

Deschutes County Marijuana Regulatory Assessment



March 20, 2018

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I. Executive Summary

In June 2016, the Deschutes County Board of Commissioners (Board) adopted eight ordinances to regulate the marijuana production, processing, wholesaling, and retail industries. Recognizing the unique development patterns in the rural county, regulations mitigate sight, sound, odor, water, waste disposal, and access, among others. They are unique among Oregon counties in three ways:

1. Discretionary standards allow the industry to utilize emerging technologies for growing and processing marijuana to demonstrate regulatory compliance;
2. Applications require notification to neighboring property owners which provides opportunities for public involvement in land use proceedings; and,
3. Development standards take into consideration rural zoning, lot patterns, a high desert climate, and agricultural practices.

After adopting the ordinances, the Board committed to reevaluating the marijuana regulations. The purpose of the regulatory assessment is twofold:

- Summarize comments from stakeholder, residents, interested parties, and state agencies and law enforcement regarding the effectiveness of the marijuana regulations; and
- Identify regulatory options.

Commencing in October 2017, the Community Development Department (CDD) prepared an *Existing Conditions Report (Appendix E)*. It described the marijuana applications submitted to Deschutes County from September 2016 through September 2017. The document also summarized the County's marijuana regulations and code enforcement philosophy. Upon its release, CDD initiated a public involvement process to identify prevailing opinions among industry representatives, stakeholders, and residents.

Based on the assessment, CDD offers the following conclusions. Due to the limited number of approvals, it is difficult to assess the effectiveness of Deschutes County's regulations. CDD approved 30 marijuana production, processing and retail applications from September 2016 to September 2017. During this time period, only 9 are licensed with the Oregon Liquor Control Commission (OLCC) for marijuana production and processing operations. All of the operations inspected by staff were in compliance with Deschutes County Code and their land use decision, with an exception to odor mitigation. Two sites that were growing marijuana under an OLCC license did not have an odor mitigation system installed. In addition, one site that was growing marijuana under an OHA license did not have odor mitigation installed either. If a site was licensed by the OHA before June 2016, they must comply with lighting, odor, noise, screening, water, security cameras and secure waste disposal regulations. Although these sites did not have odor mitigation systems installed, staff could only smell marijuana at the entrance of the buildings where marijuana was growing. Staff did not believe the odor, at the time of inspections, would "unreasonably interfere with a neighbors' use and enjoyment of their property." Staff notes that one site, which is converting from a medical grow to recreational, has an active code enforcement case concerning marijuana odor. CDD staff is working with the licensee to ensure their proposed odor mitigation system is operational in a timely manner.

The concerns expressed by opponents are likely directed at marijuana uses that were not permitted under land use. Instead, these uses are probably personal cultivation; pre-existing or new medical grows that do not comply with Deschutes County's standards; hemp; or illegal grows. Regarding registered medical grow sites, due to confidentiality requirements in state law, the Oregon Health

Authority (OHA) limits disclosure. This prevents CDD from verifying these operations comply with Deschutes County’s marijuana regulations.

CDD offers three options for reconsidering Deschutes County’s marijuana regulations.

Option 1 - Continue monitoring while implementing the Board’s interpretations of the marijuana regulations. Per the Board’s direction, inspections will continue this fall to assess newly approved and OLCC licensed recreational marijuana production and processing operations.

Option 2 - Revise and/or clarify current marijuana regulations stemming from Board decisions.

- Noise Mitigation: Document expert qualifications, experience, methodology, and analysis that noise is properly mitigated on a site specific basis.
- Odor Mitigation: Document expert qualifications, experience, methodology, and analysis that odor is properly mitigated on a site specific basis.
- Setback Exception: Reduced setbacks must demonstrate that they will afford equal or greater mitigation of the marijuana production facility to surrounding public and private properties.
- Site Plan Review: Proposed development shall relate harmoniously to the natural environment and existing development. The purpose of the site plan review is to “promote functional, safe, innovative and attractive site development compatible with the natural and man-made environment.”
- Utility Verification: Utility statements shall identify the proposed operation, or operational characteristics such as required electrical load and timing of such electrical loads.
- Water Provider: Water use from any source for marijuana production shall comply with all applicable state statutes and regulations including ORS 537.545 and OAR 690-340-0010.

Option 3 - Revisit the prominent regulatory themes that emerged through the public involvement process as shown in Table 1. This option may also address gaps or supplement state agency regulations and/or enforcement.

Table 1 – Prominent Regulatory Themes

Category	Summary
Access	<ul style="list-style-type: none"> • Clarify if consent from easement grantees is required if the subject property owner is the grantor of the easement.
Annual Reporting	<ul style="list-style-type: none"> • Specify when on-site inspections are completed. • Require multiple on-site inspections. • Allow unannounced inspections. • Clarify County staff to conduct the inspections.
Dwellings	<ul style="list-style-type: none"> • Clarify prohibition of dwellings in conjunction with marijuana production pertains to qualifying for a “farm-related dwelling.”

Category	Summary
Noise	<ul style="list-style-type: none"> Require detail of engineer’s qualifications, experience, methodology, or analysis for the proposed site. Clarify what “sustained noise” associated with mechanical equipment entails. Keep or modify the 30 dB(A) standard. Modify the 10:00pm-7:00am time period when noise standard is applicable.
Odor	<ul style="list-style-type: none"> Require detail of engineer’s qualifications, experience, methodology, and analysis for the proposed site. Clarify what detail from the mechanical engineer report is required for “demonstrating” the odor control system will control odor for the specific purpose. Clarify intent or terms of “reasonable enjoyment of their property.”
Setback Exceptions	<ul style="list-style-type: none"> Clarify/specify when an exception can be granted. Remove exception option.
Separation Distances	<ul style="list-style-type: none"> Provide specificity to definition of “child care center.” Define “youth activity center.” Modify standard(s).
Setbacks	<ul style="list-style-type: none"> Modify standard(s).
Traffic Impacts	<ul style="list-style-type: none"> Require traffic study for marijuana production. Reconsider using warehouse for trip generation rate for marijuana production for System Development Charges (SDCs).
Utility Verification	<ul style="list-style-type: none"> Require more specificity on type of use, required electrical load, and any required system upgrades.
Waste Disposal	<ul style="list-style-type: none"> Clarify when, if, or how composting can be used for disposal of plant materials.
Water	<ul style="list-style-type: none"> Clarify water “provider” means source of water. Clarify when, how, or if delivered water can be used. Require specificity on required volume or timing of water use and confirmation the provider is willing and able to provide the needed capacity.
Zoning	<ul style="list-style-type: none"> Maintain or change where marijuana related uses are permitted outright or conditionally. Allow marijuana wholesale use in conjunction with marijuana production in EFU zone.

II. Background

The Deschutes County Zoning Ordinance, Section 18.116.330, establishes standards for marijuana production, processing, wholesaling, and retail operations. These standards mitigate impacts associated with lighting, noise, odor, water, waste disposal, and access, among others. They represent just one set of standards that apply to medical and recreational marijuana. OLCC is the state agency responsible for licensing and implementing the recreational marijuana program. OHA administers a similar program for medical marijuana. In addition, as shown in Table 2, other agencies oversee aspects of this industry.

Table 2 – Regulatory Agencies Overseeing Marijuana

Local	State of Oregon
Deschutes County Building Division	Building Codes Division
Deschutes County Environmental Soils	Oregon Department of Agriculture
Deschutes County Planning Division	Oregon Department of Environmental Quality
Fire Districts	Oregon Water Resource Department
Irrigation Districts	State Fire Marshal's Office

Implementation

Cultivating marijuana and hemp must abide by local and state regulations:

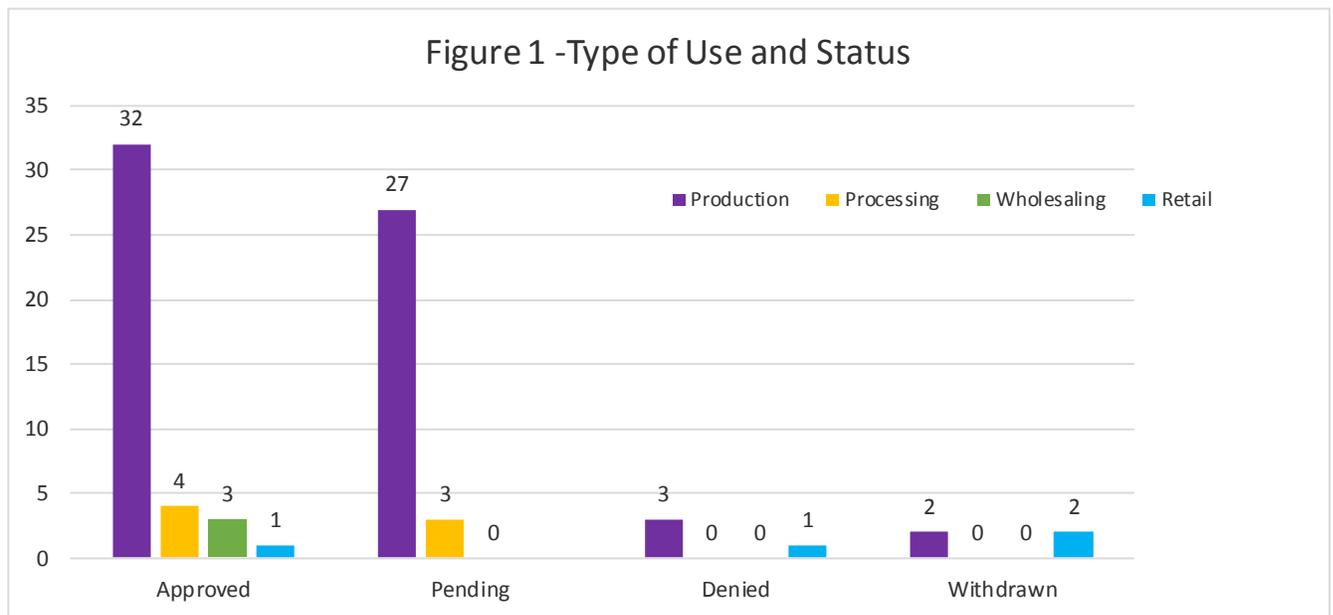
- Recreation and medical marijuana production operations.
 - Subject to local land use regulations.
 - Also subject to OLCC licensing for recreational marijuana or OHA registration for medical marijuana.
- Pre-existing medical marijuana grow sites.
 - If the site was established prior to June 2016, they are allowed to continue to operate without land use review but are subject to specific local land use regulations.
 - After June 2016, medical marijuana grow sites require land use approval by Deschutes County.
- Personal grows.
 - Up to four plants can be cultivated for personal uses. Personal marijuana grows are not subject to local or state regulations.
- Industrial hemp.
 - Regulated by the Oregon Department of Agriculture (ODA). Oregon's Right to Farm Law prohibits counties from regulating hemp compared to medical and recreational marijuana.
 - ODA requires a handler's permit.
- Illegal production operations.
 - Such operations lack required land use permits, OLCC or ODA licensing, or OHA registration. In many cases, there is no path to compliance because zoning or applicable local and state land use regulations prohibit it.

Given the regulatory oversight noted above, the various types of marijuana and hemp cultivation often complicate efforts to verify and ensure compliance. In particular, code enforcement staff must substantiate violations before identifying the appropriate remedy. Verifying a violation can be

challenging when one considers variable conditions such as wind, weather, and indoor growing operations. The County’s Code Enforcement Manual establishes the processes to correct the violation.

Land Use Permitting History

The Board adopted marijuana regulations in June 2016. They went into effect in September 2016. Deschutes County has approved 32 marijuana production, 4 marijuana processing, 3 marijuana wholesaling, and 1 marijuana retail operations as of March 9, 2018. Thirty are pending. According to OLCC there are 14 active OLCC licenses as of March 9, 2018. There are 6 types of recreational marijuana licenses: Producer (grower), Processor, Wholesaler, Retail, Laboratory, a Certificate for Research, and a Hemp Certificate. An active OLCC license is required to participate in the Oregon recreational marijuana market. Figure 1 shows the type of marijuana uses in Deschutes County and their status as of March 9, 2018.



Tables 3 and 4 highlight, as of March 9, 2018, approved marijuana production facilities. A vast majority of the decisions has been issued administratively. Table 5 summarizes pending marijuana production and processing applications.

Table 3 – Approved Marijuana Production and Processing Operations / Zoning

Zoning District	Approvals	Percentage
Exclusive Farm Use	34	94%
Multiple Use Agriculture	2	6%
<i>Total</i>	36	100%

Table 4 – Approved Marijuana Land Use Decisions (includes retail and wholesaling)

Approval Body	Number	Percentage
Administrative	36	90%
Hearings Officer	2	5%
Board of County Commissioners	2	5%
<i>Total</i>	40	100%

Table 5 – Pending Marijuana Production and Processing Applications / Zoning

Zoning District	Number	Percentage
Exclusive Farm Use	28	93%
Multiple Use Agriculture	2	7%
<i>Total</i>	30	100%

Annual Reporting

Marijuana production, processing, and retail permits issued by Deschutes County require submission of annual reporting information to verify compliance with the required standards and conditions of approval. Staff conducts an on-site inspection as part of this process. As stated previously, CDD approved 30 marijuana production, processing and retail applications from September 2016 to September 2017. In February 2018, a request for submission of an annual report was sent to these operations.

Included in the annual report is request for confirmation if or when System Development Charges (SDCs) will be paid. SDCs are a one-time fee imposed on new development to fund transportation infrastructure. These fees are necessary to provide adequate funding for growth-related capital improvement vital to maintaining County road services. The SDC is based on a trip rate from the Institute for Transportation Engineers Manual. Deschutes County is assessing SDCs for new structures developed in association with marijuana related uses, including greenhouses. One challenge with assessing SDCs for marijuana production pertains to greenhouses. Many greenhouse do not require a building permit. Without one, no final occupancy permit can be withheld until SDCs are paid. Because of this, SDC collection requires staff to follow up with the permittee to ensure payment.

Staff received an annual report from all 30 operations and conducted a site visit on 28 of the operations. One operation was not available for a site inspection due to a scheduling conflict, however a site inspection is scheduled for early April 2018. Another operation submitted a letter to CDD stating they are not moving forward on initiating the approved use. Thus, no site visit was conducted. As of March 9, 2018, there were 14 active OLCC-approved marijuana operations in Deschutes County. Two operations have a wholesale license, which do not require an annual report or inspection under County Code. Nine production sites were operational at time the time of site visit; one was not operational. Only one processing site was operational. Staff notes there is one operation that did not receive local land use approval, but apparently has an OLCC approval to grow recreational marijuana. It appears the operation did not need a Land Use Compatibility Statement and that OLCC issued a recreational license without coordinating with Deschutes County. Staff is following-up with OLCC.

CDD staff inspected nine sites that received land use approval and an OLCC license. One site received approval as both a production and processing facility. A total of nine operations were actively growing marijuana during staff's site inspections. Three sites were growing marijuana in hoop houses, two sites were growing in rigid-framed structures, and four sites were utilizing a combination of hoop houses and conventional structures. The processing lab was in a commercial-grade structure.

Of the 20 remaining sites that were not operational, 16 sites have had structures built for the operation or were approved to use an existing structure. Four sites had not begun construction. The sites that had completed their structures were waiting on OLCC for final approval. The four sites that had not begun construction, stated they were debating whether to act on their land use approval because of market conditions.

Of the 30 operations that received land use approval, there are 14 sites converting from an OHA medical license to an OLCC recreational license. The submitted annual reports indicated seven operations were growing medical marijuana under an OHA permit until they receive their state recreational license. Seven of the nine active recreational production operations were previously medical grows.

All of the operations inspected by staff were in compliance with Deschutes County Code and their land use decision, with an exception to odor mitigation. Two sites that were growing marijuana under an OLCC license did not have an odor mitigation system installed. In addition, one site that was growing marijuana under an OHA license did not have odor mitigation installed either. If a site was licensed by the OHA before June 2016, they must comply with lighting, odor, noise, screening, water, security cameras and secure waste disposal regulations. Although these sites did not have odor mitigation systems installed, staff could only smell marijuana at the entrance of the buildings where marijuana was growing. Staff did not believe the odor, at the time of inspections, would "unreasonably interfere with a neighbors' use and enjoyment of their property". Staff notes that one site, which is converting from a medical grow to recreational, has an active code enforcement case concerning marijuana odor. CDD staff is working with the licensee to ensure their proposed odor mitigation system is operational in a timely manner.

Each site that was operational had mature canopies well below their allotted maximum. Staff did not note any noise concerns from the property lines of active operations. The site inspections were conducted during the day, so lighting requirements could not be verified. However, each operation that was utilizing greenhouses had black-out curtains or did not have lights within the structure. Staff reviewed the screening and fencing requirements specific to each operation and all were compliant. Waste disposal was appropriately contained within secured structures. Security cameras were installed and operational for all active production and processing sites. Staff did not see any cameras that were directed toward neighboring properties.

Each site that received local land use approval welcomed staff onsite to conduct the inspections and were transparent in their operations. There were three licensees concerned about the consent to inspect language within the annual report. After staff explained to them that only land use planners were conducting the site visits, concerns were alleviated and the inspections were carried out.

Staff learned through the annual report and site visit process that the initial investments for a marijuana operation are at such a high rate that each licensee is dedicated to ensuring their operation is in

compliance with local and state regulations. Furthermore, every operator stated that CDD staff and elected officials are welcome to inspect their operations at any time.

Although only a few operations were active during the initial annual report, the reporting and site inspection process itself is important to ensure compliance with County regulations and transparency within this emerging industry. The process also provides decision makers an opportunity to understand how land use decisions are implemented and what impacts are created from the decisions.

III. Public Involvement Process

In June 2016, the Board adopted eight ordinances to regulate the marijuana production, processing, wholesaling, and retail industries. Recognizing the unique development patterns in the rural county, regulations mitigate sight, sound, smell, water, waste disposal, and access, among others. They are unique among Oregon counties in three ways:

1. Discretionary standards allow the industry to utilize emerging technologies for growing and processing marijuana to demonstrate regulatory compliance;
2. Applications require notification to neighboring property owners which provides opportunities for public involvement in land use proceedings; and,
3. Development standards summarized above take into consideration rural zoning, lot patterns, high desert climate, and agricultural practices.

After adopting the ordinances, the Board committed to reevaluating the marijuana regulations. The purpose of the regulatory assessment is twofold:

- Summarize comments from stakeholder, residents, interested parties, and state agencies and law enforcement regarding the effectiveness of the marijuana regulations; and
- Identify regulatory options.

In October 2017, CDD prepared an *Existing Conditions Report* (**Appendix E**). It describes the marijuana applications submitted to Deschutes County from September 2016 through September 2017. The document also summarizes the County's marijuana regulations and code enforcement approach. Upon its release, CDD initiated a public involvement process to identify prevailing opinions among industry representatives, focus groups, stakeholders, and the general public.

Focus Groups

Two focus groups were convened in November 2017. One consisted of representatives of the Deschutes Chapter of the Oregon Farm Bureau (FB), Deschutes County Marijuana Advisory Committee (MAC) and marijuana businesses that received County land use approval. The other was comprised of property owners proximate to the same marijuana businesses represented in the other focus group. Participants were selected because of their experiences implementing marijuana regulations and in the case of neighbors, assessing their effectiveness in mitigating impacts primarily from marijuana production and processing. A summary of both focus groups is included in **Appendix A and B**.

- *Industry Focus Group*: Invitations were sent to the FB, representatives of the marijuana industry that received both land use approval from Deschutes County and an active license with OLCC as well as industry representatives that participated on the MAC. Many claim the County's regulations go too far and effectively prohibit a farm use, particularly when applied to marijuana production in the Exclusive Farm Use zone because it is defined as a farm use in state law.
- *Neighbor Focus Group*: Invitations were sent to property owners within 250 feet of marijuana operations that received land use approval from Deschutes County and an active license with the OLCC. Forty-five invitations were mailed and 6 replied. In addition, several members of the public attended. At the conclusion of the focus group, an open forum was provided for those in attendance to provide comments. Many felt the regulations are too lenient and ineffective at

mitigating impacts. Some advocated that Deschutes County should stop permitting marijuana related land uses all together. Others voiced concerns with enforcement if compliance is not achieved.

Stakeholder Interviews

Staff conducted stakeholder interviews with agencies and service providers that are involved or impacted by the marijuana industry (production, processing, or retailing). Members of the MAC were also invited to participate. The interviews were uniquely tailored to the role and responsibilities of each entity. Participants offered recommendations for improving coordination. Table 6 lists the stakeholders. Their comments are summarized in **Appendix C**.

Table 6 – Stakeholder Comments

Invited Stakeholders – Agency and Service Providers	
Deschutes County	Deschutes County Building Division Deschutes County Sheriff Deschutes County Road Department
Fire Districts	Alfa Fire District Bend Fire District Cloverdale Fire District La Pine Fire District Redmond Fire District Sisters Fire District
Irrigation Districts	Arnold Irrigation District Central Oregon Irrigation District Swalley Irrigation Districts Three Sisters Irrigation District Tumalo Irrigation District
State Agencies	Oregon Department of Agriculture Oregon State Fire Marshal Oregon Liquor Control Commission Oregon Water Resource Department
Utilities	Central Electric Co-Op Mid-state Electric Co-Op Pacific Power

Panel Discussions

In January and February 2018, the Board also conducted a series of work sessions with state and local agencies and service providers to understand their roles and responsibilities and to identify opportunities for the County to assist in regulating or enforcing this new industry. Table 7 lists the panelists and summarizes their respective comments. The panel discussions are available through Board meeting minutes and video archives (<http://deschutescountyor.ig2.com/Citizens/Default.aspx>).

Table 7 – Panelist Comments

Panel	Comments
<p>Water Law and Marijuana</p> <p>(January 10, 2018)</p> <ul style="list-style-type: none"> • Kyle Gorman – South Central Regional Manager, Oregon Water Resource Department • Chris Schull – Watermaster, Tumalo Irrigation District • Leslie Clark – Water Rights Manager, Central Oregon Irrigation District 	<ul style="list-style-type: none"> • Supplemental water right means a ground water right supplementing a surface water right. • Irrigation districts appreciate opportunity to comment on applications so that patron understands rights and responsibilities of their water right. • Water may be appropriated for a “beneficial use.” Patrons must allow access year-round to prove water is going toward beneficial use. • Water rights priority date is key when it comes to regulation. Majority of water rights are for agricultural irrigation and are for the season of use. Year-round water use requires municipal source, nursery right, etc. • There are 250,000 acres in the Deschutes Basin. • The OWRD reviews changes of water rights. • “Injury of ground water” is a legal term used when a well for previous water right runs dry. Each water right is reviewed for impact to resource. • An aquifer “budget” was completed in 1998 and indicated no measureable change. However, recently some areas show one foot decline each year. • Climate is biggest driver of change, not use or inefficiencies. • Many wells drilled in 1970/80s stopped at water level and did not go deeper for long term assurance. A shallow well running dry does not constitute injury. • OWRD has observation wells that can show signs of decline. • OWRD is confident fluctuations are natural. • Applicable water law is dependent if the purpose of the marijuana is personal or commercial. • Allocation of new water right is rare. Mitigation is required. • Nursery use allows water use throughout the year. • Cultivation of recreational marijuana can be a nursery use. • An “authorized facility” is a municipal water right (e.g. city, Avion) and can be applied to any use. • Irrigation district access to canals is required but districts are finding barriers to access such as locked gates. • OWRD access to properties has been limited due to limitations in state law. • There are no maximum distance a water right can be transferred as long as it is within the same aquifer and has no greater impact. • Mitigation allowances are limited to same aquifer. • City ordinances impacting water rights have been challenged in courts. Historically the state has won legal challenges. • Marijuana cultivation has had a minimal impact on the 250,000 acre Deschutes River basin. • OWRD is the legal authority over water rights, wells, etc., not local government.

