

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

ORDINANCE NO. 2018-007

**AN ORDINANCE AMENDING THE COUNTY CODE (ORDINANCE NO. 2018-004) BY
CREATING CHAPTER 5.35, MARIJUANA BUSINESS ANNUAL COMPLIANCE
CERTIFICATE AND REGULATIONS**

WHEREAS, Josephine County has provided for a new organization of its codes and ordinances that is pending adoption; and

WHEREAS, the Charter of Josephine County and state law provide the County with all the authority necessary to regulate its affairs, consistent with the Constitutions and laws of the United States and the State of Oregon; and

WHEREAS, included in the County's authority is the authority to place reasonable time, place, and manner regulations on marijuana businesses;

WHEREAS, this issue is of particular concern for the citizens of Josephine County and for their elected representatives; now, therefore,

The Board of County Commissioners of Josephine County ordains as follows:

SECTION 1.00 CODIFICATION

This ordinance shall be codified in the newly organized code as JCC 05.35, entitled "Marijuana Business Annual Compliance Certificate and Regulations."

SECTION 2.00 SECTIONS:

- 5.35.010 TITLE**
- 5.35.020 PURPOSE AND INTENT**
- 5.35.030 DEFINITIONS**
- 5.35.040 AUTHORITY**
- 5.35.050 ANNUAL COMPLIANCE CERTIFICATE**
- 5.35.060 ODOR**
- 5.35.070 SECURITY CAMERAS AND LIGHTING**
- 5.35.080 SEVERANCE**

5.35.010 TITLE

This chapter shall be known as the Josephine County Marijuana Business Annual Compliance Certificate and Regulations Ordinance.

5.35.020 PURPOSE AND INTENT

The Josephine County Board of Commissioners has determined that it is in the public interest and necessary for the promotion of the safety, convenience and general welfare of the citizens of Josephine County to have an ordinance which authorizes the County to (1) require Marijuana Producers, Processors, Wholesalers, Retailers, Laboratories and other Marijuana Businesses to obtain an Annual Compliance Certificate and inspection in order to operate a Marijuana Business within Josephine County; and (2) to impose reasonable regulations on all Marijuana Businesses within Josephine County relating to odor, security cameras, on-site lighting, and verification of a water source.

5.35.030 DEFINITIONS

“Annual Compliance Certificate” means the document certified by Josephine County that a Marijuana Business within the County’s jurisdiction conforms to the regulations set forth in this ordinance, and all other state and local laws, rules, and regulations related to Marijuana Businesses in the State of Oregon.

“Annual Compliance Period” means the annual period between OLCC and OHA renewal dates for Marijuana Producers, or the annual period between renewals for state licenses or approvals relative to the Marijuana Business.

“Applicant” means a Marijuana Producer, individual or individuals, corporation or other entity with a legally enforceable property interest in a Marijuana Business that is applying for an Annual Compliance Certificate.

“County” means Josephine County.

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

“Marijuana Business” means an individual or individuals, corporation or other entity, that is engaged in the production, processing, wholesaling, retailing, research, and testing of Marijuana, or has a monetary interest in the production, processing, wholesaling, retailing, research, and testing of Marijuana. “Marijuana Business” does not include the production of Marijuana for personal use up to the limits provided for under Oregon law.

“Marijuana Producer” means a person who produces Marijuana in the State of Oregon. “Marijuana Producer” does not include the production of Marijuana for personal use up to the limits provided for under Oregon law.

“Marijuana Production” means the manufacture, planting, cultivation, growing, trimming or harvesting of Marijuana or the drying of Marijuana leaves and flowers at a location

registered under ORS 475B.810 where medical Marijuana is produced for use by an Oregon Health Authority (OHA) registry identification cardholder, or produced by a Marijuana Producer issued a production license under ORS 475B.070 by the Oregon Liquor Control Commission (OLCC).

“Marijuana Production Site” means the ground area covered by the mature Marijuana plant canopy, greenhouses, employee housing, driveways and other structures and land uses that are associated with the production of marijuana on a lot or parcel.

“Marijuana Processor” means the act of processing, compounding or conversion of Marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts. Processing does not include packaging or labeling.

“Marijuana Wholesaler” means a Marijuana wholesaler licensed by the OLCC.

“Marijuana Retailer” means a Marijuana retailer licensed by the OLCC.

