

OCT 31 2016

Exhibit 3

ATTACHMENT B
AMENDED

PROPOSED TEXT AMENDMENTS

JOSEPHINE COUNTY PROPOSED LAND USE MANAGEMENT CODES

CONTACT: Julie A. Schmelzer, Community Development Director
jschmelzer@co.josephine.or.us or ph. (541) 474 5428

Amend Article 11, 'Definitions', Section 11.030, 'Terms Defined', to amend the definition of 'Campgrounds' and 'Junk Yards' as follows (except for titles new language is underlined, language to be deleted has a strikethrough),

CAMPGROUNDS. An area devoted to overnight temporary use ~~of two or more camping units~~ for vacation, recreational, or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds located within Farm or Forest Zones are subject to additional and different limitations and requirements (see, Articles 64 and 65).

JUNK YARD. Any property where junk is stored or where any person is engaged in the breaking up, dismantling, sorting, or distributing of any scrap, waste, recycled, or discarded material- whether intended for sale or not.

Amend Article 11, 'Definitions', Section 11.030, 'Terms Defined', to create the following definitions,

CAMPING. The placement of a temporary shelter used as, or designed to be used for sleeping purposes, on a parcel not to exceed four months in any 12-month period. Examples of shelters used for camping includes tents, trailers, recreational vehicles, yurts, tarpaulins, bed rolls, and sleeping bags. Items intended for storage purposes, such as truck bodies and storage bins, shall not be used for camping purposes. For purposes of this code, the temporary use of a camping unit, located in the rear yard of a lot occupied by a single family dwelling, owned and utilized for not more than 30 days in any one calendar year, by residents of the single family dwelling on the lot, shall not be deemed camping. After a camping stay, the camping unit(s) shall be placed in storage by either being stored indoors, or, having all power turned off, water lines drained, holding tank emptied, and the unit locked and parked in a side or rear yard and within 20' of a building on the parcel it is located. Absent such storage provisions, the unit shall be deemed 'camping'.

CAMPING PARTY. Any individual or camping family or group consisting of not more than 6 persons who are 7 years of age or older provided that such individual, family, or group is engaging in camping.

CAMPING UNIT. Any single temporary shelter, except sleeping bags, bed rolls, and hammocks, used for camping by a camping party.

DEPARTMENT. The Josephine County, Oregon, Community Development Department.

EFFECTIVE ODOR CONTROL SYSTEM. A system designed by a professional engineer the main purpose of which is to circulate air for the purposes of reducing odor.

GRANDFATHERED MEDICAL MARIJUANA GROWER. A medical marijuana grower who is entitled to continue operating a medical marijuana grow site if the person can demonstrate that prior to the adoption of this code the person had a lawful medical marijuana grow site on the person's property, whether owned or leased. To show proof of lawful grandfathered status, the grower shall show proof the lawful medical marijuana grow site predated this code in one of the following ways:

- A. An OMMP Grandfather letter which shows the approved location was a registered medical marijuana grow site with OMMP since December 31, 2014.
- B. Aerial photographs and a copy of the patients' OMMP grow cards for which the grower supplies plants, said photography to show the plant number and locations predate December 31, 2014.
- C. Other registration with OMMP which show the number of plants on the property are lawfully allowed and predate December 31, 2014.

To be recognized by Josephine County as a grandfathered medical marijuana grower, proof of grandfathered status is required to be maintained on-site and shall be made available for code enforcement inspection.

IMPERVIOUS SURFACE. Surfaces which do not absorb precipitation including buildings, structures, parking areas, driveways, roads, sidewalks, and any areas in concrete, asphalt, or packed stone. For purposes of this code, impervious surfaces buried within 2 feet of the ground surface shall still be deemed impervious surfaces. Impervious surfaces shall not include natural stone or rock in its original, pre-land disturbance, environmental location.

JUNK. Any item considered a nuisance or detriment to public health and safety. Also, any inoperable vehicles, or parts thereof, or used tires which are not being put to a use, or unusable household appliances, or discarded household items, or building supplies, placed on a lot in excess of 30 days.

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

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.

ODA. Oregon Department of Agriculture.

OHA. Oregon Health Authority.

OLCC. Oregon Liquor Control Commission.

OMMP. Oregon Medical Marijuana Program.

ORS. Oregon Revised Statutes.

PARCEL. For purposes of growing marijuana, defined per ORS 92.010.

PLANT SITE. For the purposes of growing medical marijuana, the location on or in the ground that has been prepared and historically used for a medical marijuana producing plant.

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.

