

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY
STATE OF OREGON

ORDINANCE No. 2018-005

AN ORDINANCE AMENDING THE JOSEPHINE COUNTY RURAL LAND DEVELOPMENT CODE (ORDINANCE 94-4, AS ORIGINALLY ADOPTED AND SUBSEQUENTLY AMENDED) TO IMPLEMENT CERTAIN CHANGES TO SECTIONS 11.030 RELATING TO DEFINITIONS; AMENDING SECTION 61.020.A. CORRECTING A SCRIVENER'S ERROR AND CLARIFYING A DWELLING MUST BE ONSITE IN A RURAL RESIDENTIAL ZONE PRIOR TO AN ACCESSORY BUILDING; AMENDING 61.020.B. TO PROHIBIT THE PRODUCTION, PROCESSING, WHOLESALING, RETAILING, AND RESEARCH OF MARIJUANA IN RURAL RESIDENTIAL ZONES, AND TO PROHIBIT ANY BUILDINGS, STRUCTURES, OR FACILITIES DIRECTLY ASSOCIATED WITH SUCH USES; ADDING SECTION 61.020.C. TO ESTABLISH REGULATIONS FOR NONCONFORMING MARIJUANA PRODUCTION SITES; RELETTERING OF SECTIONS 61.020.C. THROUGH 61.020.J.; AND ADDING SECTION 61.060.B.22 TO CREATE A MINIMUM DISTANCE FROM A SINGLE FAMILY DWELLING ON A CONTIGUOUS LOT OR PARCEL FOR NONCONFORMING MARIJUANA PRODUCTION SITES.

WHEREAS, on July 19, 2017, the Josephine County Board of Commissioners, by Order No. 2017-034, authorized the Community Development Director (Planning Director) to initiate an application for review of proposed text amendments that provide for potential regulation of marijuana produced for commercial use, in all Rural Residential zones in Josephine County; and

WHEREAS, the Josephine County Board of Commissioners, having reviewed the record and listened to testimony regarding the foregoing amendments find text amendments will advance the policies and purposes of the Josephine County Comprehensive Plan;

NOW, THEREFORE, based on the foregoing, the Board of County Commissioners of Josephine County ordains the following as amendments to the text of the Rural Land Development Code.

SECTION 1: TEXT AMENDMENTS

1. Amend the Use Index for RR (61.020C) through RR (61.020J).
2. Amend the following definition in Article 11.030 of the Rural Land Development Code as follows:

AGRICULTURAL ENTERPRISE, COMMERCIAL. A farm operation that contributes in a substantial way to the area's existing agricultural economy, and which helps maintain agricultural processors ~~and established farm markets~~.

3. Add the following definitions to Article 11.030 of the Rural Land Development Code:

INTEREST. As it pertains to a Marijuana Production Site, the legally enforceable right to possess or use a lot or parcel as a Marijuana Production Site.

MARIJUANA. The plant cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant cannabis family Cannabaceae, which is used or produced for recreational or medical purposes, but does not include industrial hemp, as defined in ORS 571.300.

MARIJUANA PRODUCTION SITE. The ground area covered by the mature marijuana plant canopy, greenhouses, employee housing, driveways and other structures and land uses that are associated with the production of marijuana on a lot or parcel.

MECHANICALLY GENERATED NOISE. Sound emitted from a power tool, tractor, or other equipment that relies on fuel, electricity or other form of power. This definition does not include tools solely powered by manpower.

NONCONFORMING MARIJUANA PRODUCTION SITE. A Marijuana Production Site lawfully established in accordance with the RLDC prior to the effective date of Ordinance 2018-005 and authorized by state law as of that effective date.

PRODUCER, MARIJUANA. Shall have the definition as written in OAR 845-025-1015. The manufacture, planting, cultivation, growing or harvesting of marijuana. Producer may also include drying, packaging, and the labeling of marijuana. Producer does not include the drying of marijuana by a marijuana processor, if the processor is not otherwise producing marijuana.

PROCESSOR, MARIJUANA. Shall have the definition as written in OAR 845-025-1015. The processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts. Processing does not include packaging or labeling.

4. Amend Section 61.020 (PERMITTED USES) of the Josephine County Rural Land Development Code, by amending 61.020.A. and 61.020.B. as follows, and by adding the following new Section 61.020.C. to the text of the Josephine County Rural Land Development Code, and re-lettering the currently existing Sections 61.020.C through 61.020.J., as follows:

ARTICLE 61 - RURAL RESIDENTIAL ZONES

61.020 - PERMITTED USES

- A. Accessory buildings, including private garage or carport, greenhouse, stable, barn, pen, coop, or other similar buildings normally required in connection with a use specified in Section 61.020 and subject to the provisions of Sections 61.050, 61.060 and 72.060, provided a single family dwelling is on the lot or parcel.

