

Deschutes County Board of County Commissioners

April 27, 2016
Work Session

Marijuana Advisory Committee (MAC)
Report Presentation



PURPOSE

- Present high-level summary of the Marijuana Advisory Committee's process & recommendations

To prepare:

- Board of County Commissioners (BOCC) & public for public hearings on Monday, May 2
- BOCC for deliberations on Wednesday, May 4

It is not:

- To address, discuss, change, modify, etc. Ballot Measure 91 in any way at the local or state levels

AGENDA

- **Background**
- **Marijuana Advisory Committee Process & Recommendations**
- **Next Steps**

BACKGROUND

- 1906-1997** Numerous laws pertaining to history of marijuana regulation in Oregon
- 1998** Oregon Ballot Measure 67 (Initiative) “Allows Medical Use of Marijuana” (passed 55%-45%)
- 2004-2012** Amendments to BM 67 & Initiatives
- 2013** Several new laws, including medical marijuana dispensaries permitting regulations
- 2014** Ballot Measure 91 (Initiative) “Allows possession, manufacture, sale by/to adults, subject to State licensing, regulation, taxation” (passed 56%-44%)
- 2015** Oregon House Bill 3400 “Omnibus Bill” – Medical and Recreational Marijuana (businesses & opt out)

BACKGROUND

Source for history & marijuana laws:

<http://oregoncounties.org/news/publications/marijuana/>

BACKGROUND

2015

- August** BOCC hearings to gain public input on new marijuana laws and regulations
- September** BOCC work sessions to develop first draft of marijuana business regulations for Planning Commission consideration and public hearings
- Oct.-Nov.** Planning Commission work sessions, hearings, deliberations, recommendation
- Dec. 2** BOCC public hearings
- Dec. 21** BOCC adopted “Opt-Out” Ordinance 2015-009 to:
Take more time to assess “right to farm” impacts and to consider reasonable regulations (clarified by SB 1598 in 2016 Legislative Session); and
Form a Marijuana Advisory Committee (MAC)

BACKGROUND

Ordinance 2015-009

Prohibited or “Opted Out” of marijuana related land uses in unincorporated Deschutes County including:

Medical Marijuana

- Processing - Products, concentrates, or extracts
- Dispensaries - Selling to a card holder or caregiver

Recreational Marijuana

- Production - Growing
- Processing - Products, concentrates, or extracts
- Retail - Selling to a consumer
- Wholesaling - Selling to person not consumer

BACKGROUND

February 2015

Marijuana Advisory Committee (MAC) Formed

- **13-Member committee comprised of:**
 - Rural Residents
 - Marijuana Industry Representatives
 - Planning Commission Chair
- Charged with developing and recommending reasonable time, place, and manner land use regulations to mitigate the impacts of medical and recreational marijuana uses – especially production.

BACKGROUND

Special thanks to MAC Members for your service:

- Andrew Anderson
- Matt Cyrus
- Sam Davis
- Tim Elliott
- Larry Fulkerson
- Alison Hohengarten
- Jeff Ingelse
- Glenn Kotara
- Liz Lotochinski
- Hunter Neubauer
- Lindsey Pate
- Josh Rodriguez
- Steve Swisher

**& Mary Orton for outstanding
facilitation services!**



MAC SCHEDULE

- 7 meetings from February 10 to April 7.
- Total of 26 hours.

February	March	April
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5 6	1 2 3 4 5	1 2
7 8 9 10 11 12 13	6 7 8 9 10 11 12	3 4 5 6 7 8 9
14 15 16 17 18 19 20	13 14 15 16 17 18 19	10 11 12 13 14 15 16
21 22 23 24 25 26 27	20 21 22 23 24 25 26	17 18 19 20 21 22 23
28 29	27 28 29 30 31	24 25 26 27 28 29 30

MAC REVIEW PROCESS

- Consensus process rather than a direct up or down vote.
- Where full consensus was not reached the parties were afforded the opportunity to submit a position report on the various points of view. The report contains all the position write-ups.
- MAC Report contains these position write-ups.



MAC REVIEW PROCESS

- Discussed regulatory standards that would be applicable to both recreational and medical marijuana related uses, unless otherwise specified.
- Started with Planning Commission's recommendations.
- Reviewed recommendations and ordinances from Clackamas, Lane and Jackson Counties.



USE CATEGORIES

MEDICAL

- DISPENSARY
- PRODUCTION*
- PROCESSING

*Not legal to opt out

RECREATIONAL

- WHOLESALE
- RETAIL
- PRODUCTION
- PROCESSING

MATRICES

■ ZONING MATRICES

- By use / business – retail/dispensary, wholesale, retail, production
- Permitted, Conditional Use Permit, Prohibited

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

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

MATRICES

■ SPECIFIC USE STANDARDS MATRICES

- By use / business
- MAC Recommendation (Consensus or Non-Consensus), original proposal, Planning Commission Recommendation, Clackamas County Ordinance, Jackson County Planning Commission Recommendation, OLCC Recreational Rules, OHA Medical Rules

NOTE:

MAC also referenced Jackson County's Adopted Ordinance, Lane County's Ordinance (provided to the MAC & included in the BOCC binder)

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

Definition originally proposed and recommended by the Planning Commission

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

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

MAC RECOMMENDATIONS



WHOLESALE

CONSENSUS

- Office Only
 - No on-site storage of marijuana items or products.
- Zoning (same as Planning Commission)

NON-CONSENSUS

- Allow wholesale operations as a home occupation.
- Require random, annual, unannounced inspections by County Code Enforcement.

