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STAFF REPORT FOR THE PLANNING COMMISSION WORKSESSION DECEMBER 7, 2015

MARIJUANA LAND USE REGULATION IN UNINCORPORATED MULTNOMAH COUNTY (PC-2015-4551)



1.0 INTRODUCTION

In November of 2014, Oregon voters approved Measure 91 legalizing the recreational use of marijuana. Voters previously had approved a measure legalizing the medical use of marijuana in 1998. In 2015, the State Legislature approved and the governor signed House Bill 3400, which addresses the regulation of medical and recreational marijuana uses. On October 5, 2015, staff held a marijuana regulation briefing with Multnomah County's Planning Commission where high-level policy options were first contemplated.

This staff report puts forward a proposal for "Marijuana Business" land use regulations applicable to marijuana-related commercial enterprises, including medical enterprises, in the unincorporated portions of Multnomah County—nothing in this proposal regulates activities supporting personal (i.e., non-commercial), marijuana-related uses.

The authority for these regulations derives from the County's home rule charter; however, for efficiency, including clarity to the public, this proposal aligns with the framework set forth in state law and administrative rule with respect to the regulation of marijuana-related activities. Consequently, this proposal contains regulations pertaining to both medical and recreational marijuana production (growing), processing, wholesale, and dispensary and retail business operations. The proposed regulations are intentionally designed to comply with ORS 215.253(2) as a "lawful exercise by [the County] of its power to protect the health, safety and welfare of the

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citizens of this state” and to fall within the category of those “reasonable regulations” (i.e., time, place, and manner) provided for in HB 3400.

Staff crafted the regulations below after researching a range of regulatory models used by other jurisdictions, both locally and around the country, conducting interviews with industry experts and reflecting on both the Commission’s October 5th briefing discussion and current county code allowances for similar land uses.

2.0 BACKGROUND ON MARIJUANA LAWS IN OREGON

In 1998, the Oregon Medical Marijuana Act (OMMA) was passed to provide legal protections and a framework for the growing and use of medical marijuana. The OMMA delegated authority to the Oregon Health Authority (OHA) to oversee and administer the state medical marijuana program. In 2014, Senate Bill 1531 amended the OMMA and provided that local governments could impose reasonable “time, place and manner” regulations for medical marijuana dispensaries.

Staff Note: Marijuana is illegal under the federal Controlled Substances Act (CSA) of 1970. However, in August 2013, the United States Department of Justice (US DOJ) issued a memorandum, known as the “Cole Memo,” which outlined guidelines and the marijuana enforcement priorities of the US DOJ. The Cole Memo provides that the US DOJ will not prioritize enforcement of the CSA in states that have legalized marijuana where those states have strong and effective regulatory and enforcement systems. Instead, the federal enforcement priorities include:

- *Preventing distribution of marijuana to minors;*
- *Preventing cannabis revenues from going to criminal enterprises, gangs, and cartels;*
- *Preventing diversion of marijuana from states where it is legal to other states;*
- *Preventing state-authorized activity from being used as a cover for illegal activity, including trafficking of other illegal drugs;*
- *Preventing violence and the use of firearms in the cultivation and distribution of marijuana;*
- *Preventing drugged driving and exacerbation of other adverse public health consequences associated with marijuana use;*
- *Preventing the growing of marijuana on public lands;*
- *Preventing marijuana possession or use on federal property.*

The US DOJ is less likely to enforce the CSA against those who are in compliance with a strong state regulatory system, particularly where state law emphasizes the priorities outlined above.

In the November 2014 general election, Oregon voters passed Ballot Measure 91, the *Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act*, which legalized recreational marijuana under state law. In Multnomah County, Measure 91 passed by a vote of 71.38% in favor (213,137) to 28.62% in opposition (85,474), with a voter turnout of 68.59%. Measure 91

decriminalized and regulated the use of recreational marijuana, including growing marijuana from home and possessing small amounts of marijuana for personal use. The bill also designated the Oregon Liquor Control Commission (OLCC) as the lead government agency responsible for writing rules and licensing commercial production, processing, wholesaling and retailing of recreational marijuana. Temporary rules have now been adopted and the OLCC will begin accepting license applications January 4, 2016.

During the 2015 Oregon Legislative session, five bills related to marijuana were passed. Only two bills, House Bill 3400 and Senate Bill 460A related to marijuana land use regulation (HB 3400 & SB 460A).

The most prominent Bill passed, HB 3400, amended Measure 91 to incorporate regulations for recreational marijuana and altered rules governing medical marijuana. Some of the key provisions included in HB 3400 were:

- Defining marijuana grown for recreational sales as an agricultural crop for the purposes of “farm use” as defined in ORS 215.203.
 - However, marijuana farm uses cannot be used to qualify a dwelling in the EFU zone (primary farm dwelling, accessory farm dwelling or relative farm help dwelling), and;
 - Marijuana farm uses also cannot be used in conjunction with farm stands (sales or promotional activities) or commercial activity in conjunction with marijuana crops.
- Provides that counties may adopt “reasonable regulations” regarding marijuana uses including production, processing, wholesaling and retail/dispensaries and removes the requirement from Measure 91 that counties adopt findings in support of those regulations.
 - Definitions per state law include:
 - **Production** means the manufacture, planting, cultivation, growing or harvesting of recreational marijuana or planting, cultivation, growing, trimming or harvesting of medical marijuana in Oregon.
 - **Processing** means the processing, compounding, or conversion of marijuana into cannabinoid products, concentrates or extracts; excludes packaging or labeling.
 - **Wholesaling** means purchasing marijuana items in Oregon for resale to a person other than a consumer in Oregon.
 - **Retail/dispensary** means selling or otherwise transferring marijuana items to a consumer or cardholder in Oregon.
- Allowing for local opt out of any one or more of six categories of marijuana facilities:
 - **If the Multnomah County Board of Commissioners imposes a ban on one or more of the six categories of marijuana facilities, the ban is temporary until**

the next general election (November 2016) at which point a public vote would need to be conducted.

- **If Multnomah County opts out of any category of marijuana licensee or registration, it is prohibited from referring the local option tax and disqualified from receiving any shared state tax revenue** (The local option tax may be imposed at a rate of up to 3% on the sale of recreational marijuana items if approved by local voters at a general election).

Staff Note: Staff recommends during deliberations that the Commission be aware of tax revenue implications resulting from the opting out of any of the marijuana facility categories.

- Grandfathering existing medical processors and dispensaries that have successfully completed the local land use process and have met certain state registration requirements.

