row of evergreen trees or shrubs along the outside perimeter of the land area and buildings, including greenhouses, shall be no less than 4 feet in height when planted, and spaced in such a way as to reduce the visual impacts of the land areas and buildings as viewed from roads, rivers, streams, and abutting private properties. b. Vegetation shall be continuously maintained. c. Combination of existing vegetation, berming, topography, wall, fence, or other can be used. d. All materials used for buildings, structures, and fencing, excluding greenhouses shall be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the marijuana production and processing area.				
Water Source		Applicant shall submit proof of a water right for the proposed marijuana processing, or proof of access to a public or community water system.	The applicant shall submit proof from the watermaster that proposed water supply complies all applicable local, state, and federal laws.	The applicant shall submit: 1. A water right permit or certificate number for the proposed marijuana processing;	In the EFU Zone: The applicant shall provide: 1. A water right permit or certificate number; 2. A statement that water is		

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				<p>2. 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</p> <p>3. Proof from the Oregon Water Resources Department that the water to be used for marijuana production or marijuana processing is from a source that does not require a water right.</p>	<p>supplied from a water provider along with the name and contact information of the public water provider; or</p> <p>Proof from the Oregon Water Resources Department that the water to be used for production is from a source that does not require a water right.</p>		
Fire Protection		<p>In the MUA-10 Zone: Type 2 Marijuana Processing shall only be permitted on properties located within a fire district.</p>	<p>Processing of cannabinoid extracts shall only be permitted on properties located within or under contract with a fire district.</p>			<p>Processors of cannabinoid extracts shall: Meet any required fire, safety, and building code requirements specified in:</p> <ol style="list-style-type: none"> 1. Applicable Oregon laws; 2. National Fire Protection Association (NFPA) standards; 3. International Building Code (IBC); 4. International Fire Code (IFC); 	<p>Processors of cannabinoid extracts shall: Meet any required fire, safety, and building code requirements specified in:</p> <ol style="list-style-type: none"> 1. Oregon state law; 2. National Fire Protection Association (NFPA) standards; 3. International Building Code (IBC); 4. International Fire Code (IFC).
Indoor Processing		<p>In the MUA-10 Zone:</p> <ul style="list-style-type: none"> • Marijuana processing shall be located entirely within one or more completely enclosed buildings, including greenhouses. • A maximum of 3,000 square feet of building space may be used for all activities associated with marijuana processing on the subject property. <p>If only a portion of a building is authorized for use in marijuana production or marijuana processing, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the marijuana production or marijuana processing space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the marijuana production or marijuana processing space and the remainder of the building.</p>	<p>Processing not permitted in the MUA-10 zone. Therefore, the originally proposed indoor processing requirement is not applicable.</p>	<p>In the AG/F and EFU Districts: Marijuana processing shall be located entirely within one or more completely enclosed buildings.</p>			

	MAC RECOMMENDATIONS: EFU ONLY	ORIGINAL PROPOSAL	PLANNING COMMISSION RECOMMENDATION	CLACKAMAS COUNTY ADOPTED	JACKSON COUNTY PC RECOMMENDATION	OLCC (Recreational)	OHA PROPOSED RULES (Medical)
On-Site Residency		In the MUA-10 Zone: An owner of the subject property shall reside in a dwelling unit on the subject property.	Processing not permitted in the MUA-10 zone. Therefore, the originally proposed residency requirement is not applicable.	In the FF-10 and RRF-5 Districts: A minimum of one of the following shall reside in a dwelling unit on the subject property: 1. An owner of the subject property; or 2. A holder of an OLCC license for marijuana production, provided that the license applies to the subject property.			
Nonconformance		Shall comply with odor, lighting, security camera, secure disposal, noise, and screening requirements by 12/31/16.	Shall comply with odor, lighting, security camera, secure disposal, noise, and screening requirements by 12/31/16.				
On-Site Sales Prohibited					In the Industrial Zones: No on-site retail sales are allowed.		
Outdoor Storage Prohibited					In the Industrial Zones: No outdoor storage of marijuana in any form, including remnants, by-products and waster is permitted.		
Processing Method Limitation					In the EFU Zone: Only dry, water or CO-2 processing is allowed.		
Temporary Residences Prohibited					In the EFU Zone: Use of tents, and recreational or camping vehicles for overnight stays, as living space is not allowed in conjunction with marijuana processing.		
Minors						Minors are not permitted at the licensed premise except for unique, limited circumstance (i.e. minor plumber).	Minors are not permitted to be present in any limited access area of a registered processing site.
Consumption						Product may not be consumed at a licensed premise.	The ingestion, inhalation or topical application of a marijuana item anywhere on the premises of the processing site is prohibited except as allowed for medical marijuana patients.

Related Definitions Originally Proposed And Recommended By The Planning Commission:

“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.