

**CORRECTED EXHIBIT 5/23/16**  
**(Correction to Proposed Subsection 18.116.330(B)(2))**

“\*\*\*\*\*” Denotes portions of this Section not amended by Ordinance 2016-015.

**Chapter 18.116. SUPPLEMENTARY PROVISIONS**

\*\*\*\*\*

**18.116.280. Home Occupations.**

\*\*\*\*\*

F. Prohibited Uses: The following marijuana uses shall be prohibited as any home occupation:

1. Marijuana production;
2. Marijuana processing;
3. Marijuana retailing; and
4. Marijuana wholesaling.

(Ord. 2016-015 §10, 2016; Ord 2007-021 §1, 2007; Ord 2004-002 §24, 2004)

\*\*\*\*\*

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

A. Applicability. Section 18.116.330 applies to:

1. Marijuana Production in the EFU, MUA-10, and RI zones.
2. Marijuana Processing in the EFU, MUA-10, TeC, TeCR, TuC, TuI, RI, and SUBP zones
3. Marijuana Retailing in the RSC, TeC, TeCR, TuC, TuI, RC, RI, SUC, SUTC, and SUBP zones.
4. Marijuana Wholesaling in the RSC, TeC, TeCR, TuC, RC, SUC, and SUBP zones.

B. Marijuana production and marijuana processing. Marijuana production and marijuana processing shall be subject to the following standards and criteria:

1. Minimum Lot Area.

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

2. Maximum Mature Plant Canopy Size. The maximum canopy area for mature marijuana plants shall apply as follows:

- a. Parcels from 5 acres to less than 10 acres in area: 2,500 square feet.
- b. Parcels equal to or greater than 10 acres to less than 20 acres in area: 5,000 square feet.
- c. Parcels equal to or greater than 20 acres to less than 40 acres in area: 10,000 square feet.
- d. Parcels equal to or greater than 40 acres to less than 60 acres in area: 20,000 square feet.
- e. Parcels equal to or greater than 60 acres in area: 40,000 square feet.

3. Indoor Production and Processing.

- a. In the MUA-10 zone, marijuana production and processing shall be located entirely within one or more fully enclosed buildings with conventional or post framed opaque, rigid walls and roof covering. Use of greenhouses, hoop houses, and similar non-rigid structures is prohibited.
- b. In the EFU zone, marijuana production and processing shall only be located in buildings, including greenhouses, hoop houses, and similar structures.
- c. In all zones, marijuana production and processing are prohibited in any outdoor area.

**CORRECTED EXHIBIT 5/23/16**  
**(Correction to Proposed Subsection 18.116.330(B)(2))**

4. Maximum Building Floor Area. In the MUA-10 zone, the maximum building floor area used for all activities associated with marijuana production and processing on the subject property shall be:
  - a. Parcels from 5 acres to less than 10 acres in area: 2,500 square feet.
  - b. Parcels equal to or greater than 10 acres: 5,000 square feet.
5. 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.
6. Setbacks. The following setbacks shall apply to all marijuana production and processing areas and buildings:
  - a. Minimum Yard Setback/Distance from Lot Lines: 100 feet.
  - b. Setback from an off-site dwelling: 300 feet.  
For the purposes of this criterion, an off-site dwelling includes those proposed off-site dwellings with a building permit application submitted to Deschutes County prior to submission of the marijuana production or processing application to Deschutes County.
  - c. Exception: Any reduction to these setback requirements may be granted by the Planning Director or Hearings Body provided the applicant demonstrates the reduced setbacks afford equal or greater mitigation of visual, odor, noise, lighting, privacy, and access impacts.
7. Separation Distances. Minimum separation distances shall apply as follows:
  - a. The use shall be located a minimum of 1000 feet from:
    - i. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;
    - ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
    - iii. A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool;
    - iv. A youth activity center; and
    - v. National monuments and state parks.
  - b. For purposes of DCC 18.116.330(B)(7), all distances shall be measured from the lot line of the affected properties listed in DCC 18.116.330(B)(7)(a) to the premises of the marijuana producer or marijuana processor.
  - c. A change in use of another property to those identified in DCC 18.116.330(B)(7) shall not result in the marijuana producer or marijuana processor being in violation of DCC 18.116.330(B)(7) if the use is:
    - i. Pending a local land use decision;
    - ii. Licensed or registered by the State of Oregon; or
    - iii. Lawfully established.
8. Access. Marijuana production over 5,000 square feet of canopy area for mature marijuana plants shall comply with the following standards.
  - a. Have frontage on and legal direct access from a constructed public, county, or state road; or
  - b. Have access from a private road or easement serving only the subject property.
  - c. If the property takes access via a private road or easement which also serves other properties, the applicant shall obtain written consent to utilize the easement or private road for marijuana production access from all owners who have access rights to the private road or easement. The written consent shall:

**CORRECTED EXHIBIT 5/23/16**  
**(Correction to Proposed Subsection 18.116.330(B)(2))**

- i. Be on a form provided by the County and shall contain the following information;
  - ii. Include notarized signatures of all owners, persons and properties holding a recorded interest in the private road or easement;
  - iii. Include a description of the proposed marijuana production or marijuana processing operation; and
  - iv. Include a legal description of the private road or easement.
9. Lighting. Lighting shall be regulated as follows:
  - a. Inside building lighting, including greenhouses, hoop houses, and similar structures, used for marijuana production shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. on the following day.
  - b. Lighting fixtures shall be fully shielded in such a manner that all light emitted directly by the lamp or a diffusing element, or indirectly by reflection or refraction, is projected below the horizontal plane through the lowest light-emitting part.
  - c. Light cast by exterior light fixtures other than marijuana grow lights shall comply with DCC 15.10, Outdoor Lighting Control.
- 10a. Odor. As used in Subsection 18.116.330(B)(10), building means the building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing.
  - a. The building shall be equipped with an effective odor control system which must at all times prevent unreasonable interference of neighbors' use and enjoyment of their property.
  - b. An odor control system is deemed permitted only after the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the system will control odor so as not to unreasonably interfere with neighbors' use and enjoyment of their property.
  - c. Private actions alleging nuisance or trespass associated with odor impacts are authorized, if at all, as provided in applicable state statute.
  - d. The odor control system shall consist of one or more fans.
  - e. 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.
  - f. The filter(s) shall be rated for the required CFM.
  - g. The system shall be maintained in working order and shall be in use.
- 10b. Odor. All marijuana production and processing shall install an effective odor control system in all buildings, including but not limited to, greenhouses, hoop houses, and similar non-rigid structures. The effective odor control system shall:
  - a. Prevent marijuana plant odor from disturbing people of normal sensitivity owning or residing on properties within one-quarter mile of all property lines on which the marijuana production and processing is sited;
  - b. Designed and stamped by a mechanical engineer licensed in the State of Oregon; and
  - c. Continually maintained in working order and in use when plants are in the building.
11. Noise. Noise produced by marijuana production and marijuana processing shall comply with the following:
  - a. Sustained noise from mechanical equipment used for heating, ventilation, air condition, odor control, fans and similar functions shall not exceed 30 dB(A) measured at any property line between 10:00 p.m. and 7:00 a.m. the following day.
  - b. Sustained noise from marijuana production is exempt from protections of DCC 9.12 and ORS 30.395, Right to Farm. Intermittent noise for accepted farming practices is permitted.

**CORRECTED EXHIBIT 5/23/16**  
**(Correction to Proposed Subsection 18.116.330(B)(2))**

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

  - a. Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.
  - b. Fencing shall be finished in a muted earth tone that blends with the surrounding natural landscape and shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc., and shall be subject to DCC 18.88, Wildlife Area Combining Zone, if applicable.
  - c. Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.
  - d. The existing tree and shrub cover screening the development from the public right-of-way or adjacent properties shall be retained to the maximum extent possible. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act; or agricultural use of the land.
13. Water. The applicant shall provide:

  - a. A water right permit or certificate number; or
  - b. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
  - c. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.
14. 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.
15. 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.
16. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with requirements of the OLCC or the OHA.
17. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA Person Responsible for the Grow Site (PRMG).
18. Residency. In the MUA-10 zone, a minimum of one of the following shall reside in a dwelling unit on the subject property:

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

**CORRECTED EXHIBIT 5/23/16**  
**(Correction to Proposed Subsection 18.116.330(B)(2))**

20. Prohibited Uses. In the EFU zone, the following uses are prohibited:

- a. A new dwelling used in conjunction with a marijuana crop;
- b. A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop;
- c. A commercial activity, as described in ORS 215.213(2)(c) or 215.283(2)(a), carried on in conjunction a marijuana crop; and
- d. Agri-tourism and other commercial events and activities in conjunction with a marijuana crop.