Senate Bill 460A also known as “early start” allowed for medical marijuana dispensaries to sell limited recreational marijuana products (i.e. recreational marijuana seeds, leaves, flowers and non-flowering plants) beginning on October 1, 2015. However, the sale can only occur in existing licensed medical marijuana facilities. To date, Multnomah County has not issued a land use permit for any medical marijuana dispensaries in unincorporated Multnomah County. The bill also gave the County the authority to adopt ordinances to prohibit the sale of limited recreational marijuana products on October 1, 2015. Multnomah County did not adopt such an ordinance.

The other three marijuana bills that were passed were House Bill 2041A, Senate Bill 844A and Senate Joint Memorial 12. HB 2041A addressed retail taxation and imposed a 17% point of sale state tax on recreational marijuana products, with a net distribution formula of:

- 40% to the Common School Fund,
- 25% to substance abuse treatment and prevention,
- 15% to the Oregon State Police,
- 10% to cities to help enforce Measure 91, and
- 10% to counties to help enforce Measure 91

Of the 10% allotted to counties, revenues will be distributed based on population until July 1, 2017, after which they will be distributed based on the number of licensees in the jurisdiction (50% based on the number of retail licensees and 50% based on all other licensees). Senate Bill 844A contained miscellaneous provisions to establish a research task force and other operative provisions for medical marijuana caregivers and cardholders and Senate Joint Memorial 12 urged the US Congress to declassify marijuana as a Schedule I drug under the federal Controlled Substances Act so issues relating to research and banking can be better accommodated.

As of October 22, 2015, the OLCC has adopted temporary rules to regulate the production, processing, wholesaling and retail sales of marijuana. The rules regulate the various aspects of owning and operating a marijuana business in Oregon. This includes the application process,

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residency requirements, compliance measures and various site requirements including, canopy size, fencing, security and other health and safety measures.

Beginning on January 4, 2016, the OLCC is required to begin accepting license applications for those four types of business activities, at which point, the OLCC will review the application and request a land use compatibility statement (LUCS) from the County.

The LUCS process is a statewide requirement for relevant state agencies to first confirm proposals meet local land use requirements before a state agency issues a permit. This is accomplished through the county filling out a LUCS form confirming that either, land use permitting requirements have been met, that the use is not allowed in the zoning district, or that the use could be allowed once certain local land use permits are issued. Once a request for a LUCS is made, the County has 21 days to determine on the LUCS form if the use (i.e. production, wholesale, processing, and retail sales) is appropriate for the location that the applicant is requesting.

3.0 PROPOSED CODE AMENDMENTS

This proposal envisions the creation of a new “Marijuana Business” code section in Multnomah County Code chapters 33, 34, 35, 36, 11.15 and 38 with the intent being to locate all marijuana-specific regulations in this section for purposes of efficiency and convenience.

If the County does not impose regulations of its own, only the State’s regulations will apply. Staff is proposing reasonable “time, place and manner” regulations to address potential health, safety and general community welfare impacts related to marijuana businesses. Firstly, staff proposes code amendments to clarify which zoning districts allow marijuana businesses. For example, the amendments limit the location of marijuana processing, wholesaling and retailing to the County’s commercial and industrial rural center zones and away from the County’s rural residential districts. The general philosophy is to direct commercial and industrial marijuana related activity to commercial and industrial zones to help encourage development in the appropriate zones and provide a reasonable buffer between these uses and residential communities.

Secondly, some form of production (growing) is generally allowed in all zones because marijuana is a farm crop and farm crops are commonly grown in the rural areas. However, the amendments require production to occur wholly indoors within Rural Residential zones because of possible impacts of odors and grow lights on the wider community. To further address odors, in all zoning districts that permit production and/or processing staff proposes a 100-foot setback or the installation and operation of an activated carbon filtration system. Additional regulations limit the light cast for marijuana production to address possible light pollution impacts.

Finally, the following proposed changes also prohibit a marijuana business as a home occupation due to OLCC’s inability to enforce and seek compliance with their rules for any business that is located within a residence.

Key elements of the proposed code amendments are:

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- The regulations will not apply to growing or use of personal recreational marijuana or personal medical marijuana, as allowed by state law.
- The regulations apply to recreational marijuana businesses licensed by the OLCC.
- The regulations apply to medical marijuana businesses registered with the OHA.
- **Unincorporated Zoning Districts**
 - Natural Resources Resource Zoning Districts, including Exclusive Farm Use (EFU), Commercial Forest Use (CFU, CFU 1, 2, 3, 4, and 5): Marijuana production will be an allowed use in Exclusive Farm Use and Commercial Forest Use zoning districts. Processing will be a review use in the EFU zoning district, subject to limits in state law for agricultural processing (maximum 10,000 square feet of floor area; minimum of 25% of processed crops grown on-site) requiring a Type II land use permit review process. Production and processing will be subject to the development standards within the zoning district where the use is proposed to be located within. Processing in the CFU zoning district, and wholesaling and retailing in the EFU and CFU zoning districts will be prohibited.
 - Rural Residential Districts, including Multiple Use Agriculture-20 (MUA-20), Rural Residential (RR), and Orient Rural Center Residential (OR): Marijuana production will be an allowed use. In RR zoning districts, marijuana production will only be allowed indoors within a building. Processing in the MUA-20 zoning district will be a conditional use, subject to Type III land use permit review. Processing in the RR zoning district, and wholesaling and retailing in the MUA-20 and RR zoning districts will be prohibited. Production and processing would be subject to special development standards in addition to development standards within each zone.
 - Rural Commercial and Industrial Districts, including Rural Center (RC), Burlington Rural Center (BRC), Orient Commercial-Industrial (OCI), Pleasant Home Rural Center (PH-RC) and Springdale Rural Center (SRC): Marijuana production will be an allowed uses in the Rural Center Zoning Districts. Production will only be allowed indoors within a building. Marijuana wholesaling, processing and retailing will be a conditional use, subject to a Type III land use permit review. Wholesaling in BRC and SRC will be prohibited. These uses will be subject to the same development standards as other similar uses in those zones and have additional special development standards.
- **Urban Unincorporated Zoning Districts (MCC 11.15)**
 - Natural Resource Zoning Districts, including Forest Districts (CFU, CFU 1, 2, 3, 4, and 5): Marijuana production will be an allowed use in Commercial Forest Use zoning districts. Production will be subject to the development standards within the zoning district that the use is located. Processing, wholesaling and retailing will be prohibited.