Panel	Comments
<p>Oregon Department of Agriculture Regulation of Marijuana and Hemp</p> <p>(January 17, 2018)</p> <ul style="list-style-type: none"> Sunny Jones - Cannabis Policy Coordinator, Oregon Department of Agriculture Jim Johnson - Land Use and Water Planning Coordinator, Oregon Department of Agriculture 	<ul style="list-style-type: none"> The term “cannabis” includes both marijuana and hemp. State law does not allow local land use regulations for industrial hemp cultivation. Industrial hemp is defined as ≤0.3% THC as an average for the entire crop at time of harvest. A hemp producer must have their product tested for THC levels no more than 28 days in advance of harvest. ODA reviews pesticide regulations, water run-off, food safety, weights and measures, pest identification and pathology. There are approximately 70 registered hemp growers throughout Oregon as of 2017; staff expects around 300 in 2018. Hemp is just one of many crops regulated by ODA. Processing of hemp falls under a land use review (site plan), similar to all other crops per State EFU law; commercial operation in conjunction with farm use is a conditional use per State law. Hemp handler license requires LUCS at county/city level to ensure location appropriate for the use. Hemp byproduct can be composted. There is no concern of THC in byproduct because the flower has already been extracted. There are no routine pesticide review for crops. Cannabis requires pesticide testing, just like all other crops. Concerns about agriculture water quality and pesticide misuse should be sent to ODA for investigation. No indications that cannabis has greater impact on water quality than any other crop. There are no pesticides specifically labeled for cannabis. ODA has list of legally available pesticides.
<p>OLCC Regulation of Marijuana and Hemp</p> <p>(January 29, 2018)</p> <ul style="list-style-type: none"> Steven Marks, Executive Director Danica Hibpshman, Director of Statewide Licensing & Compliance Amanda Borup, Operations and Policy 	<ul style="list-style-type: none"> 145 license applications in Deschutes County, including cities (2 labs, 25 processors, 70 producers, 30 retailers, 18 wholesalers) 56 active licenses (1 Lab, 10 processors, 18 producers, 20 retailers, 7 wholesalers) Licensing challenges including changes to state law, limited staffing leading to backlog, delayed license renewal, and license changes. Industry and stakeholders concerned with oversupply and rescinding of Cole Memo by the Sessions Memo. Enforcement is primarily compliant based analysis of Marijuana Enforcement Tracking Reporting Compliance (METRC) system. Enforcement process moving to more proactive approach including regular compliance visits, additional staff to monitor METRC, and minor decoy operations. License renewals area provide a means of enforcement and education. Updating coordination with state and local law enforcement.

Panel	Comments
<p data-bbox="214 396 491 487">Oregon Health Authority Medical Marijuana Program</p> <p data-bbox="243 522 462 552">(February 14, 2018)</p> <ul data-bbox="201 591 491 714" style="list-style-type: none"> • Chris Westfall, Oregon Medical Marijuana Program Compliance Unit Manager 	<ul data-bbox="571 243 1890 863" style="list-style-type: none"> • Medical marijuana program started in 1998. • Medical marijuana dispensaries were allowed by State law. • Confidentiality standards for nondisclosure of grow site locations is established by ORS 475B. • SB 56 provided local jurisdiction hotline for officials to obtain individual grow site location information. Previously, only law enforcement could obtain this information. • Health Insurance Portability and Accountability Act (HIPAA) nondisclosure protection provided for doctor's prescription. • Dispensaries are inspected prior to registration and annually. • Grow sites are inspected if complaint received. • There are currently 5 staff inspectors. • 3700 grows sites statewide are required to submit monthly online report on quantity produced. Reporting may move to Cannabis Tracking System in June. • Inspectors have not had issue with access to properties. • Inspections are announced for efficiency. If not announced, an inspector may find no one is available to provide access. Inspectors have found very good compliance. • The program operated virtually unregulated for 18 years. Regulatory oversight authority and testing was established in 2016. • There is no authority to verify if a grow site is no longer in production after expiration or surrender of registration. Inspections are only allowed for registered sites.

Citizen Input

An online qualitative survey and written comments provided opportunities for citizen input. CDD received over 330 survey responses and 40 comments throughout November 2017. The online survey results are shown graphically in Figures 2 through 4 below. Citizen input is summarized in **Appendix D**.

Figure 2 - Online Survey Results

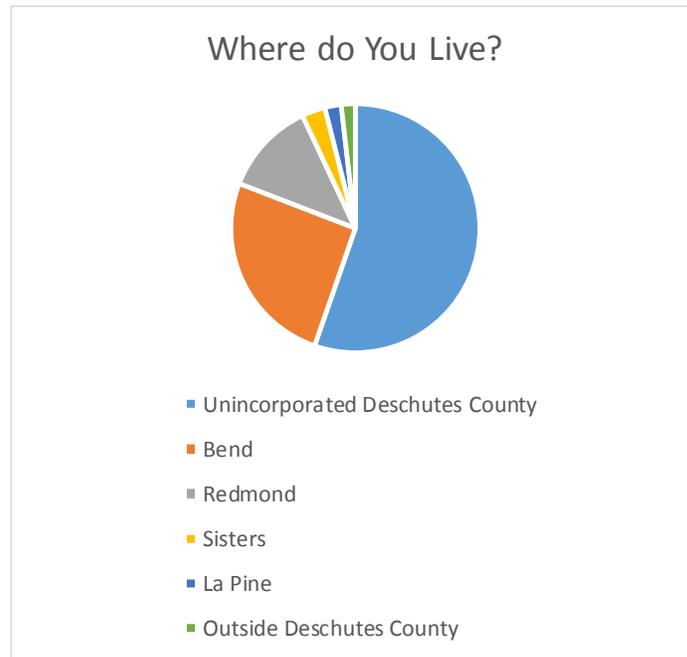


Figure 3 - Online Survey Results

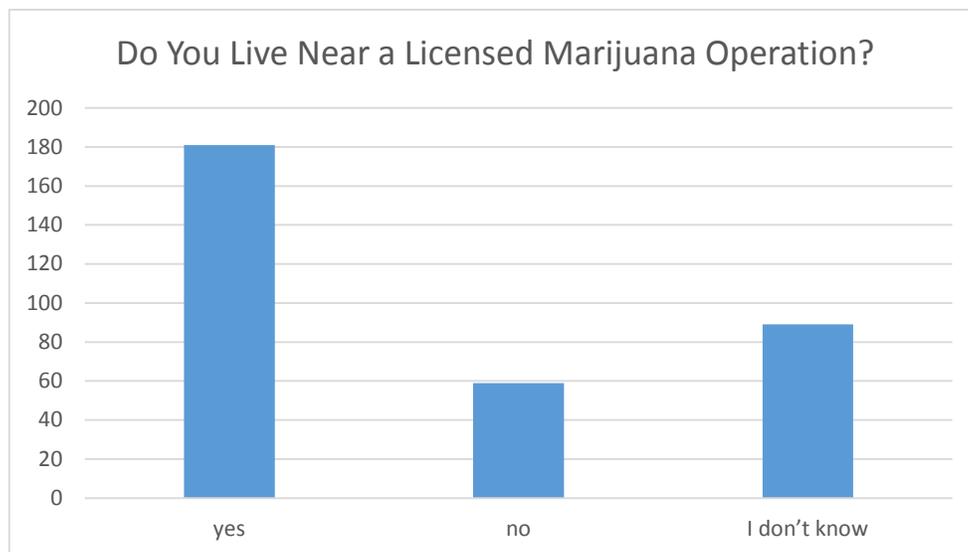


Figure 4 - Online Survey Results

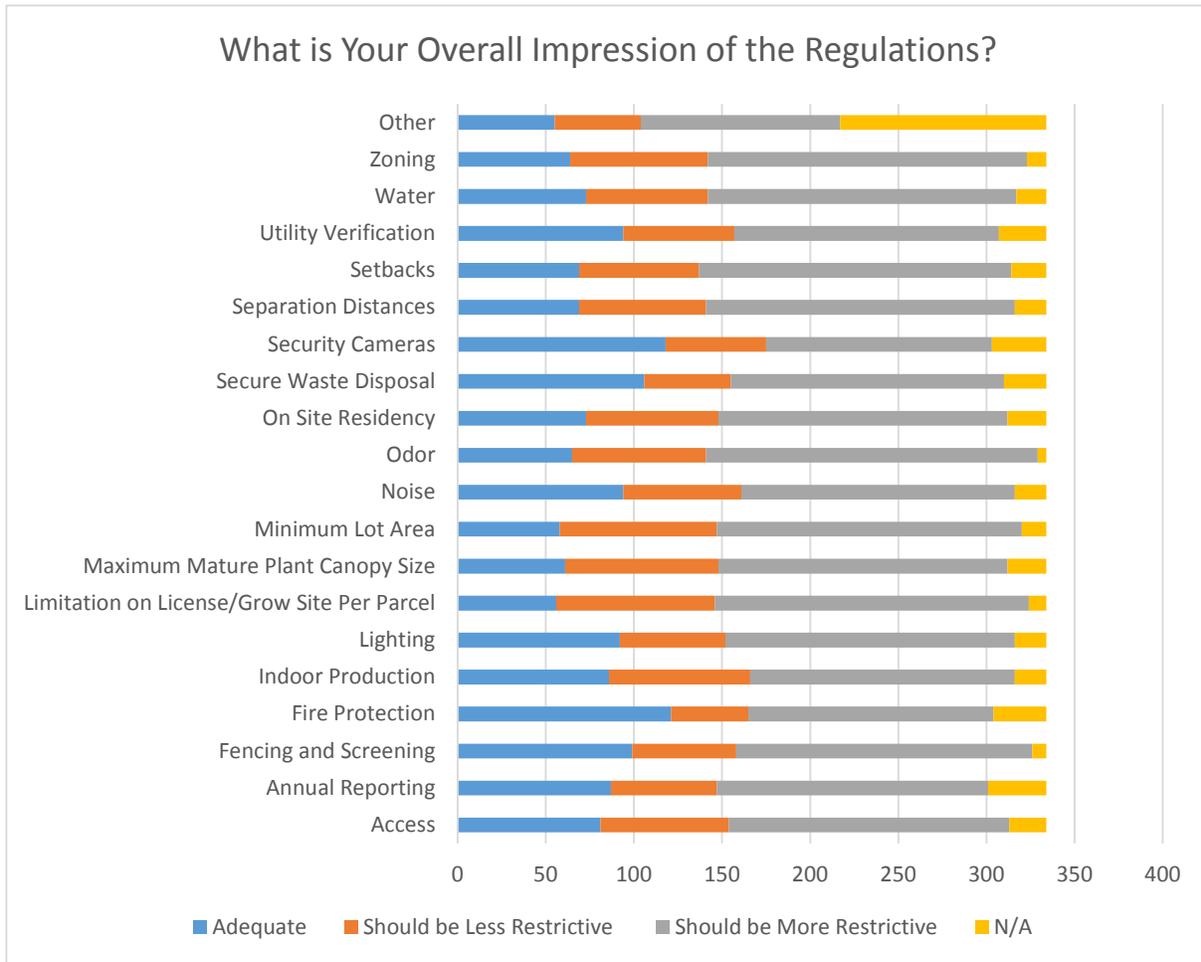


Table 8 summarizes the most prominent issues raised by citizens.

Table 8 – Prominent Issues Raised by Citizens

Regulations are Too Restrictive
<p>Based on the State of Oregon defining marijuana production as a farm use, many believe the regulations should be relaxed as they pertain to:</p> <ul style="list-style-type: none">• Mature Canopy Area• Lighting• Noise• Odor• Utility Verification• Required Land Use Review Process
Regulations are Not Restrictive Enough
<ul style="list-style-type: none">• <u>Annual Reporting</u>: Inspections should be more frequent, during plant maturity, and unannounced.• <u>Water Usage</u>: Concern that water is being used illegally, excessively, and with limited enforcement.• <u>Noise</u>: Drone of fans and equipment have as much impact as volume.• <u>Lighting</u>: Need protection of dark skies.• <u>Odor</u>: Odor control systems are ineffective at mitigating odor impacts on nearby properties.• <u>Setbacks and Separation Distances</u>: Too close to dwellings and too many grows in a concentrated area.• <u>Traffic Impacts</u>: Areas where marijuana related uses are operating have experienced increases in traffic.
Regulations that Need Clarification
<ul style="list-style-type: none">• <u>Utility Verification</u>: Information provided by utility must be specific to the subject property and proposed use.• <u>Odor Control</u>: Plans must demonstrate effective odor control accounting for site specific conditions.• <u>Noise</u>: Measurements must account for site specific conditions.

IV. Next Steps

Marijuana remains a divisive issue in rural Deschutes County. There are strong opinions that marijuana production, processing, and retailing should not be permitted because they are incompatible with surrounding rural residential properties. Conversely, there are strong opinions that marijuana related uses are legal in the State of Oregon and should be allowed. Further, marijuana production is recognized as a farm use in Oregon and many argue that Deschutes County's marijuana land use regulations are too restrictive in comparison to other farm activities.

Assessment Results

Based on the assessment, CDD offers the following conclusions. Due to the limited number of approvals, it is difficult to assess the effectiveness of Deschutes County's regulations. CDD approved 30 marijuana production, processing and retail applications from September 2016 to September 2017. During this time period, only 9 are licensed with the Oregon Liquor Control Commission (OLCC) for marijuana production and processing operations. All of the operations inspected by staff were in compliance with Deschutes County Code and their land use decision, with an exception to odor mitigation. Two sites that were growing marijuana under an OLCC license did not have an odor mitigation system installed. In addition, one site that was growing marijuana under an OHA license did not have odor mitigation installed either. If a site was licensed by the OHA before June 2016, they must comply with lighting, odor, noise, screening, water, security cameras and secure waste disposal regulations. Although these sites did not have odor mitigation systems installed, staff could only smell marijuana at the entrance of the buildings where marijuana was growing. Staff did not believe the odor, at the time of inspections, would "unreasonably interfere with a neighbors' use and enjoyment of their property." Staff notes that one site, which is converting from a medical grow to recreational, has an active code enforcement case concerning marijuana odor. CDD staff is working with the licensee to ensure their proposed odor mitigation system is operational in a timely manner.

CDD offers three options for reconsidering Deschutes County's marijuana regulations.

Option 1 - Continue monitoring while implementing the Board's interpretations of the marijuana regulations. Per the Board's direction, inspections will continue this fall to assess newly approved and OLCC licensed recreational marijuana production and processing operations.

Option 2 - Revise and/or clarify current marijuana regulations stemming from Board decisions.

- Noise Mitigation: Document expert qualifications, experience, methodology, and analysis that noise is properly mitigated on a site specific basis.
- Odor Mitigation: Document expert qualifications, experience, methodology, and analysis that odor is properly mitigated on a site specific basis.
- Setback Exception: Reduced setbacks shall demonstrate that they will afford equal or greater mitigation of the marijuana production facility to surrounding public and private properties.
- Site Plan Review: Proposed development shall relate harmoniously to the natural environment and existing development. The purpose of the site plan review is to "promote functional, safe, innovative and attractive site development compatible with the natural and man-made environment."

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- Utility Verification: Utility statements shall identify the proposed operation, or operational characteristics such as required electrical load and timing of such electrical loads.
 - Water Provider: Water use from any source for marijuana production shall comply with all applicable state statutes and regulations including ORS 537.545 and OAR 690-340-0010.

Option 3 - Revisit the prominent regulatory themes that emerged through the public involvement process as shown in Table 1. This option may also address gaps or supplement state agency regulations and/or enforcement.

APPENDIX A

Appendix A

Industry Focus Group Summary

Marijuana Criteria	Regulations			Comments
	Adequate	Too Restrictive	Not Restrictive Enough	
Access		X		<ul style="list-style-type: none"> • Criterion is a legal issue, not a land use issue. • The regulation goes too far: a neighbor has veto power over the use of one’s property.
Annual Report		X		<ul style="list-style-type: none"> • Annual requirement should be at no cost to the applicant. • Creates opportunity for corruption because the criteria are discretionary. • The annual report should be a self-report. • Any reporting should be limited to state renewal of license. County should not double up.
Fencing and Screening	X			<ul style="list-style-type: none"> • Confusion about requirements. Not an issue once understood by applicants.
Fire Protection		X		<ul style="list-style-type: none"> • Option should be allowed for property owner to provide onsite protection measures. • There should be no reason to regulate. • If processing, standard is okay. • Lots of disagreement amongst this topic. • State requirements are more restrictive, thus county regulations shouldn’t be required.
Indoor Production		X		<ul style="list-style-type: none"> • The focus group unanimously agreed this is too restrictive – unanimous approval. Standard should be eliminated in EFU.
Lighting		X		<ul style="list-style-type: none"> • Right to farm rules are being violated • Regulations are burdensome for typical business practices • Lighting standards should be aligned with same standards as all crops. • Lighting standards are in violation of state law. • Lighting standards are basically a prohibition and should be scaled back to a restriction. The focus group unanimously agreed. • Lighting standards shouldn’t be required on EFU zones. • Dark sky ordinances should be supported. • Restriction should be lifted during hours like 12am – 2am.
License Limitation		X		<ul style="list-style-type: none"> • Should be tax lot rather than parcel. • Default should be state statute.
Mature Plant Canopy Size		X		<ul style="list-style-type: none"> • Canopy size is too restrictive; should be increased. • The parcel size categories are arbitrary, there is no basis for these regulations.

Marijuana Regulatory Assessment

Marijuana Criteria	Regulations			Comments
	Adequate	Too Restrictive	Not Restrictive Enough	
				<ul style="list-style-type: none"> The code should be amended to allow an owner of a 20 acre parcel or more, they are able to ask county to allow canopy size of 40,000 square feet. Requires proof of no impact and compliance with regulations. Requirement is intrusive to neighborhood because growers will buy up land. Default should be state requirement. In an EFU zone, there should be no standard. In an EFU zone, and the parcel is greater than 20 acres, there should be no standard (there will be a lot of pushback otherwise). If there is a limit on canopy size based on acreage, the county should allow an exception.
Minimum Lot Area		X		<ul style="list-style-type: none"> There should be no standard in EFU zone. If it is too small to be a farm, then it shouldn't be zoned EFU.
Noise		X		<ul style="list-style-type: none"> Ambient noise is over 30 dba – the noise restrictive is extremely too restrictive. The 30 dba standard is an arbitrary number – what is the basis for it? This regulation is an easy area for neighbors to complaint. One suggestion was for 50 dba, but was not a unanimous supported by the focus group. In an EFU zone, there should not be any sound limitations. Other farm operations that would be allowed will definitely exceed the 30 dba standard. Right to farm act is being violated under this regulation as well. Unanimous support for no limitations on noise in EFU zone. Some supported noise limit within MUA10 zone. The time of measurement is not much of a factor.
Odor		X		<ul style="list-style-type: none"> There should be no odor control in the EFU zone. In other zones, e.g., MUA10, mitigation is reasonable. The odor standard is a target to appeal for those that do not want the plant grown at all. How can you target smell? Is it hemp, is it a neighbor growing 4 plants, or is a commercial grow operations? Odor from the plants is limited to several weeks out of the year.

Marijuana Regulatory Assessment

Marijuana Criteria	Regulations			Comments
	Adequate	Too Restrictive	Not Restrictive Enough	
				<ul style="list-style-type: none"> • Growing hemp around your cannabis grow is an insurance because odor cannot be attributed to cannabis versus hemp. • Regulations increase energy usage by ten times. • Regulations support black market because of costs. • Retaining standards in a mixed use zone is okay.
Onsite Residency	X			
Secure Waste Disposal				<ul style="list-style-type: none"> • It is repetitive and is covered in statute.
Security Cameras	X			
Separation Distances		X		<ul style="list-style-type: none"> • It is more restrictive than statute. • Defer to statute.
Setbacks	X			<ul style="list-style-type: none"> • Adequate because of exception process.
Utility Verification		X		<ul style="list-style-type: none"> • There is a lot of discrepancy in this standard, should be clear what the requirement is. • County should not be involved in a regulation when it is unnecessary. • Creates a large barrier to start business; not equivalent to standard for appeals. • Requires a lot of resources from applicant, utilities, and county staff. • Criterion is an opportunity for neighbors to appeal and deny the application. • Utilities are in the business of selling power, they just want a heads up that the use is proposed and coming up. County should not be involved. • The specification on the use in the will serve letter is too restrictive and not necessary. • Criterion is adequate if it is nondiscretionary. • The criterion is another example of the regulations being too restrictive and thus creating a black market. There are unintended consequences.
Water				<ul style="list-style-type: none"> • Concerns about water from opposing parties can increase costs. • The criteria have been met and yet the process is hijacked through this criterion. • Water is only regulated by OWRD, the county has no authority to regulate. • The standard asking for a water right is okay, but it goes too far when use of water is called into question.

Marijuana Regulatory Assessment

Marijuana Criteria	Regulations			Comments
	Adequate	Too Restrictive	Not Restrictive Enough	
				<ul style="list-style-type: none"> OWRD has a strict review, which should be sufficient in and of itself.
Zoning		X		<ul style="list-style-type: none"> In the EFU zone, none of the requirements should be imposed for both production and processing. Varying degree regulations are acceptable across other zones.
Review Process		X		<ul style="list-style-type: none"> The review process is in violation against state statute. The land use process should not be required in the EFU Zone. It is a resource intensive process; should be removed. Could be improved by: floor/site plans should not be public record, discretionary standards should be involved, no public hearings (or at least less subjective requirements). Neighbor notification should not be required. Process allows for neighbors to snoop. A middle road would be a clear and objective standards review – no discretionary standards.
* Other (Wholesaling)		X		<ul style="list-style-type: none"> Wholesale limitations is too restrictive. Preventing marijuana on site is not reasonable. Code should be changed to match OLCC regulations that allows producers to have a wholesale license on same property.
Other (General)	<ul style="list-style-type: none"> Standards should be eliminated on EFU; general support for mitigation regulations on mixed use/residential zones. The main issue the county allowing dwellings in the EFU Zone. In existing report, include breakdown of number of grows in size category. Regulations create a high price to begin business. Because of the high cost to begin business, the black market is flourishing. Deschutes County is the only county in the state with such restrictive requirements. The allowance of hemp totally undermines standards on marijuana. The time it takes to process a land use application is prohibitive. General appreciation and support for staff. 			

APPENDIX B

Appendix B

Adjoining Property Owner Focus Group Summary

Marijuana Criteria	Regulations			Comments
	Adequate	Too Restrictive	Not Restrictive Enough	
Access				<ul style="list-style-type: none"> All the impacted property owners should have to approve the proposed use.
Annual Report			X	<ul style="list-style-type: none"> Needs to be during time of harvest. Interval should be increased to at least monthly. Reporting needs to include site visit from county staff. Annual reporting should include OSHA or MSHA to ensure industrial safety protocols are met. Annual reporting should include fine if in noncompliance. Surprise visit should also be included.
Fencing and Screening			X	<ul style="list-style-type: none"> Screening should include impacts to neighbors, not just landscape management feature. Landscaping should be required. Total screening should be required for all applications.
Fire Protection			X	<ul style="list-style-type: none"> Fire suppression systems need to be mandatory. Fire hydrant technology in place adjacent to marijuana operations. Ensure fire access needs to be required.
Indoor Production				<ul style="list-style-type: none"> The standard is not being complied with... enforcement needs to be addressed. Criteria needs to be enforced through inspection.
Lighting			X	<ul style="list-style-type: none"> The time restriction needs to be expanded. Restriction should match sundown to sunrise to include seasonal variations. Dark sky ordinances should be enforced. Unanimous agreement that standard is not restrictive.
License Limitation	X			<ul style="list-style-type: none"> Standard needs to be upheld, not more than one allowed per parcel.
Mature Plant Canopy Size			X	<ul style="list-style-type: none"> Canopy should be reduced by at least 50%.
Minimum Lot Area			X	<ul style="list-style-type: none"> The minimum should be 10 acres. The minimum should be 20 acres. If the minimum parcel size is increased, there should be a cap on total size of operation.
Noise			X	<ul style="list-style-type: none"> Time regulation limits on noise impacts odor regulation.

Marijuana Regulatory Assessment

				<ul style="list-style-type: none"> • Regulation needs to be expanded. • 30 dba is not sufficient. • Animals and wildlife are being impacted as well. • Density of grow operations can further impact neighbors. • This standard does not take into consideration varying topography, wind direction. • Determinations about the acceptable noise level should be determined by neighbor. • Noise review should be done by an independent source. • Regulation should be expanded 24 hours a day. • Traffic from operations generate significant noise as well. • The use is industrial and should be regulated and zoned appropriately. • Noise from processing needs to be controlled. • Associated noise is impactful as well.
Odor			X	<ul style="list-style-type: none"> • Odor regulation needs to be expanded. • Annual inspections need to be conducted during harvest season, if not once a month. • The standard should speak to having somebody from the state/county that inspects or verifies the odor control system. There are no checks and balances. • There should be fines associated with noncompliance regarding odor. • Enforcement is challenging because winds can change. • Fans complying with the noise standard can impact odor requirement.
Onsite Residency			X	<ul style="list-style-type: none"> • Property owner needs to be onsite in all zones. • Age restriction on who can live on the property.
Secure Waste Disposal			X	<ul style="list-style-type: none"> • Waste should be inspected by EPA to ensure no chemicals can leach into the ground or the groundwater. • Support for the standard, but it needs to be inspected.
Security Cameras	X			<ul style="list-style-type: none"> • Supportive of standard.
Separation Distances			X	<ul style="list-style-type: none"> • The separation distance needs to include neighboring properties with young children living onsite. • Distance should be increased. • Separation needs to include official bus stops.
Setbacks			X	<ul style="list-style-type: none"> • Setbacks need to be increased across the board.