B. Marijuana Retailing. Marijuana retailing, including recreational and medical marijuana sales, shall be subject to the following standards and criteria:

1. Hours. Hours of operation shall be no earlier than 9:00 a.m. and no later than 7:00 p.m. on the same day.
2. Odor. The building, or portion thereof, used for marijuana retailing shall be designed or equipped to prevent detection of marijuana plant odor off premise by a person of normal sensitivity.
3. Window Service. The use shall not have a walk-up or drive-thru window service.
4. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.
5. Minors. No person under the age of 21 shall be permitted to be present in the building, or portion thereof, occupied by the marijuana retailer, except as allowed by state law.
6. Co-Location of Related Activities and Uses. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot or parcel or within the same building with any marijuana social club or marijuana smoking club.
7. Separation Distances. Minimum separation distances shall apply as follows:
  - a. The use shall be located a minimum of 1,000 feet from:
    - i. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;
    - ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
    - iii. A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool;
    - iv. A youth activity center;
    - v. National monuments and state parks; and
    - vi. Any other marijuana retail facility licensed by the OLCC or marijuana dispensary registered with the OHA.
  - b. For purposes of DCC 18.116.330(B)(7), distance shall be measured from the lot line of the affected property to the closest point of the building space occupied by the marijuana retailer. For purposes of DCC 18.116.330(B)(7)(a)( vi), distance shall be measured from the closest point of the building space occupied by one marijuana retailer to the closest point of the building space occupied by the other marijuana retailer.
  - c. A change in use to another property to a use identified in DCC 18.116.330(B)(7), after a marijuana retailer has been licensed by or registered with the State of Oregon shall not result in the marijuana retailer being in violation of DCC 18.116.330(B)(7).

C. Annual Reporting

1. An annual report shall be submitted to the Community Development Department by the real property owner or licensee, if different, each February 1, documenting all of the following as of

**CORRECTED EXHIBIT 5/23/16**  
**(Correction to Proposed Subsection 18.116.330(B)(2))**

December 31 of the previous year, including the applicable fee as adopted in the current County Fee Schedule and a fully executed Consent to Inspect Premises form:

- a. Documentation demonstrating compliance with the:
  - i. Land use decision and permits.
  - ii. Fire, health, safety, waste water, and building codes and laws.
  - iii. State of Oregon licensing requirements.
- b. Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance with DCC 18.116.330(C)(1)(a) shall serve as acknowledgement by the real property owner and licensee that the otherwise allowed use is not in compliance with Deschutes County Code; authorizes permit revocation under DCC Title 22, and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.
- c. Other information as may be reasonably required by the Planning Director to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
- d. Marijuana Control Plan to be established and maintained by the Community Development Department.
- e. Conditions of Approval Agreement to be established and maintained by the Community Development Department.
- f. This information shall be public record subject to ORS 192.502(17).

(Ord. 2016-015 §10, 2016)

# Findings

## I. BACKGROUND

### A. State Law

Oregon voters approved Ballot Measure 67, the Oregon Medical Marijuana Act, in November 1998. The Oregon Legislature amended the Medical Marijuana Act in 2013, authorizing local government to adopt reasonable regulations related to the hours of operation, location, and manner in which medical marijuana dispensaries are regulated.<sup>1</sup>

Oregon voters approved Ballot Measure 91 in November 2014, legalizing the personal use and possession of adult recreational marijuana beginning on July 1, 2015, with certain limitations, including restrictions on use in public, no growing in public view, a restriction on minors attempting to buy or entering licensed premises, prohibiting the sale or use by persons under 21, and imposing licensing and other requirements on marijuana cultivation, processing, and dispensing facilities.

The measure, as implemented by the Oregon State Legislature in 2015 (HB 3400 A, Section 33), authorizes reasonable conditions on the manner in which:

- Licensed retailers, processors, producers, wholesalers may sell marijuana;
- Reasonable limitations on the hours during which a licensed marijuana facility may sell marijuana items;
- Reasonable requirements related to a public's access to a licensed premises;
- Reasonable distance between facilities (no more than 1,000 feet); and
- Reasonable limitations on where licensed premises may be located.

Such regulations must be consistent with the County's Comprehensive Plan, zoning ordinance, and public health and safety laws.

### B. Deschutes County Process

In September 2015, the Board of County Commissioners (Board) held a series of work sessions to draft proposed standards for marijuana-related businesses in unincorporated Deschutes County. On November 5 and 12, 2015, the Planning Commission conducted public hearings to receive testimony on the proposed regulations. The Planning Commission deliberated on November 16 and 23, 2015, and forwarded recommendations for the Board's consideration. The Board held a public hearing on December 2, 2015. Thereafter, on December 21, 2015, the Board unanimously approved Ordinance No. 2015-009, banning or "opting out" of marijuana businesses in unincorporated Deschutes County. Commissioners expressed a desire to have more time to assess "right to farm" impacts and to consider reasonable regulations for businesses that grow, process, and sell marijuana.

After convening a Marijuana Advisory Committee in February 2016 and receiving its recommendations in April 2016, the Board held another series of public hearings to take testimony on

---

<sup>1</sup> Counties retain home rule authority to adopt regulations that are not unconstitutional or preempted by federal or state law.

- Status of "Opt Out" moratorium prohibiting medical marijuana processing and dispensaries and recreational marijuana production, processing, wholesale, and retail; and
- Amendments to Deschutes County Code to define, permit, and establish standards for marijuana related uses in unincorporated Deschutes County. The amendments would identify the zones where the various uses may be permitted (outright or conditional use) and prohibited, and time, place, and manner regulations for each allowed use.

On [date], the Board adopted Ordinance Nos. 2016-xxx, 2016-xxx, 2016-xxx, 2016-xxx, and 2016-xxx, defining, permitting, and establishing standards for marijuana related uses in unincorporated Deschutes County.

### **C. Deschutes County Distinguishing Land Use Characteristics**

When Senate Bill (SB) 100 was adopted in 1973, Deschutes County prepared a Comprehensive Plan, relying on the Bureau of Government and Research from the University of Oregon. It was sent to the voters of the County either by referendum or referral by the Board, and was rejected. Out of the thirty-six counties, Deschutes County was the only one to have its Comprehensive Plan repealed by voters. Negotiations between the State of Oregon and County subsequently took place to develop a Comprehensive Plan that could comply with State law. The State directed Deschutes County to protect resource lands consistent with the State Land Use Goals. Many people in Deschutes County felt the land was too marginal for farming and advocated for greater flexibility to allow development. The Legislature cited Deschutes County's "sagebrush subdivisions," created in the 1960s and early 1970s, as part of the reason to approve SB 100 and the State enabling planning legislation.

As outlined in the Comprehensive Plan's Resource Element, Staff relied on soil maps and irrigation data provided by the irrigation districts to designate agricultural lands. Staff also examined topography, recognizing that elevation could affect land productivity (example: the Lower Bridge area is lower elevation and has the best agricultural lands in the County). Soil and irrigation were the two primary factors for determining agricultural land. The one exception was the eastern section of the County which was recognized as range land (Brothers, Millican, and Hampton). Pre-platted subdivisions, lacking development, utilities, or infrastructure, were deemed to be vacant and therefore suitable for agriculture uses, based on direction from the State. The County was also required to protect land for wildlife and open space values, as well as to direct development into areas that could be more efficiently served, thereby reducing required taxation. To designate rural residential land (Rural Residential - 10, Multiple Use Agricultural - 10), Deschutes County had to demonstrate that the land was committed to rural residential uses. There were extensive property owner negotiations. Many property owners wanted maximum flexibility to preserve their investment for retirement. Staff examined the level of development, utilities, roads, and infrastructure to make the determination. They examined every property, lot by lot in the County. If they could demonstrate the land was committed, even if it was not necessarily completely built-out, it was designated rural residential.