RETAIL CONSENSUS

- **Home Occupation Prohibited.**
- **Waste:** Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the licensee.
- **Separation:**
 - 1,000 feet from public and private elementary and secondary schools, licensed child care centers (excluding in-home child care), licensed pre-schools, national monuments and state parks, and all approved/licensed youth activity centers; and require a separation of 1,000 feet between all retail outlets (medical and recreational).
 - A change in use (e.g., a new school) shall not cause a violation of this standard.
 - Separation is to be measured from the lot line of the school.

RETAIL CONSENSUS

- **No Window Service**
- **Minors Prohibited:**
 - 18 years for medical marijuana
 - 21 years for recreational marijuana.
- **No Co-Location** with any marijuana social club or marijuana smoking club.
- **Zoning (same as Planning Commission)**

RETAIL NON-CONSENSUS

■ SEPARATION:

- Add churches to the list of locations.
- How it is measured (to the lot line or premises)
- No retail marijuana facilities near public playgrounds, meeting places available for rent such as The Grange, and Deschutes Public Libraries.

■ HOURS OF OPERATION:

- 7 different options were proposed.

■ ODOR CONTROL

■ GRANDFATHERING

- Allow existing dispensaries to convert to retail as a permitted use.

■ PROHIBIT PUBLIC PATIOS

PRODUCTION AND PROCESSING – EFU CONSENSUS

- Home Occupations Prohibited
- Odor Control
 - Apply to any building, including greenhouses, hoop houses, and other similar structures.
 - Equipped with an effective odor control system.
 - Submit a report by a mechanical engineer.
 - The system shall consist of one or more fans.
 - The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building divided by three.
 - The filter(s) shall be rated for the required CFM.
 - The system shall be maintained in working order and in use.
 - These standards shall be applied to existing production and processing sites after one year.

PRODUCTION AND PROCESSING – EFU CONSENSUS

■ Noise

- Shall comply with the Noise Control Standards of DCC 8.08.
 - Key issue raised regarding a potential exemption for right-to-farm uses.

■ Lighting Control

- Shall not be visible from 7:00 p.m. to 7:00 a.m. the following day.
- Lighting fixtures shall be fully shielded.
- Shall be applied to existing sites after one year.

PRODUCTION AND PROCESSING – EFU CONSENSUS

■ Separation

- 1,000 feet from public and private elementary and secondary schools, licensed child care centers (excluding in-home child care), licensed pre-schools, national monuments and state parks, and all approved/licensed youth activity centers
- A change in use (e.g., a new school) shall not cause a violation of this standard.
- Measured from the lot line of the school to the premises.
- Existing lawfully-established sites are exempt from the separation standard.

PRODUCTION AND PROCESSING – EFU NON-CONSENSUS

- **Prohibit Outside Production** (no-building/under the sky)
- **Access**
- **Lot Size**
 - 7 options proposed
- **Limiting the Number of Production Licenses per Parcel**
- **Setbacks**
- **Additional Separation Standards**
- **Standards for/Prohibition of Extracts Processing**

PRODUCTION AND PROCESSING – EFU ISSUES NOT ADDRESSED

- Screening / Fencing / Security / Security Cameras / Secure Disposal
- Fire Protection
- Water
- Temporary Residences
- Maximum Building Floor Size
- Outdoor Storage Prohibited (Processing Only)
- Access (not finished)
- Processing Method Limitation (Processing Only)
- Minors Prohibited
- Consumption
- Minimum Separation / Setbacks / Minimum Lot Size
- Inspections
- Other

PRODUCTION AND PROCESSING

- Did not discuss or address other zones such as:
 - Rural Industrial
 - Multiple Use Agricultural-10
 - Rural Residential-10
 - Other

BOARD NEXT STEPS

- **May 2, 2016 10:00 am-12:00 pm & 1:00-3:00pm**
 - **Public Hearing** to consider the status of Opt Out, and medical and recreational marijuana regulations.

- **May 4, 2016 10:00 am**
 - **Deliberations (decisions)** on status of Opt Out, and medical and recreational marijuana regulations.

MAY 2, 2016 PUBLIC HEARING

■ Public testimony guidelines:

- 2-3 minutes per person. Oral and written comments should be concise.
- Clearly state what is being addressed – medical and/or recreation marijuana & specific uses (retail, wholesale, production, processing)
- Comments related to quality of life issues should be specific about what needs to be addressed and state what the specific standard should be to preserve livability.
- The scope of the public hearing will not address Ballot Measure 91.

**April 27, 2016
Work Session**

**Q & A
DISCUSSION**

**For More Information Visit:
www.deschutes.org/marijuana**