Marijuana Regulatory Assessment

				<ul style="list-style-type: none"> • Suggested a setback of 1,000 feet from neighboring dwelling. • There should be a graduated setback, .e.g., a larger parcel should have a larger setback.
Utility Verification				<ul style="list-style-type: none"> • The criterion needs to be clearer about the BOCC interpretation on this specific requirement. • The will serve letters need to specify the use.
Water			X	<ul style="list-style-type: none"> • Standard is not restrictive enough. • Commercial wells for MJ need to be metered. • OWRD needs to be more restrictive and the county needs to work with them. • There is a concern about ground water drying up because of neighboring marijuana uses. • Marijuana operations should not be allowed to use groundwater. • There should be a guarantee that residential wells will not go dry after marijuana operation starts up. • There should be fines associated with improper water uses. • Property owners want a focus group meeting with OWRD. • The county shouldn't approve land use applications for marijuana without more verification about the local impact from OWRD. • Water usage goes toward plants, and not landscaping which creates dust and impacts neighbors.
Zoning			X	<ul style="list-style-type: none"> • Marijuana uses need to be limited to industrial zones. • If not production, then processing needs to be limited to industrial zones as well.
Review Process			X	<ul style="list-style-type: none"> • Notice radius needs to be expanded to include more neighbors – suggests at least a ½ mile, if not one mile. • Supportive of the full land use process. • Comment and appeal period needs to be expanded. • Notice of land use application needs to be published similar to liquor stores.
Other (Transportation)				<ul style="list-style-type: none"> • A transportation study should be required for all grow applications. • Regulation is sufficient and should be expanded to address access from public road.
Other (General)	<ul style="list-style-type: none"> • Regulations are at a minimum level. If they are rolled back, there will be further impacts. • Energy consumption needs to be regulated and limited. • Each property should have to apply for a separate license. • Traffic impacts... • Density of grow operations can impact neighborhood. – Separation distances should be include neighboring grows. 			

Marijuana Regulatory Assessment

	<ul style="list-style-type: none">• View corridors.• Bed and breakfasts, events, etc. should not be allowed in association with marijuana operations.• Support prohibitive list of uses.• Land use application should include requirement that use is only allowed as long as county has not opted out.• County should put moratorium on new applications during the review.• Impact on rural lifestyles is significant.• Zoning should prohibit urban reserves areas.• “Youth activity” needs to be defined in DCC.• Separation distances need to include wildlife habitat areas.• Code enforcement program on marijuana needs to be expanded.• Separation distances need to include public property (BLM, USFS, etc.)• Marijuana operations negatively impact tourism.
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APPENDIX C

Appendix C

Table 1. Stakeholders - Deschutes County Departments

Sheriff's Office - Sherriff Shane Nelson
<ul style="list-style-type: none"> • Marijuana is illegal under Federal Law. That is our Sheriff's Office stance. We cannot condone the disregard of federal law even though a state law has been passed. • The Constitution holds that state law can be more restrictive than federal law. Not less restrictive. We are seeing that federal funding is being affected as we were unable to apply for federal dollars in the form of a \$30,000 grant that had to do with compliance on federal immigration law. • Our office continues to hear from residents angered over marijuana grow applications and operations that are in existence. They have very real quality of life concerns. As a citizen of this county I would not want a marijuana grow/manufacture/retail location in my neighborhood, near my house, or near areas I frequent. • It is imperative the county ensure tight restrictions so there is no impact on neighbors around these properties. I have received information on two grows where there is no "owner" who will be a resident at the location. Only hired help will reside there. I have also received information that two properties are not "local" as they have investor funding ties from out of the state and out of the country. • Lighting from grows should not pollute outdoor lighting. Many people move to the country to enjoy their surroundings without outside influence that resembles life in more populated areas. • The odor must be controlled at all times. I have heard from many citizens who state there is no "reasonable" marijuana odor and I agree. • I have heard concerns from citizens regarding "constant noise" from generators, AC Units, fans that will affect their quality of life. I know a decibel level is set but there should be mention that prohibits "constant noise." • Finally, I find the fact we have to discuss this at all very ironic. Marijuana is against federal law. Our office has seen an increase on resources to go and investigate these grows. We will continue to see increased demand on our resources as we respond to every call for service.
Road Department – Chris Doty
<ul style="list-style-type: none"> • Collecting System Development Charges has proven to be difficult because many of the uses do not require a building permit.
Building Division – Chris Gracia
<ul style="list-style-type: none"> • Pre-applications are worthwhile. The information that is relayed during this meeting can save time down the road. • After land use approval an applicant may never need a building permit, if they are growing in green house. This creates challenges for enforcement. Mechanical permits are required but do not necessarily require inspections. • The Building Dept. does not always know when a permit is tied to a marijuana land use. Thus, they do not always verify if the building permit conforms with the land use decision. • The marijuana regulations have not influenced the Building Divisions' standards operating procedures or process. However, there has been an increase in questions and inquiries on what is required which impacts work load. • There is an additional cost for marijuana processing applicants because the Division requires a design professional.
Code Enforcement - Staff
<ul style="list-style-type: none"> • Staff have received approximately 50 complaints related to marijuana operations. • A majority of the received complaints are from presumed illegal or nonconforming production operations. • The main complaints revolve around odor, noise, and lighting. • Odor and noise requirements are challenging to enforce because there are too many variables and no precise technology that allows CE staff to pinpoint who is in compliance and who is not. • There should be an inspection or verification process to ensure odor control is operational before use is initiated.

Marijuana Regulatory Assessment

- If a complaint is received on a medical grow, licensed before June 2016, the use may be determined to be a legal, nonconforming use. A lot of time goes into verifying medical grows are in compliance with standards.
- One of the approval criterion medical grows must show compliance with by December 2016 concerns water. This standard is challenging to enforce because CE staff are not responsible to determine what complies and what does not.
- There are no special procedures for code enforcement regarding marijuana operations. This means that CE staff needs to substantiate complaints before any contact can be made. Often times, complaints cannot be substantiated.
- Staff would like clarification on the waste disposal criterion.

Current Planning - Staff

- The exception allowances are difficult to interpret. The criterion is a difficult standard to meet, yet we have several applications that have met the criterion. Was the criterion intended to address topographical differences, heavily vegetated areas, etc., rather than a simple allowance for a lesser setback?
- Staff would like clarification on the “sustained” noise criterion. And clarification on how to address a situation where the ambient noise is above the 30 dB(a) threshold.
- There needs to be greater clarification on the difference between processing of a “farm crop” and marijuana.
- There needs to be more specificity of when an applicant is required to provide written consent to utilize an easement for marijuana production.
- The waste criterion could be clearer. Does composting of marijuana waste need to comply with setback standards and be in a secure container?
- Mature canopy should be defined and it would be helpful if there was a clear policy on how to measure canopy.
- Greater specificity is needed to define “child care center”.
- Utility verification letters are proving difficult to obtain the correct information. The code should specify what is required.
- The code should specify the level of specificity requested by past decisions the Board has issued (utility verification, water right certificate, engineer’s letter).
- Staff recommends that appeals be heard by a Hearings Officer or that fees should be increased to cover staff time involved with appeals that are heard by the Board.
- Pre-applications, counter inquiries and phone calls related to marijuana operations take up a significant amount of time.
- The odor control should be installed and reviewed for compliance with the standards before LUCS is issued.
- The odor limitation requirement is challenging to meet because people have different thresholds for “reasonable enjoyment of their property” when it pertains to odor.
- Staff agrees that site visits should be conducted during harvest seasons, when impacts upon a neighborhood are the greatest.
- One idea expressed amongst the group is that pre-existing medical grows should receive a nonconforming use verification before they can continue. This could be done by citing the exception rules.

Table 2. Stakeholder – Agency & Service Providers

Oregon Dept. of Agriculture – John Harang
<ul style="list-style-type: none"> • ODA’s interaction with marijuana land use operations is limited to processing (food safety). • The Notice of Application is appreciated and allows the Dept. to contact applicants before they get too far in the process. • Harang would appreciate Notice of Decision as well. Once the use is approved, then ODA can step in and work on the specific design of a facility to meet state code. • A condition of approval stating applicant shall coordinate with ODA would be helpful.
Arnold Irrigation District
<ul style="list-style-type: none"> • Irrigation water cannot be used within a structure, although green houses are okay. • If the District receives a Notice of Application, they can provide water right/certificate to staff. • States that it is challenging to understand what is allowed by the County and what is not.
La Pine Fire Department - Chief Supkis
<ul style="list-style-type: none"> • There is a challenge to get water and fire access requirements met for almost all proposed land uses in the EFU Zone. • Process of Notice of Application, Notice of Decision, etc. seems to be working smoothly.
Three Sisters Irrigation District - Marc Thalacker
<ul style="list-style-type: none"> • Most grows the District is aware of are medical. • Expressed concern about the District receiving federal money and the impact on marijuana grows. • The District is only able to provide water March thru November. • He has gathered that growers are looking at purchasing groundwater rights. • Seems that hemp growers are pushing cannabis growers out because of difference in regulatory environment. • Recognizes the time involved in marijuana related applications and suggests that the application fee be increased in an amount reflective of the time spent.
Kevin Sullivan, Oregon State Fire Marshall Office
<ul style="list-style-type: none"> • There is confusion amongst fire officials regarding their involvement in the land use process. • Regulations should be clear on review authority of fire official. • Regulations need to be expanded to clarify requirements for ag-exempt and standard buildings. • Suggests the land use decision includes a requirement the building shall comply with applicable fire codes. • The process could improve through better coordination and communication between planning, building and fire. • Suggests the land use decision requires fire official approval prior to occupancy. • Pre-application meetings should be required, which include participation by a fire official. • Education must be improved. Sullivan suggests a matrix to help applicant understand who they need to talk to and receive approval form prior to initiating the use.
Oregon Water Resource Department – Sam Vanlaningham, Deputy Watermaster District 11
<p>We suggest the following edits to the MARIJUANA PRODUCTION and MARIJUANA PROCESSING sections.</p> <ul style="list-style-type: none"> • PRODUCTION: WATER The State of Oregon requires a water right for commercial irrigation unless there is a legal public or private water provider or an exempt source. The applicant shall provide Deschutes County CCD: <ol style="list-style-type: none"> 1. no change [to existing text] 2. no change [to existing text] 3. Keep existing text but add a link to our exempt water form http://www.oregon.gov/owrd/docs/Marijuana_Producer_Exempt_Water_Form.pdf and our more generic brochure

[http://www.oregon.gov/owrd/docs/Water Use and Marijuana Handout FINAL.pdf](http://www.oregon.gov/owrd/docs/Water_Use_and_Marijuana_Handout_FINAL.pdf) that you already link.

- **PROCESSING:**

We suggest removing what you have and inserting this:

WATER

The State of Oregon requires a water right for commercial irrigation unless there is a legal public or private water provider or an exempt source. For non-irrigation commercial processing of up to 5,000 gallons per day, the law allows an exemption pursuant to ORS 537.545 (This exemption DOES NOT include commercial irrigation).

Central Electric Cooperative – Brad Wilson, Director of Operations & Engineering

- My comments will only address utility notification and will serve letters sent to new applicants within Central Electric Cooperative, Inc.'s (CEC's) service territory.
- CEC serves many parts of rural Deschutes County that are currently zoned EFU which is now seeing an increase in demand from this new industry.
- CEC has an obligation, regulated by the Oregon Public Utility Commission (OPUC), to serve customers/members within the territory assigned by the OPUC.
- For years, CEC has issued a "Will Serve Letter" to accommodate a variety of needs from financing to land use for development projects within the seven counties served.
- It's important to understand that this new industry creates large loads not typically expected or designed for in the past which will create challenges for some of the operations proposed.
- CEC has chosen to include pertinent information in the will serve letter, when applicable, to alert the potential applicant that some infrastructure may need upgraded to accommodate their request. This information is for the applicant to make an informed decision, not as an obstacle to development.
- Currently, Deschutes County is the only county requiring this very specific information to be included in the will serve letter regarding these developments. CEC understands that we are working together to develop a more streamlined process and does not wish to create confusion among the applicants and planners. There has been some confusion regarding CEC's use of the word location in its "will serve" letter. CEC uses the word location instead of operation due to OPUC territory allocations which are geographical.
- It is CEC's intention to serve all operations regardless of size, use, or type of service. CEC is willing and able to serve these operations/locations in accordance with the rates and policies of Central Electric Cooperative, Inc.

Midstate Electric Cooperative – Steve Hess, Operations & Engineering Manager

- Following legalization they began to see an increase in service requests for grow operations.
- Grow sites existed previously but were smaller and unnoticed.
- New requests included multiple 200 to 400 amp services to one acre residential lots. There are believed to be grow sites.
- New services have stressed existing services and will required costly system upgrades because of lack of capacity.
- Midstate Electric has a 10 year construction plan in place that we follow and budget for. With new suspected grow sites being constructed in residential areas, it is becoming very difficult to plan and follow our own construction plan.
- In some cases, suspected grow sites operators are unwilling to share detailed information about load and when this exceed expected load it causes outages and equipment failure. This cost for overtime and equipment damage are passed on to all members.
- Another issue is access. These properties are typically fenced and gated limited access to equipment. This causes loss of valuable time in the event of fire or outage.
- MEC believes that 95% of our suspected grow sites are located in residential neighborhoods and not the zones that permit marijuana production.
- Those operations proposed in zones where it is allowed have been upfront allowing MEC to planning for new loads.

Marijuana Regulatory Assessment

- MEC strongly encourages Deschutes County to be proactive in enforcing the code prior to the construction and operation of grow operations in the improper zones. Enforcement after the fact will be costly to the MEC members and the detrimental to the neighborhood our members live in.

APPENDIX D

Appendix D

Table 1 – Citizen Input – Existing Standards Summary

SUBJECT	COMMENT
Fencing and Screening	<ul style="list-style-type: none"> • Must be required where structure is visible from neighboring homes and/or local roads or highways, preferably with trees and hedges, especially along scenic roads, but trees and buildings of a height not blocking neighbor’s views of area mountains. • Fencing disrupts wildlife migration. • Poor non-secure fencing.
Fire Protection	<ul style="list-style-type: none"> • Processing to have strict fire codes. • The "Alfalfa Fire District" is actually non-existent at this time. There is no actual fire department, no fire station, and no fire trucks to service the area. • Cannabis processing should only be permitted in areas that are serviced by municipal fire hydrants. To allow processing in rural fire districts that do not have a readily available pressurized water source to is just too dangerous. It subjects the community to unnecessary risk that can be easily mitigated through zoning regulation. • Butane should not be used.
Indoor/Outdoor Production	<ul style="list-style-type: none"> • Outdoor greenhouse/hoop house cannabis production should be allowed on MUA-10 zoned properties. • Only in fully enclosed, non-nighttime-light emitting buildings
License Per Parcel	<ul style="list-style-type: none"> • One License Per Lot • Limitations on grow sites per parcel really needs to happen.
Lighting	<ul style="list-style-type: none"> • Equipped with outside motion-sensor limited time security lights. • Federal law requires specific ballasts on grow lights to prevent harmful RFI interference to Amateur (Ham) Radio operations. • Inadequate restrictions on light. • Light pollution. • The regulations should be more restrictive to preserve our night skies, 10 p.m. is too late, and 30 minutes after sundown to sunrise would be a reasonable regulation. • Excessive lighting past the regulated 7am - 7pm.
Lot Size	<ul style="list-style-type: none"> • RR10 - 11acre property should be allowed to have a licensed mid to small size growing permit. • Reduces minimum lot size to 2.5 for indoor operations. • 20 acres or more is discriminatory. I have 5 acres and would like the opportunity to participate in a legal commodity market. • 60 acre minimum parcel size. • 20 acres minimum. • 40 acres for this use.
Mature Canopy Area/Plant Limits	<ul style="list-style-type: none"> • How can the amount of land to be farmed be restricted in EFU zone. • Need to limit plants per property.
Noise	<ul style="list-style-type: none"> • Noise standard of 30 decibels is unobtainable. Ambient noise outdoors is already over that. • Fans are still a problem. • No test is done to determine how noise will travel in different environments. • Noise impacts livestock as well as people. • Noise from multiple fans that run 24 hours a day all summer and fall, almost half the year.

Marijuana Regulatory Assessment

	<ul style="list-style-type: none"> • We miss the peace and quiet and would like to be able to go outside and smell the fresh air. • Noise Studies in a specific location aren't going to be accurate for other locations. They don't take into account varying elevations, topographies, obstructions, temperature, wind direction variances in ambient noise from one property to another or even from one spot to another within the same property. • Excessive fan noise.
Odor	<ul style="list-style-type: none"> • Odor certainly can be a problem that affects property value. • Animal waste is far more appalling to my nose. The people running livestock are going to have a bias against marijuana just because of their demographic. • Odor is really a non-issue and is really a foolish argument. It can be controlled but even outdoor it's not really that bad and no worse than a dairy or a road kill skunk. • Smell is gross, horrendous. • Smell lingers and is a nuisance. • The ability to use charcoal filters retard the skunk smell of marijuana be grown has not been perfected. • Inadequate restrictions on odor. • Odor is an issue and night seems worse so not sure why. • The smell is going to be one thing that will affect my way of life. • Odor needs to be tested at harvest time, or the test is meaningless. • NO ONE wants to smell that day in and day out. Even with regulations in place IT IS GOING TO STINK. • Smell is a huge issue, very real, very noticeable. • Excessive odor. • The law on odor must be clearer, and is too ambiguous.
Onsite Residency	<ul style="list-style-type: none"> • Grow/property owner required to live on site. • Growers should be the only people allowed to live on-site. • More regulation or restrictions to people living on site.
Reporting	<ul style="list-style-type: none"> • Require quarterly reports of shipments.
Review Process	<ul style="list-style-type: none"> • Permit process is lengthy. • Requirement to inform all Neighbors results in an unfair burden on parcels that are larger with more neighbors. • The review requirement gives neighbors the opportunity to have input and applicants the opportunity to address neighbor concerns. • Lack of proper notification to adjacent owners. • Need better information on who the applicants are. • Notice area not enough. • Notifications should be extended at least 5,000 feet in all directions in order to afford the potentially impacted properties an opportunity to participate in any due process proceedings.
Security Cameras	<ul style="list-style-type: none"> • Require security cameras.
Separation Distances	<ul style="list-style-type: none"> • Should not be near local park district parks. • 5 mile separation from other production sites. • Do not permit in proximity to City of Redmond UH zone/UGB. • Prevent adjacent operations so that a landowner could not become surrounded by multiple growers. • Unfair to flood an area with so many Marijuana farms in a small geographic area. • This could still be produced further out of town on larger parcels, not in areas where families have been living for decades. • Too close to fire station.

Marijuana Regulatory Assessment

	<ul style="list-style-type: none"> • The growers should be grouped together in a designated area. This would avoid the many clandestine actions of the growers. This would provide appropriate monitoring by the government for safety and to assure taxes are being paid. • Limit number of grows in a given area
Setbacks	<ul style="list-style-type: none"> • We are talking about 2500 square feet indoor grow, Not a mega farm. So Setbacks should be more flexible. • The smaller parcel properties almost always need an exemption from the setback regulations to utilize previously standing structures to produce cannabis. • 800 feet from neighboring residences. • A minimum of 1,000 feet from an existing dwelling. • At least a half mile from dwellings. • The smell, sound, light and traffic can more easily be mitigated when there is an adequate buffer (set-back) with neighboring properties. • 100' from the property line and 300' from a dwelling is grossly insufficient. The larger the lot, the further the setbacks should be. I don't think a graduated setback model was ever considered and one should be incorporated. If 100/300 is the standard for a 5 acre lot with it's under canopy limit, maybe one greenhouse, then a 40 acre parcel with its considerably larger canopy limit should situated further away from other homes. •
Utility Verification	<ul style="list-style-type: none"> • Utility verification needs to be more than a "will serve" notice.
Waste Disposal	<ul style="list-style-type: none"> • They burn the debris. • The DCC are ambiguous and do not clearly define waste disposal methods. • Specific waste mitigation measures • Disposal and contamination.
Water	<ul style="list-style-type: none"> • Water usage and enforcement. • Water use from both on-site wells and irrigation district water will become a huge issue as this county grows to the population forecasted. • The county and state must get aligned around policy and enforcement before the area begins to run out of water. • Water use monitoring must become an essential process for all residential and agricultural users so that costs for enhancements can be passed on to the people or businesses that are using the water. • Let's be proactive and create a master plan for the county to manage water use. • Water quality and safety. • Central Oregon water district closely monitors the amount of water rights and usage by traditional farming. That doesn't seem to be the case for the grow operations. • State monitoring of ground water. • Many have drilled wells but have not provided mitigation water as is required by the state. This needs to be addressed immediately because this use is illegal without mitigation water credits. Contact Laura Wilke at Oregon Water Resource Dept. for validation of this. All other well users have to comply and so should growers of marijuana. • DCC really missed the mark by not having any language specific to how waste water is managed. We are threatening our ground water, irrigation canals, and neighboring farmers by not having a code related to this. • Water usage must be monitored better. Water resources board does an inadequate job, so the county needs to protect the aquifer. • Too many wells are going dry.

Marijuana Regulatory Assessment

	<ul style="list-style-type: none"> • Wells should not be used for any crop, and should be metered. County needs to do a better job at application and monitoring. • Maximum aggregate water usage requirements for the entire industry. • As you know, growers can't use irrigation district water, so they drill wells. • No MJ application should be granted by the County without a full water assessment/verification analysis. • Well water should not be used for commercial purposes at the risk of drying up surrounding wells. • Our destination resorts, golf courses, and breweries already put a strain on our water resources and we need to realize that we need to begin to conserve our precious water. •
<p>Zoning</p>	<ul style="list-style-type: none"> • Unincorporated areas with irrigation should be allowed to have grow sites. • Zoning should be less restrictive. Our cannabis farm is zoned RR10 so we were not able to move forward with licensing. • Mix use agriculture land it should be in your rights to participate, regardless of lot size. • Allow small OLCC licensed production facility herein RR-10 zone. • Rural residential should be zoned to allow the land use for recreational marijuana production. • There is no need to use farm ground for growing marijuana since they are all indoor. • Grow in industrial zones, not residential or agricultural areas. • Implement more stringent limitations as to where a commercial operation may go. • Not in mixed, small-farm areas. • MJ processing should be limited to industrial areas only. • EFU only for production. • Concern of marijuana retail at high profile location in small commercial area. • If greenhouses are being used, which is typically the case, there is no reason for them to be located in rural, agricultural areas. • Inappropriate for processing facilities in particular to be located in mixed residential and agricultural lands. • Grandfathered grows on RR10 was a big mistake. • Processing should be in industrial areas only with strict noise and emission controls. • Should be a law against growing in neighborhoods with children. • Should only be grown in a commercial land use facility. • Any grow operation allowed in ANY area where there are homes should be BANNED. • Zoning should require no less than 10 acres and not within areas zoned less than EFU-20. • Odor, visual impacts of greenhouses, quality of life, decrease in property values. • Commercial marijuana cultivation should not be allowed in residential neighborhoods. It should be limited to industrial parks. • Should not be allowed in areas of mixed zoning (MUA-10/EFU) or areas of properties of mixed sizes.