In 1992 a commercial farm study was completed for Deschutes County, concluding that irrigation is the controlling variable for defining farm lands. Soil classifications improve when water is available. Seven new agricultural subzones were identified based on the factual data provided in the 1992 study and minimum acreages were defined based on the typical number of irrigated acres used by commercial farms in that particular subzone (with the exception of the Horse Ridge subzone in the eastern portion of the County). The 1992 farm study noted the challenges of local commercial farming. The high elevation (2700-3500 feet), short growing

season (88-100 days), low rainfall, and distance to major markets hamper profitability. The 1992 study resulted in minimum lot sizes that are smaller than the State requirement of 80 acres for farm land and 160 acres for range land. These minimum lot sizes are unique in Oregon and were acknowledged as in compliance with Statewide Goal 3 (Agricultural Lands) by the Land Conservation and Development Commission. The County maintains a unique set of farm sub-zones based on the average number of irrigated acres for each type of farm land as determined in the 1992 farm study. Irrigated land divisions in each sub-zone must result in parcels that retain certain acreages.

Statewide Planning Goal 3 requires counties to preserve and maintain agricultural lands. However, in discussions on the future of agriculture in Deschutes County, there are still differences of opinion over which lands should be designated farm lands and which should not, as well as what land uses should be allowed. Farm lands contribute to the County in a number of ways. Agriculture is part of the ongoing local economy. Wide-open farm lands offer a secondary benefit by providing scenic open spaces that help attract tourist dollars. Farm lands also contribute to the rural character that is often mentioned as important to residents. Finally, it should be noted that agricultural lands are preserved through State policy and land use law because it is difficult to predict what agricultural opportunities might arise and once fragmented the opportunity to farm may be lost.

On the other hand, there seems to be widespread agreement that much of the local farm land is marginal at best, particularly without irrigation. The climate, especially the short growing season and the potential for freezing temperatures on almost any given night, makes commercial farming challenging and usually a losing proposition financially. Statewide Planning Goal 3 does not really account for the conditions in Deschutes County, resulting in agricultural zoning being applied to land with no history of farming and limited potential for profitable farming. The small size of agricultural parcels adds significantly to the challenges. It has been argued that preserving farm lands benefits the wider public at the expense of agricultural landowners. There is considerable pressure to convert agricultural land to residential or other uses. The debate is complicated because there are impacts to the farming community from converting agricultural lands to other uses. It can be difficult for a farmer who has residential neighbors because farming activities can have noise, odor and/or dust impacts. Oregon's right-to-farm law offers some protection to farmers, but as residential uses grow there is pressure to convert, leading to a greater loss of agricultural lands.

The introduction of marijuana production into these farming areas, particularly those areas of smaller lot patterns and nonfarm residential development, highlights the compatibility concerns expressed by both farm and nonfarm, rural residential property owners. The unique conditions and development patterns that exist in Deschutes County only amplify the concerns of these diverse populations and the challenge in mitigating potential impacts to maintain compatibility of nearby land uses.

## **II. PROPOSAL**

This is a legislative text amendment to Deschutes County Code (DCC), Title 8, Health and Safety; Title 15, Buildings and Construction; Title 18, County Zoning; Title 19, Bend Urban Area Zoning Ordinance; Title 20, Redmond Urban Area Zoning Ordinance, and Title 21, Sisters Urban Area Zoning Ordinance. The proposal defines four types of marijuana-related land use and specifies whether these uses are subject to administrative determinations, conditional uses, or prohibited in various zoning districts in unincorporated Deschutes County. The four uses generally are defined as follows:

- Production -- manufacture, planting, cultivation, growing, trimming, harvesting or drying of marijuana
- Processing -- processing, compounding or conversion of marijuana into cannabinoid products, concentrates, or extracts
- Wholesaling -- purchasing marijuana items for resale to a person other than a consumer
- Retailing -- selling marijuana items to a consumer

The proposed amendments are to:

- DCC Chapters 18.16 (Exclusive Farm Use Zones), 18.32 (Multiple Use Agriculture Zone), 18.65 (Rural Service Center Zone), 18.66 (Terrebonne Rural Community Zoning Districts), 18.67 (Tumalo Rural Community Zoning Districts), 18.74 (Rural Commercial Zone), 18.100 (Rural Industrial), 18.108 (Urban Unincorporated Community Zone – Sunriver), and 18.116 (Supplementary Provisions).
- DCC Chapters 19.12 (Urban Area Reserve Zone) and 19.20 (Suburban Low Density Residential Zone).
- DCC Chapter 20.12 (Urban Holding Zone).<sup>2</sup>
- DCC Chapter 21.16 (Urban Area Reserve Zone).

Key elements of the proposal are:

- The regulations would not apply to personal recreational marijuana or personal medical marijuana, as allowed by State law.
- The regulations would apply to recreational marijuana businesses (production, processing, wholesaling, retailing) licensed by the Oregon Liquor Control Commission (OLCC).
- The regulations would apply to medical marijuana businesses (production, processing, and dispensary) licensed by Oregon Health Authority (OHA).
- Exclusive Farm Use Zoning Districts

#### *Recreation*

Marijuana production (growing) and processing would be subject to an administrative determination. However, marijuana processing would be subject to limits in state law of agricultural processing (maximum 10,000 square feet of floor area; minimum of 25% of processed crops grown on site). Wholesaling and retailing would be prohibited.

Production and processing would be subject to special development standards for minimum setbacks, odor, lighting, water, secure disposal, noise, minimum lot size of 5 acres, and maximum mature plant canopy size.

#### *Medical*

Pursuant to HB 3400, marijuana production and processing would have these same standards with the exception of existing medical marijuana production sites (that portion

---

<sup>2</sup> Deschutes County Code, Chapter 8.08 (Noise Control) and Chapter 15.10 (Outdoor Lighting Control) are also being amended. These chapters fall outside of zoning so no land use findings are required.

contained within a building structure) abiding by their preexisting setbacks established from their current operations.

- Multiple Use Agriculture

*Recreation*

Marijuana production (growing) and processing would be subject to conditional use permits. Production and processing would be subject to special development standards for minimum setbacks, odor, lighting, water, secure disposal, noise, property owner residency onsite, minimum lot size of 5 acres, operations limited to enclosed buildings, and maximum building size.

*Medical*

Marijuana production and processing would have these same standards with the exception of existing medical marijuana production sites (indoor building) abiding by their preexisting setbacks based on their current operations.

- Marijuana Wholesaling and Retailing are subject to site plan review in the following zones: Rural Service Center, Terrebonne, Tumalo, Rural Commercial, Rural Industrial, and Sunriver. Development standards address hours, window service, minors, co-location, separation distances, and secure disposal.

- Bend Urban Area Reserve and Suburban Low Density

Marijuana processing, production, retailing, and wholesaling are prohibited on properties subject to the provisions of 19. Existing lawfully established medical marijuana production (grow sites) are allowed to continue operating subject to the provisions of DCC 19.92.

- Redmond Urban Holding Zone

Marijuana processing, production, retailing, and wholesaling are prohibited on properties subject to the provisions of Title 20. Existing lawfully established medical marijuana production (grow sites) are allowed to continue operating subject to the provisions of DCC 20.16.

- Sisters Urban Holding Zone

Marijuana processing, production, retailing, and wholesaling are prohibited on properties subject to the provisions of Title 21. Existing lawfully established medical marijuana production (grow sites) are allowed to continue operating subject to the provisions of DCC 21.60.

- Miscellaneous Amendments

- Add marijuana related definitions to DCC 18.04.030, Definitions.
- Add marijuana related definitions to DCC 19.04.040, Definitions.
- Add marijuana related definitions to DCC 20.04.050, Definitions.
- Add marijuana related definitions to DCC 21.04.040, Definitions.
- Amend supplemental provisions to prohibit marijuana-related land uses as home occupations, with the exception of wholesaling as a Type 1 use.