- B. Agriculture, farming and farm use as defined in Section 11.030, subject to the standards provided in Sections 61.050, 61.060, and also subject to the further limitations that all products must be produced on the property. Commercial feed lots, indoor and outdoor Marijuana Production, Processing, Wholesaling, Retailing, Research, as well as any buildings, structures or facilities directly associated with these uses, are prohibited. This section does not intend to regulate Marijuana grown for personal use up to the limits provided for under Oregon law.
- C. Notwithstanding 61.020.B., lawfully established Marijuana Production Sites in rural residential zones that existed prior to the effective date of Ordinance 2018-005 and authorized by state law as of that effective date may be eligible for a Determination of a Nonconforming Use pursuant to Section 13.060. The Nonconforming Marijuana Production Site shall be subject to the following:
1. The person regulated by the State of Oregon must have an interest in the lot or parcel where the marijuana production site is located.
 2. With the exception of residents, guests, and employees who serve to guard a Marijuana Production Site, Nonconforming Marijuana Production Site regular business hours shall be limited from 7am to 7pm. Security personnel must be permitted marijuana workers per the State of Oregon and comply with all laws governing the provision of security services.
 3. Beginning on September 20 and ending on November 10 annually, Non-Conforming Marijuana Production Site regular business hours shall be extended to 5am to 9pm to accommodate harvest. These extended regular business hours shall be subject to the Mechanically Generated Noise restrictions in 61.020.C.4.
 4. Mechanically Generated Noise associated with a Nonconforming Marijuana Production Site shall not exceed 50 dB(A), measured at the property lines of the Nonconforming Marijuana Production Site, from 7pm to 7am.
- ~~CD.~~ Family day care dwelling for fewer than 13 children, including children of the care provider, regardless of full-time or part-time status.
- ~~DE.~~ Farm and forest products stands limited to products produced on the land.
- ~~EF.~~ Forest management, production and harvesting of timber resources, as defined in Section 11.030.
- ~~FG.~~ Public road and highway construction and reconstruction projects, to include temporary detours and temporary maintenance and material yards during

projects, and permanent weigh stations and rest areas (road and highway projects may include the placement of utility facilities).

~~G~~H. Residential care home.

~~H~~I. Residential care facility.

~~I~~J. Single-family dwelling or manufactured dwelling.

~~J~~K. Single-family dwelling for a farm worker and the farm worker's immediate family.

5. Amend Section 61.060 (PROPERTY DEVELOPMENT STANDARDS) of the Josephine County Rural Land Development Code, by adding the following new Section 61.060.B.22, as follows:

ARTICLE 61 - RURAL RESIDENTIAL ZONES

61. 060 - PROPERTY DEVELOPMENT STANDARDS

B. Property Development Standards

22. Nonconforming Marijuana Production Sites: The Nonconforming Marijuana Production Site, as measured from the edge of the canopy of the plants in accordance with OAR 845-025-2040(1)(d), or as amended, shall be a minimum of 150' from a neighboring single family dwelling on a contiguous lot or parcel. Nonconforming Marijuana Production Sites that are within 150' of a neighboring single family dwelling on a contiguous lot or parcel shall come into compliance with this section within two years from the effective date of this section. Structures used for agricultural purposes are exempt from the 150' requirement.

SECTION 2: AFFIRMATION

Except as specifically amended by the provisions of this ordinance, the Josephine County Rural Land Development Code (Ordinance 94-4), as previously adopted or amended, is hereby affirmed.

SECTION 3: SEVERANCE CLAUSE

Should any section or provision of this ordinance be declared by a court or tribunal of competent jurisdiction to be invalid, that decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 4: EFFECTIVE DATE

First reading by the Board of County Commissioners the 7th day of November, 2018.

Second reading and adoption by the Board of County Commissioners at least thirteen (13) days from the first reading, this _____ day of November, 2018. This Ordinance shall take effect ninety (90) days after its adoption by the Board of County Commissioners.

**JOSEPHINE COUNTY
BOARD OF COMMISSIONERS**

Daniel E. DeYoung, Chair

Lily N. Morgan, Vice-Chair

Simon G. Hare, Commissioner

ATTEST:

Recording Secretary

APPROVED AS TO FORM:

M. Wally Hicks, Legal Counsel