Table 1 – Public Input – Other Topic Summary

SUBJECT	COMMENT
Crime/Safety	<ul style="list-style-type: none"> • Recognize and appreciate how legalization has lowered crime. • Crime is increasing and the areas around grow operations are deteriorating. • Increased crime. • Cartels are involved. • Crime associated with these cash operations. • Operators should have to pay a fee for the additional policing needed as a result of any increased crime levels. • Enact safeguards to ensure that organized crime is not behind a given operation. • The number of plants allowed per household (4) encourages a black market. • They are numerous safety issues, criminal element, explosions from oil, and potential for crime relating to the theft of money and product. • Federally illegal • No security to the grow site.
Economics	<ul style="list-style-type: none"> • Local cannabis directly correlates to the welfare of economy. • Some of the regulations seem designed to drive cannabis industry businesses to other counties. • Regulations are absurd and make operating almost impossible. • Not so different that other farm uses. • Deschutes County Ag industry is not in good economic health overall. It makes sense to create opportunity for some economic success in the EFU areas. Our county should promote more grow opportunities. At this beginning stage of the cannabis market, this is our chance to produce an income and create a lifestyle that is comparable to the industrial revolution. • I don't really view marijuana industry/production as a threat, it seems like a big moneymaker for the county. • Cannabis has brought thousands of dollars to Deschutes County, not to mention hundreds of jobs. Help boost our local economy with cannabis like craft brewing has done! • The regulations that are currently in place for marijuana land use are damaging the industry. These restrictions make it difficult for small businesses to prosper in Deschutes County. • Provides living wage jobs. • If the growers are only dealing in cash they should be audited every year by the local government. • The state should have these grow sites operated by the state, not individual businesses. • I hope it will not affect the selling of my house and property.
Enforcement/Inspections	<ul style="list-style-type: none"> • complaints about sight smell and sound do not address the issue that every neighbor around a particular complainers property could easily have for recreational plants growing with no requirement • Code violations and nothing is done. • Enforcement on Illegal grows. • The requirements on paper look adequate, but suggest either requiring some sort of filtration system or it's a matter of enforcement. • Proactive code enforcement. • Enforcement of lighting standards needs to be consistent and without pause. A strong escalation and penalty process for failure to comply or for repeat offenders.

Marijuana Regulatory Assessment

	<ul style="list-style-type: none"> • There needs to be an anonymous complaint form for these many illegal grows. • Grow should be shut down with repeated violations. • Current rules seem to be working fairly well, but more monitoring is needed to make certain that there is compliance. • Need process to revoke permits for violations. • Illegal grows in Cimarron City. • The county NEEDS TO ENFORCE regulations that they set out. There is not enough of that happening right now. • Better application of homegrown rules in regards to backyard grows that are obviously more than personal use but not large enough to be noticed. • Better coordination is needed with sheriff department. They need to investigate all complaints without exception. • More inspections and enforcement. Unannounced inspections at maturity, lighting restrictions, monitor/meter water, fund inspectors with tax revenue. • Conduct random inspections. • Grows need to be inspected more than once a year, and like a restaurant, unannounced. • Odor, noise, lighting and a complaint thereof can occur anytime, and inspection might occur weeks later. • Since our zoning is RR10 I have to assume it is an unlicensed recreational operation or perhaps a licensed medical operation but there appear to be no tools in place to ascertain the status. Perhaps at least adjacent property owners should have a mechanism to determine the licensing status of a grow other than blindly filing a land use complaint. • There are no inspections to enforce restrictions.
Electricity	<ul style="list-style-type: none"> • Size of transformer increased to accommodate the additional electrical usage.
Esthetics	<ul style="list-style-type: none"> • It is ruining our views, our quality of life. • Greenhouses are ugly. • Why do the grow operations attract so much garbage, abandoned vehicles and make shift campers. • High fences, lights, noise, smell makes it feel like an industrial zone. • Greenhouses/hoop houses are considered temporary when they are permanent. The visual corridor is polluted with grows and containers. • We are concerned about the adjacent aesthetics of the property, utilizing dirt berms in their poor attempt to conceal the greenhouses. • Green houses are an eye sore.
Fear	<ul style="list-style-type: none"> • I am afraid that the employees will not be regulated (background check, drug screenings, driving infractions). • I am afraid that my property is at risk of damage, theft, when I am not home. • Threat of retaliation and harassment if complaint filed.
General	<ul style="list-style-type: none"> • No problem with regulation however currently the County is not playing fair. • Current regulations are working well. • I live really near to one and it does not bother me at all. • Over regulation is a setback. It prolongs the lack of education in the industry and consumer. • Cannabis can't be compared to alcohol, or any other industry because it is truly unique and one of a kind. Company's need to have the ability to expand and learn more about this plant so that everyone can have a better understanding. • It seems nobody is in the middle, and if they are, they aren't speaking up. For the most part, I think everyone is doing the best they can to tackle a less than ideal scenario. The sky is not falling like opponents say it is. Common sense

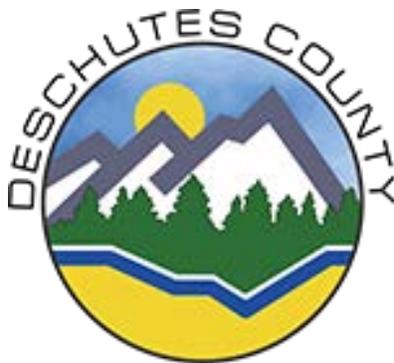
Marijuana Regulatory Assessment

	<p>regulations are necessary and the County ought to be commended for their efforts thus far.</p> <ul style="list-style-type: none"> • Provide opportunity to vote. • Disregarded public safety, community values and livability, reduced property valuations and rentability. • Concerns with Drone and Helicopter activities that will occur above, on and around these lands. • Rules should not be relaxed. • Concerns for safety. • Should be treated as a hazardous substance due to odor and potential security issues. • Rural county did not vote for legalization.
Limit Total # of Operations	<ul style="list-style-type: none"> • Cap the number of licenses issued in the county. • Limited on the number of licenses for each (grow, processing, retail) that should be allowed in the county. • There are enough operations. • Limit the number of grow operations that are allowed in each area of the county. • Marijuana Production within the County should be restricted in total production acreage in the aggregate
Moratorium	<ul style="list-style-type: none"> • Stop to processing new applications until current pending and approved/not yet in production grow sites can be reviewed against regulations. • Implement a pause on all present and future applications until proper governmental enforcement can be set up and the county has a better handle on all issues. •
Ownership	<ul style="list-style-type: none"> • Growers and property owners should be full-time Oregon residents. Out-of-state LLCs or LLPs or individual owners should not be allowed.
Prohibition	<ul style="list-style-type: none"> • Stop permits for marijuana grow and processing facilities. • Opt out (2) • Prohibit tastings and events. • Outdoor hemp farms should not be allowed. • Edibles need to be banned in most all forms. • Prohibit grow operations. • The industry is disgusting. You need to shut down the industry through regulations like you did with destination resorts. • There needs to be an absolute ban on any events and/or guest lodging at MJ production/processing sites. • Please refrain from approving any more.
Property Rights	<ul style="list-style-type: none"> • I support the industry I don't support the people who think they deserve to have a say so on how others choose to live or how they choose to feed their families.
Property Values	<ul style="list-style-type: none"> • Decrease in property values. • Assessor should be re-assessing property values of adjacent properties/businesses affected by mj grows. • Decrease in property values.
Right to Farm	<ul style="list-style-type: none"> • Oregon is a Right to Farm state and this should be respected on EFU property as it pertains to cannabis as a crop. • It is discriminating to treat one legal product from another. Which farm use is next? • EFU land was created for farming. Marijuana production is a farm use. • Marijuana growing is legal farm use. Do not cave to the hysterical conservative neighbor groups. Let the farmers grow their legal crops.

Marijuana Regulatory Assessment

	<ul style="list-style-type: none"> • This is a unique crop it should be treated differently than other crops (hay, livestock, etc.). •
Quality of Life	<ul style="list-style-type: none"> • Regulations protect quality of life. • Money and greed are trumping quality of life. • It has deterred our enjoyment of the rural community. • The grow operations have a negative impact on neighborhoods due to the odor, noise and increased traffic.
Transportation Impacts	<ul style="list-style-type: none"> • Traffic impacts. • Trip generation rates should be based on Nursery not Warehouse. • The increase in traffic is very noticeable, speed and noise are issues. We would like to see traffic enforcement on a regular basis.
Temporary Housing	<ul style="list-style-type: none"> • Facilities are attracting several temporary housing structures to be erected without apparent oversight. • RVs used as residences

Appendix E



Marijuana Land Use Existing Conditions Report

October 23, 2017

Prepared By:
Deschutes County
Community Development Department
117 NW Lafayette Ave
Bend, Oregon 97701

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I. EXECUTIVE SUMMARY

Oregonians approved Ballot Measure 91 in 2014 to allow recreational marijuana. Deschutes County voters supported the measure by a slim 51.8 percent. The Legislature adopted implementing laws in summer 2015. The County began to address this issue later that year. It has been a divisive topic in the rural County ever since.

In 2016, the Deschutes County Board of Commissioners (Board) adopted carefully crafted ordinances to support the emerging marijuana industry and to protect the high quality of rural life through regulations to mitigate sight, sound, smell, water, waste disposal, access, and more. The regulations are unique among Oregon counties in three ways, including:

1. Discretionary standards to provide flexibility that the industry requested to demonstrate regulatory compliance;
2. Public involvement in the land use decision making process by:
 - a. Requiring public notification of submitted applications.
 - b. Providing opportunities for comments, hearings, and appeals.
3. Standards specifically designed to address Deschutes County's land use patterns, zoning challenges, varied lot sizes, climate, diverse landscapes, rural communities, and agricultural practices.

Prior to, during, and since the process to develop and adopt the regulations, industry supporters have claimed the regulations go too far and effectively prohibit the industry. Opponents disagree, arguing the regulations do not go far enough or the County should opt out. The Board is committed to evaluating the regulations to ensure standards are fair while protecting the quality of life of county residents.

Evaluating the regulations consists of two parts and separate reports:

1. Establishing a factual basis of existing marijuana operations in the County; and
2. Engaging neighbors of approved marijuana grows, marijuana growers and industry representatives, and technical/agency staff in conversations about specific regulations and the overall permitting process. A public comment period is also open and available to any County resident to provide input.

First, the Existing Conditions Report provides a factual basis of the number, types, and general locations of marijuana applications submitted to the County from September 2016 through September 2017. The document also summarizes the County's marijuana regulations and code enforcement approach.

Over the program's first year, the County has approved 32 marijuana land use applications and denied two. Two applications were withdrawn. Industry representatives indicated 25-30 applications would be submitted to the County within the first year following ordinance adoption. County staff publicly estimated that 25-50 applications would be submitted based on customer inquiries and contacts.

Second, the Community Involvement Report will summarize neighbor, public, industry, and agency comments on the effectiveness of the regulations to both support the industry and mitigate any impacts to neighbors.

Both reports will be combined into one document to inform the Board's determination of the effectiveness of the regulations, including the permitting process. The Board will then decide whether the County's marijuana regulations should be amended.

II. OVERVIEW

A. Purpose

The purpose of the Existing Conditions Report is to provide a summary of marijuana land use activity in rural Deschutes County, in addition to the existing regulations and approach to code enforcement.

B. Background

In June 2016, the Deschutes County Board of Commissioners (Board) adopted several ordinances regulating medical and recreational marijuana related uses. During adoption and as discussed with the Oregon Legislature in 2017, the Board committed to reevaluating the effectiveness of the regulations and address changing circumstances, interpretative matters, and amendments to state law. The following provides a general timeline of marijuana law and regulation in Oregon and Deschutes County.

Oregon Medical Marijuana Act

In November 1998, Measure 67 was approved allowing cultivation, possession, and use of marijuana by doctor recommendation for patients with certain medical conditions.

Recreational Marijuana

In November 2014, Measure 91 was approved legalizing marijuana for recreational use. Later, in 2015, the State Legislature approved five bills related to recreational and medical marijuana. Two of those bills, HB 3400 and SB 1598, had provisions related to marijuana land use issues.

“Opt Out” Moratorium

In December 2015, after considering proposed regulations, the Board unanimously approved a moratorium temporarily banning marijuana business. The Board expressed a desire to have more time to evaluate the impact and convene a Marijuana Advisory Committee (MAC) to participate in this discussion.

Deschutes County MAC

In February 2016, the Board appointed 13 residents charged with developing and recommending reasonable time, place and manner land use regulations intended to mitigate the impacts of medical and recreational marijuana uses.

Regulations Adopted

In June 2016, the Board, after considering extensive public comments, MAC recommendations, and state law, adopted regulations. These new standards reflected a compromise to support this emerging industry while maintaining the county’s rural character by mitigating sight, sound, odor, waste disposal, and more.

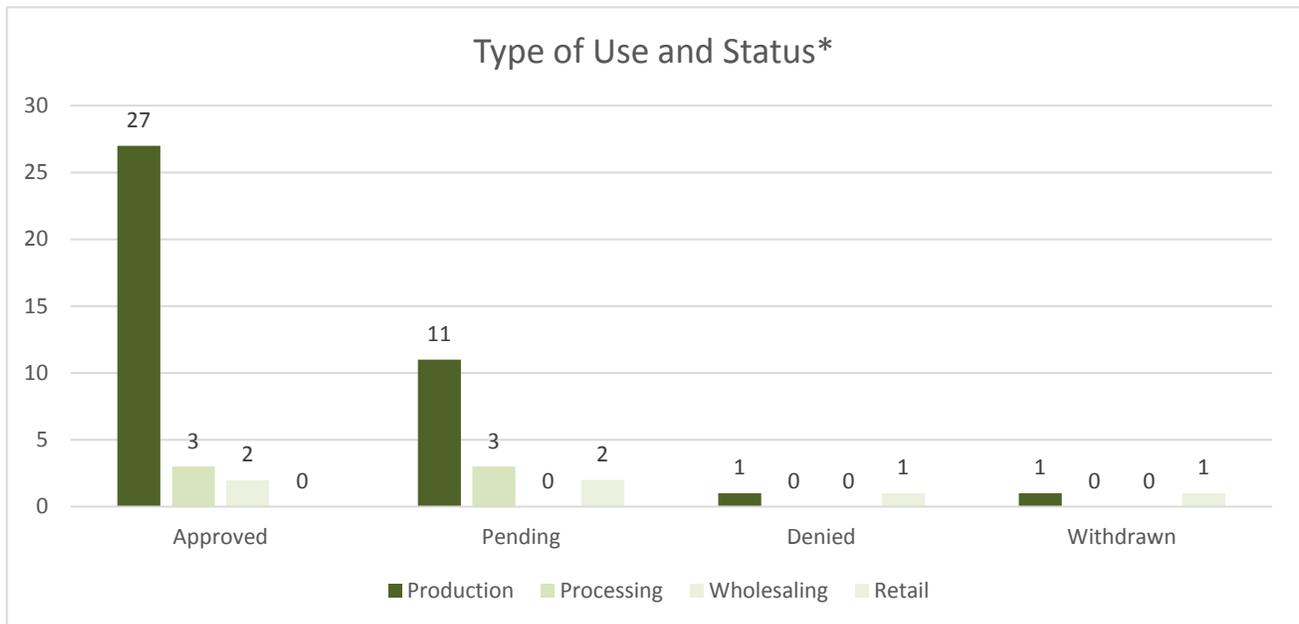
“Opt Out” Moratorium Lifted

In September 2016, the “Opt Out” moratorium was lifted allowing marijuana related uses to be established subject to land use review and approval.

III. MARIJUANA LAND USE ACTIVITY

A. RURAL COUNTY

Deschutes County accepted land use applications for marijuana operations in September 2016. As of September 25, 2017, the Community Development Department issued 32 decisions for marijuana operations including production, processing, wholesale and retail. There are 16 pending applications. The graph below identifies the number of land use applications and their status, i.e., approved, pending, denied, withdrawn.



* Status as of September 25, 2017.

The charts below highlight the zoning districts approved production facilities are located within, in addition to the average parcel size, canopy size, and whether marijuana was grown in a greenhouse or an enclosed structure. A vast majority of the decisions have been issued administratively; two have been issued by a Hearings Officer and only one was decided by the Board of County Commissioners.

APPROVED LAND USE APPLICATION

Zoning District

EFU	93%
MUA-10	7%
<i>Total</i>	<i>100%</i>

Average Parcel Size 24 Acres
Average Canopy Size 8,200 Square Feet

Type of Structure

Greenhouses	44%
Enclosed Structures	44%
Utilizing Both	11%
<i>Total</i>	<i>100%</i>

Approval Body

Administrative (Staff)	89%
Hearings Officer	7%
Board of County Commissioners	4%
<i>Total</i>	<i>100%</i>

PENDING LAND USE APPLICATIONS (As of September 25, 2017)

Zoning District

EFU	91%
MUA-10	9%
<i>Total</i>	<i>100%</i>

Average Parcel Size 56 Acres
Average Canopy Size 6,300 Square Feet

Type of Structure

Greenhouses	36%
Enclosed Structures	45%
Utilizing Both	18%
<i>Total</i>	<i>100%</i>

B. MUNICIPALITIES

There are four municipalities within Deschutes County: the cities of Bend, La Pine, Redmond and Sisters. Marijuana land uses (retail, processing, production, wholesale and testing) currently exist only in Bend and La Pine. The following tables identify the amount of various marijuana operations in both jurisdictions.

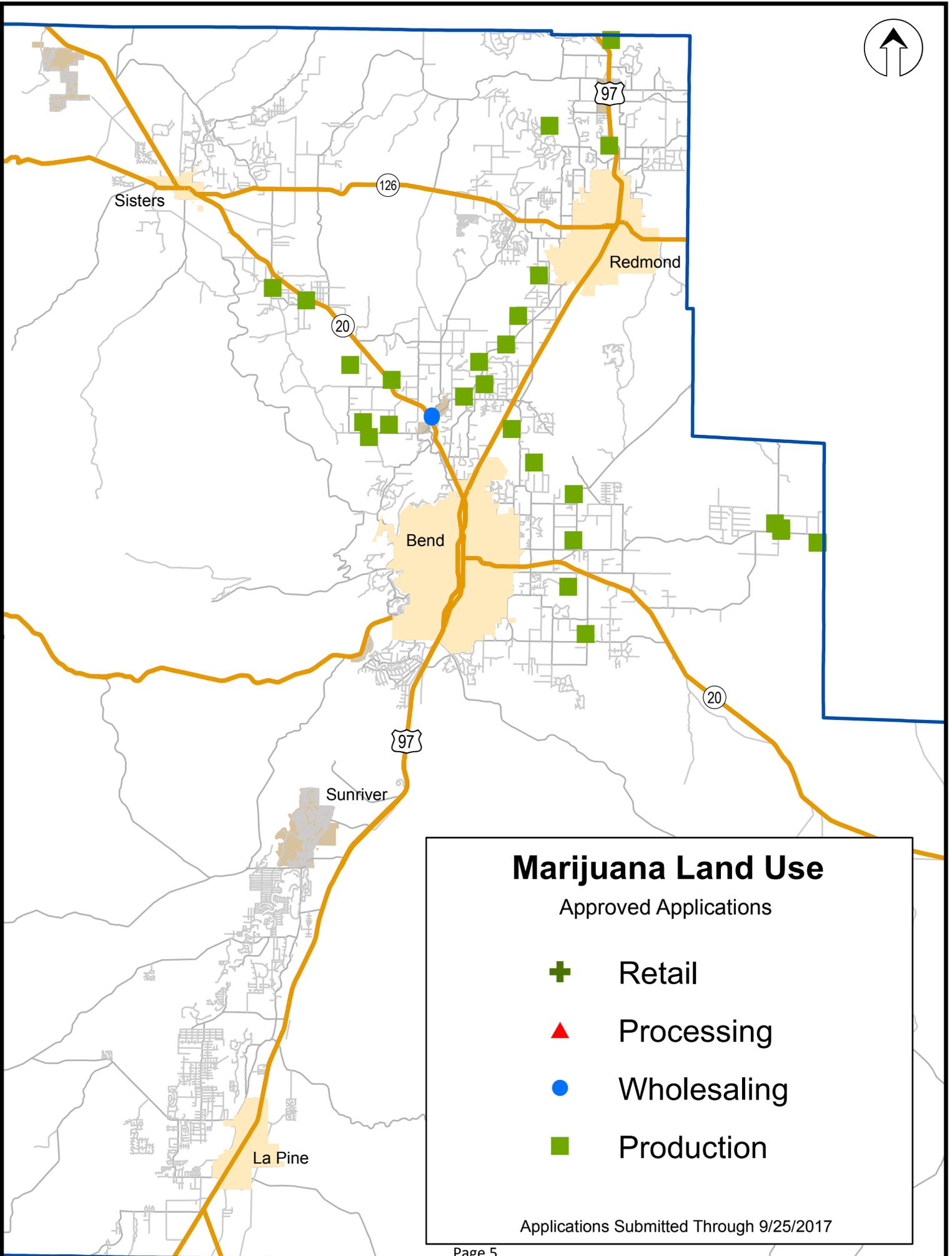
City of Bend

Operation	Permitted	Business Licenses
Retail	26	25
Processing	19	13
Production	15	11
Wholesale	9	7
Testing/Laboratory	1	1

City of La Pine

Operation	Permitted	Business Licenses
Retail	0	2
Processing	1	0
Production	6	1

Currently, Redmond and Sisters effectively prohibit marijuana uses because the operations require a business license. Compliance with local, state and federal law is a prerequisite for a business license to be issued. Since marijuana is considered an illegal controlled substance by the federal government, business licenses for a marijuana related uses have not been issued within these municipalities.

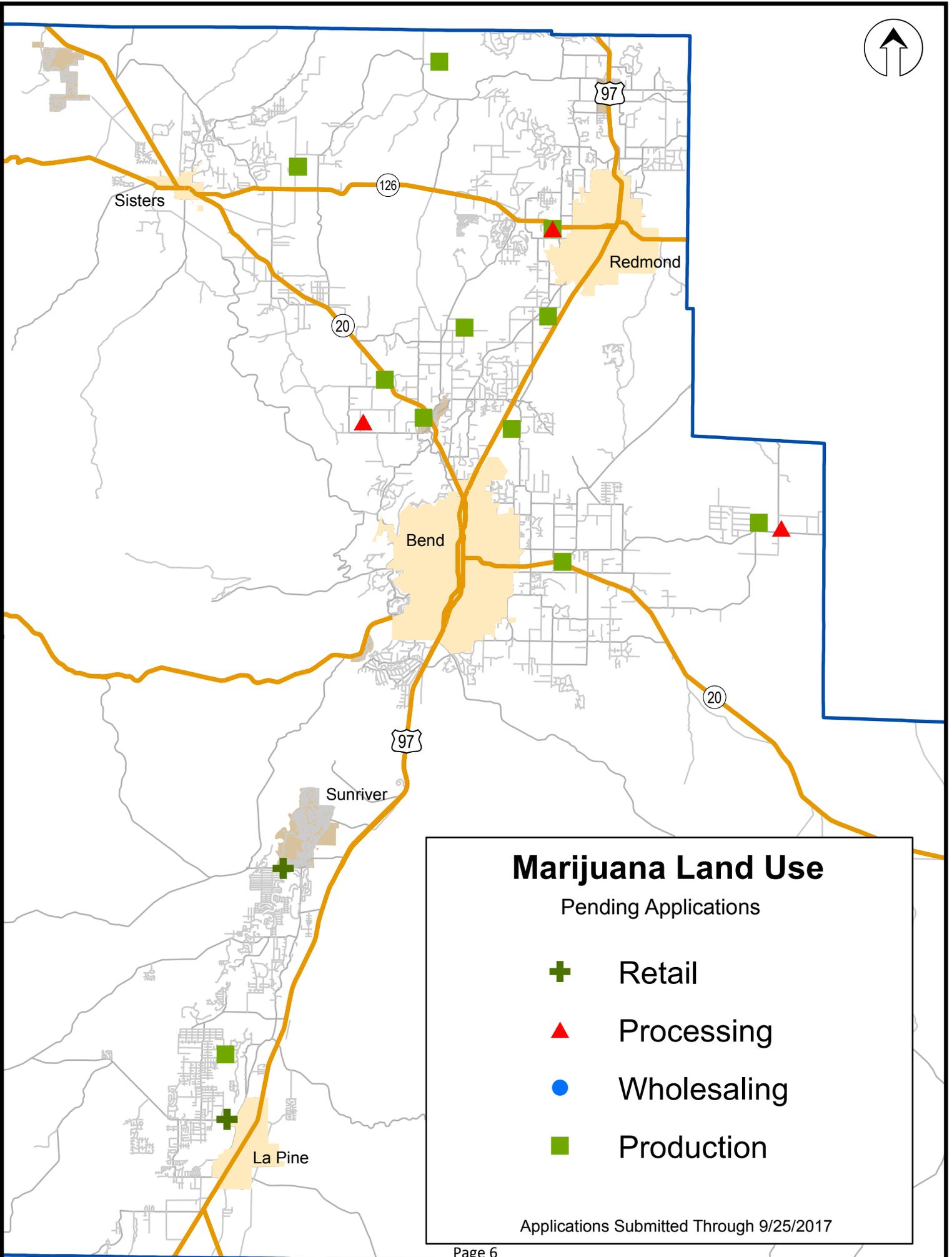


Marijuana Land Use

Approved Applications

- + Retail
- ▲ Processing
- Wholesaling
- Production

Applications Submitted Through 9/25/2017



Marijuana Land Use

Pending Applications

- + Retail
- ▲ Processing
- Wholesaling
- Production

Applications Submitted Through 9/25/2017

C. MEDICAL MARIJUANA

The Oregon Medical Marijuana Act was established by Ballot Measure 67 in 1998. The Oregon Health Authority (OHA) regulates the cultivation, possession and use of marijuana for medicinal purposes. Federal privacy requirements preclude the state from sharing the locations and size of grow sites under the Oregon Medical Marijuana Program. The table below identifies the number of grow sites within Deschutes County over the past three calendar years. The data provided by OHA does not distinguish grow sites located in the rural county versus cities.