Amend Article 12, 'Administration', to create Section 12.015, 'Enforcement', to read as follows,

12.015 – ENFORCEMENT

A. Where it is alleged a violation of this code has occurred, the Community Development Director, or their designee, may issue a warning notice of alleged violation of this code. Warning notices shall be mailed to the landowner, provide the date the warning is issued, give a brief description of the alleged violation, a method to reconcile the violation or the name of the Community Development Department employee to contact regarding the alleged violation, and a statement that forfeiture of a penalty may be imposed for failure to comply with the code.

B. If compliance has not been obtained as a result of the initial warning letter, a second letter shall be sent, via certified mail, or delivered in person and a signature of delivery obtained, or delivered electronically with a read receipt. In addition to the items required in the initial warning letter, the second letter shall state the specific code sections alleged to be in violation, and shall set a reasonable deadline for compliance.

C. If compliance with this code has not been obtained by the close of business on the date specified as the deadline for compliance, or an alternative compliance plan agreed upon between the landowner and the Department, a citation may be issued per the following:

1. The Community Development Director is delegated the authority to designate a specific employee of the Community Development Department that is authorized to issue citations for the commission of violations of this code. The employee so designated shall be deemed to be an 'enforcement officer', within the meaning of ORS 153.005(1).
2. Violations of this code shall be deemed to be 'violations' within the meaning of ORS 153.008. Violations of this code are punishable by fines established by the State Court Administrator for 'unclassified violations' (Class B). The fine established shall be sufficient to cover the cost of resources to gain compliance, including monies to cover time and gas to inspect the property for compliance with this code.
3. The sentence to pay a fine for a violation committed by a corporation shall be in an amount twice the fine established for a violation by an individual, per ORS 153.018.

D. After the citation is delivered, the alleged violator shall have thirty days to bring the property in compliance with the code. If after thirty days, compliance has not been obtained, the matter may be referred to the County’s Legal Department for enforcement action and the collection of any unpaid fines.

Amend Article 12, ‘Administration’, Section 12.020, ‘Consistency with Plans and Laws’, to create subsection E.,

E. This code is intended to be a land use management tool to further the goals and objectives of local land use plans adopted by a Citizen Advisory Committee, provided such plans are consistent with the Josephine County Comprehensive Plan.

Amend Article 12, ‘Administration’, Section 12.090, ‘Duties of the Community Development Director’, to amend subsection E., to add:

E. The Community Development Director may refer any application to a higher level or standard of review, or have any application or matter affecting this code to public hearing review by the Planning Commission, the Hearings Officer or the Board when:

1. The comments received raise substantive issues based on the decision criteria for the application which are listed in the notice; or
2. At the discretion of the Director; or
3. If requested by a Citizen Advisory Committee.

Amend Article 13, ‘Non-conforming Lots, Uses & Structures’, Section 13.030, ‘Non-conforming Structures’, to create subsection E. as follows,

E. If a structure is deemed non-conforming because the impervious surface limitations on a lot have been exceeded, the structure can be replaced, provided it does not result in an increase in impervious surfaces, and provided it can satisfy all other applicable sections of this code. To increase the size of the subject structure, other impervious surfaces would have to be removed so as to result in a zero net increase of impervious surfaces on the parcel.

Amend Article 20, ‘Basic Provisions’, Section 20.020, ‘Types of Review’, to add,

F. Citizen Advisory Committee per Article 69.5.

Amend Article 61, ‘Rural Residential Zones’, Section 61.050, ‘Criteria For Farm Use’, by creating subsections E., F., and G. to read as follows,

E. For all marijuana grow sites, except grandfathered medical marijuana grow sites, in the Rural Residential zones, a dwelling shall be on the lot where the marijuana is being grown. However, for lots exceeding 2.5 acres in size in the RR5 zone, this requirement can be waived provided one of the lots the land owner owns, or tenant leases, used for the production of marijuana, has a dwelling on it. In such cases where a waiver is given, camping is prohibited on the parcel(s) without a dwelling. A minor development fee shall be required to process the waiver request (\$100).

- F. In the RR1 and RR2.5 districts, and RR5 districts where the lot is 2.5 acres or less in area, unless a compost pile is less than 100 sq. ft. in area, all compost, including marijuana waste (stems, roots, etc.) shall be stored in a secured waste receptacle or composting bin in the possession of and under the control of the land owner or tenant.
- G. Other than a fan for odor mitigation, there shall be no mechanically generated noise, associated with the production or processing of marijuana, audible from adjacent properties one hour after sunset, nor prior to sunrise.

