FINDINGS

I. BACKGROUND

A. Deschutes County Process

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

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

B. Deschutes County Distinguishing Land Use Characteristics

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

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

II. PROPOSAL

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

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

Substantive elements of the proposal:

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

List of Preliminary Modified Amendments

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

**DCC Chapter 9.12, Right to Farm**

DCC 9.12.020 - Clarified the scope of the Right to Farm Ordinance does not apply to marijuana production operations whether permitted by Deschutes County, Oregon Liquor Control Commission, Oregon Health Authority, or otherwise.

**DCC Chapter 18.24, Redmond Urban Reserve Area Combining Zone**

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

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

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

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

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

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

DCC 18.116.330(B)(5)(a) - Increased setback distances from lot lines for marijuana production and processing from 100 feet to 200 feet.

DCC 18.116.330(B)(5)(b) - Increased setback distances from an off-site dwelling for marijuana production and processing from 300 feet to 500 feet.

DCC 18.116.330(B)(5)(c) - Removed setback exception.
DCC 18.116.330(B)(6)(a) - Applied a ½ mile separation distance from Redmond Urban Reserve Area, federal lands, local governments that have opted out of regulating marijuana and approved marijuana production sites. Separation distances are to be measured from the applicant’s property line.

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

DCC 18.116.330(B)(9) - Strengthened odor control measures, requiring odor control methodology to be independently researched and tested.

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

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

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

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

DCC 18.116.330(B)(16) – Added a requirement to Secure Waste Disposal for a statement describing how any water runoff is being addressed.


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

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

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

DCC 18.116.330(D)(1)(d) – Added condition of approval that an applicant must consent in writing to allow Deschutes County to randomly and without prior notice, up to four (4) times per calendar year, inspect the premises to ascertain the extent and effectiveness of odor control and compliance with applicable conditions of approval. One of the four allowable inspections must be prior to initiation of use.

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

**DCC 18.116.340. Marijuana Production Registered by OHA**

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

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

DCC 18.116.340(D) – Referenced the requirements of DCC 18.116.330(A-B) for new marijuana production registered by OHA on or after June 1, 2016.

DCC 18.116.340(D)(3) - Removed Maximum Building Floor Area standards for MUA-10 zone.

DCC 18.116.340(D)(3)(a) - Increased setback distances from lot lines for marijuana production and processing from 100 feet to 200 feet.

DCC 18.116.340(D)(3)(b) - Increased setback distances from an off-site dwelling for marijuana production and processing from 300 feet to 500 feet.

DCC 18.116.340(D)(3) - Removed setback exception.

DCC 18.116.340(D)(4)(a) - Removed MUA-10 zone from indoor production and processing standards.
DCC 18.116.340(D)(6)(a) - Applied a ¼ mile separation distance from Redmond Urban Reserve Area, federal lands, local governments that have opted out of regulating marijuana and approved marijuana production sites. Separation distances are to be measured from the applicant’s property line.

DCC 18.116.340(D)(8) – Added Inspections to Annual Reporting.

DCC 18.116.340(D)(8)(b) – Added statement of annual water use to requirements for annual reporting.

DCC 18.116.340(D)(8)(d) – Added condition of approval that an applicant must consent in writing to allow Deschutes County to randomly and without prior notice, up to four (4) times per calendar year, inspect the premises to ascertain the extent and effectiveness of odor control and compliance with applicable conditions of approval. One of the four allowable inspections must be prior to initiation of use.

DCC 18.116.330(D)(8)(f) – Added documentation that System Development Charges have been paid.

DCC 18.116.340(D)(9) - Removed subsection outlining residency requirements for MUA-10 zone.

DCC 18.116.340(D)(9)(b) and (c) - Removed references to MUA-10 in Prohibited Uses.

DCC Chapter 18.124. Site Plan Review

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

DCC Chapter 22.24. Land Use Action Hearings

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

DCC Chapter 22.32. Appeals

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

III. REVIEW CRITERIA

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

A. HB 3400 and ORS 475B

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

In 2016, the Legislature clarified that both medical and recreational marijuana are farm crops, which allows marijuana to be grown on land zoned for exclusive farm use (EFU), subject to local time place and manner restrictions. ORS 475B.340 (since renumbered to ORS 475B.486) specifies that cities or counties may impose

restrictions on elements such as hours of operation, location, public access, and manner of operation. The OLCC (Oregon Liquor Control Commission), which controls the licensing of recreational marijuana, does place some limited restrictions on the location of recreational production sites—for example, on federal property or at the same address as a liquor license. Ultimately, however, the source of authority to operate a marijuana production business derives from state law; local code—and the proposed text amendments—is the mechanism by which the county may impose reasonable restrictions and conditions on the operator.