Year	Grow Sites
2017	1,201
2016	1,383
2015	1,742

Source: Oregon Health Authority's "Medical Marijuana Program Statistical Snapshot" – www.oregon.gov/oha

Deschutes County did not have standards for medical marijuana uses prior to the adoption of marijuana ordinances in June 2016. The adopted ordinances regulate medical grow sites applying for OHA licensing after June 1, 2016. Furthermore, the ordinances require compliance with lighting, odor, noise and security standards by December 2016 for medical grow sites licensed before June 1, 2016.

D. INDUSTRIAL HEMP OVERVIEW

The State Department of Agriculture (ODA) regulates industrial hemp. ODA requires a license for production, possession and commerce of hemp. Deschutes County does not regulate hemp because it is defined by state law as a farm crop. Industrial hemp is not marijuana. Industrial hemp and marijuana are regulated differently under Oregon law. Oregon law prohibits hemp to have greater than a 0.3 percent concentration of tetrahydrocannabinol (THC), the psychoactive ingredient in marijuana. Citizens will occasionally ask Deschutes County staff about hemp regulations. Because there are no county standards and the product is recognized as a farm crop, staff directs inquiries to ODA.

For more information, contact the Oregon Department of Agriculture.

Phone: 503-986-4550

Email: info@oda.state.or.us

Website: www.oregon.gov/oda

IV. MARIJUANA REGULATIONS

Deschutes County marijuana regulations are established to mitigate associated impacts while maintaining the compatibility with surrounding uses. Standards are limited to unincorporated areas. Compliance with state regulations are in addition to those set forth by the County.

Title 18, Section 18.116.330, Deschutes County Zoning Ordinance, lists the criteria for recreational marijuana operations. Section 18.116.340 provides specific standards for medical marijuana production registered by the Oregon Health Authority. Appendix 1 provides an overview of the standards for each use. This information is also readily available on the County's website and in brochure format at the permit counter of the Community Development Department.

Definitions of each permitted use are provided below.

Production –

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

Processing –

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

Retailing –

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

Wholesaling –

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

V. CODE ENFORCEMENT POLICIES AND PROCEDURES

Deschutes County has a robust enforcement program for marijuana operations. The following points highlight the County's approach toward code and law enforcement with respect to illegal/nonconforming marijuana operations.

- CDD accepts anonymous complaints. The anonymous complaint form can be completed by a citizen, county staff, or a code enforcement technician via a telephone call or email from the complaining party.
- Information is provided on the CDD webpage that details the maximum number of legally allowed marijuana plants – recreational and/or medical – on a property.
- CDD code enforcement has an internal tracking system to record the number of marijuana complaints received. This system includes phone calls, customer contacts in the office and complaints submitted.
- CDD prioritizes the initial investigation of a marijuana grow site to determine whether to refer to law enforcement. If there is no referral to law enforcement (the site is permitted by OLCC or registered with OHA, but violations of County Code exist on the property), then CDD will follow the Code Enforcement Policy and Procedures Manual to correct the violation. Violations involving public health or safety hazards will be high priority – the same as all other health and/or safety violations, but others (i.e., lighting, odor) will not.

In Oregon, a person producing marijuana falls into one of five categories (listed below).

1. They are a business engaged in the recreational production of marijuana with Oregon Liquor Control Commission (OLCC) approval;
2. They are a medical marijuana user with a medical marijuana card issued by the Oregon Health Authority (OHA) and they produce/possess no more than the medical marijuana limit;
3. They produce medical marijuana for others with OHA approval and they produce/possess no more than the medical marijuana limit;
4. They have neither OLCC nor OHA approval but the amount and manner of their production is authorized by the recreational personal amount rules.
5. None of the above apply in which case the producer is committing a crime.

The County is dedicated to ensuring compliance is met for all permitted uses of marijuana operations. The uses that are not in compliance with county code are addressed promptly and appropriately. Appendix two shows a flow chart describing how the county processes a citizen's inquiry on the legality of a marijuana operation.

APPENDICES

APPENDIX 1 – PRODUCTION STANDARDS

ZONING

Marijuana production is allowed in the following zones:

EFU	Exclusive Farm Use
RI	Rural Industrial (only near Deschutes Junction)
MUA-10	Multiple Use Agriculture

Marijuana Production is a permitted use in the EFU zone and a conditional use in the RI and MUA-10 zones. Before a commercial marijuana production use is established, an applicant needs to receive approval from Deschutes County and the Oregon Liquor Control Commission.

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.

MINIMUM LOT AREA

5 Acres in the EFU and MUA-10 zones.

INDOOR PRODUCTION

- 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.
- In the EFU zone, marijuana production shall only be located in buildings, including greenhouses, hoop houses, and similar structures.
- In all zones, marijuana production is prohibited in any outdoor area.

MAXIMUM BUILDING FLOOR AREA

In the MUA-10 zone, the maximum building floor area used for all activities associated with marijuana production on the subject property shall be:

- 2,500 square feet on parcels from 5-10 acres.
- 5,000 square feet on parcels +10 acres.

MAXIMUM MATURE PLANT CANOPY SIZE

In the EFU zone, the maximum canopy area for mature marijuana plants shall be:

- 2,500 square feet on parcels 5-10 acres.
- 5,000 square feet on parcels 10-20 acres. 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:
 1. The marijuana production operation was lawfully established prior to January 1, 2015; and
 2. 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.
- 10,000 square feet on parcels 20-40 acres.
- 20,000 square feet on parcels 40-60 acres.
- 40,000 square feet on parcels +60 acres.

ON SITE RESIDENCY

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

1. An owner of the subject property; or
2. A holder of an OLCC license for marijuana production, provided that the license applies to the subject property; or
3. 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.

SETBACKS

The following setbacks apply to all marijuana production areas and buildings:

- 100 feet from lot lines.
- 300 feet from an off-site dwelling.

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

SEPARATION DISTANCES

The use shall be located a minimum of 1000 feet from all of the following:

- A public, private, or parochial elementary or secondary school including any parking lot and property used by the school.
- A licensed child care center or licensed preschool including any parking lot 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.
- A youth activity center.
- National monuments and state parks.

All distances shall be measured from the lot line of the affected properties to the closest point of the buildings and land area occupied by the operation.

LIGHTING

- Shall not be visible outside the building from 7:00 p.m. to 7:00 a.m.
- 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.
- Light cast by exterior light fixtures other than marijuana grow lights shall comply with DCC 15.10, Outdoor Lighting Control.

ODOR

- 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.
- 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.
- The odor control system shall:
 1. 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

2. Utilize an alternative method or technology to achieve equal to or greater odor mitigation than provided by 1. Above.
- The system shall be maintained in working order and shall be in use.

NOISE

- 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.
- Intermittent noise for accepted farming practices is permitted.

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:

- Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.
- 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.
- Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.
- 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.

UTILITY VERIFICATION

A statement from each utility company proposed to serve the operation, stating that each such company is able and willing to serve the operation, shall be provided.

WATER

The applicant shall provide to Deschutes County Community Development Department:

1. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resource Department;
2. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
3. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.

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 OHA.

SECURE WASTE DISPOSAL

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

ACCESS

Marijuana production over 5,000 square feet of canopy area for mature marijuana plants shall comply with the following standards.

- Have frontage on and legal direct access from a constructed public, county, or state road; or
- Have access from a private road or easement serving only the subject property.
- 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.

ANNUAL REPORTING

An annual report shall be submitted to the Community Development Department, including the applicable fee, and a fully executed Consent to Inspect Premises form that includes:

- Documentation demonstrating compliance with the:
 1. Land use decision and permits.
 2. Fire, health, safety, waste water, and building codes and laws.
 3. State of Oregon licensing requirements.
- Other information as may be reasonably required to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
- Marijuana Control Plan to be established and maintained by the Community Development Department.
- Conditions of Approval Agreement to be established and maintained by the Community Development Department.

Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance shall serve as acknowledgement that the otherwise allowed use is not in compliance and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.

APPENDIX 2 – PROCESSING STANDARDS

ZONING

Marijuana processing is allowed in the following zones:

EFU	Exclusive Farm Use
MUA-10	Multiple Use Agricultural
TeC	Terrebonne Commercial
TeCR	Terrebonne Commercial Rural
TuC	Tumalo Commercial
TuI	Tumalo Industrial
RI	Rural Industrial
SUBP	Sunriver Business Park

Marijuana processing is a permitted use in the EFU (requiring land use review subject to special provision of DCC Section 18.16.025) and RI (excluding extracts) zones. It is a conditional use in the MUA-10, TeC, TeCR, TuC, TuI, RI (including extracts), and SUBP zones.

MINIMUM LOT AREA

5 Acres in the EFU and MUA-10 zones.

SETBACKS

The following setbacks apply to all marijuana processing areas and buildings:

- 100 feet from lot lines.
- 300 feet from an off-site dwelling.

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

SEPARATION DISTANCES

The use shall be located a minimum of 1000 feet from all of the following:

- A public, private, or parochial elementary or secondary school including any parking lot and property used by the school.
- A licensed child care center or licensed preschool including any parking lot 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.
- A youth activity center.
- National monuments and state parks.

All distances shall be measured from the lot line of the affected properties to the closest point of the buildings and land area occupied by the operation.

ANNUAL REPORTING

An annual report shall be submitted to the Community Development Department, including the applicable fee, and a fully executed Consent to Inspect Premises form that includes:

- Documentation demonstrating compliance with the:
 1. Land use decision and permits.

2. Fire, health, safety, waste water, and building codes and laws.
 3. State of Oregon licensing requirements.
- Other information as may be reasonably required to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
 - Marijuana Control Plan to be established and maintained by the Community Development Department.
 - Conditions of Approval Agreement to be established and maintained by the Community Development Department.

Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance shall serve as acknowledgement that the otherwise allowed use is not in compliance and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use and subject to Deschutes County Code Enforcement.

MAXIMUM BUILDING FLOOR AREA

In the MUA-10 zone, the maximum building floor area used for all activities associated with marijuana processing on the subject property shall be:

- 2,500 square feet on parcels from 5-10 acres.
- 5,000 square feet on parcels +10 acres.

INDOOR PROCESSING

- In the MUA-10 zone, marijuana 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.
- In the EFU zone, marijuana processing shall only be located in buildings, including greenhouses, hoop houses, and similar structures.

ON SITE RESIDENCY

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

2. An owner of the subject property; or
2. A holder of an OLCC license for marijuana processing, provided that the license applies to the subject property; or
3. A person registered with the OHA as a person designated to process marijuana by a registry identification cardholder, provided that the registration applies to the subject property.

LIGHTING

- Shall not be visible outside the building from 7:00 p.m. to 7:00 a.m.
- 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.
- Light cast by exterior light fixtures other than marijuana grow lights shall comply with DCC 15.10, Outdoor Lighting Control.

NOISE

- 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.
- Intermittent noise for accepted farming practices is permitted.

ODOR

- 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.
- 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.
- The odor control system shall:
 1. 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
 2. Utilize an alternative method or technology to achieve equal to or greater odor mitigation than provided by 1. above.
- The system shall be maintained in working order and shall be in use.

SCREENING AND FENCING

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

- Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.
- 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.
- Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.
- 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.

UTILITY VERIFICATION

A statement from each utility company proposed to serve the operation, stating that each such company is able and willing to serve the operation, shall be provided.

WATER

The applicant shall provide:

1. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resource Department;
2. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
3. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.

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 OHA.

SECURE WASTE DISPOSAL

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

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.

APPENDIX 3 – RETAIL STANDARDS

ZONING

Marijuana retailing is allowed the following zones as a conditional use:

RSC	Rural Service Center
TeC	Terrebonne Commercial
TeCR	Terrebonne Commercial Rural
TuC	Tumalo Commercial
TuI	Tumalo Industrial
RI	Rural Industrial
SUC	Sunriver Commercial
SUTC	Sunriver Town Center
SUBP	Sunriver Business Park

SEPARATION DISTANCES

The building space occupied by the operation shall be located a minimum of 1000 feet from all of the following:

- A public, private, or parochial elementary or secondary school including any parking lot and property used by the school.
- A licensed child care center or licensed preschool including any parking lot 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.
- A youth activity center.
- National monuments and state parks.
- Any other marijuana retail facility licensed by the OLCC or marijuana dispensary registered with the OHA.

All distances shall be measured from the lot line of the affected properties to the closest point of the buildings space occupied by the retailer, except distance between retailers. Distances between retailers 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.

HOURS

Hours of operation shall be 9:00 a.m. to 7:00 p.m. on the same day.

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.

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.

ANNUAL REPORTING

An annual report shall be submitted to the Community Development Department, including the applicable fee, and a fully executed Consent to Inspect Premises form that includes:

- Documentation demonstrating compliance with the:
 1. Land use decision and permits.
 2. Fire, health, safety, waste water, and building codes and laws.

3. State of Oregon licensing requirements.
- Other information as may be reasonably required to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
 - Marijuana Control Plan to be established and maintained by the Community Development Department.
 - Conditions of Approval Agreement to be established and maintained by the Community Development Department.

Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance shall serve as acknowledgement that the otherwise allowed use is not in compliance and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use and subject to Deschutes County Code Enforcement.

APPENDIX 4 – WHOLESALE STANDARDS

ZONING

Marijuana wholesaling is allowed in the following zones:

RSC	Rural Service Center
TeC	Terrebonne Commercial District
TeCR	Terrebonne Commercial-Rural District
TuC	Tumalo Commercial
RC	Rural Commercial
SUC	Sunriver Commercial
SUBP	Sunriver Business Park

Where marijuana wholesaling is allowed, the use is subject to site plan review. Marijuana wholesaling is strictly an office use. No storage of marijuana items or products are permitted at the site of the wholesaling use.

APPENDIX 5 – MEDICAL MARIJUANA STANDARDS

The following standards are requirements for existing medical grow sites licensed by the Oregon Health Authority prior to June 1, 2016. When the county adopted regulations for recreational grow sites, standards were also placed on existing (medical) grow sites. Medical growers had to comply with the following standards by September 15, 2016 (for lighting) and December 15, 2016 (for odor, noise, water, security cameras, and secure waste disposal).

LIGHTING

- Shall not be visible outside the building from 7:00 p.m. to 7:00 a.m.
- 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.
- Light cast by exterior light fixtures other than marijuana grow lights shall comply with Deschutes County Code Chapter 15.10, Outdoor Lighting Control.

ODOR

- 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.
- 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.
- The odor control system shall:
 1. 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
 2. Utilize an alternative method or technology to achieve equal or greater odor mitigation than provided by 1. above.
- The system shall be maintained in working order and shall be in use.

NOISE

- 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.
- Intermittent noise for accepted farming practices is permitted.

WATER

The applicant shall provide to Deschutes County Community Development Department:

1. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resource Department;
2. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
3. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.

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 OHA.

SECURE WASTE DISPOSAL

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

ADDITIONAL STANDARDS FOR NEW MEDICAL GROW SITES

In addition to the standards outlined above, new medical marijuana grow sites (licensed after June 1, 2016) are subject to the following standards.

ZONING

New medical marijuana grow sites are allowed in the following zones:

- EFU** Exclusive Farm Use
- RI** Rural Industrial (only near Deschutes Junction)
- MUA-10** Multiple Use Agricultural

Marijuana Production is a permitted use in the EFU zone and a conditional use in the RI and MUA-10 zones.

MINIMUM LOT AREA

5 Acres in the EFU and MUA-10 zones.

SETBACKS

The following setbacks apply to all marijuana production areas and buildings:

- 100 feet from lot lines.
- 300 feet from an off-site dwelling.

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

INDOOR PRODUCTION

- 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.
- In the EFU zone, marijuana production shall only be located in buildings, including greenhouses, hoop houses, and similar structures.
- In all zones, marijuana production is prohibited in any outdoor area.

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:

- 2,500 square feet on parcels from 5-10 acres.
- 5,000 square feet on parcels 10+ acres.

MAXIMUM MATURE PLANT CANOPY SIZE

In the EFU zone, the maximum canopy area for mature marijuana plants shall be:

- 2,500 square feet on parcels 5-10 acres.
- 5,000 square feet on parcels 10-20 acres. 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:
 1. The marijuana production operation was lawfully established prior to January 1, 2015; and
 2. 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.
- 10,000 square feet on parcels 20-40 acres.
- 20,000 square feet on parcels 40-60 acres.
- 40,000 square feet on parcels 60+ acres.

SEPARATION DISTANCES

The buildings and land areas occupied by the operation shall be located a minimum of 1000 feet from all of the following:

- A public, private, or parochial elementary or secondary school including any parking lot and property used by the school.
- A licensed child care center or licensed preschool including any parking lot 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.
- A youth activity center.
- National monuments and state parks.

All distances shall be measured from the lot line of the affected properties to the closest point of the buildings and land area occupied by the operation.

ACCESS

Marijuana production over 5,000 square feet of canopy area for mature marijuana plants shall comply with the following standards.

1. Frontage on and legal direct access from a constructed public, county, or state road;
2. Access from a private road or easement serving only the subject property; or
3. 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.

ON SITE RESIDENCY

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

1. An owner of the subject property; or
2. A 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.

ANNUAL REPORTING

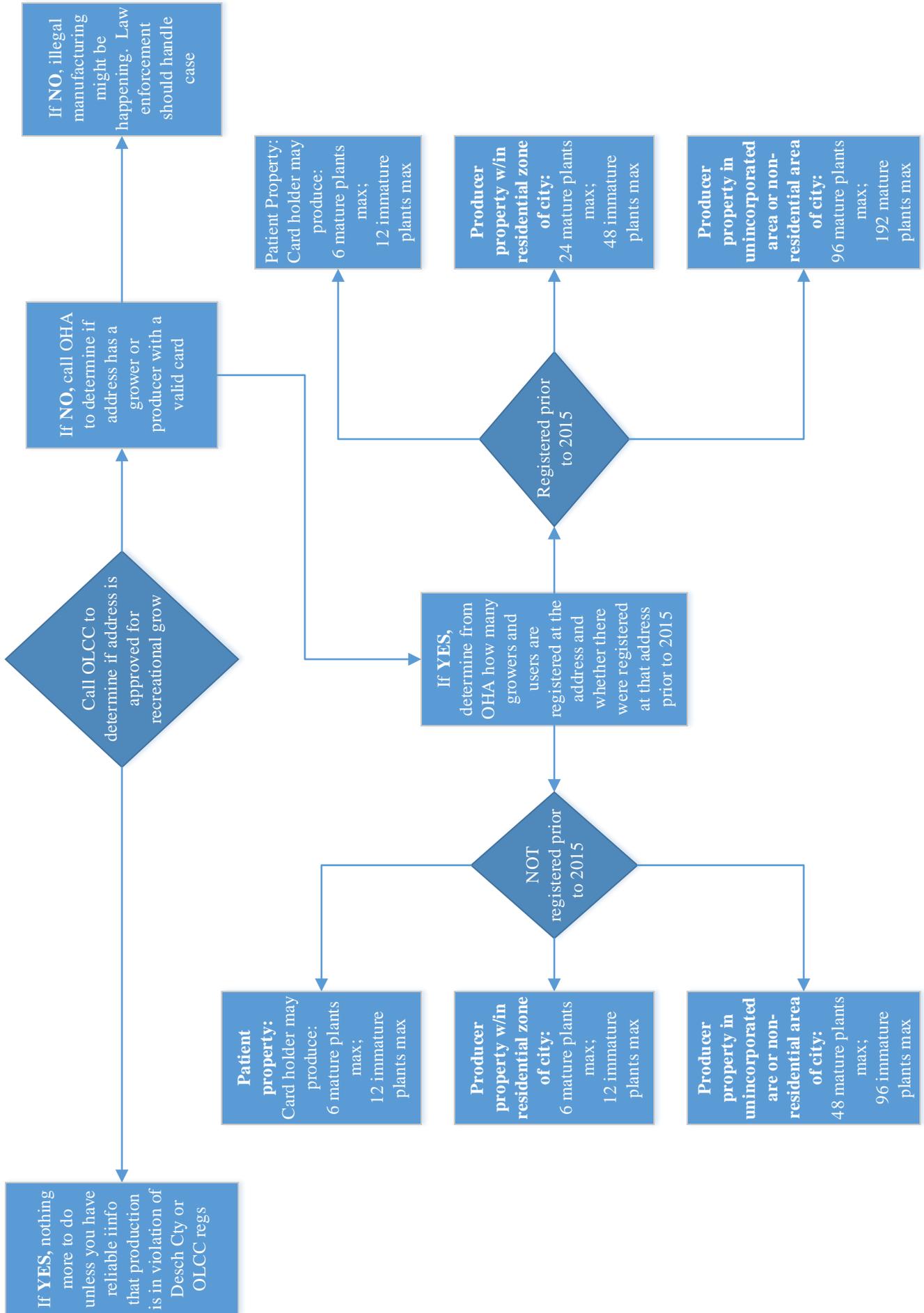
An annual report shall be submitted to the Community Development Department, including the applicable fee, and a fully executed Consent to Inspect Premises form that includes:

- Documentation demonstrating compliance with the:
 1. Land use decision and permits.
 2. Fire, health, safety, waste water, and building codes and laws.
 3. State of Oregon licensing requirements.
- Other information as may be reasonably required to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
- Marijuana Control Plan to be established and maintained by the Community Development Department.
- Conditions of Approval Agreement to be established and maintained by the Community Development Department.

Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance shall serve as acknowledgement that the otherwise allowed use is not in compliance and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use and subject to Deschutes County Code Enforcement.

APPENDIX 6 – CODE ENFORCEMENT ACTION FLOW CHART

How to Handle Reports of Marijuana Grows



APPENDIX A

Appendix A

Industry Focus Group Summary

Marijuana Criteria	Regulations			Comments
	Adequate	Too Restrictive	Not Restrictive Enough	
Access		X		<ul style="list-style-type: none"> • Criterion is a legal issue, not a land use issue. • The regulation goes too far: a neighbor has veto power over the use of one’s property.
Annual Report		X		<ul style="list-style-type: none"> • Annual requirement should be at no cost to the applicant. • Creates opportunity for corruption because the criteria are discretionary. • The annual report should be a self-report. • Any reporting should be limited to state renewal of license. County should not double up.
Fencing and Screening	X			<ul style="list-style-type: none"> • Confusion about requirements. Not an issue once understood by applicants.
Fire Protection		X		<ul style="list-style-type: none"> • Option should be allowed for property owner to provide onsite protection measures. • There should be no reason to regulate. • If processing, standard is okay. • Lots of disagreement amongst this topic. • State requirements are more restrictive, thus county regulations shouldn’t be required.
Indoor Production		X		<ul style="list-style-type: none"> • The focus group unanimously agreed this is too restrictive – unanimous approval. Standard should be eliminated in EFU.
Lighting		X		<ul style="list-style-type: none"> • Right to farm rules are being violated • Regulations are burdensome for typical business practices • Lighting standards should be aligned with same standards as all crops. • Lighting standards are in violation of state law. • Lighting standards are basically a prohibition and should be scaled back to a restriction. The focus group unanimously agreed. • Lighting standards shouldn’t be required on EFU zones. • Dark sky ordinances should be supported. • Restriction should be lifted during hours like 12am – 2am.
License Limitation		X		<ul style="list-style-type: none"> • Should be tax lot rather than parcel. • Default should be state statute.
Mature Plant Canopy Size		X		<ul style="list-style-type: none"> • Canopy size is too restrictive; should be increased. • The parcel size categories are arbitrary, there is no basis for these regulations.

