MEMORANDUM

TO: Board of County Commissioners

FROM: Nick Lelack, AICP, Director
      Peter Gutowsky, AICP, Planning Manager
      Tanya Saltzman, AICP, Associate Planner

DATE: July 2, 2018

SUBJECT: Marijuana Regulatory Assessment / Preliminary Amendments

I. BACKGROUND

Since the release of the Marijuana Regulatory Assessment on April 2, 2018, the Board of County Commissioners (Board) has conducted six work sessions to discuss programmatic changes to regulating and enforcing marijuana production on rural lands. The Board recently directed staff to:

- Submit letters to the Oregon Water Resources Department (OWRD) and Oregon Health Authority (OHA) to verify the cause of groundwater declines in Alfalfa and Tumalo, and confirm inspection and monitoring protocols for medical marijuana grow sites in unincorporated Deschutes County; and,

- Draft preliminary amendments to Deschutes County marijuana regulations.

II. OWRD AND OHA LETTERS

Tom Blyer, OWRD Director responded to the Board’s inquiries, reviewed at the June 13 work session.

Carole Yann, OHA Section Manager responded to the Board’s inquiries (Attachment A).

III. PRELIMINARY MARIJUANA AMENDMENTS

Based on the issues discussed at the work sessions, staff prepared preliminary amendments for the Board’s consideration with the expectation that the Board may want to initiate a public hearing to gather formal input. The amendments are more restrictive than Deschutes County’s existing marijuana regulations, and were summarized in the June 13 work session.

After the June 13 work session, the Board requested additional refinements to several proposed amendments, summarized below:
List of Additional Preliminary Modified Amendments


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

DCC 18.116.330(D) – Added provision that one of the four allowable inspections must be prior to initiation of use.


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 Chapter 22.24. Land Use Action Hearings (Attachment C)**

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 (Attachment D)**

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

IV. Measure 56 Notices

As noted in the most recent work sessions, amendments to Deschutes County’s marijuana regulations will trigger Ballot Measure 56 notice to approximately 5,500 property owners with properties larger than five acres in the Exclusive Farm Use and Multiple Use Agricultural zones. According to research conducted by staff, it will cost approximately $3,500 to produce and mail a Measure 56 notice to 5,500 property owners. In addition to the mailing, staff will create a dedicated website and telephone line to provide information and answer residents’ questions pertaining to the notice. A draft mockup of the proposed notice is included as Attachment E.

V. Proposed Schedule

Based on the information shared in the work session as well as the published schedule of the Board, staff proposes the following timeline:

- DLCD 35-Day Notice published by staff - July 18
- Measure 56 Notice mailed, website and phone line go live - July 18
- Planning Commission work session – August 9
- BOCC Public Hearing – August 22
VI. **Next Steps / Public Process**

Based on Board direction at this work session, staff will:

1. Finalize the preliminary text amendments;
2. Initiate the draft text amendments; and
3. Confirm public hearing timeline and adoption process.

**Attachments:**

A. OHA Letter  
B. DCC Chapter 18.116 amendments  
C. DCC Chapter 22.24 amendments  
D. DCC Chapter 22.32 amendments  
E. Measure 56 notice mockup
Attachment A
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>
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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,

Carole Yann
Section Manager
The Oregon Medical Marijuana Program
Statistical Snapshot
April 2018
OREGON MEDICAL MARIJUANA PROGRAM
STATISTICAL SNAPSHOTS
APRIL 2018

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### Patients, Caregivers, Growers and Grow Sites

<table>
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### Patients, Caregivers, Growers and Grow Sites by Oregon County

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Patients, Caregivers and Growers Outside of Oregon

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Patients by Age Range (not all are 5-year increments)

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<th>Count</th>
<th>Percentage</th>
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<tr>
<td>11 – 15</td>
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<tr>
<td>16 – 17</td>
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<td>18 – 20</td>
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<td>21 – 24</td>
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<td>25 – 29</td>
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<td>40 – 44</td>
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Patients, Caregivers and Growers by Gender

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<th>Caregivers</th>
<th>Growers</th>
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<td>Male</td>
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<td>Non Binary</td>
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<td>&lt; 0.1%</td>
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Patients by Condition

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<th>Percentage of Reporting Patients</th>
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<td>Spasms</td>
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<td>Nausea</td>
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<td>PTSD</td>
<td>4,509</td>
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<td>Cancer</td>
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<tr>
<td>Neurological</td>
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<td>Seizures</td>
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<td>HIV/AIDS</td>
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Minor Patients

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Minor Patients by Condition

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<tr>
<td>Nausea</td>
<td>32</td>
<td>13.6%</td>
</tr>
<tr>
<td>Spasms</td>
<td>28</td>
<td>11.9%</td>
</tr>
<tr>
<td>PTSD</td>
<td>20</td>
<td>8.5%</td>
</tr>
<tr>
<td>Cancer</td>
<td>14</td>
<td>5.9%</td>
</tr>
<tr>
<td>Cachexia</td>
<td>6</td>
<td>2.5%</td>
</tr>
<tr>
<td>Glaucoma, HIV/AIDS</td>
<td>0</td>
<td>0.0%</td>
</tr>
</tbody>
</table>
Caregivers with Multiple Patients

A caregiver must be 18 years or older and one individual may be designated by multiple patients. There are 17,719 caregivers designated by 19,332 patients.

<table>
<thead>
<tr>
<th>Caregivers per</th>
<th>Patient³</th>
</tr>
</thead>
<tbody>
<tr>
<td>16,873</td>
<td>1</td>
</tr>
<tr>
<td>539</td>
<td>2</td>
</tr>
<tr>
<td>158</td>
<td>3</td>
</tr>
<tr>
<td>64</td>
<td>4</td>
</tr>
<tr>
<td>27</td>
<td>5</td>
</tr>
<tr>
<td>15</td>
<td>6</td>
</tr>
<tr>
<td>15</td>
<td>7</td>
</tr>
<tr>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>4</td>
<td>10</td>
</tr>
<tr>
<td>5</td>
<td>11</td>
</tr>
<tr>
<td>1</td>
<td>12</td>
</tr>
<tr>
<td>1</td>
<td>13</td>
</tr>
<tr>
<td>1</td>
<td>14</td>
</tr>
<tr>
<td>1</td>
<td>15</td>
</tr>
<tr>
<td>2</td>
<td>16</td>
</tr>
<tr>
<td>1</td>
<td>17</td>
</tr>
<tr>
<td>2</td>
<td>22</td>
</tr>
<tr>
<td><strong>17,719</strong></td>
<td><strong>19,332</strong></td>
</tr>
</tbody>
</table>

“There are 16,873 caregivers with one patient each, 539 caregivers with two patients each ... there is one caregiver with 17 patients, and two caregivers with 22 patients.”