### III. REVIEW CRITERIA

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

#### A. Statewide Planning Goals and Guidelines

Goal 1: Citizen Involvement: The amendments do not propose to change the structure of the County's citizen involvement program. Notice of the proposed amendment was provided to the *Bulletin* for the Planning Commission and Board public hearings. Recently, the Board relied on recommendations from a Marijuana Advisory Committee. The committee convened in February 2016 and met seven times for a total of twenty-six hours.

Goal 2: Land Use Planning: This goal is met because ORS 197.610 allows local governments to initiate post acknowledgments plan amendments (PAPA). An Oregon Land Conservation and Development Department 35-day notice was initiated on November 2, 2015. The FINDINGS document provides the adequate factual basis for the amendments.

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

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

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

Goal 6: Air, Water and Land Resources Quality: Complies because the text amendments do not propose to change the County's Plan policies or implementing regulations for compliance with Goal 6.

Goal 7: Areas Subject to Natural Disasters and Hazards: Complies because the text amendment does not propose to change the County's Plan or implementing regulations regarding natural disasters and hazards.

Goal 8: Recreational Needs: Complies because the text amendment does not propose to change the County's Plan or implementing regulations regarding recreational needs.

Goal 9: Economy of the State: Goal 9 and its implementing regulations focus on economic analysis and economic development planning required in urban Comprehensive Plans. The proposed amendments apply to commercial and industrial lands but do not propose to amend the Comprehensive Plan. Goal 9 does identify land use controls and ordinances as one of a

Page 6 of 13 - EXHIBIT K OF ORDINANCE NO. 2016-015

suite of economic development tools. The proposal includes allowing specified marijuana related uses in certain commercial and industrial zones; however, these uses are already permitted in these zones as part of other more general use categories (e.g., manufacturing, wholesaling, retailing). Therefore the text amendments comply with Goal 9.

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

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

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

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

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

Goals 15 through 19 are not applicable to any amendments to the County's comprehensive plan because the county has none of those types of lands.

## **B. Deschutes County Comprehensive Plan**

Chapter 1 Comprehensive Planning: Sets the Goals and Policies of how the County will involve the community and conduct land use planning. The County, as described above, held numerous meetings with the Marijuana Advisory Committee (MAC), whose membership included diverse points of view. The proposed regulations were presented to the Planning Commission, which is the County's official committee for public involvement, and the Board. Both bodies received oral and written testimony. County staff also created and updated a webpage specifically for marijuana regulations and the process to craft them. The semi-monthly Community Development Department Update newsletter also contained synopses of the process with staff contact information. All of these actions demonstrate compliance with Section 1.2, Community Involvement. Goal 1 of this section, Community Involvement, is to maintain an active open community involvement program and are consistent specifically with Policies 1.2.3 through 1.2.5.

These actions also satisfy the Goals and relevant Policies of Section 1.3, Land Use Planning Policies. Goal 1 of this section is to maintain an open and public land use process in which decisions are based on the objective evaluation of facts. Staff, the Planning Commission, and the Board spent considerable efforts to ensure decisions were based on facts given the highly

emotional and charged topic at hand. Staff, the Planning Commission, and the Board reviewed state rules and regulations as well as those of other local governments when constructing the County's reasonable regulations for time, manner, and place of producing, processing, storing, and retailing marijuana. The above work sessions, staff reports, and public hearings comply with Section 1.3, Goal 1, but also its policies, specifically 1.3.1-1.3.4, and 1.3.6.

Goal 2 to promote regional cooperation and partnerships on planning issues and its policies were met. The County coordinated with the cities of Bend and Redmond on the regulations specific to Title 19 and 20, which implement those cities' General Plans. The County also reached out to local irrigation districts in the process of developing these regulations. This satisfies relevant Policy 1.3.11.

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

Section 2.2, Agricultural Lands Policies, sets Goal 1 to preserve and maintain agricultural lands and the agricultural industry. Policy 2.2.6 calls for a regular review of farm regulations to ensure compliance with State statutes and Oregon Administrative Rules. The marijuana regulations proposed under this text amendment are precisely the actions anticipated by this policy. Changes at the State level have led to the rise of a new agricultural industry in Deschutes County.

Goal 2 promotes a diversified, sustainable, revenue-generating agricultural sector. Policy 2.2.10 calls for the promotion of economically viable opportunities and practices while Policy 2.2.11 encourages small farming enterprises including but not limited to, niche markets and organic farming and valued-added projects. The marijuana regulations proposed under this text amendment will diversify agriculture in the County by adding a revenue-generating plant. By definition, the marijuana grown, processed, wholesaled, and sold at retail for recreational and medical uses is a niche market.

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

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

Section 2.4 deals with Goal 5 (Natural Resources, Scenic and Historic Areas, Open Spaces, and Aggregate, i.e., surface mining) resources. Goal 1 is to protect Goal 5 resources. The County has an acknowledged list of significant and protected Goal 5 properties and sites. These regulations would not repeal those protections or Goal 5 listings, therefore the text amendment is consistent with this portion of the Comprehensive Plan, in particular with Policy 2.4.2 (which is incorrectly listed as 2.2.2 in the Plan).

Section 2.5 concerns Water Resources and Goal 1 is to develop regional, comprehensive water management policies while balancing the diverse needs of water users and recognize Oregon

water law. Policy 2.5.1 calls for working cooperatively with stakeholders. During the development of the regulations, the County reached out to local irrigation districts and the Oregon Department of Water Resources (DWR) to participate in the process. Representatives of DWR and irrigation districts attended to varying degrees meetings of the MAC. DWR and irrigation districts to varying degrees submitted oral or written comments to the MAC, the Planning Commission, the Board, or staff. Goal 6 of this section calls for coordinating land use and water policies and Policies 2.5.22 and 2.5.24 concern assessing potential impacts of land use to river or riparian or wetlands and assessing the effects of significant land use developments upon water. The proposed regulations do not modify the County's land use notice requirements and the County's transmittal list, which includes DWR and local irrigation districts. Notification to these irrigation districts and state agency of marijuana-related land use applications will ensure water is a considered element in any County land use decision. Furthermore, applicants will be required to demonstrate that have a legal source of water under State law. Thus, the proposed regulations comply with the relevant Comprehensive Plan policies.

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

Section 2.7 focuses on Open Spaces, Scenic Views, and Sites. The proposed regulations will not modify the Goal 5 inventory nor lands zoned for Open Space and Conservation (OSC) nor rivers and roadways included in the Landscape Management (LM) overlay zone. Any development must conform to the setback, vegetative screening, downcast lighting, and allowable colors of building materials and paints in the LM zone. Thus, the proposed amendments are consistent with the relevant goals and policies of this section.

Section 2.8 devotes its energy to Energy Policies. Goal 1 is to promote energy conservation and applicable Policies 2.8.2 and 2.8.4 look at reducing energy demand through efficiency and conservation, respectively. Goal 2 promotes affordable, efficient, reliable, and environmentally sound energy systems for individual home and business consumers. In terms of growing operations, the combination of Central Oregon's numerous sunny days, greenhouses, and modern building technologies make for highly energy efficient operations. Midstate Electric and Central Electric Co-Op participated in panel discussions, encouraging growers to contact them well in advance for design review of their planned operations. Both agencies are on the County's transmittal list to be contacted as service providers for land use applications. This allows energy providers to plan their long-term infrastructure needs. Retail, wholesale, and processing are no different from any other user of energy. A Statement from each utility company proposed to serve the operation would be required, stating that each such company is able and willing to serve the operation. Taken together, the marijuana regulations thus comply with these goals and their relevant policies.