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- Residential (LR5, 7, 10) Districts: Marijuana production, processing, wholesaling and retailing in the Urban Low Density Residential Districts is prohibited.
- Rural Residential (RR) Districts: Marijuana production will be an allowed use. In RR zoning districts, marijuana production will only be allowed indoors within a building. Production will be subject to special development standards. Processing, wholesaling and retailing will be prohibited uses.
- Urban Future Districts (UF-20): Marijuana production will be an allowed use in Urban Future zoning districts. Processing will be a conditional use in the UF-20 zoning district, subject to a Type III land use permit review. Production and processing will be subject to special development standards and the development standards within the zoning district that the use is located. Wholesaling and retailing will be prohibited.
- All Other Zoning Districts: Marijuana production, processing, wholesaling and retailing in the Urban Low Density Residential Districts is prohibited.

The proposed code amendments below are broken into the following sections. The content of each section is nearly identical, although some sections contain slight differences due to either the code structure of that Chapter or wording within the standards because of slightly different allowances in that part of the county. The intent is to develop consistent countywide regulations, to the extent reasonable and possible. A map showing the geographic extent of each chapter of code below is presented as Exhibit A.

Section 3.1	Chapter 33 (West Hills Rural Plan Area)
Section 3.2	Chapter 34 (Sauvie Island / Multnomah Channel Rural Plan Area)
Section 3.3	Chapter 35 (East of Sandy River Rural Plan Area)
Section 3.4	Chapter 36 (West of Sandy River Rural Plan Area)
Section 3.5	Chapter 11.15 (Urban Unincorporated Areas of Multnomah County Still Under County Land Use Planning Authority)
Section 3.6	Chapter 38 (Columbia River Gorge National Scenic Area)

Staff Note: The following text formatting is used to differentiate existing, proposed and deleted language:

Bold = Existing language to remain

Double Underline = Proposed new language

~~Strikethrough~~ = Language proposed for removal

* * * = separates non-contiguous code sections

3.1 Zoning Amendments Proposed to Chapter 33 (West Hills Rural Plan Area)

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Staff Note: The new section called Marijuana Business will be added to PART 3 - ADMINISTRATION AND ENFORCEMENT - Permits and Certificates of the affected rural plan areas. This change would put all specific marijuana provisions in a central location following the framework and existing design of the code.

PART 1 – GENERAL PROVISIONS

PART 2 – PLANNING AUTHORITY

PART 3 - ADMINISTRATION AND ENFORCEMENT – Permits and Certificates

- 33.0510- Temporary Permits.**
- 33.0515 Temporary Health Hardship Permit.**
- 33.0520 Historical Structures and Sites Permits.**
- 33.0525 Certificate of Occupancy**
- 33.0530 Bus Passenger Shelters**
- 33.0535 Responses to an Emergency/Disaster Event**
- 33.0540 Type A Home Occupation**
- 33.0550 Type B Home Occupation**
- 33.0560 Marijuana Business**

PART 4 – ZONES

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PART 5 – SPECIAL DISTRICTS

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PART 6 – STANDARDS FOR COMMUNITY SERVICES; CONDITIONAL USES

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PART 7 – DESIGN REVIEW, NONCONFORMING USES, SIGNS, VARIANCES AND LAND DIVISIONS

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PART 3 - ADMINISTRATION AND ENFORCEMENT - Permits and Certificates

Staff Note: The new section called Marijuana Business will be added to PART 3 - ADMINISTRATION AND ENFORCEMENT - Permits and Certificates of the affected rural plan areas. This change would consolidate marijuana allowances and provisions in one location.

PART 3 - ADMINISTRATION AND ENFORCEMENT - Permits and Certificates

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33.0560 Marijuana Business

(A) The purpose of this section is to protect and preserve the public health, safety and general welfare of the community by establishing land use requirements related to the siting and operation of a Marijuana Business. For efficiency purposes, including clarity to the public, this proposal aligns with the framework set forth in state law and administrative rule with respect to the regulation of Marijuana Businesses. Accordingly, in construing this section, related provisions of state law and administrative rule may provide relevant context. Nothing in this section regulates the personal use of marijuana items.

(B) For purposes of this section, “Marijuana Business” and its derivations means any enterprise involving recreational or medical marijuana processing, marijuana production, marijuana wholesaling, and/or marijuana retailing, as authorized in state law. For purposes of this section, marijuana retailing includes dispensing medical marijuana. Nothing in this section authorizes collocation of recreational and medical enterprises beyond that allowed under state law.

(C) A proposal for establishing or modifying a Marijuana Business will be reviewed for approval as specified in Table A below and is subject to the specified criteria therein as well as the approval criteria set forth in paragraph D of this section. Where no review process for a particular Marijuana Business in a particular zoning district is specified in Table A, the Marijuana Business is not allowed in that zoning district.

Table A: Chapter 33

Type I = not a land use decision; Type II = Planning Director decision; Type III = Hearings Officer decision; X = Prohibited.

<u>Zoning District</u>	<u>Marijuana Production</u>	<u>Marijuana Processing</u>	<u>Marijuana Wholesaling</u>	<u>Marijuana Retailing</u>
<u>(CFU zones)</u> <u>CFU-1</u> <u>CFU-2</u> <u>CFU-5</u>	<u>Type I</u> <u>33.2020(C)</u> <u>33.2220(C)</u> <u>33.2420(C)</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>EFU</u>	<u>Type I</u> <u>33.2620(A)</u>	<u>Type II</u> <u>33.2625(L)</u>	<u>X</u>	<u>X</u>
<u>MUA-20</u>	<u>Type I</u> <u>33.2820(A)</u>	<u>Type III</u> <u>33.2830(B)(2)</u>	<u>X</u>	<u>X</u>
<u>RR</u>	<u>Type I</u> <u>Indoor Only</u> <u>33.3120(A)</u>	<u>X</u>	<u>X</u>	<u>X</u>

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<u>BRC</u>	<u>Type I</u> <u>Indoor Only</u> <u>33.3320(A)</u>	<u>Type III</u> <u>33.3330(B)(3)</u>	<u>X</u>	<u>Type III</u> <u>33.3330(B)(1)</u>
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(D) A Marijuana Business is required to meet all applicable requirements and approval criteria as referenced in Table A and must comply with the following:

(1) Notwithstanding the federal Controlled Substances Act, a Marijuana Business must comply with all applicable federal, state and local laws.

(2) In the following Zoning Districts that permit marijuana production as “Indoor Only,” the marijuana production shall be located entirely within one or more completely enclosed buildings:

(a) Rural Residential;

(b) Burlington Rural Center.