Growers with Multiple Patients

A grower must be 21 years or older and one individual may grow for a maximum of four patients concurrently. There are 22,702 growers designated by 29,143 patients.

<table>
<thead>
<tr>
<th>Growers per</th>
<th>Patient³</th>
</tr>
</thead>
<tbody>
<tr>
<td>18,962</td>
<td>1</td>
</tr>
<tr>
<td>1,844</td>
<td>2</td>
</tr>
<tr>
<td>1,091</td>
<td>3</td>
</tr>
<tr>
<td>805</td>
<td>4</td>
</tr>
<tr>
<td><strong>22,702</strong></td>
<td><strong>29,143</strong></td>
</tr>
</tbody>
</table>

“There are 18,962 growers growing for one patient each, 1,844 growers growing for two patients each, 1,091 growers growing for three patients each, and 805 growers growing for four patients each.”
Patients per Grow Site Address

There are 18,140 grow site addresses designated by 29,159 patients.

<table>
<thead>
<tr>
<th>Patients per³</th>
<th>Grow Site Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>12,931</td>
</tr>
<tr>
<td>2</td>
<td>2,908</td>
</tr>
<tr>
<td>3</td>
<td>870</td>
</tr>
<tr>
<td>4</td>
<td>524</td>
</tr>
<tr>
<td>5</td>
<td>338</td>
</tr>
<tr>
<td>6</td>
<td>229</td>
</tr>
<tr>
<td>7</td>
<td>179</td>
</tr>
<tr>
<td>8</td>
<td>122</td>
</tr>
<tr>
<td>9</td>
<td>17</td>
</tr>
<tr>
<td><strong>29,159</strong></td>
<td><strong>18,140</strong></td>
</tr>
</tbody>
</table>

Physicians Associated with Patients

On 04/03/2018, there were 1,620 physicians associated with patients. There were 395 patients exempt from submitting medical documentation under ORS 475B.787 (11)

Physicians by Total Patient Applications

<table>
<thead>
<tr>
<th>Patient Application Range Count</th>
<th>Count of Patient Applications in Range</th>
<th>Physicians</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - 449</td>
<td>12,063</td>
<td>1,595</td>
</tr>
<tr>
<td>≥ 450</td>
<td>33,531</td>
<td>25</td>
</tr>
</tbody>
</table>

Reduced Card Application Fee Eligibility by Year

<table>
<thead>
<tr>
<th>Year</th>
<th>No Reduced Fee Eligibility</th>
<th>SNAP</th>
<th>OHP</th>
<th>SSI</th>
<th>VET</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>60%</td>
<td>32%</td>
<td>2%</td>
<td>6%</td>
<td>N/A</td>
</tr>
<tr>
<td>2013</td>
<td>62%</td>
<td>28%</td>
<td>5%</td>
<td>6%</td>
<td>N/A</td>
</tr>
<tr>
<td>2014</td>
<td>56%</td>
<td>14%</td>
<td>22%</td>
<td>7%</td>
<td>1%</td>
</tr>
<tr>
<td>2015</td>
<td>56%</td>
<td>12%</td>
<td>25%</td>
<td>6%</td>
<td>1%</td>
</tr>
<tr>
<td>2016</td>
<td>52%</td>
<td>10%</td>
<td>25%</td>
<td>5%</td>
<td>8%</td>
</tr>
<tr>
<td>2017</td>
<td>49%</td>
<td>9%</td>
<td>25%</td>
<td>5%</td>
<td>12%</td>
</tr>
<tr>
<td>2018(Partial 01/18 – 03/18)</td>
<td>49%</td>
<td>7%</td>
<td>24%</td>
<td>6%</td>
<td>14%</td>
</tr>
</tbody>
</table>
## Annual Card Participant Fluctuation

<table>
<thead>
<tr>
<th></th>
<th>Patients</th>
<th>Caregivers</th>
<th>Growers</th>
<th>Grow Sites</th>
</tr>
</thead>
<tbody>
<tr>
<td>04/2015</td>
<td>71,191</td>
<td>-</td>
<td>46,037</td>
<td>34,903</td>
</tr>
<tr>
<td>04/2016</td>
<td>73,715</td>
<td>+4%</td>
<td>33,489</td>
<td>-6%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>43,291</td>
<td>-6%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>28,774</td>
<td>-18%</td>
</tr>
<tr>
<td>04/2017</td>
<td>61,839</td>
<td>-16%</td>
<td>26,067</td>
<td>-22%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>33,764</td>
<td>-22%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>25,228</td>
<td>-12%</td>
</tr>
<tr>
<td>04/2018</td>
<td>45,210</td>
<td>-27%</td>
<td>17,722</td>
<td>-32%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>22,810</td>
<td>-32%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>18,099</td>
<td>-28%</td>
</tr>
</tbody>
</table>

## Dispensaries by Oregon County

<table>
<thead>
<tr>
<th>County</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>CLACKAMAS</td>
<td>1</td>
</tr>
<tr>
<td>CROOK</td>
<td>1</td>
</tr>
<tr>
<td>GRANT</td>
<td>1</td>
</tr>
<tr>
<td>JACKSON</td>
<td>2</td>
</tr>
<tr>
<td>JOSEPHINE</td>
<td>1</td>
</tr>
<tr>
<td>KLAMATH</td>
<td>1</td>
</tr>
<tr>
<td>LANE</td>
<td>1</td>
</tr>
<tr>
<td>LINCOLN</td>
<td>2</td>
</tr>
<tr>
<td>LINN</td>
<td>1</td>
</tr>
<tr>
<td>MULTNOMAH</td>
<td>1</td>
</tr>
<tr>
<td>UNION</td>
<td>2</td>
</tr>
<tr>
<td>WASHINGTON</td>
<td>1</td>
</tr>
<tr>
<td>TOTAL</td>
<td>15</td>
</tr>
</tbody>
</table>

## Dispensary Applications Received by Year

<table>
<thead>
<tr>
<th>Year</th>
<th>New</th>
<th>Renewal</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>623</td>
<td>0</td>
<td>623</td>
</tr>
<tr>
<td>Partial</td>
<td>3/14 - 12/14</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>522</td>
<td>229</td>
<td>751</td>
</tr>
<tr>
<td>2016</td>
<td>118</td>
<td>328</td>
<td>446</td>
</tr>
<tr>
<td>2017</td>
<td>10</td>
<td>18</td>
<td>28</td>
</tr>
<tr>
<td>2018</td>
<td>0</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Partial</td>
<td>1/18 - 3/18</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## Processing Sites by Oregon County