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

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

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

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

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

Section 3.4 sets Rural Economy Goals and Policies. Goal 1 is to maintain a stable and sustainable rural economy, compatible with rural lifestyles and a healthy environment. Given farming is one of the definitive rural activities, the regulations comply. Policy 3.4.1 promotes rural economic initiatives, yet maintains the County's rural character, and review land use regulations to identify legal and appropriate rural economic development opportunities. The proposed regulations, which deal with a newly legal agricultural crop and its potential products, are a perfect fit. The regulations are consistent with Policy 3.4.7 of permitting locally serving commercial uses in higher density rural communities which are consistent within State regulations. Policies 3.4.8 through 3.4.21 deal with lands zoned Rural Commercial and Policies 3.4.22 through 3.4.35 apply to lands zoned Rural Industrial. The proposed regulations would be consistent with or exceed the pre-existing standards (building size, intensity of use, general description of the market being served, floor area, etc.) for these zones. The proposed marijuana retail, wholesale, processing, and manufacturing uses allowed under the proposed regulation are consistent with uses already allowed under Rural Commercial and Rural Industrial zones. The proposed amendments are consistent with the relevant goals and policies of this section.

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

Section 3.6 is Public Facilities and Services and Goal 1 is to support the orderly, efficient, and cost-effective siting of rural public facilities and services. As these proposed regulations are for private development the goal and policies of this section do not apply, save for Policy 3.6.9 which states new development shall address impacts on existing facilities and plans through the land use entitlement process. While the language is mostly likely directed at the development of public buildings, it could be interpreted that private development must account for its impact on public roads, for instance. The County code does require traffic studies for developments that

will generate 50 or more new weekday trips. Either this section does not apply or the proposed amendments comply with the relevant Policy 3.6.9.

Section 3.7 is Transportation and is covered under the findings for Goal 12.

Section 3.8 is Rural Recreational Policies, which deal with access to public lands, planning for public parks and recreation, trail design, etc. The goal and policies are not applicable.

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

Section 3.10 Area Specific Policies describe the following geographic areas: South Deschutes County (which was completed and ultimately became the following Section 3.11), Oregon Military Site south of the fairgrounds, Crooked River Ranch, and Deschutes Junction. The underlying zoning in these areas remains unchanged and these proposed amendments will not change the zoning. The proposed regulated marijuana uses (retail, wholesale, processing, and manufacturing) are consistent with the underlying zones in these areas which include EFU, Rural Commercial, Rural Industrial, MUA-10; while there are also areas zoned F-1, F-2, and RR-10, the marijuana uses are not proposed for those zones. The marijuana regulations are proposed for Countywide implementation and thus the Goal and policies of this section are either inapplicable or the regulations are consistent with relevant policies of Policy 3.10.4 which requires coordination with Jefferson County and Crooked River residents and Policy 3.10.5 which requires protecting the rural character of Deschutes Junction. Both recognize the intended development of commercial, industrial, and agricultural areas.

Section 3.11 Newberry Country: A Plan for Southern Deschutes County. The vast majority of this area is zoned either F-1, F-2, RR-10, or Flood Plain, which are not being amended by this proposal. The only area where the proposed marijuana regulations would apply would be in the Spring River Rural Commercial Zone and the Rural Service Center Commercial sites of Whistle Stop and Wildhunt. The Newberry Country Plan expressly did not include Sunriver. The proposed text amendment contains land uses and dimensional standards which are consistent with the existing zones. Therefore the amendments comply with Section 3.11 and its goals and policies.

Chapter 4 Urban Growth Management: These policies deal with urban, rural and resort unincorporated communities of Sunriver, Terrebonne, and Tumalo, Black Butte Ranch and Inn of the 7<sup>th</sup> Mountain/Widgi Creek, and various Rural Service Centers. Section 4.1 has no goals or policies.

Section 4.2 is Urbanization Policies and the goals and policies concern urban growth boundaries (UGBs), urban reserves, and orderly transition from urban to rural land use patterns. Goal 1 calls for coordination with cities and special districts to support UGBs, urban reserves, and transition areas. Policy 4.2.2 promotes the use of urban reserve areas. Goal 2 calls for coordination on zoning for lands outside city limits but within UGBs and Policy 4.2.4 calls for urban growth area zoning to coordinate land use decisions within that same area. When properties develop on Title 19 or 20 lands, the County sends transmittal letters to the appropriate municipality. Also during the development of the regulations, the County reached out to the cities to determine the types of marijuana land use activities that would be appropriate for Title 19 and 20. Goal 3 calls for coordination on policies for lands outside the City limits but inside Urban Reserve areas and Policy 4.2.10 speaks specifically to the Redmond Urban Reserve U Area (RURA). The County did so during the development of these regulations,

adjusting the type of marijuana uses, their hours, and the dimensional standards. To the minimal extent the goals and policies are applicable, the amendments comply with the applicable goals and policies.

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

Section 4.4, La Pine, does not apply as the former La Pine Urban Unincorporated Community incorporated.

Section 4.5 pertains to Sunriver. No goals were established for this Urban Unincorporated Community (UUC). Policy 4.5.8 requires small-scale, low-impact commercial uses shall be developed in conformance with OAR 660-022, which the proposed regulations do. Policy 4.5.8 does allow larger more intense commercial uses if they serve the community, the surrounding rural area, and the travel needs of those passing through the area. Policy 4.5.11 requires analysis of the nearby residential and commercial uses along with impacts to the transportation system and other public facilities to serve the intended use. Town District Policy 4.5.12 and Business District Policy 4.5.17 have similar language to Policy 4.5.8. The proposed regulations' development standards address hours, window service, minors, co-location, separation distances, and secure disposal to ensure compliance with the underlying zone and the Sunriver policies.

Section 4.6, Terrebonne Community Plan, calls for the retention of the rural character of the community as a Land Use Goal. Land Use Policy 1 requires conformance with OAR 660-022. Commercial Area Policy 11, similar to Sunriver above, also references OAR 660-022, requiring small-scale, low-impact commercial uses shall be developed in conformance with OAR 660-022, but does allow larger commercial uses if they serve the community, the surrounding rural area, and the travel needs of those passing through the area. Commercial Area Policy 12 prohibits industrial uses from dominating the character of commercial districts. Water Facility Policy 5 requires notice be sent to the Terrebonne Domestic Water District for development that requires a land use application. The District is on the County's transmittal list. The proposed regulations' development standards address hours, window service, minors, co-location, separation distances, size dimensional standards, and secure disposal to ensure compliance with the underlying zone and thus are consistent with the Terrebonne Community Plan's goals and policies.

Section 4.7, Tumalo Community Plan as its Land Use Goal calls to protect and enhance the small-town character of the community by supporting public services, healthy active lifestyles, and social connections among residents and stakeholders. Community Policy 3 supports economic development initiatives and tourism in the Tumalo area. The legalization of marijuana and its retail aspects are both consistent with this policy. Land Use Policy 1 seeks to conform land use regulations to the requirements of the Unincorporated Communities in OAR 660-022. Land Use Policy 2 ensures County plans and land use regulations require that new uses authorized within Tumalo do not adversely affect agriculture in the surrounding EFU zones. Given the proposed regulations limit selected marijuana land use activities to the EFU zone and that the products can be sold at retail or wholesale in the Tumalo commercial district, the proposed regulations comply with the Tumalo Community Plan. Land Use Policy 17 requires conditional uses in the commercial district to consider the impact on nearby residential and commercial uses and the capacity of public functions and services. The County code requires

any use that will generate more than 50 new weekday trips to analyze its impacts on transportation facilities. Additionally, the County code for conditional uses already has language about suitability for uses in terms of limiting glare, odor, hours of operation, and similar aspects of general compatibility. Industrial Area Policy 19 only allows small-scale, low impact operations and new uses will not exceed the capacity of available water and sewer services. Public Facility Policies 2 and 4 concern availability of water and fire protection. County code requires transmittal notices be sent to the service providers of water and fire protection on land use applications for comments on the availability or adequacy for both. The proposed regulations' development standards address hours, window service, minors, co-location, separation distances, size dimensional standards, and secure disposal to ensure compliance with the underlying zone. The proposed text amendments are consistent with the Tumalo Community Plan's goals and policies.

Section 4.8 Resort Communities does not apply as none of the marijuana-related land uses is proposed to occur in these areas.

