

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

ORDINANCE No. 2017-002

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. ELIMINATING GUESTHOUSES, CORRECTING A SCRIVENER'S ERROR, AND CLARIFYING A DWELLING MUST BE ONSITE IN A RURAL RESIDENTIAL ZONE PRIOR TO AN ACCESSORY BUILDING; 61.020.B. CORRECTING A SCRIVENER'S ERROR; CREATING AND ADDING 61.050.E. REGARDING PRODUCTION SITE ACREAGE; 61.050.F. REGARDING COMMERCIAL MARIJUANA PRODUCERS BE THE OWNER OF THE PROPERTY BEING REGULATED; 61.050.G. HOURS OF OPERATION; 61.050.H. REGARDING NOISE; 61.050.I. REGARDING ODOR; 61.050.J. REQUIRING A PERMIT AND ANNUAL COMPLIANCE CERTIFICATE FOR COMMERCIAL MARIJUANA PRODUCTION; AMENDING 61.060.B.3. CREATING SETBACKS FOR MARIJUANA PRODUCTION SITES; 61.060.B.22. CORRECTING A SCRIVENER'S ERROR; AND AMENDING 76.020.E. CLARIFYING STATE AND NATIONAL CODES.

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 Rural Planning Commission held a public hearing on August 28, 2017, to consider the proposed text amendments and deliberated the proposal on August 31, 2017, at which time recommendations were forwarded to the Board of Commissioners; and

WHEREAS, the Josephine County Board of Commissioners discussed the recommendations at meetings in September and October, 2017, a public hearing in September, 2017, and two hearings in November, 2017; 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 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.

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

ANNUAL COMPLIANCE INSPECTION CERTIFICATE. A certificate issued annually by the Community Development Department verifying a commercial marijuana production site is in compliance with all codes administered by the Department. The certificate can only be issued upon application and finding the property to be in compliance.

COMPLIANCE PLAN. A written strategy, provided by the Code Enforcement Administrator, to help a landowner rectify violations of this code. Said strategy identifies steps necessary to achieve compliance, and, a timeline in which to do so. Plans are typically established to achieve compliance within 30 days. In no case shall a Compliance Plan extend beyond 90 days.

EFFECTIVE ODOR CONTROL SYSTEM. A system designed by a professional engineer. The main purpose of said system is to reduce odor.

INTERFERE. As it relates to Farm Use, includes but is not limited to actions or claims based on noise, vibration, odors, smoke, dust, mist from irrigation, use of pesticides and use of crop production substances (ORS 30.932).

MARIJUANA. The plant cannabis, or any part thereof, but does not include industrial hemp.

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

MARIJUANA, COMMERCIAL. More than twelve mature marijuana plants and more than 24 immature marijuana plants being grown 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.

MICRO-TIER I. Marijuana production site limitations of up to 625 square feet of canopy for an indoor grow and up to 2500 square feet for an outdoor grow.

MICRO-TIER II. Marijuana production site limitations between 626 and 1250 square feet of canopy for an indoor grow and between 2501 and 5000 for an outdoor grow.

OLCC. The Oregon Liquor Control Commission.

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.

3. Amend Section 61.020 (PERMITTED USES) of the Rural Land Development Code, by amending 61.020.A. and 61.020.B. as follows:

ARTICLE 61 - RURAL RESIDENTIAL ZONES

61.020 - PERMITTED USES

- A. Accessory buildings, including private garage or carport, ~~guest house~~, 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 and commercial feed lots are prohibited.
4. Add the following new Sections 61.050.E., F., G., H., I. and J. to the text of the Josephine County Rural Land Development Code:

ARTICLE 61 - RURAL RESIDENTIAL ZONES

61.050 - CRITERIA FOR FARM USE

- E. The production of commercial marijuana shall be prohibited on a lot or parcel five acres or less in size. On a parcel greater than five acres, the size of the marijuana grow shall not exceed a Micro-tier I or Micro-tier II. Mixed production is allowed per OLCC size regulations for Micro-tiers. Lawful marijuana grows on lots greater than five acres shall have two years from the date of this amendment to bring their marijuana grow into compliance with this section of the code (Section 61.050).
- F. The lot or parcel with a commercial marijuana production site shall be owned, whether in whole or part, by the party being regulated by the state.
- G. With the exception of employees who serve to guard a marijuana production site, commercial marijuana production site operation hours shall be limited from dawn to dusk.