<table>
<thead>
<tr>
<th>County</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>MARION</td>
<td>1</td>
</tr>
<tr>
<td>MULTNOMAH</td>
<td>1</td>
</tr>
<tr>
<td>POLK</td>
<td>1</td>
</tr>
<tr>
<td>TILLAMOOK</td>
<td>1</td>
</tr>
<tr>
<td>WASHINGTON</td>
<td>2</td>
</tr>
<tr>
<td>TOTAL</td>
<td>6</td>
</tr>
</tbody>
</table>

## Processing Site Applications Received by Year

<table>
<thead>
<tr>
<th>Year</th>
<th>New</th>
<th>Renewal</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>322</td>
<td>0</td>
<td>322</td>
</tr>
<tr>
<td>Partial</td>
<td>4/16 - 12/16</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2017</td>
<td>17</td>
<td>1</td>
<td>18</td>
</tr>
<tr>
<td>2018</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Partial</td>
<td>1/18 - 3/18</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Card Applications Received by Year
Data Notes:

1. Participant counts are based on unique combinations of person, role (patient, caregiver, grower) and mailing address county. If one person is the caregiver for three patients and has a mailing county of Multnomah on all three patient applications, he or she would be counted once as a caregiver in Multnomah County. If one person is a caregiver for three patients and has Multnomah as a mailing address on one patient application and Clackamas on the other two patient applications, he or she would be counted once as a caregiver in Multnomah County, and once as a caregiver in Clackamas County. Data source changed beginning in 04/2018. Grow site address counts are based on unique addresses. If one address is designated as the grow site for three patients, it will be counted once.

2. Conditions are not mutually exclusive; one patient may report one or more conditions. Used Patients by Age Range total to obtain percentage.

3. Patient count obtained by multiplying the number of patients by the number of caregivers, growers or grow site addresses, as applicable, and summing up the total. Used Patient by Age Range total to obtain patients without caregivers or growers.

4. Count may contain duplicate grow site addresses. OMMP Grow site addresses were migrated to a new database (OMMG) in 02/2016. An initial deduplication of addresses was deployed in 10/2016 which consolidated exact duplicate addresses and patient counts.

5. Renewing patients are not required to submit medical documentation if they are a US service disabled veteran who has been assigned a total and permanent disability rating for compensation that rates the veteran as unable to secure or follow a substantially gainful occupation as a result of service connected disability or has a USVA total disability rating of 100% and received an honorable discharge. See ORS 475B.797(11).

6. Count may contain duplicate patients if a patient has both active cards and a pending renewal application.

7. OMMP application fee types and current amounts are as follows:
   - “No Reduced Fee”: No reduced fee proof is submitted with the application. Fee is $200.
   - “SNAP”: Acceptable Oregon Supplemental Nutrition Assistance Program proof is submitted with the application. Fee is $60.
   - “OHP”: Acceptable Oregon Health Plan proof is submitted with the application. Fee is $50.
   - “SSI”: Acceptable Supplemental Security Income proof is submitted with the application. Fee is $20.
   - “VET”: Proof of having served in the US armed forces is submitted with the application. Fee is $20. Percentages from 2012 through 2015 rounded beginning with the 01/2018 Snapshot.

8. Shows an annual increase/decrease from the prior year time frame for all participant-types.

9. Compiled 04/03/2018
   from: http://www.oregon.gov/oha/PH/DiseasesConditions/ChronicDisease/MedicalMarijuanaProgram/Pages/dispensary-directory.aspx

10. Count includes all applications received with payment. Not all received applications are approved.

11. Compiled 04/03/18
    from: http://www.oregon.gov/oha/PH/DISEASESCONDITIONS/CHRONICDISEASE/MEDICALMARIJUANAPROGRAM/Pages/processors.aspx

Statistics compiled 04/03/18
There will be natural fluctuations in statistical totals due to workflow and timing of compilation.
Attachment B
Chapter 18.116. SUPPLEMENTARY PROVISIONS

18.116.330 Marijuana Production, Processing, and Retailing
18.116.340 Marijuana Production Registered by the Oregon Health Authority (OHA)

* * *

18.116.330. Marijuana Production, Processing, and Retailing

A. Applicability. Section 18.116.330 applies to:
   1. Marijuana Production in the EFU, MUA-10, and RI zones.
   2. Marijuana Processing in the EFU, MUA-10, TeC, TeCR, TuC, TuI, RI, and SUBP zones.
   3. Marijuana Retailing in the RSC, TeC, TeCR, TuC, TuI, RC, RI, SUC, SUTC, and SUBP zones.

B. Marijuana production and marijuana processing. Marijuana production and marijuana processing shall be subject to the following standards and criteria:
   1. Minimum Lot Area.
      a. In the EFU and MUA-10 zones, the subject legal lot of record shall have a minimum lot area of five (5) acres.
   2. Indoor Production and Processing.
      In the MUA-10 zone, marijuana production and processing shall be located entirely within one or more fully enclosed buildings with conventional or post framed opaque, rigid walls and roof covering. Use of greenhouses, hoop houses, and similar non-rigid structures is prohibited.
      a. In the EFU zone, marijuana production and processing shall only be located in buildings, including greenhouses, hoop houses, and similar structures.
      b. In all zones, marijuana production and processing are prohibited in any outdoor area.
   3. Maximum Mature Plant Canopy Size. In the EFU zone, the maximum canopy area for mature marijuana plants shall apply as follows:
      a. Parcels from 5 acres to less than 10 acres in lot area: 2,500 square feet.
      b. Parcels equal to or greater than 10 acres to less than 20 acres in lot area: 5,000 square feet. The maximum canopy area for mature marijuana plants may be increased to 10,000 square feet upon demonstration by the applicant to the County that:
         i. The marijuana production operation was lawfully established prior to January 1, 2015; and
         ii. The increased mature marijuana plant canopy area will not generate adverse impact of visual, odor, noise, lighting, privacy or access greater than the impacts associated with a 5,000 square foot canopy area operation.
      c. Parcels equal to or greater than 20 acres to less than 40 acres in lot area: 10,000 square feet.
      d. Parcels equal to or greater than 40 acres to less than 60 acres in lot area: 20,000 square feet.
      e. Parcels equal to or greater than 60 acres in lot area: 40,000 square feet.
   4. Maximum Building Floor Area. In the MUA-10 zone, the maximum building floor area used for all activities associated with marijuana production and processing on the subject property shall be:
      a. Parcels from 5 acres to less than 10 acres in lot area: 2,500 square feet.
      b. Parcels equal to or greater than 10 acres: 5,000 square feet.