(3) In Zoning Districts that permit marijuana production and/or processing, no canopy area or building used for marijuana production or marijuana processing shall be located closer than 100 feet from any property line, except as provided in subsection 3(a). The distance shall be measured using a straight line measurement extending horizontally from the nearest part of the canopy area or building used for marijuana production or marijuana processing to the point nearest to any property line. This 100-foot restriction does not apply in the EFU Zoning District.

(a) A building used for marijuana production or marijuana processing may be located closer than 100 feet from any property line if an activated carbon filtration system, consisting of one or more fans and filters, is designed, operated and maintained to ensure no detectable odor at property lines.

(4) All marijuana businesses must comply with the following lighting requirements:

(a) Light cast by light fixtures inside any building used for marijuana production shall not be visible outside the building 30 minutes before sunset to 30 minutes after sunrise the following day.

(b) Light cast by exterior light fixtures shall be fully shielded with opaque materials and directed downwards. Fully shielded shall mean no light is emitted above the horizontal plane located at the lowest point of the fixture’s shielding. Shielding must be permanently attached. The area of direct illumination must be contained on the property.

(5) All fencing must meet all applicable county fencing standards including, but not limited to, standards within the Significant Environmental Concern subdistrict.

(6) A Marijuana Business is not allowed as a Home Occupation.

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(7) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses on land designated for exclusive farm use:

(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; and

(c) A commercial activity, as described in ORS 215.213(2)(c) or ORS 215.283(2)(a), carried on in conjunction with a marijuana crop.

3.2 Zoning Amendments Proposed to Chapter 34 (Sauvie Island Multnomah Channel Rural Plan Area)

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Staff Note: The new section called Marijuana Business will be added to PART 3 - ADMINISTRATION AND ENFORCEMENT - Permits and Certificates of the affected rural plan areas. This change would put all specific marijuana provisions in a central location following the framework and existing design of the code.

PART 1 – GENERAL PROVISIONS

PART 2 – PLANNING AUTHORITY

PART 3 - ADMINISTRATION and ENFORCEMENT – Permits and Certificates

- 34.0510** Temporary Permits.
- 34.0515** Temporary Health Hardship Permit.
- 34.0520** Historical Structures and Sites Permits.
- 34.0525** Certificate of Occupancy
- 34.0530** Bus Passenger Shelters
- 34.0535** Responses to an Emergency/Disaster Event
- 34.0540** Type A Home Occupation
- 34.0550** Type B Home Occupation
- 34.0560** Marijuana Business

PART 4 – ZONES

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PART 5 – SPECIAL DISTRICTS

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PART 6 –COMMUNITY SERVICE and CONDITIONAL USES

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PART 7 – DESIGN REVIEW; NONCONFORMING USES; SIGNS; VARIANCES; LAND DIVISIONS

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PART 3 - ADMINISTRATION AND ENFORCEMENT - Permits and Certificates

Staff Note: The new section called Marijuana Business will be added to PART 3 - ADMINISTRATION AND ENFORCEMENT - Permits and Certificates of the affected rural plan areas. This change would put all specific marijuana allowances and provisions in one location.

PART 3 - ADMINISTRATION AND ENFORCEMENT - *Permits and Certificates*

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34.0560 Marijuana Business

(A) The purpose of this section is to protect and preserve the public health, safety and general welfare of the community by establishing land use requirements related to the siting and operation of a Marijuana Business. For efficiency purposes, including clarity to the public, this proposal aligns with the framework set forth in state law and administrative rule with respect to the regulation of Marijuana Businesses. Accordingly, in construing this section, related provisions of state law and administrative rule may provide relevant context. Nothing in this section regulates the personal use of marijuana items.

(B) For purposes of this section, “Marijuana Business” and its derivations means any enterprise involving recreational or medical marijuana processing, marijuana production, marijuana wholesaling, and/or marijuana retailing, as authorized in state law. For purposes of this section, marijuana retailing includes dispensing medical marijuana. Nothing in this section authorizes collocation of recreational and medical enterprises beyond that allowed under state law.

(C) A proposal for establishing or modifying a Marijuana Business will be reviewed for approval as specified in Table A below and is subject to the specified criteria therein as well as the approval criteria set forth in paragraph D of this section. Where no review process for a particular Marijuana Business in a particular zoning district is specified in Table A, the Marijuana Business is not allowed in that zoning district.

Table A – Chapter 34

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Type I = not a land use decision; Type II = Planning Director decision; Type III = Hearings Officer decision; X = Prohibited.

<u>Zoning District</u>	<u>Marijuana Production</u>	<u>Marijuana Processing</u>	<u>Marijuana Wholesaling</u>	<u>Marijuana Retailing</u>
<u>EFU</u>	<u>Type I</u> <u>34.2620(A)</u>	<u>Type II</u> <u>34.2625(L)</u>	<u>X</u>	<u>X</u>
<u>MUA-20</u>	<u>Type I</u> <u>34.2820(A)</u>	<u>Type III</u> <u>34.2830(B)(2)</u>	<u>X</u>	<u>X</u>
<u>RR</u>	<u>Type I</u> <u>Indoor Only</u> <u>34.3120(A)</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>RC</u>	<u>Type I</u> <u>Indoor Only</u> <u>34.3320(A)</u>	<u>Type III</u> <u>34.3330(B)(3) or</u> <u>34.3330(B)(4)</u>	<u>Type III</u> <u>34.3330(B)(3)</u>	<u>Type III</u> <u>34.3330(B)(1) or</u> <u>34.3330(B)(2)</u>

(D) A Marijuana Business is required to meet all applicable requirements and approval criteria as referenced in Table A and must comply with the following:

(1) Notwithstanding the federal Controlled Substances Act, a Marijuana Business must comply with all applicable federal, state and local laws.

(2) In the following Zoning Districts that permit marijuana production as “Indoor Only,” the marijuana production shall be located entirely within one or more completely enclosed buildings:

(a) Rural Residential;

(b) Rural Center.

(3) In Zoning Districts that permit marijuana production and/or processing, no canopy area or building used for marijuana production or marijuana processing shall be located closer than 100 feet from any property line, except as provided in subsection 3(a). The distance shall be measured using a straight line measurement extending horizontally from the nearest part of the canopy area or building used for marijuana production or marijuana processing to the point nearest to any property line. This 100-foot restriction does not apply in the EFU Zoning District.

(a) A building used for marijuana production or marijuana processing may be located closer than 100 feet from any property line if an activated carbon filtration system, consisting of one or more fans and filters, is designed, operated and maintained to ensure no detectable odor at property lines.

(4) All marijuana businesses must comply with the following lighting requirements:

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(a) Light cast by light fixtures inside any building used for marijuana production shall not be visible outside the building 30 minutes before sunset to 30 minutes after sunrise the following day.