Section 4.9, Rural Service Centers has no goals for these areas. Policy 4.9.1 does require compliance with OAR 660-022. The proposed regulations comply. Policy 4.9.6 require County Comprehensive Plan policies and land use regulations ensure that new uses authorized in Alfalfa, Brothers, Hampton, Millican, Whistlestop, and Wildhunt Rural Service Centers (RSC) do not adversely affect agricultural or forest uses in the surrounding areas. Given the proposed regulations limit selected marijuana land use activities to the EFU zone and that the products can be sold at retail or wholesale in the RSCs, the proposed text amendment is consistent with this policy language. Policy 4.9.7 states zoning shall maintain the area's rural character and new commercial uses shall be limited to small-scale, low impact uses that are intended to serve the community and surrounding rural areas or the travel needs of people passing through the area. The proposed regulations' development standards address hours, window service, minors, co-location, separation distances, size dimensional standards, and secure disposal to ensure compliance with the underlying zone.

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending DCC Title 19 to  
Define, Permit, and Establish Standards for  
Marijuana Related Businesses in Conjunction  
With State Law.

\*  
\*  
\*  
\*

ORDINANCE NO. 2016-016

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File No. 247-15-000253-TA) to the Deschutes County Code (DCC) Title 19, Chapter 19.04, Title, Purpose, Compliance, and Definitions and Chapter 19.92, Interpretations and Exceptions to incorporate changes that define, permit and establish standards for marijuana related businesses; and

WHEREAS, the Deschutes County Planning Commission held public hearings on November 5 and 12 2015, to review the amendments and recommended adoption; and

WHEREAS, the Board of County Commissioners considered this matter after a duly noticed public hearings on December 2, 2015, and May 2, 2016, and concluded that the public will benefit from the changes to Title 19; and

WHEREAS, the Board finds it in the public interest to adopt amendments to the DCC to define permit, and establish standards for Marijuana Related Businesses in conjunction with Deschutes County Code (Title 19) and state law (including HB 3400, SB 1598, and ORS 30.395); now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC 19.04.020, Purpose, and DCC 19.04.040, Definitions, are amended to read as described in Exhibit "A," attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 2. AMENDMENT. DCC 19.92.140, Existing Medical Marijuana Grow Sites, are amended to read as described in Exhibit "B," attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 3. FINDINGS. The Board adopts as its findings in support of this decision attached to Ordinance 2016-015 as Exhibit "K" and incorporated by reference herein.

///

Dated this \_\_\_\_\_ of \_\_\_\_\_, 2016

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
ALAN UNGER, Chair

\_\_\_\_\_  
TAMMY BANEY, Vice Chair

ATTEST:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
ANTHONY DeBONE, Commissioner

Date of 1<sup>st</sup> Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Date of 2<sup>nd</sup> Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Alan Unger	_____	_____	_____	_____
Tammy Baney	_____	_____	_____	_____
Anthony DeBone	_____	_____	_____	_____

Effective date: \_\_\_\_\_ day of \_\_\_\_\_, 2016.

“\*\*\*\*” Denotes portions of this Section not amended by Ordinance 2016-016.

**19.04.020. Purpose.**

- A. DCC Title 19 has been designed in accordance with the goals, policies and statements of intent of the Bend Area General Plan, the officially enacted comprehensive plan for the City of Bend and its environs. It is the general purpose of DCC Title 19, therefore, to provide one of the principal means for implementation of the Bend Area General Plan.
- B. DCC Title 19 is designed to classify, designate and regulate the location and use of buildings, structures and land for residential, commercial, industrial or other uses in appropriate places and for said purposes; to divide the Bend Urban Area into districts of such number, shape and area as may be deemed best suited to carry out these regulations and provide for their enforcement; to encourage the most appropriate use of lands; to conserve and stabilize the value of natural resources; to provide adequate open spaces for light and air and prevention of fire; to prevent undue concentrations of population; to lessen congestion of streets; to facilitate adequate provisions for community utilities, such as transportation, water, sewerage, schools, parks and other public requirements; and to promote the public health, safety and general welfare.
- C. To regulate placement, height and bulk of buildings, and the placement and growth of vegetation within the County to insure access to solar energy by reasonably regulating interests in property within the County, as authorized under ORS 215.044 and ORS 105.880 through 105.890; to promote and maximize the conservation of energy by preserving the option to utilize solar energy and to implement the Comprehensive Plan policies relating to solar energy.
- D. To encourage the design of new buildings, structures and developments which use solar energy and protect future options to use solar energy by protecting solar access.
- E. Marijuana processing, production, retailing, and wholesaling are prohibited on properties subject to the provisions of Title 19. Existing lawfully established medical marijuana grow sites are allowed to continue operations subject to the provisions of DCC 19.92.050.  
(Ord. 2016-016 §1, 2016; Ord. 83-041 §1, 1983)

\*\*\*\*

**19.04.040. Definitions.**

\*\*\*\*

“Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.

“Cannabinoid concentrate” means a substance obtained by separating cannabinoids from marijuana by a mechanical extraction process; a chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol, or ethanol; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or dried marijuana leaves or flowers have been incorporated.

“Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid product” means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers. Cannabinoid product does not include usable marijuana by itself, a cannabinoid concentrate by itself, a cannabinoid extract by itself, or industrial hemp as defined in Oregon Revised Statutes 571.300.

\*\*\*\*

“Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. Marijuana does not include industrial hemp as defined in Oregon Revised Statutes 571.300.

“Marijuana items” means marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.

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

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

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

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

“Person designated to produce marijuana by a registry identification cardholder” means person designated to produce marijuana by a registry identification cardholder under Oregon Revised Statutes 475.304 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature marijuana plants are produced.

(Ord. 2016-016 §1, 2016; Ord. 2014-016 §1, 2014; Ord. 2013-013 §1; Ord. 99-001 §§2-4, 1999; Ord. 97-038 §1, 1997; Ord. 97-017 §1, 1996; Ord. 96-071 §1D, 1996; Ord. 95-045 §15, 1995; Ord. 94 027 §§1 & 2,

1994; Ord. 92-043 §1, 1992; Ord. 91 029 §§1, 8, 9 and 10, 1991; Ord. 91-001 §1, 1991; Ord. 90-038 §1, 1990; Ord. 90-007 §1, 1990; Ord. 88-042 §3, 1988; Ord. 86-058 §1, 1986; Ord. 86-055 §1, 1986; Ord. 86-033 §1, 1983; Ord. 86-032 §1, 1986; Ord. 86-017 §1 Exhibit a, 1986; Ord. 830945 §1, 1983; Ord. 83-041 §2, 1983; Ord. 80-217 §1 Exhibit A, 1980)

**19.92.130      Existing Medical Marijuana Grow Sites**

- A. All medical marijuana production (grow sites) lawfully established prior to June 1, 2016 are exempt from these regulations until January 1, 2017, at which time the use and buildings, including greenhouses, hoop houses, and similar structures, shall comply with the following:
1. Lighting. Lighting shall be regulated as follows:
    - a. Inside building lighting used in any manner for marijuana production shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. on the following day.
    - b. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
    - c. Light cast by exterior light fixtures other than marijuana grow lights (i.e. security lights) shall not trespass onto adjacent lots.
    - d. 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.
  - 2a. Odor. As used in Subsection 19.92.130(2), building means the building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing.
    - a. The building shall be equipped with an effective odor control system which must at all times prevent unreasonable interference of neighbors' use and enjoyment of their property.
    - b. An odor control system is deemed permitted only after the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the system will control odor so as not to unreasonably interfere with neighbors' use and enjoyment of their property.
    - c. Private actions alleging nuisance or trespass associated with odor impacts are authorized, if at all, as provided in applicable state statute.
    - d. The odor control system shall consist of one or more fans.
    - e. 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.
    - f. The filter(s) shall be rated for the required CFM.
    - g. The system shall be maintained in working order and shall be in use.
  - 2b. Odor. All marijuana production and processing shall install an effective odor control system in all buildings, including but not limited to, greenhouses, hoop houses, and similar non-rigid structures. The effective odor control system shall:
    - a. Prevent marijuana plant odor from disturbing people of normal sensitivity owning or residing on properties within one-quarter mile of all property lines on which the marijuana production and processing is sited;
    - b. Designed and stamped by a mechanical engineer licensed in the State of Oregon; and
    - c. Continually maintained in working order and in use when plants are in the building.
  3. Noise. Noise produced by marijuana production and marijuana processing shall comply with the following:
    - a. Sustained noise from mechanical equipment used for heating, ventilation, air condition, odor control, fans and similar functions shall not exceed 30 dB(A) measured at any property line between 10:00 p.m. and 7:00 a.m. the following day.
    - b. Sustained noise from marijuana production is exempt from protections of DCC 9.12 and ORS 30.395, Right to Farm. Intermittent noise for accepted farming practices is permitted.
  4. Screening and Fencing. The following screening standards shall apply to greenhouses, hoop houses, and similar non-rigid structures and land areas used for marijuana production and

processing:

- a. Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.
  - b. Fencing shall be finished in a muted earth tone that blends with the surrounding natural landscape and shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc., and shall be subject to DCC 18.88, Wildlife Area Combining Zone, if applicable.
  - c. Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.
  - d. The existing tree and shrub cover screening the development from the public right-of-way or adjacent properties shall be retained to the maximum extent possible. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act; or agricultural use of the land.
5. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with requirements of the OLCC or the OHA.
6. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA Person Responsible for the Grow Site (PRMG).