Marijuana Regulatory Assessment

Marijuana Criteria	Regulations			Comments
	Adequate	Too Restrictive	Not Restrictive Enough	
				<ul style="list-style-type: none"> The code should be amended to allow an owner of a 20 acre parcel or more, they are able to ask county to allow canopy size of 40,000 square feet. Requires proof of no impact and compliance with regulations. Requirement is intrusive to neighborhood because growers will buy up land. Default should be state requirement. In an EFU zone, there should be no standard. In an EFU zone, and the parcel is greater than 20 acres, there should be no standard (there will be a lot of pushback otherwise). If there is a limit on canopy size based on acreage, the county should allow an exception.
Minimum Lot Area		X		<ul style="list-style-type: none"> There should be no standard in EFU zone. If it is too small to be a farm, then it shouldn't be zoned EFU.
Noise		X		<ul style="list-style-type: none"> Ambient noise is over 30 dba – the noise restrictive is extremely too restrictive. The 30 dba standard is an arbitrary number – what is the basis for it? This regulation is an easy area for neighbors to complaint. One suggestion was for 50 dba, but was not a unanimous supported by the focus group. In an EFU zone, there should not be any sound limitations. Other farm operations that would be allowed will definitely exceed the 30 dba standard. Right to farm act is being violated under this regulation as well. Unanimous support for no limitations on noise in EFU zone. Some supported noise limit within MUA10 zone. The time of measurement is not much of a factor.
Odor		X		<ul style="list-style-type: none"> There should be no odor control in the EFU zone. In other zones, e.g., MUA10, mitigation is reasonable. The odor standard is a target to appeal for those that do not want the plant grown at all. How can you target smell? Is it hemp, is it a neighbor growing 4 plants, or is a commercial grow operations? Odor from the plants is limited to several weeks out of the year.

Marijuana Regulatory Assessment

Marijuana Criteria	Regulations			Comments
	Adequate	Too Restrictive	Not Restrictive Enough	
				<ul style="list-style-type: none"> • Growing hemp around your cannabis grow is an insurance because odor cannot be attributed to cannabis versus hemp. • Regulations increase energy usage by ten times. • Regulations support black market because of costs. • Retaining standards in a mixed use zone is okay.
Onsite Residency	X			
Secure Waste Disposal				<ul style="list-style-type: none"> • It is repetitive and is covered in statute.
Security Cameras	X			
Separation Distances		X		<ul style="list-style-type: none"> • It is more restrictive than statute. • Defer to statute.
Setbacks	X			<ul style="list-style-type: none"> • Adequate because of exception process.
Utility Verification		X		<ul style="list-style-type: none"> • There is a lot of discrepancy in this standard, should be clear what the requirement is. • County should not be involved in a regulation when it is unnecessary. • Creates a large barrier to start business; not equivalent to standard for appeals. • Requires a lot of resources from applicant, utilities, and county staff. • Criterion is an opportunity for neighbors to appeal and deny the application. • Utilities are in the business of selling power, they just want a heads up that the use is proposed and coming up. County should not be involved. • The specification on the use in the will serve letter is too restrictive and not necessary. • Criterion is adequate if it is nondiscretionary. • The criterion is another example of the regulations being too restrictive and thus creating a black market. There are unintended consequences.
Water				<ul style="list-style-type: none"> • Concerns about water from opposing parties can increase costs. • The criteria have been met and yet the process is hijacked through this criterion. • Water is only regulated by OWRD, the county has no authority to regulate. • The standard asking for a water right is okay, but it goes too far when use of water is called into question.

Marijuana Regulatory Assessment

Marijuana Criteria	Regulations			Comments
	Adequate	Too Restrictive	Not Restrictive Enough	
				<ul style="list-style-type: none"> OWRD has a strict review, which should be sufficient in and of itself.
Zoning		X		<ul style="list-style-type: none"> In the EFU zone, none of the requirements should be imposed for both production and processing. Varying degree regulations are acceptable across other zones.
Review Process		X		<ul style="list-style-type: none"> The review process is in violation against state statute. The land use process should not be required in the EFU Zone. It is a resource intensive process; should be removed. Could be improved by: floor/site plans should not be public record, discretionary standards should be involved, no public hearings (or at least less subjective requirements). Neighbor notification should not be required. Process allows for neighbors to snoop. A middle road would be a clear and objective standards review – no discretionary standards.
* Other (Wholesaling)		X		<ul style="list-style-type: none"> Wholesale limitations is too restrictive. Preventing marijuana on site is not reasonable. Code should be changed to match OLCC regulations that allows producers to have a wholesale license on same property.
Other (General)	<ul style="list-style-type: none"> Standards should be eliminated on EFU; general support for mitigation regulations on mixed use/residential zones. The main issue the county allowing dwellings in the EFU Zone. In existing report, include breakdown of number of grows in size category. Regulations create a high price to begin business. Because of the high cost to begin business, the black market is flourishing. Deschutes County is the only county in the state with such restrictive requirements. The allowance of hemp totally undermines standards on marijuana. The time it takes to process a land use application is prohibitive. General appreciation and support for staff. 			

APPENDIX B

Appendix B

Adjoining Property Owner Focus Group Summary

Marijuana Criteria	Regulations			Comments
	Adequate	Too Restrictive	Not Restrictive Enough	
Access				<ul style="list-style-type: none"> All the impacted property owners should have to approve the proposed use.
Annual Report			X	<ul style="list-style-type: none"> Needs to be during time of harvest. Interval should be increased to at least monthly. Reporting needs to include site visit from county staff. Annual reporting should include OSHA or MSHA to ensure industrial safety protocols are met. Annual reporting should include fine if in noncompliance. Surprise visit should also be included.
Fencing and Screening			X	<ul style="list-style-type: none"> Screening should include impacts to neighbors, not just landscape management feature. Landscaping should be required. Total screening should be required for all applications.
Fire Protection			X	<ul style="list-style-type: none"> Fire suppression systems need to be mandatory. Fire hydrant technology in place adjacent to marijuana operations. Ensure fire access needs to be required.
Indoor Production				<ul style="list-style-type: none"> The standard is not being complied with... enforcement needs to be addressed. Criteria needs to be enforced through inspection.
Lighting			X	<ul style="list-style-type: none"> The time restriction needs to be expanded. Restriction should match sundown to sunrise to include seasonal variations. Dark sky ordinances should be enforced. Unanimous agreement that standard is not restrictive.
License Limitation	X			<ul style="list-style-type: none"> Standard needs to be upheld, not more than one allowed per parcel.
Mature Plant Canopy Size			X	<ul style="list-style-type: none"> Canopy should be reduced by at least 50%.
Minimum Lot Area			X	<ul style="list-style-type: none"> The minimum should be 10 acres. The minimum should be 20 acres. If the minimum parcel size is increased, there should be a cap on total size of operation.
Noise			X	<ul style="list-style-type: none"> Time regulation limits on noise impacts odor regulation.

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				<ul style="list-style-type: none"> • Regulation needs to be expanded. • 30 dba is not sufficient. • Animals and wildlife are being impacted as well. • Density of grow operations can further impact neighbors. • This standard does not take into consideration varying topography, wind direction. • Determinations about the acceptable noise level should be determined by neighbor. • Noise review should be done by an independent source. • Regulation should be expanded 24 hours a day. • Traffic from operations generate significant noise as well. • The use is industrial and should be regulated and zoned appropriately. • Noise from processing needs to be controlled. • Associated noise is impactful as well.
Odor			X	<ul style="list-style-type: none"> • Odor regulation needs to be expanded. • Annual inspections need to be conducted during harvest season, if not once a month. • The standard should speak to having somebody from the state/county that inspects or verifies the odor control system. There are no checks and balances. • There should be fines associated with noncompliance regarding odor. • Enforcement is challenging because winds can change. • Fans complying with the noise standard can impact odor requirement.
Onsite Residency			X	<ul style="list-style-type: none"> • Property owner needs to be onsite in all zones. • Age restriction on who can live on the property.
Secure Waste Disposal			X	<ul style="list-style-type: none"> • Waste should be inspected by EPA to ensure no chemicals can leach into the ground or the groundwater. • Support for the standard, but it needs to be inspected.
Security Cameras	X			<ul style="list-style-type: none"> • Supportive of standard.
Separation Distances			X	<ul style="list-style-type: none"> • The separation distance needs to include neighboring properties with young children living onsite. • Distance should be increased. • Separation needs to include official bus stops.
Setbacks			X	<ul style="list-style-type: none"> • Setbacks need to be increased across the board.

Marijuana Regulatory Assessment

				<ul style="list-style-type: none"> • Suggested a setback of 1,000 feet from neighboring dwelling. • There should be a graduated setback, .e.g., a larger parcel should have a larger setback.
Utility Verification				<ul style="list-style-type: none"> • The criterion needs to be clearer about the BOCC interpretation on this specific requirement. • The will serve letters need to specify the use.
Water			X	<ul style="list-style-type: none"> • Standard is not restrictive enough. • Commercial wells for MJ need to be metered. • OWRD needs to be more restrictive and the county needs to work with them. • There is a concern about ground water drying up because of neighboring marijuana uses. • Marijuana operations should not be allowed to use groundwater. • There should be a guarantee that residential wells will not go dry after marijuana operation starts up. • There should be fines associated with improper water uses. • Property owners want a focus group meeting with OWRD. • The county shouldn't approve land use applications for marijuana without more verification about the local impact from OWRD. • Water usage goes toward plants, and not landscaping which creates dust and impacts neighbors.
Zoning			X	<ul style="list-style-type: none"> • Marijuana uses need to be limited to industrial zones. • If not production, then processing needs to be limited to industrial zones as well.
Review Process			X	<ul style="list-style-type: none"> • Notice radius needs to be expanded to include more neighbors – suggests at least a ½ mile, if not one mile. • Supportive of the full land use process. • Comment and appeal period needs to be expanded. • Notice of land use application needs to be published similar to liquor stores.
Other (Transportation)				<ul style="list-style-type: none"> • A transportation study should be required for all grow applications. • Regulation is sufficient and should be expanded to address access from public road.
Other (General)	<ul style="list-style-type: none"> • Regulations are at a minimum level. If they are rolled back, there will be further impacts. • Energy consumption needs to be regulated and limited. • Each property should have to apply for a separate license. • Traffic impacts... • Density of grow operations can impact neighborhood. – Separation distances should be include neighboring grows. 			

Marijuana Regulatory Assessment

	<ul style="list-style-type: none">• View corridors.• Bed and breakfasts, events, etc. should not be allowed in association with marijuana operations.• Support prohibitive list of uses.• Land use application should include requirement that use is only allowed as long as county has not opted out.• County should put moratorium on new applications during the review.• Impact on rural lifestyles is significant.• Zoning should prohibit urban reserves areas.• “Youth activity” needs to be defined in DCC.• Separation distances need to include wildlife habitat areas.• Code enforcement program on marijuana needs to be expanded.• Separation distances need to include public property (BLM, USFS, etc.)• Marijuana operations negatively impact tourism.
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APPENDIX D

Appendix D

Table 1 – Citizen Input – Existing Standards Summary

SUBJECT	COMMENT
Fencing and Screening	<ul style="list-style-type: none"> • Must be required where structure is visible from neighboring homes and/or local roads or highways, preferably with trees and hedges, especially along scenic roads, but trees and buildings of a height not blocking neighbor’s views of area mountains. • Fencing disrupts wildlife migration. • Poor non-secure fencing.
Fire Protection	<ul style="list-style-type: none"> • Processing to have strict fire codes. • The "Alfalfa Fire District" is actually non-existent at this time. There is no actual fire department, no fire station, and no fire trucks to service the area. • Cannabis processing should only be permitted in areas that are serviced by municipal fire hydrants. To allow processing in rural fire districts that do not have a readily available pressurized water source to is just too dangerous. It subjects the community to unnecessary risk that can be easily mitigated through zoning regulation. • Butane should not be used.
Indoor/Outdoor Production	<ul style="list-style-type: none"> • Outdoor greenhouse/hoop house cannabis production should be allowed on MUA-10 zoned properties. • Only in fully enclosed, non-nighttime-light emitting buildings
License Per Parcel	<ul style="list-style-type: none"> • One License Per Lot • Limitations on grow sites per parcel really needs to happen.
Lighting	<ul style="list-style-type: none"> • Equipped with outside motion-sensor limited time security lights. • Federal law requires specific ballasts on grow lights to prevent harmful RFI interference to Amateur (Ham) Radio operations. • Inadequate restrictions on light. • Light pollution. • The regulations should be more restrictive to preserve our night skies, 10 p.m. is too late, and 30 minutes after sundown to sunrise would be a reasonable regulation. • Excessive lighting past the regulated 7am - 7pm.
Lot Size	<ul style="list-style-type: none"> • RR10 - 11acre property should be allowed to have a licensed mid to small size growing permit. • Reduces minimum lot size to 2.5 for indoor operations. • 20 acres or more is discriminatory. I have 5 acres and would like the opportunity to participate in a legal commodity market. • 60 acre minimum parcel size. • 20 acres minimum. • 40 acres for this use.
Mature Canopy Area/Plant Limits	<ul style="list-style-type: none"> • How can the amount of land to be farmed be restricted in EFU zone. • Need to limit plants per property.
Noise	<ul style="list-style-type: none"> • Noise standard of 30 decibels is unobtainable. Ambient noise outdoors is already over that. • Fans are still a problem. • No test is done to determine how noise will travel in different environments. • Noise impacts livestock as well as people. • Noise from multiple fans that run 24 hours a day all summer and fall, almost half the year.

Marijuana Regulatory Assessment

	<ul style="list-style-type: none"> • We miss the peace and quiet and would like to be able to go outside and smell the fresh air. • Noise Studies in a specific location aren't going to be accurate for other locations. They don't take into account varying elevations, topographies, obstructions, temperature, wind direction variances in ambient noise from one property to another or even from one spot to another within the same property. • Excessive fan noise.
Odor	<ul style="list-style-type: none"> • Odor certainly can be a problem that affects property value. • Animal waste is far more appalling to my nose. The people running livestock are going to have a bias against marijuana just because of their demographic. • Odor is really a non-issue and is really a foolish argument. It can be controlled but even outdoor it's not really that bad and no worse than a dairy or a road kill skunk. • Smell is gross, horrendous. • Smell lingers and is a nuisance. • The ability to use charcoal filters retard the skunk smell of marijuana be grown has not been perfected. • Inadequate restrictions on odor. • Odor is an issue and night seems worse so not sure why. • The smell is going to be one thing that will affect my way of life. • Odor needs to be tested at harvest time, or the test is meaningless. • NO ONE wants to smell that day in and day out. Even with regulations in place IT IS GOING TO STINK. • Smell is a huge issue, very real, very noticeable. • Excessive odor. • The law on odor must be clearer, and is too ambiguous.
Onsite Residency	<ul style="list-style-type: none"> • Grow/property owner required to live on site. • Growers should be the only people allowed to live on-site. • More regulation or restrictions to people living on site.
Reporting	<ul style="list-style-type: none"> • Require quarterly reports of shipments.
Review Process	<ul style="list-style-type: none"> • Permit process is lengthy. • Requirement to inform all Neighbors results in an unfair burden on parcels that are larger with more neighbors. • The review requirement gives neighbors the opportunity to have input and applicants the opportunity to address neighbor concerns. • Lack of proper notification to adjacent owners. • Need better information on who the applicants are. • Notice area not enough. • Notifications should be extended at least 5,000 feet in all directions in order to afford the potentially impacted properties an opportunity to participate in any due process proceedings.
Security Cameras	<ul style="list-style-type: none"> • Require security cameras.
Separation Distances	<ul style="list-style-type: none"> • Should not be near local park district parks. • 5 mile separation from other production sites. • Do not permit in proximity to City of Redmond UH zone/UGB. • Prevent adjacent operations so that a landowner could not become surrounded by multiple growers. • Unfair to flood an area with so many Marijuana farms in a small geographic area. • This could still be produced further out of town on larger parcels, not in areas where families have been living for decades. • Too close to fire station.

Marijuana Regulatory Assessment

	<ul style="list-style-type: none"> • The growers should be grouped together in a designated area. This would avoid the many clandestine actions of the growers. This would provide appropriate monitoring by the government for safety and to assure taxes are being paid. • Limit number of grows in a given area
Setbacks	<ul style="list-style-type: none"> • We are talking about 2500 square feet indoor grow, Not a mega farm. So Setbacks should be more flexible. • The smaller parcel properties almost always need an exemption from the setback regulations to utilize previously standing structures to produce cannabis. • 800 feet from neighboring residences. • A minimum of 1,000 feet from an existing dwelling. • At least a half mile from dwellings. • The smell, sound, light and traffic can more easily be mitigated when there is an adequate buffer (set-back) with neighboring properties. • 100' from the property line and 300' from a dwelling is grossly insufficient. The larger the lot, the further the setbacks should be. I don't think a graduated setback model was ever considered and one should be incorporated. If 100/300 is the standard for a 5 acre lot with it's under canopy limit, maybe one greenhouse, then a 40 acre parcel with its considerably larger canopy limit should situated further away from other homes. •
Utility Verification	<ul style="list-style-type: none"> • Utility verification needs to be more than a "will serve" notice.
Waste Disposal	<ul style="list-style-type: none"> • They burn the debris. • The DCC are ambiguous and do not clearly define waste disposal methods. • Specific waste mitigation measures • Disposal and contamination.
Water	<ul style="list-style-type: none"> • Water usage and enforcement. • Water use from both on-site wells and irrigation district water will become a huge issue as this county grows to the population forecasted. • The county and state must get aligned around policy and enforcement before the area begins to run out of water. • Water use monitoring must become an essential process for all residential and agricultural users so that costs for enhancements can be passed on to the people or businesses that are using the water. • Let's be proactive and create a master plan for the county to manage water use. • Water quality and safety. • Central Oregon water district closely monitors the amount of water rights and usage by traditional farming. That doesn't seem to be the case for the grow operations. • State monitoring of ground water. • Many have drilled wells but have not provided mitigation water as is required by the state. This needs to be addressed immediately because this use is illegal without mitigation water credits. Contact Laura Wilke at Oregon Water Resource Dept. for validation of this. All other well users have to comply and so should growers of marijuana. • DCC really missed the mark by not having any language specific to how waste water is managed. We are threatening our ground water, irrigation canals, and neighboring farmers by not having a code related to this. • Water usage must be monitored better. Water resources board does an inadequate job, so the county needs to protect the aquifer. • Too many wells are going dry.

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	<ul style="list-style-type: none"> • Wells should not be used for any crop, and should be metered. County needs to do a better job at application and monitoring. • Maximum aggregate water usage requirements for the entire industry. • As you know, growers can't use irrigation district water, so they drill wells. • No MJ application should be granted by the County without a full water assessment/verification analysis. • Well water should not be used for commercial purposes at the risk of drying up surrounding wells. • Our destination resorts, golf courses, and breweries already put a strain on our water resources and we need to realize that we need to begin to conserve our precious water. •
<p>Zoning</p>	<ul style="list-style-type: none"> • Unincorporated areas with irrigation should be allowed to have grow sites. • Zoning should be less restrictive. Our cannabis farm is zoned RR10 so we were not able to move forward with licensing. • Mix use agriculture land it should be in your rights to participate, regardless of lot size. • Allow small OLCC licensed production facility herein RR-10 zone. • Rural residential should be zoned to allow the land use for recreational marijuana production. • There is no need to use farm ground for growing marijuana since they are all indoor. • Grow in industrial zones, not residential or agricultural areas. • Implement more stringent limitations as to where a commercial operation may go. • Not in mixed, small-farm areas. • MJ processing should be limited to industrial areas only. • EFU only for production. • Concern of marijuana retail at high profile location in small commercial area. • If greenhouses are being used, which is typically the case, there is no reason for them to be located in rural, agricultural areas. • Inappropriate for processing facilities in particular to be located in mixed residential and agricultural lands. • Grandfathered grows on RR10 was a big mistake. • Processing should be in industrial areas only with strict noise and emission controls. • Should be a law against growing in neighborhoods with children. • Should only be grown in a commercial land use facility. • Any grow operation allowed in ANY area where there are homes should be BANNED. • Zoning should require no less than 10 acres and not within areas zoned less than EFU-20. • Odor, visual impacts of greenhouses, quality of life, decrease in property values. • Commercial marijuana cultivation should not be allowed in residential neighborhoods. It should be limited to industrial parks. • Should not be allowed in areas of mixed zoning (MUA-10/EFU) or areas of properties of mixed sizes.

Table 1 – Public Input – Other Topic Summary

SUBJECT	COMMENT
Crime/Safety	<ul style="list-style-type: none"> • Recognize and appreciate how legalization has lowered crime. • Crime is increasing and the areas around grow operations are deteriorating. • Increased crime. • Cartels are involved. • Crime associated with these cash operations. • Operators should have to pay a fee for the additional policing needed as a result of any increased crime levels. • Enact safeguards to ensure that organized crime is not behind a given operation. • The number of plants allowed per household (4) encourages a black market. • They are numerous safety issues, criminal element, explosions from oil, and potential for crime relating to the theft of money and product. • Federally illegal • No security to the grow site.
Economics	<ul style="list-style-type: none"> • Local cannabis directly correlates to the welfare of economy. • Some of the regulations seem designed to drive cannabis industry businesses to other counties. • Regulations are absurd and make operating almost impossible. • Not so different that other farm uses. • Deschutes County Ag industry is not in good economic health overall. It makes sense to create opportunity for some economic success in the EFU areas. Our county should promote more grow opportunities. At this beginning stage of the cannabis market, this is our chance to produce an income and create a lifestyle that is comparable to the industrial revolution. • I don't really view marijuana industry/production as a threat, it seems like a big moneymaker for the county. • Cannabis has brought thousands of dollars to Deschutes County, not to mention hundreds of jobs. Help boost our local economy with cannabis like craft brewing has done! • The regulations that are currently in place for marijuana land use are damaging the industry. These restrictions make it difficult for small businesses to prosper in Deschutes County. • Provides living wage jobs. • If the growers are only dealing in cash they should be audited every year by the local government. • The state should have these grow sites operated by the state, not individual businesses. • I hope it will not affect the selling of my house and property.
Enforcement/Inspections	<ul style="list-style-type: none"> • complaints about sight smell and sound do not address the issue that every neighbor around a particular complainers property could easily have for recreational plants growing with no requirement • Code violations and nothing is done. • Enforcement on Illegal grows. • The requirements on paper look adequate, but suggest either requiring some sort of filtration system or it's a matter of enforcement. • Proactive code enforcement. • Enforcement of lighting standards needs to be consistent and without pause. A strong escalation and penalty process for failure to comply or for repeat offenders.

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	<ul style="list-style-type: none"> • There needs to be an anonymous complaint form for these many illegal grows. • Grow should be shut down with repeated violations. • Current rules seem to be working fairly well, but more monitoring is needed to make certain that there is compliance. • Need process to revoke permits for violations. • Illegal grows in Cimarron City. • The county NEEDS TO ENFORCE regulations that they set out. There is not enough of that happening right now. • Better application of homegrown rules in regards to backyard grows that are obviously more than personal use but not large enough to be noticed. • Better coordination is needed with sheriff department. They need to investigate all complaints without exception. • More inspections and enforcement. Unannounced inspections at maturity, lighting restrictions, monitor/meter water, fund inspectors with tax revenue. • Conduct random inspections. • Grows need to be inspected more than once a year, and like a restaurant, unannounced. • Odor, noise, lighting and a complaint thereof can occur anytime, and inspection might occur weeks later. • Since our zoning is RR10 I have to assume it is an unlicensed recreational operation or perhaps a licensed medical operation but there appear to be no tools in place to ascertain the status. Perhaps at least adjacent property owners should have a mechanism to determine the licensing status of a grow other than blindly filing a land use complaint. • There are no inspections to enforce restrictions.
Electricity	<ul style="list-style-type: none"> • Size of transformer increased to accommodate the additional electrical usage.
Esthetics	<ul style="list-style-type: none"> • It is ruining our views, our quality of life. • Greenhouses are ugly. • Why do the grow operations attract so much garbage, abandoned vehicles and make shift campers. • High fences, lights, noise, smell makes it feel like an industrial zone. • Greenhouses/hoop houses are considered temporary when they are permanent. The visual corridor is polluted with grows and containers. • We are concerned about the adjacent aesthetics of the property, utilizing dirt berms in their poor attempt to conceal the greenhouses. • Green houses are an eye sore.
Fear	<ul style="list-style-type: none"> • I am afraid that the employees will not be regulated (background check, drug screenings, driving infractions). • I am afraid that my property is at risk of damage, theft, when I am not home. • Threat of retaliation and harassment if complaint filed.
General	<ul style="list-style-type: none"> • No problem with regulation however currently the County is not playing fair. • Current regulations are working well. • I live really near to one and it does not bother me at all. • Over regulation is a setback. It prolongs the lack of education in the industry and consumer. • Cannabis can't be compared to alcohol, or any other industry because it is truly unique and one of a kind. Company's need to have the ability to expand and learn more about this plant so that everyone can have a better understanding. • It seems nobody is in the middle, and if they are, they aren't speaking up. For the most part, I think everyone is doing the best they can to tackle a less than ideal scenario. The sky is not falling like opponents say it is. Common sense

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	<p>regulations are necessary and the County ought to be commended for their efforts thus far.</p> <ul style="list-style-type: none"> • Provide opportunity to vote. • Disregarded public safety, community values and livability, reduced property valuations and rentability. • Concerns with Drone and Helicopter activities that will occur above, on and around these lands. • Rules should not be relaxed. • Concerns for safety. • Should be treated as a hazardous substance due to odor and potential security issues. • Rural county did not vote for legalization.
Limit Total # of Operations	<ul style="list-style-type: none"> • Cap the number of licenses issued in the county. • Limited on the number of licenses for each (grow, processing, retail) that should be allowed in the county. • There are enough operations. • Limit the number of grow operations that are allowed in each area of the county. • Marijuana Production within the County should be restricted in total production acreage in the aggregate
Moratorium	<ul style="list-style-type: none"> • Stop to processing new applications until current pending and approved/not yet in production grow sites can be reviewed against regulations. • Implement a pause on all present and future applications until proper governmental enforcement can be set up and the county has a better handle on all issues. •
Ownership	<ul style="list-style-type: none"> • Growers and property owners should be full-time Oregon residents. Out-of-state LLCs or LLPs or individual owners should not be allowed.
Prohibition	<ul style="list-style-type: none"> • Stop permits for marijuana grow and processing facilities. • Opt out (2) • Prohibit tastings and events. • Outdoor hemp farms should not be allowed. • Edibles need to be banned in most all forms. • Prohibit grow operations. • The industry is disgusting. You need to shut down the industry through regulations like you did with destination resorts. • There needs to be an absolute ban on any events and/or guest lodging at MJ production/processing sites. • Please refrain from approving any more.
Property Rights	<ul style="list-style-type: none"> • I support the industry I don't support the people who think they deserve to have a say so on how others choose to live or how they choose to feed their families.
Property Values	<ul style="list-style-type: none"> • Decrease in property values. • Assessor should be re-assessing property values of adjacent properties/businesses affected by mj grows. • Decrease in property values.
Right to Farm	<ul style="list-style-type: none"> • Oregon is a Right to Farm state and this should be respected on EFU property as it pertains to cannabis as a crop. • It is discriminating to treat one legal product from another. Which farm use is next? • EFU land was created for farming. Marijuana production is a farm use. • Marijuana growing is legal farm use. Do not cave to the hysterical conservative neighbor groups. Let the farmers grow their legal crops.