Amend Article 61, 'Rural Residential Zones', Section 61.060, 'Property Development Standards', to read as follows (Introductory paragraph, text to be added is underlined),

In the RR1 and RR2.5 zones, and for lots zoned RR5 that are 2.5 acres or less in area, the cumulative impervious surfaces shall not exceed 50% of the lot. All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this code. The following is a list of Articles that are or may be applicable:

Amend Article 64, 'Exclusive Farm & Farm Resource Zones', Section 64.030, 'Permitted Uses', to create subsection H. to read as follows:

- H. Camping, ~~provided the camping stay does not exceed 30 days during any consecutive six-month period. associated with a marijuana crop is subject to all camping provisions in this code. Additionally, in this zone camping limitations can be waived to allow a camping unit on site more than four months, provided a waiver is secured from the Community Development Director. Said waiver shall only be granted if:~~
 - ~~1. An on-site waste disposal system has been approved by DEQ and connected to the camping unit, or receipts can be produced showing the camper's holding tank has regularly been emptied at an approved dump station, or there is a copy of a valid contract filed with the Department to service the unit via a portable toilet for the period authorized.~~
 - ~~2. There shall be no accessory buildings.~~
 - ~~3. There shall be no outside storage.~~
 - ~~4. Only two vehicles, aside from the recreational vehicle in use, shall be within 200' of the camping unit.~~
 - ~~5. Only two canines shall be allowed on the parcel where the camping unit is located.~~
 - ~~6. Adjacent neighbors must verify in writing they have no objection to the camping unit being on-site in excess of four months. The camping unit must be removed upon cessation of the use, or at the end of the nine-month period, whichever date comes first.~~
 - ~~7. The waiver is valid only for the calendar year in which it is granted. It can be renewed by filing for a new waiver.~~

- ~~8. In no case shall the camping unit be on site more than nine months in a 12-month period.~~
- ~~9. The land owner signs an affidavit, and record it with the County Clerk, copy to the Department, accepting the above conditions and obliging to comply with them or forfeit the waiver and have the camping unit removed within three business days of receipt of the notification of violation.~~
- ~~10. The Community Development Director reserves the right to not renew a waiver based on any violation of a previous waiver.~~
- ~~11. The waiver application fee is the same charge as a 'Determination of Substantial Development' (currently \$400).~~

Amend Article 65, 'Forest Commercial & Woodlot Resource Zones', Section 65.025, 'Permitted Uses', to create subsection C. to read as follows:

~~C. Camping, provided the camping stay does not exceed 30 days during any consecutive six-month period. associated with a marijuana crop is subject to all camping provisions in this code. Additionally, in this zone camping limitations can be waived to allow a camping unit on site more than four months, provided a waiver is secured from the Community Development Director. Said waiver shall only be granted if:~~

- ~~1. An on-site waste disposal system has been approved by DEQ and connected to the camping unit, or receipts can be produced showing the camper's holding tank has regularly been emptied at an approved dump station, or there is a copy of a valid contract filed with the Department to service the unit via a portable toilet for the period authorized.~~
- ~~2. There shall be no accessory buildings.~~
- ~~3. There shall be no outside storage.~~
- ~~4. Only two vehicles, aside from the recreational vehicle in use, shall be within 200' of the camping unit.~~
- ~~5. Only two canines shall be allowed on the parcel where the camping unit is located.~~
- ~~6. Adjacent neighbors must verify in writing they have no objection to the camping unit being on site in excess of four months. The camping unit must be removed upon cessation of the use, or at the end of the nine-month period, whichever date comes first.~~
- ~~7. The waiver is valid only for the calendar year in which it is granted. It can be renewed by filing for a new waiver.~~
- ~~8. In no case shall the camping unit be on site more than nine months in a 12-month period.~~

- ~~9. The land owner signs an affidavit, and record it with the County Clerk, copy to the Department, accepting the above conditions and obliging to comply with them or forfeit the waiver and have the camping unit removed within three business days of receipt of the notification of violation.~~
- ~~10. The Community Development Director reserves the right to not renew a waiver based on any violation of a previous waiver.~~
- ~~11. The waiver application fee is the same charge as a 'Determination of Substantial Development' (currently \$400).~~

Amend Article 69, 'Overlays', to create **Article 69.5 – WILLIAMS AREA OVERLAY** to read as follows:

69.510 – PURPOSE

The Williams Area Overlay establishes land management regulations specific to those lands under the jurisdiction of the Williams Citizen Advisory Committee (CAC). The overlay establishes specific zoning codes to protect the Williams area rural lifestyle and character, and to uphold the scenic rural landscape enjoyed by Williams residents. Specific land use regulations are further desired to preserve citizen safety and the rural nature within the Williams Area communities, as well as the peace and amicable co-existence of neighbors within the overlay area. The overlay also creates a process to more thoroughly engage the CAC in land use decisions affecting the Williams area.