- H. Sustained noise from mechanical equipment associated with the production of commercial marijuana shall not exceed 30 dB(A), measured at the property lines, from dusk to dawn.
- I. If a greenhouse or other building is used for indoor marijuana production, said structure shall be equipped or furnished with, and utilize, an effective odor control system. The odor control system shall consist of a carbon filtration system with one or more fans sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height), divided by three (the filters shall be rated for the required CFM); or, utilize an alternative method of technology to achieve equal to or greater odor mitigation than provided with the fan system mentioned. Other alternative method of technology to achieve equal to or greater odor mitigation than provided with the fan system mentioned, will be considered provided the applicant can demonstrate engineered verification the system is designed to reduce odor.
- J. A development permit shall be required for the production of commercial marijuana. The county shall mail a copy of the permit to all adjacent landowners. Annually thereafter the landowner shall apply for an Annual Compliance Certificate by June 1. Said Annual Compliance Certificate shall be posted at the access point where the parcel meets the way. If the property is found to be in non-compliance, the landowner shall have thirty days to bring the property into compliance, or per the deadline established in a Compliance Plan, or the development permit shall be revoked.
5. Amend Section 61.060 (PROPERTY DEVELOPMENT STANDARDS) of the Josephine County Rural Land Development Code, by amending 61.060.B.3, as follows, and by adding the following new Section 61.060.B.22 to the text of the Josephine County Rural Land Development Code:

ARTICLE 61 - RURAL RESIDENTIAL ZONES

61.060 - PROPERTY DEVELOPMENT STANDARDS

B. Property Development Standards

3. Minimum setbacks from property lines – Front (30') Side (10') Rear (25')

Commercial marijuana production sites: All structures, and the marijuana grow space, as measured from the canopy of the plants in accordance with OAR 845-025-2040(1)(d), or as amended, for a lot greater than five acres shall be - Front, Side, and Rear 100'. Accessory structures or uses that do not require a development permit are not required to meet the production site setbacks; however, they are required to meet the setbacks above for non-commercial marijuana production sites.

22. Lighting – See Article 77

6. Amend Section 76.020 (APPLICATION OF WILDFIRE AND EMERGENCY SAFETY STANDARDS) of the Rural Land Development Code, by amending 76.020.E, as follows:

ARTICLE 76 - WILDFIRE AND EMERGENCY SAFETY STANDARDS

76.020 - APPLICATION OF WILDFIRE AND EMERGENCY SAFETY STANDARDS

- E. Other Requirements. The proposed utility serving a lot or parcel, including but not limited to, generators, solar, wind and hydroelectric, shall comply with the National Electrical Code and Oregon State Law. Permits and inspections are required for all systems. Any and all installations contrary to the Code such as, but not limited to, exposed NM cable, extension cords, splices and improper grounding and bonding, are direct violations of the Oregon Safety Law, ORS 479.520, and the National Electrical Code. All systems are required to be approved by the Building Safety Division prior to use. Nothing in this Article is intended to waive or diminish any other development standard, regulation or other provision required in this code or elsewhere.

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: EFFECTIVE DATE

First reading by the Board of County Commissioners the 1st day of November, 2017.

Second reading and adoption by the Board of County Commissioners at least thirteen (13) days from the first reading, this 29th day of November, 2017. This Ordinance shall take effect ninety (90) days after its adoption by the Board of County Commissioners.

**JOSEPHINE COUNTY
BOARD OF COMMISSIONERS**

Simon G. Hare, Chair

Lily N. Morgan, Vice-Chair

Daniel E. DeYoung, Commissioner

ATTEST:

Recording Secretary

APPROVED AS TO FORM:

M. Wally Hicks, Legal Counsel