54. Limitation on License/Grow Site per Parcel. No more than one (1) Oregon Liquor Control Commission (OLCC) licensed marijuana production or Oregon Health Authority (OHA)
registered medical marijuana grow site shall be allowed per legal parcel or lot.

65. Setbacks. The following setbacks shall apply to all marijuana production and processing areas and buildings:
   a. Minimum Yard Setback/Distance from Lot Lines: 2,100 feet.
   b. Setback from an off-site dwelling: 5,300 feet.
      For the purposes of this criterion, an off-site dwelling includes those proposed off-site dwellings with a building permit application submitted to Deschutes County prior to submission of the marijuana production or processing application to Deschutes County.
      e. Exception: Any reduction to these setback requirements may be granted by the Planning Director or Hearings Body provided the applicant demonstrates the reduced setbacks afford equal or greater mitigation of visual, odor, noise, lighting, privacy, and access impacts.

66. Separation Distances. Minimum separation distances shall apply as follows:
   a. The use shall be located a minimum of 2,640 feet from:
      i. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;
      ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
      iii. A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool.
         This does not include licensed or unlicensed child care which occurs at or in residential structures;
      iv. A youth activity center;
      v. National monuments and state parks;
      vi. Public Federal lands;
      vii. Redmond Urban Reserve Area;
      viii. The boundary of any local jurisdiction that has opted out of Oregon’s recreational marijuana program; and
      ix. Any other lot or parcel approved by Deschutes County for marijuana production.
   b. For purposes of DCC 18.116.330(B)(76), all distances shall be measured from the lot line of the affected properties listed in DCC 18.116.330(B)(76)(a) to the closest point of the buildings and land area occupied by the marijuana producer or marijuana processor.
   c. A change in use of another property to those identified in DCC 18.116.330(B)(76) shall not result in the marijuana producer or marijuana processor being in violation of DCC 18.116.330(B)(76) if the use is:
      i. Pending a local land use decision;
      ii. Licensed or registered by the State of Oregon; or
      iii. Lawfully established.

87. Access. Marijuana production over 5,000 square feet of canopy area for mature marijuana plants shall comply with the following standards.
   a. Have frontage on and legal direct access from a constructed public, county, or state road; or
   b. Have access from a private road or easement serving only the subject property.
   c. If the property takes access via a private road or easement which also serves other properties, the applicant shall obtain written consent to utilize the easement or private road for marijuana production access from all owners who have access rights to the private road or easement. The written consent shall:
      i. Be on a form provided by the County and shall contain the following information;
ii. Include notarized signatures of all owners, persons and properties holding a recorded interest in the private road or easement;

iii. Include a description of the proposed marijuana production or marijuana processing operation; and

iv. Include a legal description of the private road or easement.

98. Lighting. Lighting shall be regulated as follows:

a. Inside building lighting, including greenhouses, hoop houses, and similar structures, used for marijuana production shall not be visible outside the building from sundown to sunup 7:00 p.m. to 7:00 a.m. on the following day.

b. Lighting fixtures shall be fully shielded in such a manner that all light emitted directly by the lamp or a diffusing element, or indirectly by reflection or refraction, is projected below the horizontal plane through the lowest light-emitting part.

c. Light cast by exterior light fixtures other than marijuana grow lights shall comply with DCC 15.10, Outdoor Lighting Control.

109. Odor. As used in DCC 18.116.330(B)(9), building means the building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing. Odor produced by marijuana production and processing shall comply with the following:

a. Standard. To prevent unreasonable interference of neighbors’ use and enjoyment of their property, no adverse or noxious odors shall be detectable beyond the property line.

b. Odor control plan. To ensure that the standard stated in DCC 18.116.330(B)(9) is continuously met, the applicant shall submit an odor control plan prepared and stamped by a mechanical engineer licensed in the State of Oregon that includes the following:

i. The mechanical engineer’s qualifications and experience with system design and operational audits of effective odor control and mitigation systems;

ii. A detailed analysis of the methodology, which has been independently researched and tested, that will be relied upon to effectively control odor on the subject property;

iii. A detailed description of any odor control systems that will be utilized, including operational schedules and maintenance intervals;

iv. Contingence measures if any aspect of the odor control plan fails or is not followed, or if it is otherwise shown that the standard stated in DCC 18.116.330(B)(9) is not met;

v. Testing protocols and intervals; and

vi. Identification of the responsible parties tasked with implementing each aspect of the odor control plan.

c. Compliance. On-going compliance with the odor control plan is mandatory and shall be ensured with a permit condition of approval, but compliance with the odor control plan does not supersede required compliance with the standard set forth in DCC 18.116.330(B)(9). If provided in applicable state statutes, private actions alleging nuisance or trespass associated with odor impacts are authorized.

d. Modifications. Modifications to the odor control plan shall be approved in the same manner as a modification to a land use action pursuant to DCC 22.36.040.

a. The building shall be equipped with an effective odor control system which must at all times prevent unreasonable interference of neighbors’ use and enjoyment of their property.

b. An odor control system is deemed permitted only after the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating system design and operational audit of effectively, operationalC is authorized system will effectively and continuously control odor so as not to
unreasonably interfere with neighbors’ use and enjoyment of their property.

c. Private actions alleging nuisance or trespass associated with odor impacts are
   authorized, if at all, as provided in applicable state statute.

d. The odor control system shall:
   i. 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; or
   ii. Utilize an alternative method or technology to achieve equal to or greater odor
       mitigation than provided by (i) above.

e. The system shall at all times be maintained in working order and shall be in use.

\[1110\] Noise. Noise produced by marijuana production and marijuana processing shall comply
with the following:

a. Sustained noise from mechanical equipment used for heating, ventilation, air condition,
   odor control, fans and similar functions shall not exceed 30 dB(A) measured at any
   property line between 10:00 p.m. and 7:00 a.m. the following day.

b. Sustained noise from marijuana production is exempt from protections of DCC 9.12
   and ORS 30.395, Right to Farm. Intermittent noise for accepted farming practices is
   permitted.