(b) Light cast by exterior light fixtures shall be fully shielded with opaque materials and directed downwards. Fully shielded shall mean no light is emitted above the horizontal plane located at the lowest point of the fixture's shielding. Shielding must be permanently attached. The area of direct illumination must be contained on the property.

(5) All fencing must meet all applicable county fencing standards including, but not limited to, standards within the Significant Environmental Concern subdistrict.

(6) A Marijuana Business is not allowed as a Home Occupation.

(7) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses on land designated for exclusive farm use:

(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; and

(c) A commercial activity, as described in ORS 215.213(2)(c) or ORS 215.283(2)(a), carried on in conjunction with a marijuana crop.

3.3 Zoning Amendments Proposed to Chapter 35 (East of Sandy River Rural Plan Area)

Table of Contents:

Staff Note: The new section called Marijuana Business will be added to PART 3 - ADMINISTRATION AND ENFORCEMENT - Permits and Certificates of the affected rural plan areas. This change would put all specific marijuana provisions in a central location following the framework and existing design of the code.

PART 1 – GENERAL PROVISIONS

PART 2 – PLANNING AUTHORITY

PART 3 - ADMINISTRATION and ENFORCEMENT – Permits and Certificates

- 35.0510 Temporary Permits.**
- 35.0515 Temporary Health Hardship Permit.**
- 35.0520 Historical Structures and Sites Permits.**
- 35.0525 Certificate of Occupancy**

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35.0530 Bus Passenger Shelters
35.0535 Responses to an Emergency/Disaster Event
35.0540 Type A Home Occupation
35.0550 Type B Home Occupation
35.0560 Marijuana Business

PART 4 – ZONES

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PART 5 – SPECIAL DISTRICTS

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PART 6 –COMMUNITY SERVICE and CONDITIONAL USES

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PART 7 – DESIGN REVIEW; NONCONFORMING USES; SIGNS; VARIANCES; LAND DIVISIONS

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PART 3 - ADMINISTRATION AND ENFORCEMENT - Permits and Certificates

The new section called Marijuana Business will be added to PART 3 - ADMINISTRATION AND ENFORCEMENT - Permits and Certificates of the affected rural plan areas. This change would put all specific marijuana allowances and provisions in one location.

PART 3 - ADMINISTRATION AND ENFORCEMENT - *Permits and Certificates*

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35.0560 Marijuana Business

(A) The purpose of this section is to protect and preserve the public health, safety and general welfare of the community by establishing land use requirements related to the siting and operation of a Marijuana Business. For efficiency purposes, including clarity to the public, this proposal aligns with the framework set forth in state law and administrative rule with respect to the regulation of Marijuana Businesses. Accordingly, in construing this section, related provisions of state law and administrative rule may provide relevant context. Nothing in this section regulates the personal use of marijuana items.

*Staff Contact: Rithy Khut
Staff Report Date: 11/30/2015*

(B) For purposes of this section, “Marijuana Business” and its derivations means any enterprise involving recreational or medical marijuana processing, marijuana production, marijuana wholesaling, and/or marijuana retailing, as authorized in state law. For purposes of this section, marijuana retailing includes dispensing medical marijuana. Nothing in this section authorizes collocation of recreational and medical enterprises beyond that allowed under state law.

(C) A proposal for establishing or modifying a Marijuana Business will be reviewed for approval as specified in Table A below and is subject to the specified criteria therein as well as the approval criteria set forth in paragraph D of this section. Where no review process for a particular Marijuana Business in a particular zoning district is specified in Table A, the Marijuana Business is not allowed in that zoning district.

Table A – Chapter 35

Type I = not a land use decision; Type II = Planning Director decision; Type III = Hearings Officer decision; X = Prohibited.

<u>Zoning District</u>	<u>Marijuana Production</u>	<u>Marijuana Processing</u>	<u>Marijuana Wholesaling</u>	<u>Marijuana Retailing</u>
<u>(CFU Zones)</u> <u>CFU-3</u> <u>CFU-4</u>	<u>Type I</u> <u>35.2020(C)</u> <u>35.2220(C)</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>EFU</u>	<u>Type I</u> <u>35.2620(A)</u>	<u>Type II</u> <u>35.2625(L)</u>	<u>X</u>	<u>X</u>
<u>MUA-20</u>	<u>Type I</u> <u>35.2820(A)</u>	<u>Type III</u> <u>35.2830(B)(2)</u>	<u>X</u>	<u>X</u>
<u>RR</u>	<u>Type I</u> <u>Indoor Only</u> <u>35.3120(A)</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>SRC</u>	<u>Type I</u> <u>Indoor Only</u> <u>35.3320(A)</u>	<u>Type III</u> <u>35.3330(B)(3)</u>	<u>X</u>	<u>Type III</u> <u>35.3330(B)(1)</u>

(D) A Marijuana Business is required to meet all applicable requirements and approval criteria as referenced in Table A and must comply with the following:

(1) Notwithstanding the federal Controlled Substances Act, a Marijuana Business must comply with all applicable federal, state and local laws.

(2) In the following Zoning Districts that permit marijuana production as “Indoor Only,” the marijuana production shall be located entirely within one or more completely enclosed buildings:

(a) Rural Residential;

(b) Springdale Rural Center.

(3) In Zoning Districts that permit marijuana production and/or processing, no canopy area or building used for marijuana production or marijuana processing shall be located closer than 100 feet from any property line, except as provided in subsection 3(a). The distance shall be measured using a straight line measurement extending horizontally from the nearest part of the canopy area or building used for marijuana production or marijuana processing to the point nearest to any property line. This 100-foot restriction does not apply in the EFU Zoning District.

(a) A building used for marijuana production or marijuana processing may be located closer than 100 feet from any property line if an activated carbon filtration system, consisting of one or more fans and filters, is designed, operated and maintained to ensure no detectable odor at property lines.

*Staff Contact: Rithy Khut
Staff Report Date: 11/30/2015*

(4) All marijuana businesses must comply with the following lighting requirements:

(a) Light cast by light fixtures inside any building used for marijuana production shall not be visible outside the building 30 minutes before sunset to 30 minutes after sunrise the following day.

(b) Light cast by exterior light fixtures shall be fully shielded with opaque materials and directed downwards. Fully shielded shall mean no light is emitted above the horizontal plane located at the lowest point of the fixture's shielding. Shielding must be permanently attached. The area of direct illumination must be contained on the property.

(5) All fencing must meet all applicable county fencing standards.

(6) A Marijuana Business is not allowed as a Home Occupation.