B. Local Restrictions

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

Contributing factors include:

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

Oversaturation of Market. As with any newly emerging industry, the marijuana market has not always been predictable. The market has shifted since regulations were first introduced, and it has become oversaturated, resulting in lower prices and in some cases, difficulty for smaller growers to survive. This could be attributed to a number of factors: the complexities of the ever-changing state and local laws; the manner in which lawmakers first structured the program, allowing businesses to apply for multiple licenses, with low fees and no caps on licenses; the ability of jurisdictions to opt out of the program entirely, thereby concentrating the industry into certain areas; and the inability to move or distribute marijuana across state lines all are contributors to an oversaturation of the marijuana production market in Oregon. With the oversaturation of product comes the potential of the surplus being sold into the illegal market (for instance, to out-of-state sales channels), thereby exacerbating the problems that the creation of a legal market was intended to avoid.

Medical Marijuana. According to the Oregon Health Authority’s (OHA) Medical Marijuana Statistical Snapshot from July 2018, Deschutes County currently contains 791 medical marijuana grow sites. By current law, these are all sites that are not subject to local land use regulations, nor can a list of grow site locations be provided to local law enforcement, as discussed in correspondence between OHA and the Deschutes County Sherriff’s Office, dated April 19, 2018 (see Attachment A). In correspondence dated June 12, 2018 (see Attachment B), the Oregon Health Authority has acknowledged that of the 18,000 medical grow sites across the state, approximately 6,000 of these are registered for two or more patients; OHA is in the process of determining priority of compliance

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3 https://www.denverpost.com/2018/05/31/easy-entry-into-oregons-legal-pot-market-means-huge-surplus/
inspections. For sites serving fewer than two patients, inspections are complaint-based only. In light of the County’s inability to regulate or inspect these medical grow sites—which greatly outnumber the recreational grow sites in Deschutes County—it is necessary to ensure that adequate regulations are utilized to mitigate the potential impacts of recreational grow sites.

C. Statewide Planning Goals and Guidelines

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

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

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

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

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

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

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

Goal 7: Areas Subject to Natural Disasters and Hazards: The proposed text amendments do not propose to change the County’s Plan or implementing regulations regarding natural disasters and hazards; therefore, they are in compliance.
Goal 8: Recreational Needs: Complies because the text amendment does not propose to change the County’s Plan or implementing regulations regarding recreational needs.

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

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

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

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

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

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

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

D. Deschutes County Comprehensive Plan

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

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

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

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

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

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

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

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

Section 2.5 concerns Water Resources; Goal 1 is to develop regional, comprehensive water management policies while balancing the diverse needs of water users and recognize Oregon water law. Policy 2.5.1 calls for working cooperatively with stakeholders. Goal 6 of this section calls for coordinating land use and water policies. Oregon Water Resources Department (OWRD) will be invited to share its perspective on the proposed amendments to DCC 18.116.330 and DCC 18.116.340, which addresses the reporting of annual water usage as well as the source of the water to be utilized. Furthermore, applicants will continue to be required to demonstrate that they have a legal source of water under State law. Thus, the proposed regulations comply with the relevant Comprehensive Plan policies.

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

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

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

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

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

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

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

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

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

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

Section 3.7 is Transportation and is covered under the findings for Goal 12.
Section 3.8 is Rural Recreational Policies, which deal with access to public lands, planning for public parks and recreation, trail design, etc. The goal and policies are not applicable.

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

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

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

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

Section 4.3, Unincorporated Communities, has no goals or objectives, with the exception of Tumalo and Terrebonne, which are discussed in Sections 4.5 and 4.6 below. The proposed text amendments comply with OAR 660-022, which identifies and lists the types of unincorporated communities in the State, including those in Deschutes County, and the uses allowed in each type. The proposed regulations are consistent with OAR 660-022.
April 19, 2018

Mr. John Hummel, DA  
Sheriff Shane Nelson  
1164 NW Bond St.  
Bend, OR 97701

Dear Mr. Hummel and Sheriff Nelson:

I received your April 5, 2018 response to the Oregon Health Authority’s (OHA) letter that explained the statutory constraints to providing you with a list of registered medical marijuana grow sites in Deschutes County. I appreciate the continued dialogue. OHA wants to be a partner to local law enforcement by assisting with verification of lawfully registered medical marijuana grow sites so that you can fulfill your responsibility to prevent the illegal diversion of marijuana and keep your community safe. However, OHA can only do so within the authority granted by the legislature.