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	<ul style="list-style-type: none"> • This is a unique crop it should be treated differently than other crops (hay, livestock, etc.). •
Quality of Life	<ul style="list-style-type: none"> • Regulations protect quality of life. • Money and greed are trumping quality of life. • It has deterred our enjoyment of the rural community. • The grow operations have a negative impact on neighborhoods due to the odor, noise and increased traffic.
Transportation Impacts	<ul style="list-style-type: none"> • Traffic impacts. • Trip generation rates should be based on Nursery not Warehouse. • The increase in traffic is very noticeable, speed and noise are issues. We would like to see traffic enforcement on a regular basis.
Temporary Housing	<ul style="list-style-type: none"> • Facilities are attracting several temporary housing structures to be erected without apparent oversight. • RVs used as residences

APPENDIX C

Appendix C

Table 1. Stakeholders - Deschutes County Departments

Sheriff's Office - Sherriff Shane Nelson
<ul style="list-style-type: none"> • Marijuana is illegal under Federal Law. That is our Sheriff's Office stance. We cannot condone the disregard of federal law even though a state law has been passed. • The Constitution holds that state law can be more restrictive than federal law. Not less restrictive. We are seeing that federal funding is being affected as we were unable to apply for federal dollars in the form of a \$30,000 grant that had to do with compliance on federal immigration law. • Our office continues to hear from residents angered over marijuana grow applications and operations that are in existence. They have very real quality of life concerns. As a citizen of this county I would not want a marijuana grow/manufacture/retail location in my neighborhood, near my house, or near areas I frequent. • It is imperative the county ensure tight restrictions so there is no impact on neighbors around these properties. I have received information on two grows where there is no "owner" who will be a resident at the location. Only hired help will reside there. I have also received information that two properties are not "local" as they have investor funding ties from out of the state and out of the country. • Lighting from grows should not pollute outdoor lighting. Many people move to the country to enjoy their surroundings without outside influence that resembles life in more populated areas. • The odor must be controlled at all times. I have heard from many citizens who state there is no "reasonable" marijuana odor and I agree. • I have heard concerns from citizens regarding "constant noise" from generators, AC Units, fans that will affect their quality of life. I know a decibel level is set but there should be mention that prohibits "constant noise." • Finally, I find the fact we have to discuss this at all very ironic. Marijuana is against federal law. Our office has seen an increase on resources to go and investigate these grows. We will continue to see increased demand on our resources as we respond to every call for service.
Road Department – Chris Doty
<ul style="list-style-type: none"> • Collecting System Development Charges has proven to be difficult because many of the uses do not require a building permit.
Building Division – Chris Gracia
<ul style="list-style-type: none"> • Pre-applications are worthwhile. The information that is relayed during this meeting can save time down the road. • After land use approval an applicant may never need a building permit, if they are growing in green house. This creates challenges for enforcement. Mechanical permits are required but do not necessarily require inspections. • The Building Dept. does not always know when a permit is tied to a marijuana land use. Thus, they do not always verify if the building permit conforms with the land use decision. • The marijuana regulations have not influenced the Building Divisions' standards operating procedures or process. However, there has been an increase in questions and inquiries on what is required which impacts work load. • There is an additional cost for marijuana processing applicants because the Division requires a design professional.
Code Enforcement - Staff
<ul style="list-style-type: none"> • Staff have received approximately 50 complaints related to marijuana operations. • A majority of the received complaints are from presumed illegal or nonconforming production operations. • The main complaints revolve around odor, noise, and lighting. • Odor and noise requirements are challenging to enforce because there are too many variables and no precise technology that allows CE staff to pinpoint who is in compliance and who is not. • There should be an inspection or verification process to ensure odor control is operational before use is initiated.

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- If a complaint is received on a medical grow, licensed before June 2016, the use may be determined to be a legal, nonconforming use. A lot of time goes into verifying medical grows are in compliance with standards.
- One of the approval criterion medical grows must show compliance with by December 2016 concerns water. This standard is challenging to enforce because CE staff are not responsible to determine what complies and what does not.
- There are no special procedures for code enforcement regarding marijuana operations. This means that CE staff needs to substantiate complaints before any contact can be made. Often times, complaints cannot be substantiated.
- Staff would like clarification on the waste disposal criterion.

Current Planning - Staff

- The exception allowances are difficult to interpret. The criterion is a difficult standard to meet, yet we have several applications that have met the criterion. Was the criterion intended to address topographical differences, heavily vegetated areas, etc., rather than a simple allowance for a lesser setback?
- Staff would like clarification on the “sustained” noise criterion. And clarification on how to address a situation where the ambient noise is above the 30 dB(a) threshold.
- There needs to be greater clarification on the difference between processing of a “farm crop” and marijuana.
- There needs to be more specificity of when an applicant is required to provide written consent to utilize an easement for marijuana production.
- The waste criterion could be clearer. Does composting of marijuana waste need to comply with setback standards and be in a secure container?
- Mature canopy should be defined and it would be helpful if there was a clear policy on how to measure canopy.
- Greater specificity is needed to define “child care center”.
- Utility verification letters are proving difficult to obtain the correct information. The code should specify what is required.
- The code should specify the level of specificity requested by past decisions the Board has issued (utility verification, water right certificate, engineer’s letter).
- Staff recommends that appeals be heard by a Hearings Officer or that fees should be increased to cover staff time involved with appeals that are heard by the Board.
- Pre-applications, counter inquiries and phone calls related to marijuana operations take up a significant amount of time.
- The odor control should be installed and reviewed for compliance with the standards before LUCS is issued.
- The odor limitation requirement is challenging to meet because people have different thresholds for “reasonable enjoyment of their property” when it pertains to odor.
- Staff agrees that site visits should be conducted during harvest seasons, when impacts upon a neighborhood are the greatest.
- One idea expressed amongst the group is that pre-existing medical grows should receive a nonconforming use verification before they can continue. This could be done by citing the exception rules.

Table 2. Stakeholder – Agency & Service Providers

Oregon Dept. of Agriculture – John Harang
<ul style="list-style-type: none"> • ODA’s interaction with marijuana land use operations is limited to processing (food safety). • The Notice of Application is appreciated and allows the Dept. to contact applicants before they get too far in the process. • Harang would appreciate Notice of Decision as well. Once the use is approved, then ODA can step in and work on the specific design of a facility to meet state code. • A condition of approval stating applicant shall coordinate with ODA would be helpful.
Arnold Irrigation District
<ul style="list-style-type: none"> • Irrigation water cannot be used within a structure, although green houses are okay. • If the District receives a Notice of Application, they can provide water right/certificate to staff. • States that it is challenging to understand what is allowed by the County and what is not.
La Pine Fire Department - Chief Supkis
<ul style="list-style-type: none"> • There is a challenge to get water and fire access requirements met for almost all proposed land uses in the EFU Zone. • Process of Notice of Application, Notice of Decision, etc. seems to be working smoothly.
Three Sisters Irrigation District - Marc Thalacker
<ul style="list-style-type: none"> • Most grows the District is aware of are medical. • Expressed concern about the District receiving federal money and the impact on marijuana grows. • The District is only able to provide water March thru November. • He has gathered that growers are looking at purchasing groundwater rights. • Seems that hemp growers are pushing cannabis growers out because of difference in regulatory environment. • Recognizes the time involved in marijuana related applications and suggests that the application fee be increased in an amount reflective of the time spent.
Kevin Sullivan, Oregon State Fire Marshall Office
<ul style="list-style-type: none"> • There is confusion amongst fire officials regarding their involvement in the land use process. • Regulations should be clear on review authority of fire official. • Regulations need to be expanded to clarify requirements for ag-exempt and standard buildings. • Suggests the land use decision includes a requirement the building shall comply with applicable fire codes. • The process could improve through better coordination and communication between planning, building and fire. • Suggests the land use decision requires fire official approval prior to occupancy. • Pre-application meetings should be required, which include participation by a fire official. • Education must be improved. Sullivan suggests a matrix to help applicant understand who they need to talk to and receive approval form prior to initiating the use.
Oregon Water Resource Department – Sam Vanlaningham, Deputy Watermaster District 11
<p>We suggest the following edits to the MARIJUANA PRODUCTION and MARIJUANA PROCESSING sections.</p> <ul style="list-style-type: none"> • PRODUCTION: WATER The State of Oregon requires a water right for commercial irrigation unless there is a legal public or private water provider or an exempt source. The applicant shall provide Deschutes County CCD: <ol style="list-style-type: none"> 1. no change [to existing text] 2. no change [to existing text] 3. Keep existing text but add a link to our exempt water form http://www.oregon.gov/owrd/docs/Marijuana_Producer_Exempt_Water_Form.pdf and our more generic brochure http://www.oregon.gov/owrd/docs/Water_Use_and_Marijuana_Handout_FINAL.pdf that you already link. • PROCESSING:

We suggest removing what you have and inserting this:

WATER

The State of Oregon requires a water right for commercial irrigation unless there is a legal public or private water provider or an exempt source. For non-irrigation commercial processing of up to 5,000 gallons per day, the law allows an exemption pursuant to ORS 537.545 (This exemption DOES NOT include commercial irrigation).

Central Electric Cooperative – Brad Wilson, Director of Operations & Engineering

- My comments will only address utility notification and will serve letters sent to new applicants within Central Electric Cooperative, Inc.'s (CEC's) service territory.
- CEC serves many parts of rural Deschutes County that are currently zoned EFU which is now seeing an increase in demand from this new industry.
- CEC has an obligation, regulated by the Oregon Public Utility Commission (OPUC), to serve customers/members within the territory assigned by the OPUC.
- For years, CEC has issued a "Will Serve Letter" to accommodate a variety of needs from financing to land use for development projects within the seven counties served.
- It's important to understand that this new industry creates large loads not typically expected or designed for in the past which will create challenges for some of the operations proposed.
- CEC has chosen to include pertinent information in the will serve letter, when applicable, to alert the potential applicant that some infrastructure may need upgraded to accommodate their request. This information is for the applicant to make an informed decision, not as an obstacle to development.
- Currently, Deschutes County is the only county requiring this very specific information to be included in the will serve letter regarding these developments. CEC understands that we are working together to develop a more streamlined process and does not wish to create confusion among the applicants and planners. There has been some confusion regarding CEC's use of the word location in its "will serve" letter. CEC uses the word location instead of operation due to OPUC territory allocations which are geographical.
- It is CEC's intention to serve all operations regardless of size, use, or type of service. CEC is willing and able to serve these operations/locations in accordance with the rates and policies of Central Electric Cooperative, Inc.

Midstate Electric Cooperative – Steve Hess, Operations & Engineering Manager

- Following legalization they began to see an increase in service requests for grow operations.
- Grow sites existed previously but were smaller and unnoticed.
- New requests included multiple 200 to 400 amp services to one acre residential lots. There are believed to be grow sites.
- New services have stressed existing services and will required costly system upgrades because of lack of capacity.
- Midstate Electric has a 10 year construction plan in place that we follow and budget for. With new suspected grow sites being constructed in residential areas, it is becoming very difficult to plan and follow our own construction plan.
- In some cases, suspected grow sites operators are unwilling to share detailed information about load and when this exceed expected load it causes outages and equipment failure. This cost for overtime and equipment damage are passed on to all members.
- Another issue is access. These properties are typically fenced and gated limited access to equipment. This causes loss of valuable time in the event of fire or outage.
- MEC believes that 95% of our suspected grow sites are located in residential neighborhoods and not the zones that permit marijuana production.
- Those operations proposed in zones where it is allowed have been upfront allowing MEC to planning for new loads.
- MEC strongly encourages Deschutes County to be proactive in enforcing the code prior to the construction and operation of grow operations in the improper zones. Enforcement after the fact will be costly to the MEC members and the detrimental to the neighborhood our members live in.

Appendix E



Marijuana Land Use Existing Conditions Report

October 23, 2017

Prepared By:
Deschutes County
Community Development Department
117 NW Lafayette Ave
Bend, Oregon 97701

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I. EXECUTIVE SUMMARY

Oregonians approved Ballot Measure 91 in 2014 to allow recreational marijuana. Deschutes County voters supported the measure by a slim 51.8 percent. The Legislature adopted implementing laws in summer 2015. The County began to address this issue later that year. It has been a divisive topic in the rural County ever since.

In 2016, the Deschutes County Board of Commissioners (Board) adopted carefully crafted ordinances to support the emerging marijuana industry and to protect the high quality of rural life through regulations to mitigate sight, sound, smell, water, waste disposal, access, and more. The regulations are unique among Oregon counties in three ways, including:

1. Discretionary standards to provide flexibility that the industry requested to demonstrate regulatory compliance;
2. Public involvement in the land use decision making process by:
 - a. Requiring public notification of submitted applications.
 - b. Providing opportunities for comments, hearings, and appeals.
3. Standards specifically designed to address Deschutes County's land use patterns, zoning challenges, varied lot sizes, climate, diverse landscapes, rural communities, and agricultural practices.

Prior to, during, and since the process to develop and adopt the regulations, industry supporters have claimed the regulations go too far and effectively prohibit the industry. Opponents disagree, arguing the regulations do not go far enough or the County should opt out. The Board is committed to evaluating the regulations to ensure standards are fair while protecting the quality of life of county residents.

Evaluating the regulations consists of two parts and separate reports:

1. Establishing a factual basis of existing marijuana operations in the County; and
2. Engaging neighbors of approved marijuana grows, marijuana growers and industry representatives, and technical/agency staff in conversations about specific regulations and the overall permitting process. A public comment period is also open and available to any County resident to provide input.

First, the Existing Conditions Report provides a factual basis of the number, types, and general locations of marijuana applications submitted to the County from September 2016 through September 2017. The document also summarizes the County's marijuana regulations and code enforcement approach.

Over the program's first year, the County has approved 32 marijuana land use applications and denied two. Two applications were withdrawn. Industry representatives indicated 25-30 applications would be submitted to the County within the first year following ordinance adoption. County staff publicly estimated that 25-50 applications would be submitted based on customer inquiries and contacts.

Second, the Community Involvement Report will summarize neighbor, public, industry, and agency comments on the effectiveness of the regulations to both support the industry and mitigate any impacts to neighbors.

Both reports will be combined into one document to inform the Board's determination of the effectiveness of the regulations, including the permitting process. The Board will then decide whether the County's marijuana regulations should be amended.

II. OVERVIEW

A. Purpose

The purpose of the Existing Conditions Report is to provide a summary of marijuana land use activity in rural Deschutes County, in addition to the existing regulations and approach to code enforcement.

B. Background

In June 2016, the Deschutes County Board of Commissioners (Board) adopted several ordinances regulating medical and recreational marijuana related uses. During adoption and as discussed with the Oregon Legislature in 2017, the Board committed to reevaluating the effectiveness of the regulations and address changing circumstances, interpretative matters, and amendments to state law. The following provides a general timeline of marijuana law and regulation in Oregon and Deschutes County.

Oregon Medical Marijuana Act

In November 1998, Measure 67 was approved allowing cultivation, possession, and use of marijuana by doctor recommendation for patients with certain medical conditions.

Recreational Marijuana

In November 2014, Measure 91 was approved legalizing marijuana for recreational use. Later, in 2015, the State Legislature approved five bills related to recreational and medical marijuana. Two of those bills, HB 3400 and SB 1598, had provisions related to marijuana land use issues.

“Opt Out” Moratorium

In December 2015, after considering proposed regulations, the Board unanimously approved a moratorium temporarily banning marijuana business. The Board expressed a desire to have more time to evaluate the impact and convene a Marijuana Advisory Committee (MAC) to participate in this discussion.

Deschutes County MAC

In February 2016, the Board appointed 13 residents charged with developing and recommending reasonable time, place and manner land use regulations intended to mitigate the impacts of medical and recreational marijuana uses.

Regulations Adopted

In June 2016, the Board, after considering extensive public comments, MAC recommendations, and state law, adopted regulations. These new standards reflected a compromise to support this emerging industry while maintaining the county’s rural character by mitigating sight, sound, odor, waste disposal, and more.

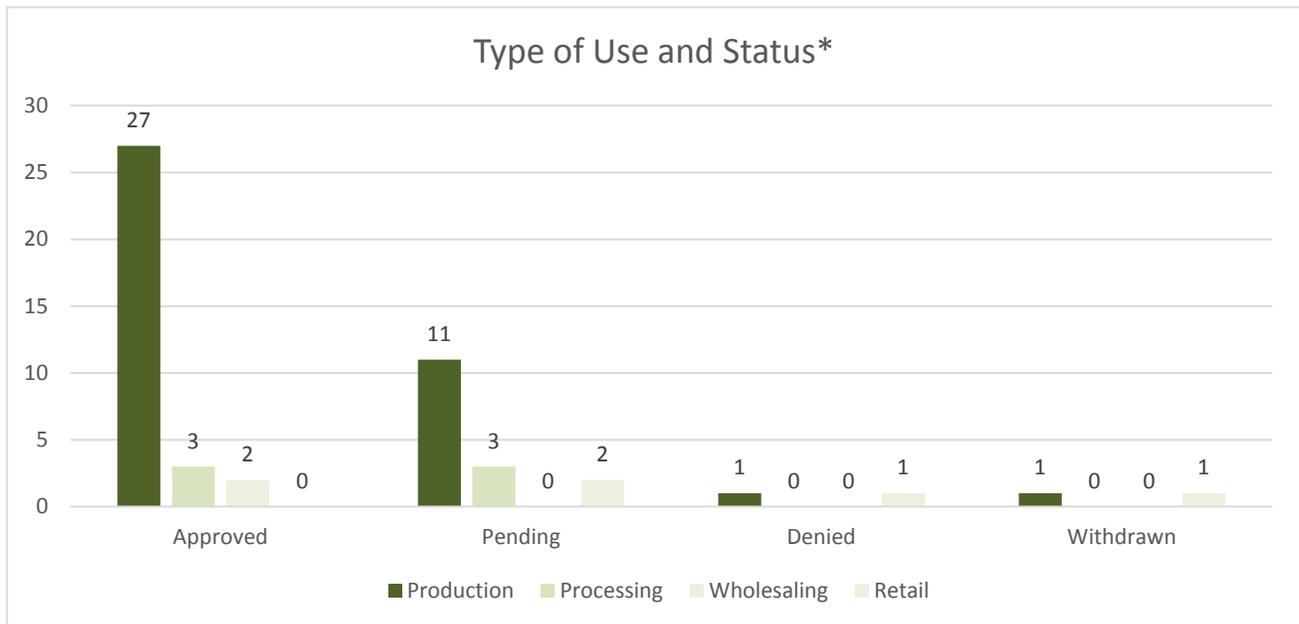
“Opt Out” Moratorium Lifted

In September 2016, the “Opt Out” moratorium was lifted allowing marijuana related uses to be established subject to land use review and approval.

III. MARIJUANA LAND USE ACTIVITY

A. RURAL COUNTY

Deschutes County accepted land use applications for marijuana operations in September 2016. As of September 25, 2017, the Community Development Department issued 32 decisions for marijuana operations including production, processing, wholesale and retail. There are 16 pending applications. The graph below identifies the number of land use applications and their status, i.e., approved, pending, denied, withdrawn.



* Status as of September 25, 2017.

The charts below highlight the zoning districts approved production facilities are located within, in addition to the average parcel size, canopy size, and whether marijuana was grown in a greenhouse or an enclosed structure. A vast majority of the decisions have been issued administratively; two have been issued by a Hearings Officer and only one was decided by the Board of County Commissioners.

APPROVED LAND USE APPLICATION

Zoning District

EFU	93%
MUA-10	7%
<i>Total</i>	<i>100%</i>

Average Parcel Size 24 Acres
Average Canopy Size 8,200 Square Feet

Type of Structure

Greenhouses	44%
Enclosed Structures	44%
Utilizing Both	11%
<i>Total</i>	<i>100%</i>

Approval Body

Administrative (Staff)	89%
Hearings Officer	7%
Board of County Commissioners	4%
<i>Total</i>	<i>100%</i>

PENDING LAND USE APPLICATIONS (As of September 25, 2017)

Zoning District

EFU	91%
MUA-10	9%
<i>Total</i>	<i>100%</i>

Average Parcel Size 56 Acres
Average Canopy Size 6,300 Square Feet

Type of Structure

Greenhouses	36%
Enclosed Structures	45%
Utilizing Both	18%
<i>Total</i>	<i>100%</i>

B. MUNICIPALITIES

There are four municipalities within Deschutes County: the cities of Bend, La Pine, Redmond and Sisters. Marijuana land uses (retail, processing, production, wholesale and testing) currently exist only in Bend and La Pine. The following tables identify the amount of various marijuana operations in both jurisdictions.