(7) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses on land designated for exclusive farm use:

(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; and

(c) A commercial activity, as described in ORS 215.213(2)(c) or ORS 215.283(2)(a), carried on in conjunction with a marijuana crop.

3.4 Zoning Amendments Proposed to Chapter 36 (West of Sandy River Rural Plan Area)

Table of Contents:

Staff Note: The new section called Marijuana Business will be added to PART 3 - ADMINISTRATION AND ENFORCEMENT - Permits and Certificates of the affected rural plan areas. This change would put all specific marijuana provisions in a central location following the framework and existing design of the code.

PART 1 – GENERAL PROVISIONS

PART 2 – PLANNING AUTHORITY

PART 3 - ADMINISTRATION and ENFORCEMENT – Permits and Certificates

36.0510 Temporary Permits.

36.0515 Temporary Health Hardship Permit.

*Staff Contact: Rithy Khut
Staff Report Date: 11/30/2015*

36.0520 Historical Structures and Sites Permits.
36.0525 Certificate of Occupancy
36.0530 Bus Passenger Shelters
36.0535 Responses to an Emergency/Disaster Event
36.0540 Type A Home Occupation
36.0550 Type B Home Occupation
36.0560 Marijuana Business

PART 4 – ZONING DISTRICTS

* * *

PART 5 – SPECIAL DISTRICTS

* * *

PART 6 – STANDARDS FOR COMMUNITY SERVICE USES and CONDITIONAL USES

* * *

PART 7 – DESIGN REVIEW; NONCONFORMING USES; SIGNS; VARIANCES; LAND DIVISIONS

* * *

PART 3 - ADMINISTRATION AND ENFORCEMENT - Permits and Certificates

Staff Note: The new section called Marijuana Business will be added to PART 3 - ADMINISTRATION AND ENFORCEMENT - Permits and Certificates of the affected rural plan areas. This change would put all specific marijuana allowances and provisions in one location.

PART 3 - ADMINISTRATION AND ENFORCEMENT - Permits and Certificates

* * *

36.0560 Marijuana Business

(A) The purpose of this section is to protect and preserve the public health, safety and general welfare of the community by establishing land use requirements related to the siting and operation of a Marijuana Business. For efficiency purposes, including clarity to the public, this proposal aligns with the framework set forth in state law and administrative rule with respect to the regulation of Marijuana Businesses. Accordingly, in construing this section, related

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Staff Report Date: 11/30/2015

provisions of state law and administrative rule may provide relevant context. Nothing in this section regulates the personal use of marijuana items.

(B) For purposes of this section, “Marijuana Business” and its derivations means any enterprise involving recreational or medical marijuana processing, marijuana production, marijuana wholesaling, and/or marijuana retailing, as authorized in state law. For purposes of this section, marijuana retailing includes dispensing medical marijuana. Nothing in this section authorizes collocation of recreational and medical enterprises beyond that allowed under state law.

(C) A proposal for establishing or modifying a Marijuana Business will be reviewed for approval as specified in Table A below and is subject to the specified criteria therein as well as the approval criteria set forth in paragraph D of this section. Where no review process for a particular Marijuana Business in a particular zoning district is specified in Table A, the Marijuana Business is not allowed in that zoning district.

Table A – Chapter 36

Type I = not a land use decision; Type II = Planning Director decision; Type III = Hearings Officer decision; X = Prohibited.

<u>Zoning District</u>	<u>Marijuana Production</u>	<u>Marijuana Processing</u>	<u>Marijuana Wholesaling</u>	<u>Marijuana Retailing</u>
<u>CFU</u>	<u>Type I</u> <u>36.2020(C)</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>EFU</u>	<u>Type I</u> <u>36.2620(A)</u>	<u>Type II</u> <u>36.2625(L)</u>	<u>X</u>	<u>X</u>
<u>MUA-20</u>	<u>Type I</u> <u>36.2820(B)</u>	<u>Type III</u> <u>36.2830(B)(2)</u>	<u>X</u>	<u>X</u>
<u>RR</u>	<u>Type I</u> <u>Indoor Only</u> <u>36.3120(B)</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>PH-RC</u>	<u>Type I</u> <u>Indoor Only</u> <u>36.3320(A)</u>	<u>Type III</u> <u>36.3330(B)(6)</u>	<u>Type III</u> <u>36.3330(B)(4)</u>	<u>Type III</u> <u>36.3330(B)(1)</u>
<u>OR</u>	<u>Type I</u> <u>Indoor Only</u> <u>36.3420(B)</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>OCI</u>	<u>Type I</u> <u>Indoor Only</u> <u>36.3520(B)</u>	<u>Type II</u> <u>36.3525(C)</u>	<u>Type II</u> <u>36.3525(B)(3)</u>	<u>Type II</u> <u>36.3525(A)</u>

(D) A Marijuana Business is required to meet all applicable requirements and approval criteria as referenced in Table A and must comply with the following:

*Staff Contact: Rithy Khut
Staff Report Date: 11/30/2015*

(1) Notwithstanding the federal Controlled Substances Act, a Marijuana Business must comply with all applicable federal, state and local laws.

(2) In the following Zoning Districts that permit marijuana production as “Indoor Only,” the marijuana production shall be located entirely within one or more completely enclosed buildings:

(a) Rural Residential;

(b) Pleasant Home Rural Center;

(c) Orient Rural Center Residential;

(d) Orient Commercial-Industrial.

(3) In Zoning Districts that permit marijuana production and/or processing, no canopy area or building used for marijuana production or marijuana processing shall be located closer than 100 feet from any property line, except as provided in subsection 3(a). The distance shall be measured using a straight line measurement extending horizontally from the nearest part of the canopy area or building used for marijuana production or marijuana processing to the point nearest to any property line. This 100-foot restriction does not apply in the EFU Zoning District.

(a) A building used for marijuana production or marijuana processing may be located closer than 100 feet from any property line if an activated carbon filtration system, consisting of one or more fans and filters, is designed, operated and maintained to ensure no detectable odor at property lines.

(4) All marijuana businesses must comply with the following lighting requirements:

(a) Light cast by light fixtures inside any building used for marijuana production shall not be visible outside the building 30 minutes before sunset to 30 minutes after sunrise the following day.

(b) Light cast by exterior light fixtures shall be fully shielded with opaque materials and directed downwards. Fully shielded shall mean no light is emitted above the horizontal plane located at the lowest point of the fixture’s shielding. Shielding must be permanently attached. The area of direct illumination must be contained on the property.

(5) All fencing must meet all applicable county fencing standards including, but not limited to, standards within the Significant Environmental Concern subdistrict.