In your letter you provide an alternative reading of the statutory confidentiality provisions which would, in your view, allow OHA to provide you with a list of registered medical marijuana grow sites. Therefore, OHA has asked for a legal opinion from the Attorney General regarding whether a complete list can be provided to a law enforcement agency upon request, or whether law enforcement must supply OHA with an address that is then verified. In addition, we are asking the Attorney General to consider whether a law enforcement agency can supply a list of all addresses within its jurisdiction, for verification, or whether law enforcement needs to have some basis for requesting verification of a particular address. The Attorney General’s opinion will be public.

In the meantime, OHA will continue to comply with the confidentiality and grow site verification provisions in the Oregon Medical Marijuana Act, as it has historically, and will verify specific addresses for law enforcement through the 24/7 LEDS system or through staff at the Oregon Medical Marijuana Program (OMMP). At this time OMMP will not undertake verifying the over 60,000 addresses listed in the thumb drive you provided.

Thank you for your understanding as we wait for guidance from the Attorney General on this matter and for your willingness to work with OHA to provide the information that you need.

Sincerely,

Patrick M. Allen  
Director
June 12, 2018

Board of County Commissioners
Anthony DeBone, Chair
Phillip G. Henderson, Vice Chair
Tammy Baney, Commissioner
P.O. Box 6005
Bend, OR 97708-6005

Dear Chair DeBone, Vice Chair Henderson, and Commissioner Baney,

I received your May 8, 2018 letter requesting the following from the Oregon Health Authority (OHA):

- Describe its processes around confirming, inspecting and monitoring medical marijuana grow sites in unincorporated Deschutes County.
- Coordinate with the Oregon Water Resources Department and Deschutes County to share information when verifying medical marijuana grow sites to ensure compliance with state and local regulations during the initial permitting processes.
- Provide to the Deschutes County Sheriff and District Attorney's office addresses for existing and discontinued medical marijuana grow sites and
- Size, scale and number of years in operation for each medical marijuana grow site.

Compliance staff are completing proactive and complaint-based inspections of grow sites around the state including Deschutes County. OHA has approximately 18,000 grow sites registered and about 1/3 of those are grow sites have 2 or more patients. While OHA does not do routine inspections of grow sites with only one patient unless there is a complaint, that still leaves around 6,000 grow sites that could be subject to a compliance inspection. OHA is utilizing its registration data to determine the priority of grow site locations for conducting compliance inspections.

OHA is committed to coordinating with the Water Resource Department and Deschutes County, including sharing information, to the extent permitted by law. Under OHA’s current understanding of Oregon law, it is not permitted to provide a list of medical marijuana grow sites to you. ORS 475B.879, 475B.882, 475B.888 and 475B.892. OHA has asked for a legal opinion from the Attorney General regarding whether a complete list of medical marijuana grow site addresses can be provided to an agency that is authorized to obtain verification information from OHA. If, based on the opinion, OHA learns it can provide the information you are requesting, it will do so. In the meantime, OHA will continue to comply with the confidentiality and grow site verification provisions in the Oregon Medical Marijuana Act, as it has historically.

OHA can verify the registration status of a particular medical marijuana grow site address to designated representatives of counties and cities under ORS 475B.879, using a telephone hotline. OHA may also verify grow site addresses for law enforcement officers using the dedicated phone number and LEDS system. OHA is also exploring ways to coordinate with the Deschutes County District Attorney that do not conflict with the current interpretation of the law.
Included is the most current Snapshot (April 2018), which provides a breakdown of all data by patient, caregiver, grower and grow site for all counties. As the report is completed quarterly, the most current numbers Deschutes Co. county as of June 12, 2018 are:

<p>| | |</p>
<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Patients</td>
<td>2,231</td>
</tr>
<tr>
<td>Caregivers</td>
<td>1,047</td>
</tr>
<tr>
<td>Growers</td>
<td>974</td>
</tr>
<tr>
<td>Grow Sites</td>
<td>805</td>
</tr>
</tbody>
</table>

Thank you for your understanding as we wait for guidance from the Attorney General on this matter and for your willingness to work with OHA to provide the information that you need.

Sincerely,

[Signature]

Carole Yann  
Section Manager