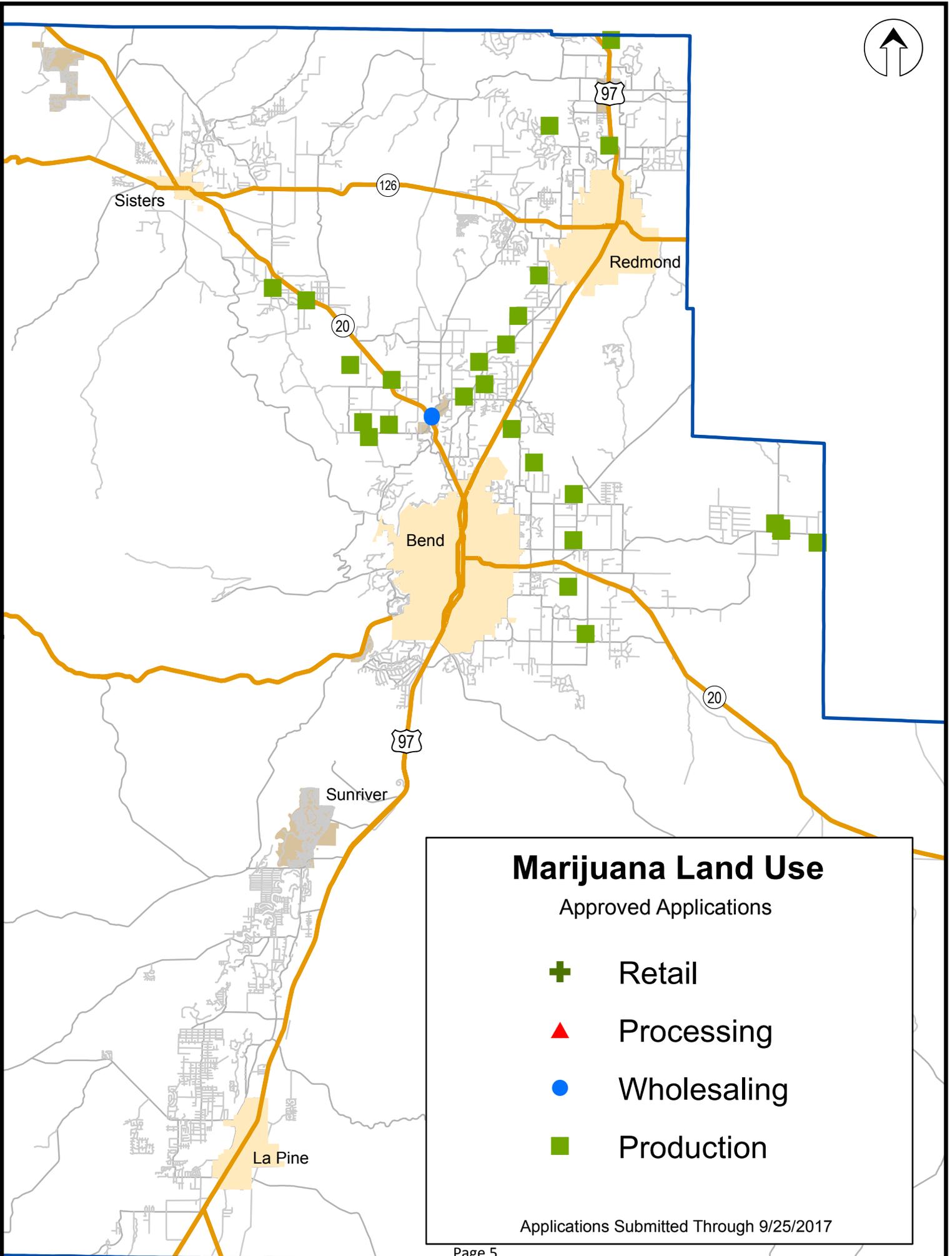
City of Bend

Operation	Permitted	Business Licenses
Retail	26	25
Processing	19	13
Production	15	11
Wholesale	9	7
Testing/Laboratory	1	1

City of La Pine

Operation	Permitted	Business Licenses
Retail	0	2
Processing	1	0
Production	6	1

Currently, Redmond and Sisters effectively prohibit marijuana uses because the operations require a business license. Compliance with local, state and federal law is a prerequisite for a business license to be issued. Since marijuana is considered an illegal controlled substance by the federal government, business licenses for a marijuana related uses have not been issued within these municipalities.

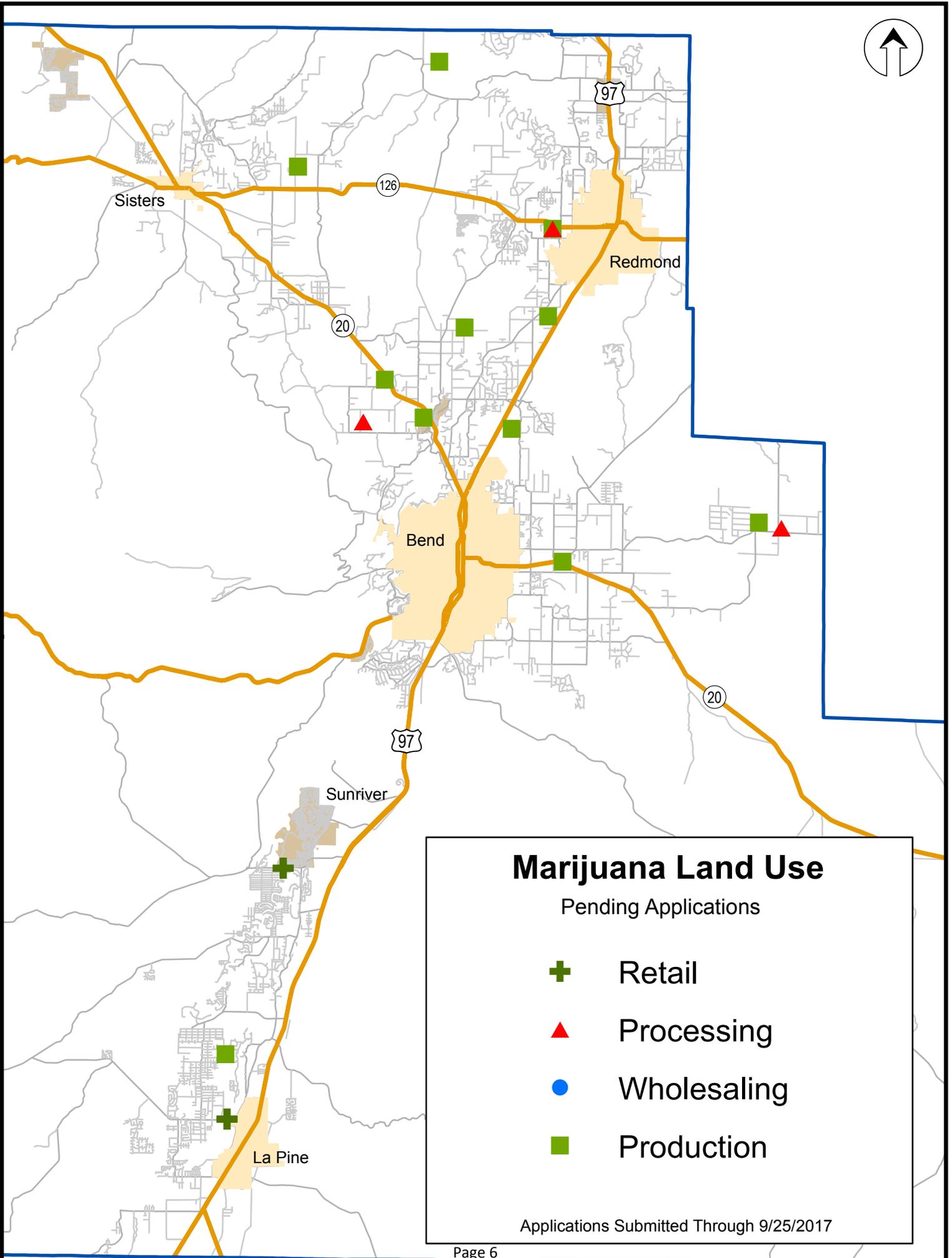


Marijuana Land Use

Approved Applications

- + Retail
- ▲ Processing
- Wholesaling
- Production

Applications Submitted Through 9/25/2017



Marijuana Land Use

Pending Applications

- +** Retail
- ▲** Processing
- Wholesaling
- Production

Applications Submitted Through 9/25/2017

C. MEDICAL MARIJUANA

The Oregon Medical Marijuana Act was established by Ballot Measure 67 in 1998. The Oregon Health Authority (OHA) regulates the cultivation, possession and use of marijuana for medicinal purposes. Federal privacy requirements preclude the state from sharing the locations and size of grow sites under the Oregon Medical Marijuana Program. The table below identifies the number of grow sites within Deschutes County over the past three calendar years. The data provided by OHA does not distinguish grow sites located in the rural county versus cities.

Year	Grow Sites
2017	1,201
2016	1,383
2015	1,742

Source: Oregon Health Authority's "Medical Marijuana Program Statistical Snapshot" – www.oregon.gov/oha

Deschutes County did not have standards for medical marijuana uses prior to the adoption of marijuana ordinances in June 2016. The adopted ordinances regulate medical grow sites applying for OHA licensing after June 1, 2016. Furthermore, the ordinances require compliance with lighting, odor, noise and security standards by December 2016 for medical grow sites licensed before June 1, 2016.

D. INDUSTRIAL HEMP OVERVIEW

The State Department of Agriculture (ODA) regulates industrial hemp. ODA requires a license for production, possession and commerce of hemp. Deschutes County does not regulate hemp because it is defined by state law as a farm crop. Industrial hemp is not marijuana. Industrial hemp and marijuana are regulated differently under Oregon law. Oregon law prohibits hemp to have greater than a 0.3 percent concentration of tetrahydrocannabinol (THC), the psychoactive ingredient in marijuana. Citizens will occasionally ask Deschutes County staff about hemp regulations. Because there are no county standards and the product is recognized as a farm crop, staff directs inquiries to ODA.

For more information, contact the Oregon Department of Agriculture.

Phone: 503-986-4550

Email: info@oda.state.or.us

Website: www.oregon.gov/oda

IV. MARIJUANA REGULATIONS

Deschutes County marijuana regulations are established to mitigate associated impacts while maintaining the compatibility with surrounding uses. Standards are limited to unincorporated areas. Compliance with state regulations are in addition to those set forth by the County.

Title 18, Section 18.116.330, Deschutes County Zoning Ordinance, lists the criteria for recreational marijuana operations. Section 18.116.340 provides specific standards for medical marijuana production registered by the Oregon Health Authority. Appendix 1 provides an overview of the standards for each use. This information is also readily available on the County's website and in brochure format at the permit counter of the Community Development Department.

Definitions of each permitted use are provided below.

Production –

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

Processing –

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

Retailing –

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

Wholesaling –

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

V. CODE ENFORCEMENT POLICIES AND PROCEDURES

Deschutes County has a robust enforcement program for marijuana operations. The following points highlight the County's approach toward code and law enforcement with respect to illegal/nonconforming marijuana operations.

- CDD accepts anonymous complaints. The anonymous complaint form can be completed by a citizen, county staff, or a code enforcement technician via a telephone call or email from the complaining party.
- Information is provided on the CDD webpage that details the maximum number of legally allowed marijuana plants – recreational and/or medical – on a property.
- CDD code enforcement has an internal tracking system to record the number of marijuana complaints received. This system includes phone calls, customer contacts in the office and complaints submitted.
- CDD prioritizes the initial investigation of a marijuana grow site to determine whether to refer to law enforcement. If there is no referral to law enforcement (the site is permitted by OLCC or registered with OHA, but violations of County Code exist on the property), then CDD will follow the Code Enforcement Policy and Procedures Manual to correct the violation. Violations involving public health or safety hazards will be high priority – the same as all other health and/or safety violations, but others (i.e., lighting, odor) will not.

In Oregon, a person producing marijuana falls into one of five categories (listed below).

1. They are a business engaged in the recreational production of marijuana with Oregon Liquor Control Commission (OLCC) approval;
2. They are a medical marijuana user with a medical marijuana card issued by the Oregon Health Authority (OHA) and they produce/possess no more than the medical marijuana limit;
3. They produce medical marijuana for others with OHA approval and they produce/possess no more than the medical marijuana limit;
4. They have neither OLCC nor OHA approval but the amount and manner of their production is authorized by the recreational personal amount rules.
5. None of the above apply in which case the producer is committing a crime.

The County is dedicated to ensuring compliance is met for all permitted uses of marijuana operations. The uses that are not in compliance with county code are addressed promptly and appropriately. Appendix two shows a flow chart describing how the county processes a citizen's inquiry on the legality of a marijuana operation.

APPENDICES

APPENDIX 1 – PRODUCTION STANDARDS

ZONING

Marijuana production is allowed in the following zones:

EFU	Exclusive Farm Use
RI	Rural Industrial (only near Deschutes Junction)
MUA-10	Multiple Use Agriculture

Marijuana Production is a permitted use in the EFU zone and a conditional use in the RI and MUA-10 zones. Before a commercial marijuana production use is established, an applicant needs to receive approval from Deschutes County and the Oregon Liquor Control Commission.

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.

MINIMUM LOT AREA

5 Acres in the EFU and MUA-10 zones.

INDOOR PRODUCTION

- 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.
- In the EFU zone, marijuana production shall only be located in buildings, including greenhouses, hoop houses, and similar structures.
- In all zones, marijuana production is prohibited in any outdoor area.

MAXIMUM BUILDING FLOOR AREA

In the MUA-10 zone, the maximum building floor area used for all activities associated with marijuana production on the subject property shall be:

- 2,500 square feet on parcels from 5-10 acres.
- 5,000 square feet on parcels +10 acres.

MAXIMUM MATURE PLANT CANOPY SIZE

In the EFU zone, the maximum canopy area for mature marijuana plants shall be:

- 2,500 square feet on parcels 5-10 acres.
- 5,000 square feet on parcels 10-20 acres. 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:
 1. The marijuana production operation was lawfully established prior to January 1, 2015; and
 2. 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.
- 10,000 square feet on parcels 20-40 acres.
- 20,000 square feet on parcels 40-60 acres.
- 40,000 square feet on parcels +60 acres.

ON SITE RESIDENCY

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

1. An owner of the subject property; or
2. A holder of an OLCC license for marijuana production, provided that the license applies to the subject property; or
3. 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.

SETBACKS

The following setbacks apply to all marijuana production areas and buildings:

- 100 feet from lot lines.
- 300 feet from an off-site dwelling.

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

SEPARATION DISTANCES

The use shall be located a minimum of 1000 feet from all of the following:

- A public, private, or parochial elementary or secondary school including any parking lot and property used by the school.
- A licensed child care center or licensed preschool including any parking lot 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.
- A youth activity center.
- National monuments and state parks.

All distances shall be measured from the lot line of the affected properties to the closest point of the buildings and land area occupied by the operation.

LIGHTING

- Shall not be visible outside the building from 7:00 p.m. to 7:00 a.m.
- 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.
- Light cast by exterior light fixtures other than marijuana grow lights shall comply with DCC 15.10, Outdoor Lighting Control.

ODOR

- 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.
- 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.
- The odor control system shall:
 1. 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

2. Utilize an alternative method or technology to achieve equal to or greater odor mitigation than provided by 1. Above.
- The system shall be maintained in working order and shall be in use.

NOISE

- 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.
- Intermittent noise for accepted farming practices is permitted.

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:

- Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.
- 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.
- Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.
- 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.

UTILITY VERIFICATION

A statement from each utility company proposed to serve the operation, stating that each such company is able and willing to serve the operation, shall be provided.

WATER

The applicant shall provide to Deschutes County Community Development Department:

1. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resource Department;
2. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
3. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.

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 OHA.

SECURE WASTE DISPOSAL

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

ACCESS

Marijuana production over 5,000 square feet of canopy area for mature marijuana plants shall comply with the following standards.

- Have frontage on and legal direct access from a constructed public, county, or state road; or
- Have access from a private road or easement serving only the subject property.
- 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.

ANNUAL REPORTING

An annual report shall be submitted to the Community Development Department, including the applicable fee, and a fully executed Consent to Inspect Premises form that includes:

- Documentation demonstrating compliance with the:
 1. Land use decision and permits.
 2. Fire, health, safety, waste water, and building codes and laws.
 3. State of Oregon licensing requirements.
- Other information as may be reasonably required to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
- Marijuana Control Plan to be established and maintained by the Community Development Department.
- Conditions of Approval Agreement to be established and maintained by the Community Development Department.

Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance shall serve as acknowledgement that the otherwise allowed use is not in compliance and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.

APPENDIX 2 – PROCESSING STANDARDS

ZONING

Marijuana processing is allowed in the following zones:

EFU	Exclusive Farm Use
MUA-10	Multiple Use Agricultural
TeC	Terrebonne Commercial
TeCR	Terrebonne Commercial Rural
TuC	Tumalo Commercial
TuI	Tumalo Industrial
RI	Rural Industrial
SUBP	Sunriver Business Park

Marijuana processing is a permitted use in the EFU (requiring land use review subject to special provision of DCC Section 18.16.025) and RI (excluding extracts) zones. It is a conditional use in the MUA-10, TeC, TeCR, TuC, TuI, RI (including extracts), and SUBP zones.

MINIMUM LOT AREA

5 Acres in the EFU and MUA-10 zones.

SETBACKS

The following setbacks apply to all marijuana processing areas and buildings:

- 100 feet from lot lines.
- 300 feet from an off-site dwelling.

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

SEPARATION DISTANCES

The use shall be located a minimum of 1000 feet from all of the following:

- A public, private, or parochial elementary or secondary school including any parking lot and property used by the school.
- A licensed child care center or licensed preschool including any parking lot 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.
- A youth activity center.
- National monuments and state parks.

All distances shall be measured from the lot line of the affected properties to the closest point of the buildings and land area occupied by the operation.

ANNUAL REPORTING

An annual report shall be submitted to the Community Development Department, including the applicable fee, and a fully executed Consent to Inspect Premises form that includes:

- Documentation demonstrating compliance with the:
 1. Land use decision and permits.

2. Fire, health, safety, waste water, and building codes and laws.
 3. State of Oregon licensing requirements.
- Other information as may be reasonably required to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
 - Marijuana Control Plan to be established and maintained by the Community Development Department.
 - Conditions of Approval Agreement to be established and maintained by the Community Development Department.

Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance shall serve as acknowledgement that the otherwise allowed use is not in compliance and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use and subject to Deschutes County Code Enforcement.

MAXIMUM BUILDING FLOOR AREA

In the MUA-10 zone, the maximum building floor area used for all activities associated with marijuana processing on the subject property shall be:

- 2,500 square feet on parcels from 5-10 acres.
- 5,000 square feet on parcels +10 acres.

INDOOR PROCESSING

- In the MUA-10 zone, marijuana 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.
- In the EFU zone, marijuana processing shall only be located in buildings, including greenhouses, hoop houses, and similar structures.

ON SITE RESIDENCY

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

2. An owner of the subject property; or
2. A holder of an OLCC license for marijuana processing, provided that the license applies to the subject property; or
3. A person registered with the OHA as a person designated to process marijuana by a registry identification cardholder, provided that the registration applies to the subject property.

LIGHTING

- Shall not be visible outside the building from 7:00 p.m. to 7:00 a.m.
- 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.
- Light cast by exterior light fixtures other than marijuana grow lights shall comply with DCC 15.10, Outdoor Lighting Control.

NOISE

- 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.
- Intermittent noise for accepted farming practices is permitted.

ODOR

- 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.
- 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.
- The odor control system shall:
 1. 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
 2. Utilize an alternative method or technology to achieve equal to or greater odor mitigation than provided by 1. above.
- The system shall be maintained in working order and shall be in use.

SCREENING AND FENCING

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

- Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.
- 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.
- Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.
- 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.

UTILITY VERIFICATION

A statement from each utility company proposed to serve the operation, stating that each such company is able and willing to serve the operation, shall be provided.

WATER

The applicant shall provide:

1. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resource Department;
2. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
3. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.

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 OHA.

SECURE WASTE DISPOSAL

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

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.

APPENDIX 3 – RETAIL STANDARDS

ZONING

Marijuana retailing is allowed the following zones as a conditional use:

RSC	Rural Service Center
TeC	Terrebonne Commercial
TeCR	Terrebonne Commercial Rural
TuC	Tumalo Commercial
TuI	Tumalo Industrial
RI	Rural Industrial
SUC	Sunriver Commercial
SUTC	Sunriver Town Center
SUBP	Sunriver Business Park

SEPARATION DISTANCES

The building space occupied by the operation shall be located a minimum of 1000 feet from all of the following:

- A public, private, or parochial elementary or secondary school including any parking lot and property used by the school.
- A licensed child care center or licensed preschool including any parking lot 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.
- A youth activity center.
- National monuments and state parks.
- Any other marijuana retail facility licensed by the OLCC or marijuana dispensary registered with the OHA.

All distances shall be measured from the lot line of the affected properties to the closest point of the buildings space occupied by the retailer, except distance between retailers. Distances between retailers 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.

HOURS

Hours of operation shall be 9:00 a.m. to 7:00 p.m. on the same day.

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.

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.

ANNUAL REPORTING

An annual report shall be submitted to the Community Development Department, including the applicable fee, and a fully executed Consent to Inspect Premises form that includes:

- Documentation demonstrating compliance with the:
 1. Land use decision and permits.
 2. Fire, health, safety, waste water, and building codes and laws.

3. State of Oregon licensing requirements.
 - Other information as may be reasonably required to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
 - Marijuana Control Plan to be established and maintained by the Community Development Department.
 - Conditions of Approval Agreement to be established and maintained by the Community Development Department.

Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance shall serve as acknowledgement that the otherwise allowed use is not in compliance and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use and subject to Deschutes County Code Enforcement.

APPENDIX 4 – WHOLESALE STANDARDS

ZONING

Marijuana wholesaling is allowed in the following zones:

RSC	Rural Service Center
TeC	Terrebonne Commercial District
TeCR	Terrebonne Commercial-Rural District
TuC	Tumalo Commercial
RC	Rural Commercial
SUC	Sunriver Commercial
SUBP	Sunriver Business Park

Where marijuana wholesaling is allowed, the use is subject to site plan review. Marijuana wholesaling is strictly an office use. No storage of marijuana items or products are permitted at the site of the wholesaling use.

APPENDIX 5 – MEDICAL MARIJUANA STANDARDS

The following standards are requirements for existing medical grow sites licensed by the Oregon Health Authority prior to June 1, 2016. When the county adopted regulations for recreational grow sites, standards were also placed on existing (medical) grow sites. Medical growers had to comply with the following standards by September 15, 2016 (for lighting) and December 15, 2016 (for odor, noise, water, security cameras, and secure waste disposal).

LIGHTING

- Shall not be visible outside the building from 7:00 p.m. to 7:00 a.m.
- 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.
- Light cast by exterior light fixtures other than marijuana grow lights shall comply with Deschutes County Code Chapter 15.10, Outdoor Lighting Control.

ODOR

- 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.
- 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.
- The odor control system shall:
 1. 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
 2. Utilize an alternative method or technology to achieve equal or greater odor mitigation than provided by 1. above.
- The system shall be maintained in working order and shall be in use.

NOISE

- 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.
- Intermittent noise for accepted farming practices is permitted.

WATER

The applicant shall provide to Deschutes County Community Development Department:

1. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resource Department;
2. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
3. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.

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 OHA.

SECURE WASTE DISPOSAL

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

ADDITIONAL STANDARDS FOR NEW MEDICAL GROW SITES

In addition to the standards outlined above, new medical marijuana grow sites (licensed after June 1, 2016) are subject to the following standards.

ZONING

New medical marijuana grow sites are allowed in the following zones:

EFU	Exclusive Farm Use
RI	Rural Industrial (only near Deschutes Junction)
MUA-10	Multiple Use Agricultural

Marijuana Production is a permitted use in the EFU zone and a conditional use in the RI and MUA-10 zones.

MINIMUM LOT AREA

5 Acres in the EFU and MUA-10 zones.

SETBACKS

The following setbacks apply to all marijuana production areas and buildings:

- 100 feet from lot lines.
- 300 feet from an off-site dwelling.

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

INDOOR PRODUCTION

- 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.
- In the EFU zone, marijuana production shall only be located in buildings, including greenhouses, hoop houses, and similar structures.
- In all zones, marijuana production is prohibited in any outdoor area.

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:

- 2,500 square feet on parcels from 5-10 acres.
- 5,000 square feet on parcels 10+ acres.

MAXIMUM MATURE PLANT CANOPY SIZE

In the EFU zone, the maximum canopy area for mature marijuana plants shall be:

- 2,500 square feet on parcels 5-10 acres.
- 5,000 square feet on parcels 10-20 acres. 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:
 1. The marijuana production operation was lawfully established prior to January 1, 2015; and
 2. 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.
- 10,000 square feet on parcels 20-40 acres.
- 20,000 square feet on parcels 40-60 acres.
- 40,000 square feet on parcels 60+ acres.

SEPARATION DISTANCES

The buildings and land areas occupied by the operation shall be located a minimum of 1000 feet from all of the following:

- A public, private, or parochial elementary or secondary school including any parking lot and property used by the school.
- A licensed child care center or licensed preschool including any parking lot 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.
- A youth activity center.
- National monuments and state parks.

All distances shall be measured from the lot line of the affected properties to the closest point of the buildings and land area occupied by the operation.

ACCESS

Marijuana production over 5,000 square feet of canopy area for mature marijuana plants shall comply with the following standards.

1. Frontage on and legal direct access from a constructed public, county, or state road;
2. Access from a private road or easement serving only the subject property; or
3. 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.

ON SITE RESIDENCY

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

1. An owner of the subject property; or
2. A 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.

ANNUAL REPORTING

An annual report shall be submitted to the Community Development Department, including the applicable fee, and a fully executed Consent to Inspect Premises form that includes:

- Documentation demonstrating compliance with the:
 1. Land use decision and permits.
 2. Fire, health, safety, waste water, and building codes and laws.
 3. State of Oregon licensing requirements.
- Other information as may be reasonably required to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
- Marijuana Control Plan to be established and maintained by the Community Development Department.
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Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance shall serve as acknowledgement that the otherwise allowed use is not in compliance and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use and subject to Deschutes County Code Enforcement.

APPENDIX 6 – CODE ENFORCEMENT ACTION FLOW CHART

How to Handle Reports of Marijuana Grows