(Ord. 2016-015 §2, 2016)

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending DCC Title 20 to  
Define, Permit, and Establish Standards for  
Marijuana Related Businesses in Conjunction  
With State Law.

\*  
\*  
\*  
\*

ORDINANCE NO. 2016-017

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File No. 247-15-000253-TA) to the Deschutes County Code (DCC) Title 20, Chapter 20.04, Title, Purpose, Compliance, and Definitions and Chapter 20.16, Supplementary Provisions to incorporate changes that define, permit and establish standards for marijuana related businesses; and

WHEREAS, the Deschutes County Planning Commission held public hearings on November 5 and 12 2015, to review the amendments and recommended adoption; and

WHEREAS, the Board of County Commissioners considered this matter after a duly noticed public hearings on December 2, 2015, and May 2, 2016, and concluded that the public will benefit from the changes to Title 20; and

WHEREAS, the Board finds it in the public interest to adopt amendments to the DCC to define permit, and establish standards for Marijuana Related Businesses in conjunction with Deschutes County Code (Title 20) and state law (including HB 3400, SB 1598, and ORS 30.395); now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC 20.04.030, Purpose, and DCC 20.04.050, Definitions, are amended to read as described in Exhibit "A," attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 2. AMENDMENT. DCC 20.16.080, Existing Medical Marijuana Grow Sites, are amended to read as described in Exhibit "B," attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 3. FINDINGS. The Board adopts as its findings in support of this decision attached to Ordinance 2016-015 as Exhibit "K" and incorporated by reference herein.

///

Dated this \_\_\_\_\_ of \_\_\_\_\_, 2016

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
ALAN UNGER, Chair

\_\_\_\_\_  
TAMMY BANEY, Vice Chair

ATTEST:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
ANTHONY DeBONE, Commissioner

Date of 1<sup>st</sup> Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Date of 2<sup>nd</sup> Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Alan Unger	_____	_____	_____	_____
Tammy Baney	_____	_____	_____	_____
Anthony DeBone	_____	_____	_____	_____

Effective date: \_\_\_\_\_ day of \_\_\_\_\_, 2016.

“\*\*\*\*” Denotes portions of this Section not amended by Ordinance 2016-017.

#### 20.04.030. Purpose.

DCC Title 20 is adopted for the purpose of promoting the health, safety, peace, comfort, convenience, economic well-being and general welfare of the Redmond Urban Area and not limited to, but specifically to achieve the following designated objectives.

- A. To protect the present and existing character and values of land and buildings in the UH-10 zone until such land is ready to be developed for urban uses and is annexed into the City:
  - 1. Preventing the intrusion of inharmonious uses or uses that may impede the conversion of land to urban use.
  - 2. Preventing the encroachment on desirable open space and natural features.
  - 3. Providing and planning for the safe and efficient movement of existing and future traffic.
  - 4. Assuring the planning for and provision of necessary public facilities prior to conversion to urban uses.
- B. To provide for additional growth and development in a manner appropriate to the character of the Redmond Urban Area and which will contribute to the economic stability of said area and strengthen the basis of its private and governmental economy.
- C. To assure that future development occurs in an orderly manner to provide for economy and efficiency in public services and utilities and to protect the public from costs which may be incurred when unsuitable, scattered or premature development occurs.
- D. To minimize traffic hazards, traffic congestion and the conflict between land uses and the movement of traffic.
- E. To regulate the placement, height and bulk of buildings.
- F. Marijuana processing, production, retailing, and wholesaling are prohibited on properties subject to the provisions of Title 20. Existing lawfully established medical marijuana production (grow sites) are allowed to continue operating subject to the provisions of DCC 20.16.080.  
(Ord. 2016-017 §1, 2016; Ord. 2006-019 §2, 2006; Ord. 2001-016 §2, 2001; Ord. 94-013 §1, 1994; Ord. 83-040 §1, 1983; Ord. 80-201, 1980)

\*\*\*\*

#### 20.04.050. Definitions.

\*\*\*\*

“Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.

“Cannabinoid concentrate” means a substance obtained by separating cannabinoids from marijuana by a mechanical extraction process; a chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol, or ethanol; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or dried marijuana leaves or flowers have been incorporated.

“Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high

heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid product” means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers. Cannabinoid product does not include usable marijuana by itself, a cannabinoid concentrate by itself, a cannabinoid extract by itself, or industrial hemp as defined in Oregon Revised Statutes 571.300.

\*\*\*\*

“Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. Marijuana does not include industrial hemp as defined in Oregon Revised Statutes 571.300.

“Marijuana items” means marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.

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

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

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

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

“Person designated to produce marijuana by a registry identification cardholder” means person designated to produce marijuana by a registry identification cardholder under Oregon Revised Statutes 475.304 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature marijuana plants are produced.

(Ord. 2016-017 §1, 2016; Ord. 2006-019 §2, 2006; Ord. 2001-016 §2, 2001; Ord. 94-013 §1, 1994; Ord. 83-040 §2, 1983; Ord. 81-007 §1, 1981; Ord. 80-201, 1980)

## **20.16.080. Existing Medical Marijuana Grow Sites**

A. All medical marijuana production (grow sites) lawfully established prior to June 1, 2016 are exempt from these regulations until January 1, 2017, at which time the use and buildings, including greenhouses, hoop houses, and similar structures, shall comply with the following:

1. Lighting. Lighting shall be regulated as follows:

- a. Inside building lighting used in any manner for marijuana production shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. on the following day.
- b. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
- c. Light cast by exterior light fixtures other than marijuana grow lights (i.e. security lights) shall not trespass onto adjacent lots.
- d. 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.

2a. Odor. As used in Subsection 20.16.080(A)(2), building means the building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing.

- a. The building shall be equipped with an effective odor control system which must at all times prevent unreasonable interference of neighbors' use and enjoyment of their property.
- b. An odor control system is deemed permitted only after the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the system will control odor so as not to unreasonably interfere with neighbors' use and enjoyment of their property.
- c. Private actions alleging nuisance or trespass associated with odor impacts are authorized, if at all, as provided in applicable state statute.
- d. The odor control system shall consist of one or more fans.
- e. 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.
- f. The filter(s) shall be rated for the required CFM.
- g. The system shall be maintained in working order and shall be in use.

2b. Odor. All marijuana production and processing shall install an effective odor control system in all buildings, including but not limited to, greenhouses, hoop houses, and similar non-rigid structures. The effective odor control system shall:

- a. Prevent marijuana plant odor from disturbing people of normal sensitivity owning or residing on properties within one-quarter mile of all property lines on which the marijuana production and processing is sited;
- b. Designed and stamped by a mechanical engineer licensed in the State of Oregon; and
- c. Continually maintained in working order and in use when plants are in the building.

3. Noise. Noise produced by marijuana production and marijuana processing shall comply with the following:

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

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

processing:

- a. Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.
  - b. Fencing shall be finished in a muted earth tone that blends with the surrounding natural landscape and shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc., and shall be subject to DCC 18.88, Wildlife Area Combining Zone, if applicable.
  - c. Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.
  - d. The existing tree and shrub cover screening the development from the public right-of-way or adjacent properties shall be retained to the maximum extent possible. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act; or agricultural use of the land.
5. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with requirements of the OLCC or the OHA.
6. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA Person Responsible for the Grow Site (PRMG).