69.520 – APPLICATION OF OVERLAY

This overlay shall be applicable to all lands identified as lying within the borders of the Williams Citizen Advisory Committee (CAC) jurisdiction, which is predominantly identified as the southwest portion of Josephine County. A detailed map of the overlay area is available in the Community Development Department or from the Williams CAC.

69.530 – REVIEW PROCESS

- A. All land use applications, within the jurisdiction of the Williams Citizen Advisory Committee (CAC), which have been submitted to the Community Development Department for land located in an Industrial or Commercial zone, and all cannabis related applications, as well as additional or revised documents submitted relevant to those applications, shall be forwarded in full to the Chair of the Williams CAC. Said application and associated documents are to be sent electronically to the Chair within five business days of the application being deemed complete by the Department.
- B. The CAC shall be given ten business days to review the application and submit comments. Any comments or documentation received from the CAC applicable to the application shall become part of the official record and shall be forwarded in full to the applicant with the Department decision on the land use application.
- C. The CAC may request the Director require the applicant to apply for a Site Plan Review provided the CAC determines the proposed development could pose significant negative

impact(s) on neighboring properties; might adversely affect environmental concerns such as wildfire, wildlife habitat, watershed preservation, or other similar concerns; or that the review of the application will be enhanced by notice to surrounding landowners. Said request of the Director shall accompany the comments submitted in subsection B., above.

Amend Article 72, 'Heights, Setbacks & Accessory Structures', to create Section 72.045, 'Special Setbacks for Marijuana Plants'.

72.045 – SPECIAL SETBACKS FOR MARIJUANA PLANTS

A. Front Yard Setbacks applicable in all Zones:

1. Except for grandfathered medical marijuana grow sites, no marijuana plant shall be placed within 100 feet of a public right-of-way, unless the lots on one or each side of the subject property are developed with homes; in such case the setback from the right-of-way shall be calculated per Sec. 72.050.G of the *RLDC*. A waiver to this provision can be made in circumstances where topography, existing vegetation, or unique circumstances prevent compliance, or, it can be proven a reduced setback will not be a detriment to the character of the neighborhood and will not result in a land use conflict. The waiver can be given by the Community Development Director upon consultation with the land owner or tenant, and adjacent neighbors. A minor development fee shall be required to process the waiver request (\$100).
2. In all non-residential zoning districts, unless restricted elsewhere in this code, where marijuana production is allowed, marijuana plants shall have a setback from a front, side and rear property line the distance equivalent of a setback for an agricultural structure in the applicable zoning district.

B. Side and Rear Yard Setbacks in RR1, RR2.5, and lots 2.5 acres or less in size in the RR5 Zone:

1. Other than for personal use of the land owner or tenant (in compliance with OLCC and OMMP rules), or a grandfathered medical marijuana grow site, or for a location to which the OLCC approved a licensee prior to October 1, 2016, the production of marijuana is not allowed in the RR1 and RR2.5 zoning districts, nor on a lot less than 2.5 acres in size in the RR5 zone.
2. Individual plant sites which were lawfully established on a grandfathered medical marijuana grow site, or on a location to which the OLCC approved a licensee prior to October 1, 2016, do not have to be relocated to a compliant location; however, new plant sites on a medical marijuana grower's property or the site approved for the OLCC licensee, cannot be established in violation of the setback requirements identified in this code.
3. For marijuana plants for the personal use of the land owner or tenant (in compliance with OLCC and OMMP rules), or plants in a new location on a grandfathered medical marijuana grow site, or plants in a new location to which the OLCC approved a licensee

prior to October 1, 2016, the canopy of the new marijuana plants, when mature, shall be set back at least 10' from a side property line, and 25' from a rear property line.

C. Side and Rear Yard Setbacks in RR5 for lots greater than 2.5 acres in area, and all other zones where the production of marijuana is allowed:

1. Other than plants for personal use of the land owner or tenant, or a grandfathered medical marijuana grow site, the canopy of a mature marijuana plant shall be setback at least 35' property lines.
2. New plant locations on a grandfathered medical marijuana grow shall be setback from property lines a distance so the canopy of the mature plant will be a minimum of 10' from all property lines.

Amend Article 72, 'Heights, Setbacks & Accessory Structures', Section 72.060, 'Accessory Structure Standards', to create subsections C. and D.