a. Standard. To prevent unreasonable interference of neighbors’ use and enjoyment of
   their property, sustained noise shall not be detectable beyond the property line above 30
   dB(A) between 10:00 pm and 7:00 am the following day.
   i. For purposes of DCC 18.116.330(B)(10), “sustained noise” shall mean noise
      lasting more than two continuous minutes or two total minutes in a one hour period
      from mechanical equipment used for heating, ventilation, air condition, odor
      control, fans an similar functions associated with marijuana production and
      processing.

b. Noise control plan. To ensure that the standard stated in DCC 18.116.330(B)(10) is
   continuously met, the applicant shall submit a noise control plan prepared and stamped
   by a mechanical engineer licensed in the State of Oregon that includes the following:
   i. The mechanical engineer’s qualifications and experience with system design and
      operational audit of effective noise control and mitigation systems;
   ii. A detailed analysis of the methodology that will be relied upon to effectively
       control noise on the subject property;
   iii. A detailed description of any noise control systems that will be utilized, including
        operational schedules and maintenance intervals;
   iv. Contingence measures if any aspect of the noise control plan fails or is not
       followed, or if it is otherwise shown that the standard stated in DCC
       18.116.330(B)(10) is not met;
   v. Testing protocols and intervals; and
   vi. Identification of the responsible parties tasked with implementing each aspect of
       the noise control plan.

c. Compliance. On-going compliance with the noise control plan is mandatory and shall
   be ensured with a permit condition of approval, but compliance with the noise control
   plan does not supersede required compliance with the standard set forth in DCC
   18.116.330(B)(10). If provided in applicable state statutes, private actions alleging
   nuisance or trespass associated with odor impacts are authorized.

d. Modifications. Modifications to the noise control plan shall be approved in the same
   manner as a modification to a land use action pursuant to DCC 22.36.040.

4211 Screening and Fencing. The following screening standards shall apply to greenhouses,
hoop houses, and similar non-rigid structures and land areas used for marijuana production
and processing:

a. 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 Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.

b. Fencing shall be finished in a muted earth tone that blends with the surrounding natural landscape and shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc., and shall be subject to DCC 18.88, Wildlife Area Combining Zone, if applicable.

c. Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.

d. The existing tree and shrub cover screening the development from the public right-of-way or adjacent properties shall be retained to the maximum extent possible. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act; or agricultural use of the land.

1312. Water. Water use from any source for marijuana production shall comply with all applicable state statutes and regulations. The applicant shall provide:

a. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resource Department; or

b. A will serve statement that water is supplied from a public or private water provider, along with a will haul statement, including the name and contact information of the water providerhauler; or

c. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.

d. If multiple sources of water are being proposed during the year, the applicant shall provide proof from the controlling entity that the water can be applied to marijuana production.

1413. Fire protection for processing of cannabinoid extracts. Processing of cannabinoid extracts shall only be permitted on properties located within the boundaries of or under contract with a fire protection district.

1514. Utility Verification. Utility statements identifying the proposed operation, or operational characteristics such as required electrical load and timing of such electrical loads and a statement from each utility company proposed to serve the operation, stating that each such company is able and willing to serve the operation, shall be provided.

1615. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with requirements of the OLCC or the OHA.


a. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA Person Responsible for the Grow Site (PRMG).

b. A statement is also required describing how any water runoff is being addressed.

18. Residency. In the MUA-10 zone, a minimum of one of the following shall reside in a dwelling unit on the subject property:

a. An owner of the subject property;

b. A holder of an OLCC license for marijuana production, provided that the license applies to the subject property; or

c. A person registered with the OHA as a person designated to produce marijuana by a registry identification cardholder, provided that the registration applies to the subject property.
Nonconformance. All medical marijuana grow sites lawfully established prior to June 8, 2016 by the Oregon Health Authority shall comply with Ordinance 2016-015 and with the provisions of DCC 18.116.330(B)(9) by September 8, 2016 and with the provisions of DCC 18.116.330(B)(10-12, 16, 17) by December 8, 2016.

Prohibited Uses.

a. In the EFU zone, the following uses are prohibited:
   i. A new dwelling used in conjunction with a marijuana crop;
   ii. A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop;
   iii. A commercial activity, as described in ORS 215.213(2)(c) or 215.283(2)(a), carried on in conjunction a marijuana crop; and
   iv. Agri-tourism and other commercial events and activities in conjunction with a marijuana crop.

b. In the MUA-10 Zone, the following uses are prohibited:
   i. Commercial activities in conjunction with farm use when carried on in conjunction with a marijuana crop.

cb. In the EFU, MUA-10, and Rural Industrial zones, the following uses are prohibited on the same property as marijuana production:
   i. Guest Lodge.
   ii. Guest Ranch.
   iii. Dude Ranch.
   iv. Destination Resort.
   v. Public Parks.
   vi. Private Parks.
   viii. Bed and Breakfast.
   ix. Room and Board Arrangements.

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

b. For purposes of DCC 18.116.330(CB)(7), distance shall be measured from the lot line of the affected property to the closest point of the building space occupied by the marijuana retailer. For purposes of DCC 18.116.330(CB)(7)(a)(vi), distance shall be measured from the closest point of the building space occupied by one marijuana retailer to the closest point of the building space occupied by the other marijuana retailer.

c. A change in use to another property to a use identified in DCC 18.116.330(CB)(7), after a marijuana retailer has been licensed by or registered with the State of Oregon shall not result in the marijuana retailer being in violation of DCC 18.116.330(CB)(7).

D. Inspections and Annual Reporting
1. An annual report shall be submitted to the Community Development Department by the real property owner or licensee, if different, each February 1, documenting all of the following as of December 31 of the previous year, including the applicable fee as adopted in the current County Fee Schedule and a fully executed Consent to Inspect Premises form:
   a. Documentation demonstrating compliance with the:
      i. Land use decision and permits.
      ii. Fire, health, safety, waste water, and building codes and laws.
      iii. State of Oregon licensing requirements.
   b. Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance with DCC 18.116.330(DC)(1)(a) shall serve as acknowledgement by the real property owner and licensee that the otherwise allowed use is not in compliance with Deschutes County Code; authorizes permit revocation under DCC Title 22, and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.
   c. Other information as may be reasonably required by the Planning Director to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
   d. As a condition of approval, the applicant must consent in writing to allow Deschutes County to, randomly and without prior notice, inspect the premises and ascertain the extent and effectiveness of the odor control system(s). Inspections may be conducted by the County up to four (4) times per calendar year, including one inspection prior to the initiation of use.
   e. Conditions of Approval Agreement to be established and maintained by the Community Development Department.
   f. Documentation that System Development Charges have been paid.
   g. This information shall be public record subject to ORS 192.502(17).