(6) A Marijuana Business is not allowed as a Home Occupation.

(7) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses on land designated for exclusive farm use:

*Staff Contact: Rithy Khut
Staff Report Date: 11/30/2015*

(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; and

(c) A commercial activity, as described in ORS 215.213(2)(c) or ORS 215.283(2)(a), carried on in conjunction with a marijuana crop.

3.5 Chapter 11.15 (Urban Unincorporated Areas of Multnomah County Still Under County Land Use Planning Authority)

Table of Contents:

Staff Note: The new section called Marijuana Business will be added to Chapter 11.15 Sections .9105-.9125 Conditional Use of the affected plan areas. This change would require the insertion of 11.15.9105-.9125 into the Table of Contents for Chapter 11.15. This change would put all specific marijuana provisions in a central location following the framework and existing design of the code.

11.15.0005-.0010 Definitions

11.15.1005-.1015 Classification of Districts, Zoning Map & References

11.15.2002-.2920 Residential Districts

11.15.4602-.4756 Commercial Districts Retained

11.15.5005-.5585 Manufacturing Districts

11.15.6002-.6795 Special Districts

11.15.6805-.6899 Solar Access

11.15.7005-.7072 Community Service

11.15.7105-.7640 Conditional Use

11.15.7705-.7760 Mobile Homes and Mobile Home Parks (MH)

11.15.7805-.7870 Design Review

11.15.7902-.7982 Signs

11.15.8005-.8010 Planning Director

*Staff Contact: Rithy Khut
Staff Report Date: 11/30/2015*

11.15.8105-.8135 Hearings Officer

11.15.8205-.8295 Action Proceedings

11.15.8405-.8420 Amendments

11.15.8505-.8525 Variances

11.15.8605-.8645 Outdoor Advertising Signs

11.15.8705-.8725 Permits and Certificates

11.15.8805-.8810 Non-Conforming Uses

11.15.9005-.9040 Fees

11.15.9045-.9055 Interpretations, Prior Permits, Violations, Enforcement and Savings Clause

11.15.9105-.9125 Marijuana Business

11.15.9105-.9125 Conditional Use

Staff Note: The new section called Marijuana Business will be added to 11.15.9105-.9125 Conditional Use of the affected plan area. This change would put all specific marijuana provisions in a central location following the framework and existing design of the code.

Staff is still working on updating the zoning districts to reflect allowances for marijuana production, marijuana processing, marijuana wholesaling and marijuana retailing.

Marijuana Business

11.15.9105 Purpose

The purpose of this section is to protect and preserve the public health, safety and general welfare of the community by establishing land use requirements related to the siting and operation of a Marijuana Business. For efficiency purposes, including clarity to the public, this proposal aligns with the framework set forth in state law and administrative rule with respect to the regulation of Marijuana Businesses. Accordingly, in construing this section, related provisions of state law and administrative rule may provide relevant context. Nothing in this section regulates the personal use of marijuana items.

*Staff Contact: Rithy Khut
Staff Report Date: 11/30/2015*

11.15.9110 Applicability

This subsection shall apply to any Marijuana Business.

11.15.9115 Definitions

For purposes of this section, “Marijuana Business” and its derivations means any enterprise involving recreational or medical marijuana processing, marijuana production, marijuana wholesaling, and/or marijuana retailing, as authorized in state law. For purposes of this section, marijuana retailing includes dispensing medical marijuana. Nothing in this section authorizes collocation of recreational and medical enterprises beyond that allowed under state law.

11.15.9120 Marijuana Business Use Table

A proposal for establishing or modifying a Marijuana Business will be reviewed for approval as specified in Table A below and is subject to the specified criteria therein as well as the approval criteria set forth in section .9125. Where no review process for a particular Marijuana Business in a particular zoning district is specified in Table A, the Marijuana Business is not allowed in that zoning district.

Table A – Chapter 11.15

Type I = not a land use decision; Type II = Planning Director decision; Type III = Hearings Officer decision; X = Prohibited.

<u>Zoning District</u>	<u>Marijuana Production</u>	<u>Marijuana Processing</u>	<u>Marijuana Wholesaling</u>	<u>Marijuana Retailing</u>
<u>(CFU zones)</u>	<u>Type I</u>			
<u>CFU</u>	<u>11.15.2048(C)</u>			
<u>CFU-1</u>	<u>11.15.2048(C)</u>			
<u>CFU-2</u>	<u>11.15.2048(C)</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>CFU-3</u>	<u>11.15.2048(C)</u>			
<u>CFU-4</u>	<u>11.15.2048(C)</u>			
<u>CFU-5</u>	<u>11.15.2048(C)</u>			
<u>RR</u>	<u>Type I</u> <u>Indoor Only</u> <u>11.15.2208(A)</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>UF-20</u>	<u>Type I</u> <u>11.15.2386(B)</u>	<u>Type III</u> <u>11.15.2390(B)(2)</u>	<u>X</u>	<u>X</u>
<u>LR-5</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>LR-7</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>LR-10</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>All Other Zoning Districts</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

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11.15.9125 Other Requirements

A Marijuana Business is required to meet all applicable requirements and approval criteria as referenced in Table A and must comply with the following:

A. Notwithstanding the federal Controlled Substances Act, a Marijuana Business must comply with all applicable federal, state and local laws.

B. In the following Zoning Districts that permit marijuana production as “Indoor Only,” the marijuana production shall be located entirely within one or more completely enclosed buildings:

1. Rural Residential.

C. In Zoning Districts that permit marijuana production and/or processing, no canopy area or building used for marijuana production or marijuana processing shall be located closer than 100 feet from any property line, except as provided in subsection C.1. The distance shall be measured using a straight line measurement extending horizontally from the nearest part of the canopy area or building used for marijuana production or marijuana processing to the point nearest to any property line. This 100-foot restriction does not apply in the EFU Zoning District.

1. A building used for marijuana production or marijuana processing may be located closer than 100 feet from any property line if an activated carbon filtration system, consisting of one or more fans and filters, is designed, operated and maintained to ensure no detectable odor at property lines.

D. All marijuana businesses must comply with the following lighting requirements:

1. Light cast by light fixtures inside any building used for marijuana production shall not be visible outside the building 30 minutes before sunset to 30 minutes after sunrise the following day.

2. Light cast by exterior light fixtures shall be fully shielded with opaque materials and directed downwards. Fully shielded shall mean no light is emitted above the horizontal plane located at the lowest point of the fixture’s shielding. Shielding must be permanently attached. The area of direct illumination must be contained on the property.