(Ord. 2016-017 §2, 2016)

REVIEWED  
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending DCC Title 21 to  
Define, Permit, and Establish Standards for  
Marijuana Related Businesses in Conjunction  
With State Law.

\*  
\*  
\*  
\*

ORDINANCE NO. 2016-018

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File No. 247-15-000253-TA) to the Deschutes County Code (DCC) Title 21, Chapter 21.04, Introductory Provisions and Chapter 21.60, Provisions Applying to Special Uses to incorporate changes that define, permit and establish standards for marijuana related businesses; and

WHEREAS, the Deschutes County Planning Commission held public hearings on November 5 and 12 2015, to review the amendments and recommended adoption; and

WHEREAS, the Board of County Commissioners considered this matter after a duly noticed public hearings on December 2, 2015, and May 2, 2016, and concluded that the public will benefit from the changes to Title 21; and

WHEREAS, the Board finds it in the public interest to adopt amendments to the DCC to define permit, and establish standards for Marijuana Related Businesses in conjunction with Deschutes County Code (Title 21) and state law (including HB 3400, SB 1598, and ORS 30.395); now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS  
as follows:

Section 1. AMENDMENT. DCC 21.04.020, Purpose, and DCC 21.04.040, Definitions, are amended to read as described in Exhibit "A," attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 2. AMENDMENT. DCC 21.60.010, Provisions Applying to Special Uses, are amended to read as described in Exhibit "B," attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 3. FINDINGS. The Board adopts as its findings in support of this decision attached to Ordinance 2016-015 as Exhibit "K" and incorporated by reference herein.

///

Dated this \_\_\_\_\_ of \_\_\_\_\_, 2016

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
ALAN UNGER, Chair

\_\_\_\_\_  
TAMMY BANEY, Vice Chair

ATTEST:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
ANTHONY DeBONE, Commissioner

Date of 1<sup>st</sup> Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Date of 2<sup>nd</sup> Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Alan Unger	_____	_____	_____	_____
Tammy Baney	_____	_____	_____	_____
Anthony DeBone	_____	_____	_____	_____

Effective date: \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**“\*\*\*\*” Denotes portions of this Section not amended by Ordinance 2016-018.**

**21.04.020. Purpose.**

- A. DCC Title 21 has been designed to be consistent with the goals, policies, programs, elements, and statements of intent of the Sisters Urban Area Comprehensive Plan, the officially adopted comprehensive plan for the City of Sisters and its surrounding urbanizing area. The general purpose of DCC Title 21 is to provide for one principal means for implementation of the Sisters Urban Area Comprehensive Plan.
- B. DCC Title 21 is designed to classify, designate and regulate the use of land within the Sisters Urban Area Growth Boundary outside the City of Sisters City Limits. To achieve this purpose, DCC Title 21 divides the Sisters Unincorporated Urban Area into appropriate zoning districts as set forth in the policies and elements of the Sisters Urban Area Comprehensive Plan.
- C. The further purpose of DCC Title 21 policies and elements of the Sisters Area Comprehensive Plan, is to encourage the most appropriate use of land; to conserve and preserve natural resources and the quality that is unique to Sisters, including open space for light, air, fire prevention, and for sanitary purposes; to prevent undue or uncharacteristic concentrations of population; to lessen congestion of streets; to facilitate adequate provisions for community utilities such as transportation, water, sewage, schools, parks other public requirements; to promote the public health, safety, general welfare and to protect and enhance the visual quality of the Sisters area.
- D. Marijuana processing, production, retailing, and wholesaling are prohibited on properties subject to the provisions of Title 21. Existing lawfully established medical marijuana production (grow sites) are allowed to continue operating subject to the provisions of DCC 21.60.010(C).  
(Ord. 2016-018 §1, 2016; Ord. 2004-004 §2, 2004; Ord. PL-17 §2, 1979)

\*\*\*\*

**21.04.040. Definitions.**

\*\*\*\*

“Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.

“Cannabinoid concentrate” means a substance obtained by separating cannabinoids from marijuana by a mechanical extraction process; a chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol, or ethanol; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or dried marijuana leaves or flowers have been incorporated.

“Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid product” means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers. Cannabinoid product does not include usable marijuana by itself, a cannabinoid concentrate by itself, a cannabinoid extract by itself, or industrial hemp as defined in Oregon Revised Statutes 571.300.

\*\*\*\*

“Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. Marijuana does not include industrial hemp as defined in Oregon Revised Statutes 571.300.

“Marijuana items” means marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.

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

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

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

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

“Person designated to produce marijuana by a registry identification cardholder” means person designated to produce marijuana by a registry identification cardholder under Oregon Revised Statutes 475.304 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature marijuana plants are produced.

(Ord. 2016-018 §1, 2016; Ord. 2004-004, §2, 2004; Ord. 97-048 §1, 1997; Ord. 88-038 §1, 1988; Ord. 80-225 §1, 1980; Ord. PL-17 §4(1)-(108), 1979)

## **21.60.010. Provisions Applying to Special Uses.**

\*\*\*\*

- C. All medical marijuana production (grow sites) lawfully established prior to June 1, 2016 are exempt from these regulations until January 1, 2017, at which time the use and buildings, including greenhouses, hoop houses, and similar structures, shall comply with the following:
1. Lighting. Lighting shall be regulated as follows:
    - a. Inside building lighting used in any manner for marijuana production shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. on the following day.
    - b. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
    - c. Light cast by exterior light fixtures other than marijuana grow lights (i.e. security lights) shall not trespass onto adjacent lots.
    - d. 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.
  - 2a. Odor. As used in Subsection 21.60.010(C)(2), building means the building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing.
    - a. The building shall be equipped with an effective odor control system which must at all times prevent unreasonable interference of neighbors' use and enjoyment of their property.
    - b. An odor control system is deemed permitted only after the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the system will control odor so as not to unreasonably interfere with neighbors' use and enjoyment of their property.
    - c. Private actions alleging nuisance or trespass associated with odor impacts are authorized, if at all, as provided in applicable state statute.
    - d. The odor control system shall consist of one or more fans.
    - e. 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.
    - f. The filter(s) shall be rated for the required CFM.
    - g. The system shall be maintained in working order and shall be in use.
  - 2b. Odor. All marijuana production and processing shall install an effective odor control system in all buildings, including but not limited to, greenhouses, hoop houses, and similar non-rigid structures. The effective odor control system shall:
    - a. Prevent marijuana plant odor from disturbing people of normal sensitivity owning or residing on properties within one-quarter mile of all property lines on which the marijuana production and processing is sited;
    - b. Designed and stamped by a mechanical engineer licensed in the State of Oregon; and
    - c. Continually maintained in working order and in use when plants are in the building.
  3. Noise. Noise produced by marijuana production and marijuana processing shall comply with the following:
    - a. Sustained noise from mechanical equipment used for heating, ventilation, air condition, odor control, fans and similar functions shall not exceed 30 dB(A) measured at any property line between 10:00 p.m. and 7:00 a.m. the following day.
    - b. Sustained noise from marijuana production is exempt from protections of DCC 9.12 and ORS 30.395, Right to Farm. Intermittent noise for accepted farming practices is permitted.

4. Screening and Fencing. The following screening standards shall apply to greenhouses, hoop houses, and similar non-rigid structures and land areas used for marijuana production and processing:
  - a. Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.
  - b. Fencing shall be finished in a muted earth tone that blends with the surrounding natural landscape and shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc., and shall be subject to DCC 18.88, Wildlife Area Combining Zone, if applicable.
  - c. Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.
  - d. The existing tree and shrub cover screening the development from the public right-of-way or adjacent properties shall be retained to the maximum extent possible. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act; or agricultural use of the land.
5. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with requirements of the OLCC or the OHA.
6. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA Person Responsible for the Grow Site (PRMG).

(Ord. 2016-018 §2, 2016)