18.116.340. Marijuana Production Registered by the Oregon Health Authority (OHA)
A. Applicability. Section 18.116.340 applies to:
   1. All marijuana production registered by OHA prior to June 1, 2016; and
2. All marijuana production registered by OHA on or after June 1 2016 until the effective date of Ordinances 2016-015, 2016-16, 2016-17, and 2016-18, at which time Ordinances 2016-015 through Ordinance 2016-018 shall apply.

B. All marijuana production registered by OHA prior to June 1, 2016 shall comply with the following standards by September 15, 2016:

1. Lighting. Lighting shall be regulated as follows:
   a. Inside building lighting, including greenhouses, hoop houses, and similar structures, used for marijuana production shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. on the following day.
   b. Lighting fixtures shall be fully shielded in such a manner that all light emitted directly by the lamp or a diffusing element, or indirectly by reflection or refraction, is projected below the horizontal plane through the lowest light-emitting part.
   c. Light cast by exterior light fixtures other than marijuana grow lights shall comply with DCC 15.10, Outdoor Lighting Control.

C. All marijuana production registered by OHA prior to June 1, 2016 shall comply with the following standards by December 15, 2016:

1. Odor. As used in DCC 18.116.3430(CB)(10), building means the building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing.
   a. The building shall be equipped with an effective odor control system which must at all times prevent unreasonable interference of neighbors’ use and enjoyment of their property.
   b. An odor control system is deemed permitted only after the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the system will control odor so as not to unreasonably interfere with neighbors’ use and enjoyment of their property.
   c. Private actions alleging nuisance or trespass associated with odor impacts are authorized, if at all, as provided in applicable state statute.
   d. The odor control system shall:
      i. 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; or
      ii. Utilize an alternative method or technology to achieve equal to or greater odor mitigation than provided by i. above.
   e. The system shall be maintained in working order and shall be in use.

2. Noise. Noise produced by marijuana production and marijuana processing shall comply with the following:
   a. Sustained noise from mechanical equipment used for heating, ventilation, air condition, odor control, fans and similar functions shall not exceed 30 dB(A) measured at any property line between 10:00 p.m. and 7:00 a.m. the following day.
   b. Sustained noise from marijuana production is not subject to the Right to Farm protections in DCC 9.12 and ORS 30.395. Intermittent noise for accepted farming practices is however permitted.

3. Screening and Fencing. The following screening standards shall apply to greenhouses, hoop houses, and similar non-rigid structures and land areas used for marijuana production and processing:
   a. Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.
   b. Fencing shall be finished in a muted earth tone that blends with the surrounding natural landscape and shall not be constructed of temporary materials such as plastic sheeting.
hay bales, tarps, etc., and shall be subject to DCC 18.88, Wildlife Area Combining Zone, if applicable.

c. Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.

d. The existing tree and shrub cover screening the development from the public right-of-way or adjacent properties shall be retained to the maximum extent possible. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act; or agricultural use of the land.

4. Water. The applicant shall provide:
   a. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resource Department; or
   b. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
   c. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.

5. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with requirements of the OLCC or the OHA.

6. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA Person Responsible for the Grow Site (PRMG).

7. Inspections and Annual Reporting. All marijuana production registered by OHA prior to June 1, 2016 shall comply with DCC 18.116.340(D)(8) when site locations are released by the State of Oregon.

D. All new marijuana production registered by OHA on or after June 1, 2016 shall comply with DCC 18.116.3430(A-BC) and the following standards:

1. Shall only be located in the following zones
   a. EFU; or
   b. MUA-10; or
   c. Rural Industrial in the vicinity of Deschutes Junction.

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

3. Maximum Building Floor Area. In the MUA-10 zone, the maximum building floor area used for all activities associated with medical marijuana production on the subject property shall be:
   a. Parcels from 5 acres to less than 10 acres in area: 2,500 square feet.
   b. Parcels equal to or greater than 10 acres: 5,000 square feet.

4. Setbacks. The following setbacks shall apply to all marijuana production areas and buildings:
   a. Minimum Yard Setback/Distance from Lot Lines: 1200 feet.
   b. Setback from an off-site dwelling: 5300 feet.

   For the purposes of this criterion, an off-site dwelling includes those proposed off-site dwellings with a building permit application submitted to Deschutes County prior to submission of the marijuana production or processing application to Deschutes County.

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

5. Indoor Production and Processing.
a. In the MUA-10 zone, marijuana production shall be located entirely within one or more fully enclosed buildings with conventional or post framed opaque, rigid walls and roof covering. Use of greenhouses, hoop houses, and similar non-rigid structures is prohibited.

a. In the EFU zone, marijuana production shall only be located in buildings, including greenhouses, hoop houses, and similar structures.

b. In all zones, marijuana production is prohibited in any outdoor area.

65. **Maximum Mature Plant Canopy Size.** In the EFU zone, the maximum canopy area for mature marijuana plants shall apply as follows:

a. Parcels from 5 acres to less than 10 acres in lot area: 2,500 square feet.

b. Parcels equal to or greater than 10 acres to less than 20 acres in lot area: 5,000 square feet. The maximum canopy area for mature marijuana plants may be increased to 10,000 square feet upon demonstration by the applicant to the County that:
   i. The marijuana production operation was lawfully established prior to January 1, 2015; and
   ii. The increased mature marijuana plant canopy area will not generate adverse impact of visual, odor, noise, lighting, privacy or access greater than the impacts associated with a 5,000 square foot canopy area operation.

c. Parcels equal to or greater than 20 acres to less than 40 acres in lot area: 10,000 square feet.

d. Parcels equal to or greater than 40 acres to less than 60 acres in lot area: 20,000 square feet.

e. Parcels equal to or greater than 60 acres in lot area: 40,000 square feet.

76. **Separation Distances.** Minimum separation distances shall apply as follows:

a. The use shall be located a minimum of 2,640 feet from:
   i. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;
   ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
   iii. A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool. This does not include licensed or unlicensed child care which occurs at or in residential structures;
   iv. A youth activity center; and
   v. National monuments and state parks;
   vi. Public Federal lands; and
   vii. Redmond Urban Reserve Area;
   viii. The boundary of any local jurisdiction that has opted out of Oregon’s recreational marijuana program; and
   ix. Any other lot or parcel approved by Deschutes County for marijuana production.

b. For purposes of DCC 18.116.3430(DB)(76), all distances shall be measured from the lot line of the affected properties listed in DCC 18.116.3430(DB)(76)(a) to the closest point of the buildings and land area occupied by the marijuana producer or marijuana processor.

c. A change in use of another property to those identified in DCC 18.116.3430(DB)(76) shall not result in the marijuana producer or marijuana processor being in violation of DCC 18.116.330(B)(76) if the use is:
   i. Pending a local land use decision;
   ii. Registered by the State of Oregon; or
iii. Lawfully established.