E. All fencing must meet all applicable county fencing standards including, but not limited to, standards within the Significant Environmental Concern subdistrict.

F. A Marijuana Business is not allowed as a Home Occupation.

G. Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses on land designated for exclusive farm use:

1. A new dwelling used in conjunction with a marijuana crop;
2. A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop; and
3. A commercial activity, as described in ORS 215.213(2)(c) or ORS 215.283(2)(a), carried on in conjunction with a marijuana crop.

3.6 Zoning Amendments Proposed to Chapter 38 (Columbia River Gorge National Scenic Area)

Table of Contents:

Staff Note: The new section called Marijuana Business will be added to PART 7 – SPECIAL USES - Approval Criteria and Submittal Requirements of the affected rural plan areas. This change would put all specific marijuana provisions in a central location following the framework and existing design of the code.

PART 1 – GENERAL PROVISIONS

PART 2 – PLANNING AUTHORITY

PART 3 - ADMINISTRATION AND PROCEDURES

PART 4 – ZONING DISTRICTS

PART 5 – SPECIAL DISTRICTS - OFF-STREET PARKING; PLANNED DEVELOPMENT; HILLSIDE DEVELOPMENT

PART 6 – APPROVAL CRITERIA

PART 7 – SPECIAL USES - Approval Criteria and Submittal Requirements

- 38.7300- Review and Conditional Uses**
- 38.7305 Fire Protection in Forest Zones**
- 38.7310 Specific Uses**
- 38.7315 Siting of Dwellings on Forest Land**
- 38.7320 Temporary Health Hardship Dwelling**
- 38.7325 Private Docks and Boathouses**
- 38.7330 Home Occupations and Cottage Industries**
- 38.7331 Type A Home Occupations**
- 38.7332 Small-Scale Fishing Support and Fish Processing Operations.**
- 38.7335 Bed and Breakfast Inns**
- 38.7340 Agricultural Buildings**

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38.7345	Resource Enhancement Projects
38.7350	Disposal Sites for Spoil Materials from Public Road Maintenance Activities
38.7355	Life Estates
38.7360	Cluster Development
38.7365	Clearing of Trees for Agricultural Use in GSF
38.7370	Forest Practices in the Special Management Area
38.7375	Stewardship Plan Requirements
38.7380	Special Uses in Historic Buildings
38.7385	Boarding of Horses or Non-Profit Horse Rescue Facility
<u>38.7390</u>	<u>Marijuana Business</u>

PART 8 – VARIANCES AND LAND DIVISIONS

* * *

PART 7 – SPECIAL USES - Approval Criteria and Submittal Requirements

Staff Note: The new section called Marijuana Business will be added to PART 7 – SPECIAL USES - Approval Criteria and Submittal Requirements of the affected rural plan areas. This change would put all specific marijuana provisions in a central location following the framework and existing design of the code.

Staff is still working on updating the zoning districts to reflect allowances for marijuana production, marijuana processing, marijuana wholesaling and marijuana retailing

PART 7 – SPECIAL USES - Approval Criteria and Submittal Requirements

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38.7390 Marijuana Business

(A) The purpose of this section is to protect and preserve the public health, safety and general welfare of the community by establishing land use requirements related to the siting and operation of a Marijuana Business. For efficiency purposes, including clarity to the public, this proposal aligns with the framework set forth in state law and administrative rule with respect to the regulation of Marijuana Businesses. Accordingly, in construing this section, related provisions of state law and administrative rule may provide relevant context. Nothing in this section regulates the personal use of marijuana items.

(B) For purposes of this section, “Marijuana Business” and its derivations means any enterprise involving recreational or medical marijuana processing, marijuana production, marijuana wholesaling, and/or marijuana retailing, as authorized in state law. For purposes of this section, marijuana retailing includes dispensing medical marijuana. Nothing in this section authorizes collocation of recreational and medical enterprises beyond that allowed under state law.

Staff Contact: Rithy Khut
Staff Report Date: 11/30/2015

(C) A proposal for establishing or modifying a Marijuana Business may be permitted to the extent allowed in the Management Plan for the Columbia River Gorge National Scenic Area.

(D) A Marijuana Business is required to meet all applicable requirements and approval criteria as referenced in the Multnomah County Columbia River Gorge National Scenic Area provisions Plan and must comply with the following:

(1) Notwithstanding the federal Controlled Substances Act, a Marijuana Business must comply with all applicable federal, state and local laws.

(2) In Zoning Districts that permit marijuana production and/or processing, no canopy area or building used for marijuana production or marijuana processing shall be located closer than 100 feet from any property line, except as provided in subsection 2(a). The distance shall be measured using a straight line measurement extending horizontally from the nearest part of the canopy area or building used for marijuana production or marijuana processing to the point nearest to any property line.

(a) A building used for marijuana production or marijuana processing may be located closer than 100 feet from any property line if an activated carbon filtration system, consisting of one or more fans and filters, is designed, operated and maintained to ensure no detectable odor at property lines.

(4) All marijuana businesses must comply with the following lighting requirements:

(a) Light cast by light fixtures inside any building used for marijuana production shall not be visible outside the building 30 minutes before sunset to 30 minutes after sunrise the following day.

(b) Light cast by exterior light fixtures shall be fully shielded with opaque materials and directed downwards. Fully shielded shall mean no light is emitted above the horizontal plane located at the lowest point of the fixture's shielding. Shielding must be permanently attached. The area of direct illumination must be contained on the property.

(5) All fencing must meet all applicable county fencing standards.

(6) A Marijuana Business is not allowed as a Home Occupation or Cottage Industry.

(7) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses:

(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; and

(c) A commercial activity, as described in ORS 215.213(2)(c) or ORS 215.283(2)(a), carried on in conjunction with a marijuana crop.

4.0 CONCLUSIONS

Due to the time sensitive nature of this project, staff would like to move this project to public hearing as a next step after receiving direction from the Planning Commission. Local governments have the authority to propose reasonable regulations on the production, processing, wholesaling and retailing of marijuana. The draft regulations are intended to protect public health, safety and general welfare of the community while also providing some degree of certainty and flexibility to the industry through application of clear and reasonable land use standards.

5.0 EXHIBITS

- Exhibit A: 11" x 17" map showing geographic extent of lands subject to Chapters 33, 34, 35, 36, 38 and 11.15 zoning regulations.
- Exhibit B: Regional Comparison of Recreational Marijuana Regulation
- Exhibit C: Summary of OLCC rules that relate to Multnomah County Code
- Exhibit D: Multnomah County Vital Signs - Legalization of Marijuana: Potential Policy Directions for Public Health