C. Lighting. All indoor lighting associated with an indoor marijuana growing area, or other accessory building, shall not be visible from dwellings on adjacent properties between the hours of 10:00 p.m. to 6:00 a.m. (Note: This regulation is not applicable to greenhouses or other indoor growing areas, accessory buildings which are grandfathered, legally conforming or legally nonconforming accessory buildings, or those accessory buildings which have been authorized by a development permit prior to October 1, 2016. However, replacement structures will be required to comply with this section of the code.)

D. Odor Mitigation. Applicable only in the in the RR5 zone, for lots greater than 2.5 acres in size. Unless a waiver is requested and obtained, and the Community Development Director receives a written waiver from all adjacent property owners, any new structure, the purpose of which is used to produce marijuana, shall be equipped with an effective odor control system which must at all times prevent unreasonable interference with the neighbors' use and enjoyment of their property. The waiver may be given by the Community Development Director upon consultation with the land owner or tenant, and adjacent land owners. A minor development fee shall be required to process the waiver request (\$100). The odor control system shall comply with the following:

1. An odor control system is deemed allowed 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 to not unreasonably interfere with neighbors' use and enjoyment of their property. This report can be the report supplied when the mechanism was purchased, provided the unit was commercially manufactured in Oregon.
2. 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.

- 3. 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.
- 4. The above odor mitigation regulations shall apply to all indoor growing areas except those for personal use of the land owner or tenant, a grandfathered medical marijuana grow site, or for those sites where a development permit has been issued for a greenhouse or an indoor growing area by the Department prior to October 1, 2016.

Amend Article 73, 'Fences, Walls & Screens', Section 73.030, 'Permitted Fences, Walls & Hedges', to create subsection C.

C. Composition.

- 1. Sight-obscuring fences and retaining walls shall be finished in one solid color, muted earth tone that blends with the surrounding natural landscape. Waivers may be given on a case-by-case review by the Community Development Director. A minor development fee shall be required to process the waiver request (\$100).
- 2. Permanent or temporary sight-obscuring fences shall not be constructed of temporary or portable materials such as, but not limited to, berms, root balls, hay bales, junk, inoperable vehicles or equipment, plastic sheeting, tarps, etc.
- 3. If a vegetative screen is allowed by OLCC, required by OHA or this code, or at the desire of the landowner, the vegetative screening shall be planted so that when fully grown the canopy is retained solely on the lot with the marijuana production area. The vegetative screening, when mature, must be capable of screening mature marijuana plants/crops within three years of the planting of the vegetative screen. The screen shall be maintained to provide a live, vegetative screen, of the height required in this subsection.
- 4. Temporary (not to exceed nine months) shade cloths, are only allowed in conjunction with a grandfathered medical marijuana grow site, provided the grower can successfully demonstrate shade cloth has been used prior to the date that renders the site grandfathered. To extend the placement of the temporary shade cloth, a waiver can be given by the Community Development Director upon consultation with the land owner or tenant, and adjacent neighbors. A minor development fee shall be required to process the waiver request (\$100).

Amend Article 75, 'Off-Street Parking', Section 75.060.E., 'Parking Area Improvements', to read as follows (new language is underlined, language to be deleted has a strikethrough),

~~E. Any lights provided to illuminate any public or private parking area or vehicle sales area shall be shielded or so arranged as to reflect light away from any abutting or adjacent residential zone.~~ All exterior lighting, including light emitted from security systems, shall be shielded or use a hood and lens that cast light downward so as to ensure no light is cast onto adjacent properties nor upward into the night sky. If the lighting mechanism does not utilize a hood or lens, lighting fixtures shall be fully shielded in such a manner that all light emitted directly by the

lamp or diffusing element, or indirectly by reflection or refraction, is projected below the horizontal plane through the lowest light-emitting part.

Amend Article 83, 'Erosion Control & Storm Drain Facilities', Section 83.020, 'Application of Standards', to create subsection C. to read as follows,

- C. Regardless of slope, for all land uses in the unincorporated areas of Josephine County,
1. Instances where fill is brought on site, or stockpiled, and said fill is in excess of 10 cubic yards, provisions shall be made to make sure runoff from that fill is maintained at the site. Best management practices to help control runoff shall be implemented, such as but not limited to, straw bales or erosion control fabric. Said fill piles must be used for cultivation, spread or removed from the site within 30 days.
 2. Grading/spreading of spent soil or other types of fill, shall be graded to prevent runoff and reseeded within 30 days. The seed must be maintained to ensure seasonal growth.
 3. There shall be no filling or grading on slopes in excess of 15% without a stormwater management plan signed by a registered, professional engineer ensuring there will be no runoff onto adjacent properties or waters of the state.