87. Access. Marijuana production over 5,000 square feet of canopy area for mature marijuana plants shall comply with the following standards.
   a. Have frontage on and legal direct access from a constructed public, county, or state road; or
   b. Have access from a private road or easement serving only the subject property.
   c. If the property takes access via a private road or easement which also serves other properties, the applicant shall obtain written consent to utilize the easement or private road for marijuana production access from all owners who have access rights to the private road or easement. The written consent shall:
      i. Be on a form provided by the County and shall contain the following information;
      ii. Include notarized signatures of all owners, persons and properties holding a recorded interest in the private road or easement;
      iii. Include a description of the proposed marijuana production or marijuana processing operation; and
      iv. Include a legal description of the private road or easement.

9. Residency. In the MUA-10 zone, a minimum of one of the following shall reside in a dwelling unit on the subject property:
   a. An owner of the subject property; or
   b. A person registered with the OHA as a person designated to produce marijuana by a registry identification cardholder, provided that the registration applies to the subject property.

108. Inspections and Annual Reporting. An annual report shall be submitted to the Community Development Department by the real property owner or licensee, if different, of marijuana production registered by OHA, each February 1, documenting all of the following as of December 31 of the previous year, including the applicable fee as adopted in the current County Fee Schedule and a fully executed Consent to Inspect Premises form:
   a. Documentation demonstrating compliance with the:
      i. Land use decision and permits.
      ii. Fire, health, safety, waste water, and building codes and laws.
      iii. State of Oregon licensing requirements.
   b. Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance with DCC 18.116.3430(C)(8) shall serve as acknowledgement by the real property owner and licensee that the otherwise allowed use is not in compliance with Deschutes County Code; authorizes permit revocation under DCC Title 22, and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.
   c. Other information as may be reasonably required by the Planning Director to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
   d. Marijuana Control Plan to be established and maintained by the Community Development Department. As a condition of approval, the 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.
   e. Conditions of Approval Agreement to be established and maintained by the Community Development Department.
   f. Documentation that System Development Charges have been paid.
   e.g. This information shall be public record subject to ORS 192.502(17).

119. Prohibited Uses.
   a. In the EFU zone, the following uses are prohibited:
i. A new dwelling used in conjunction with a marijuana crop;
ii. A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop;
iii. A commercial activity, as described in ORS 215.213(2)(c) or 215.283(2)(a), carried on in conjunction a marijuana crop; and
iv. Agri-tourism and other commercial events and activities in conjunction with a marijuana crop.

b. In the MUA-10 Zone, the following uses are prohibited:
   i. Commercial activities in conjunction with farm use when carried on in conjunction with a marijuana crop.

  eb. In the EFU, MUA-10, and Rural Industrial zones, the following uses are prohibited on the same property as marijuana production:
     Guest Lodge.
     i. Guest Ranch.
     ii. Dude Ranch.
     iii. Destination Resort.
     iv. Public Parks.
     v. Private Parks.
     vi. Events, Mass Gatherings and Outdoor Mass Gatherings.
     vii. Bed and Breakfast.
     viii. Room and Board Arrangements.

(Ord. 2018-xxx §x, 2018; Ord. 2016-019 §1, 2016)
Attachment C
Chapter 22.24. LAND USE ACTION HEARINGS

22.24.010. Filing of Staff Report for Hearing.
A. At the time an application that in the judgment of the Planning director requires a hearing is deemed complete, a hearing date shall be set.
B. A staff report shall be completed seven days prior to hearing. If the report is not completed by such time, the hearing shall be held as scheduled, but any party may at the hearing or in writing prior to the hearing request a continuance of the hearing to a date that is at least seven days after the date the initial staff report is complete. Pursuant to DCC 22.24.140(A)(3), grant of a continuance under these circumstances shall be discretionary.
C. A copy of the staff report shall be mailed to the applicant, shall be made available to such other persons who request a copy and shall be filed with the Hearings Body.
D. Oral or written modifications and additions to the staff report shall be allowed prior to or at the hearing.
(Ord. 96-071 §1D, 1996; Ord. 95-045 §11, 1995; Ord. 90-007 §1, 1990)

A. The following shall serve as the hearings body:
   1. Hearings Officer.
   2. Planning Commission, as specified by DCC 22.24.020(C).
   3. Board of County Commissioners, except where an applicable joint management agreement within an acknowledged urban growth boundary specifies a city governing body as the final appeals body.
B. The Hearings Body order shall be as set forth in DCC 22.24.020(A), except that the Board may call up an administrative decision for review without the necessity of an application going before the Hearings Officer.
C. Where the Hearings Officer declines to hear a matter on the grounds of a conflict of interest, the Planning Commission shall substitute for the hearings officer. In the Redmond Urban Area, the initial Hearings Body for a quasi-judicial plan amendment or zone change may at the discretion of the Planning Director be either the Planning Commission or the Hearings Officer. Additionally, in the Redmond
Urban Area, the initial Hearings Body for Declaratory Rulings and revocations of land use approvals may, at the discretion of the Planning Director, be the Hearings Officer, the Redmond Urban Area Planning Commission or the Redmond City Council.

(Ord. 2001-045 §1, 2001; Ord. 2000-003 §1, 2000; Ord. 99-031 §5, 1999; Ord. 98-019 §3, 1998; Ord. 96-071 §1D, 1996; Ord. 95-045 §11A, 1995; Ord. 90-007 §1, 1990)


A. Individual Mailed Notice.

1. Except as otherwise provided for herein, notice of a land use application shall be mailed at least 20 days prior to the hearing for those matters set for hearing, or within 10 days after receipt of an application for those matters to be processed administratively with notice. Written notice shall be sent by mail to the following persons:
   a. The applicant.
   b. Owners of record of property as shown on the most recent property tax assessment roll of property located:
      1. Within 100 feet of the property that is the subject of the notice where any part of the subject property is within an urban growth boundary;
      2. Within 250 feet of the property that is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone, except where greater notice is required under DCC 22.24.030(A)(4) for structures proposed to exceed 30 feet in height; or
      3. Within 750 feet of the property that is the subject of the notice where the subject property is within a farm or forest zone, except where greater notice is required under DCC 22.24.030(A)(4) for structures proposed to exceed 30 feet in height.
      4. Within 1000 feet of the property that is subject of a marijuana production or processing notice where the subject property is within a farm zone.
   c. For a solar access or solar shade exception application, only those owners of record identified in the application as being burdened by the approval of such an application.
   d. The owner of a public use airport if the airport is located within 10,000 feet of the subject property.
   e. The tenants of a mobile home park when the application is for the rezoning of any part or all of a mobile home park.
   f. The Planning Commission.
   g. Any neighborhood or community organization formally recognized by the board under criteria established by the Board whose boundaries include the site.
   h. At the discretion of the applicant, the County also shall provide notice to the Department of Land Conservation and Development.

2. Notwithstanding DCC 22.24.030(A)(1) (b)(1), all owners of property within 250 feet of property that is the subject of a plan amendment application or zone change application shall receive notice.

3. The failure of a property owner to receive mailed notice shall not invalidate any land use approval if the Planning Division can show by affidavit that such notice was given.

4. For structures proposed to exceed 30 feet in height that are located outside of an urban growth boundary, the area for describing persons entitled to notice under DCC 22.24.030(A)(1)(b) shall expand outward by a distance equal to the distance of the initial notice area boundary for every 30 foot height increment or portion thereof.

B. Posted Notice.

1. Notice of a land use action application for which prior notice procedures are chosen shall be posted on the subject property for at least 10 continuous days prior to any date set for receipt of comments. Such notice shall, where practicable, be visible from any adjacent public way.
2. Posted notice of an application for a utility facility line approval shall be by posting the proposed route at intervals of not less than one-half mile. The notice shall be posted as close as practicable to, and be visible from, any public way in the vicinity of the proposed route.

3. Notice of a solar access application shall be posted as near as practicable to each lot identified in the application.

C. Published Notice. In addition to notice by mail and posting, notice of an initial hearing shall be published in a newspaper of general circulation in the County at least 20 days prior to the hearing.

D. Media Notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.

(Ord. 2018-xxx §x, 2018; Ord. 99-031 §6, 1999; Ord. 96-071 §1D, 1996; Ord. 95-071 §1, 1995; Ord. 95-045 §12, 1995; Ord. 91-013 §7-8, 1991; Ord. 90-007 §1, 1990)
Attachment D
Chapter 22.32. APPEALS

22.32.010. Who May Appeal.
22.32.015. Filing Appeals.
22.32.020. Notice of Appeal.
22.32.022. Determination of Jurisdictional Defects.
22.32.024. Transcript Requirement.
22.32.025. Consolidation of Multiple Appeals.
22.32.027. Scope of Review.
22.32.030. Hearing on Appeal.
22.32.035. Declining Review.
22.32.040. Land Use Action Hearings on Appeal From the Hearings Officer.
22.32.050. Development Action Appeals.
22.32.060. Rehearing.
22.32.070. Remands.
22.32.080. Withdrawal of an Appeal.

22.32.010. Who may appeal.
A. The following may file an appeal:
   1. A party;
   2. In the case of an appeal of an administrative decision without prior notice, a person entitled to
      notice, a person adversely affected or aggrieved by the administrative decision, or any other person
      who has filed comments on the application with the Planning Division; and
   3. A person entitled to notice and to whom no notice was mailed. A person who, after such notices
      were mailed, purchases property to be burdened by a solar access permit shall be considered a
      person to whom notice was to have been mailed; and
   4. A city, concerning an application within the urban area for that city, whether or not the city achieved
      party status during the proceeding.
B. A person to whom notice is mailed is deemed notified even if notice is not received.
(Ord. 95-071 §2, 1995; Ord. 95-045 §31, 1995; Ord. 90-007 §1, 1990)

22.32.015. Filing appeals.
A. To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the
   Planning Division and an appeal fee.
B. Unless a request for reconsideration has been filed, the notice of appeal and appeal fee must be received
   at the offices of the Deschutes County Community Development Department no later than 5:00 PM on
   the twelfth day following mailing of the decision. If a decision has been modified on reconsideration, an
   appeal must be filed no later than 5:00 PM on the twelfth day following mailing of the decision as
   modified. Notices of Appeals may not be received by facsimile machine.
C. Unless a request for reconsideration has been filed for a marijuana production or processing
   administrative decision, the notice of appeal and appeal fee must be received at the offices of the
   Deschutes County Community Development Department no later than 5:00 PM on the fifteenth day
   following mailing of the decision.
GD. If the Board of County Commissioners is the Hearings Body and the Board declines review, a portion of
   the appeal fee may be refunded. The amount of any refund will depend upon the actual costs incurred
   by the County in reviewing the appeal. When the Board declines review and the decision is
   subsequently appealed to LUBA, the appeal fee may be applied toward the cost of preparing a transcript
   of the lower Hearings Body’s decision.
DE. The appeal fee shall be paid by method that is acceptable to Deschutes County.
BACKGROUND

The Deschutes County Board of Commissioners adopted marijuana regulations in June 2016. 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 six work sessions to discuss programmatic 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 will consider 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.

PROPOSAL

Amend Deschutes County Code:
- Chapter 9.12, Right to Farm
- Chapter 18.24, Redmond Urban Reserve Area Combining Zone
- Chapter 18.116, Supplementary Provisions
- Chapter 18.124.060, Site Plan Approval Criteria
- Chapter 22.24, Land Use Action Hearings
- Chapter 22.32, Appeals

WHY AM I RECEIVING THIS NOTICE?

State law (Oregon Revised Statute 215.503) requires a notice like this one be mailed to landowners when a change in land use laws might limit the use of their property. The law requires this wording and wording below in all such notices. Despite the cautionary language, not all property owners in Deschutes County will be affected by the proposed notice.

This is to notify you that Deschutes County has proposed a land use regulation that may affect the permissible use of your property and other properties.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

MEETING LOCATION

The meetings will take place at the Deschutes Services Center, Barnes & Sawyer Rooms (first floor) at 1300 NW Wall Street, Bend.

Although this notice has been mailed to landowners whose land is zoned EFU or MUA-10 whose properties are larger than five acres, any interested person may attend, be represented by counsel, or submit written signed comments (testimony).

Deschutes County encourages persons with disabilities to participate in all programs and activities. This event/location is accessible to people with disabilities. If you need accommodations to make participation possible, please call the ADA Coordinator at (541) 617-4747.