“Marijuana Laboratory” means a laboratory certified and authorized by the state to sample or test Marijuana items pursuant to ORS 475B.550 to ORS 475B.590.

“OLCC” means the Oregon Liquor Control Commission.

“OHA” means the Oregon Health Authority.

5.35.040 AUTHORITY

The Board of County Commissioners of Josephine County recognizes, declares and establishes the authority to regulate the time, place, and manner by which Marijuana Businesses may take place within its jurisdiction pursuant to ORS 475B.486 (Authority of cities and counties to impose reasonable time, place, and manner regulations for recreational marijuana) and ORS 475B.928 (Authority of cities and counties to impose reasonable time, place, and manner regulations for medical marijuana). The Josephine County Community Development Department, the Community Development Director, or his or her designees shall be authorized to enforce the provisions of this ordinance.

5.35.050 ANNUAL COMPLIANCE CERTIFICATE

A. No Marijuana Business may lawfully operate in the County:

1. Without an Annual Compliance Certificate issued by the Josephine County Community Development Department; and
2. Without proof of a valid license from the OLCC, OHA or other appropriate state regulatory agency.

B. Annually, each Marijuana Business within Josephine County shall apply for an Annual Compliance Certificate from the County Community Development Department.

The Applicant shall apply for an Annual Compliance Certificate at least 30 days before the anniversary date of the issuance of the Marijuana Business' license by the OLCC, OHA, or other appropriate state regulatory agency.

C. Every Marijuana Business within Josephine County shall apply for an Annual Compliance Certificate on forms provided by the County, and include a copy of the application or renewal application filed with either the OLCC, OHA, or other state agency. The copy of the submitted application shall redact the Applicant's social security number. The copy of the submitted application shall contain the following information:

1. For Marijuana Producers, verification of an approved water source pursuant to OAR 845-025-1030(6)(g)(D) for recreational Marijuana Production Sites, or OAR 333-008-0550(16) for medical Marijuana Production Sites.
2. For Marijuana Processors, the proposed endorsements pursuant to OAR 845-025-3210, and a description of the type of products to be processed, a description of equipment to be used, including any solvents, gases, chemicals or other compounds used to create extracts or concentrates pursuant to OAR 845-025-1030(6)(h).
3. A copy of the State license(s) or approval(s) that authorize the Marijuana Business to operate in Oregon;
4. A map or sketch showing the defined boundaries of the premises and location of any buildings associated with the Marijuana Business, residence, all other buildings, fences, well, septic, driveways, campers, ponds or reservoirs, streams or rivers, dirt piles or berms, signs, and other improvements located on the same tax lot as the Marijuana Business;
5. A map showing the size and scope of the Marijuana Production Site, including the number of plants for a medical Marijuana Production Site, and the projected canopy size for a recreational Marijuana Production Site, and distance to nearest residence not on the subject property;
6. If on a private road or easement, copy of a road maintenance agreement, should a recorded agreement exist;
7. Proof of legal interest in the property;
8. Calendar of anticipated hours of operation, including harvest season;
9. List of mechanically generated equipment which may exceed 50 dB(A);
10. Proof of Oregon Marijuana Worker Permits for all employees on site;
11. Proof security personnel are permitted Marijuana worker(s) per Oregon law;
12. Proof of the existence of security plan as required per Oregon law;
13. Lighting specifications;
14. Information establishing the existence of an odor control system for an indoor Marijuana Production Site; and
15. Any additional information requested from the Marijuana Business by the Community Development Director to establish compliance with all state and local laws and regulations.

D. The final approval and issuance of an Annual Compliance Certificate is subject to an on-site inspection of the Marijuana Business by the Community Development Director, or his or her designee. The inspection will be for the limited purpose of

inspecting the property and related records as provided for in this ordinance, local and Oregon law. A Marijuana Business shall be subject to inspection by the County at any time during the Annual Compliance Period. Except by mutual agreement with the Marijuana Business or by court order, any inspection under this Section may occur only during the Marijuana Business' regular business hours.

E. Any Marijuana Business that is found to be out of compliance with any state or local law or regulation at the time of application for an Annual Compliance Certificate, at any time during the Annual Compliance Period, or at the time of renewal of the Annual Compliance Certificate, shall be informed of the nature of the violations by the Community Development Director or his or her designee by certified mail. The Marijuana Business shall have 30 days from the date of mailing to remedy all violations. If more time is required to remedy the violations, the Marijuana Business, within the initial 30 day period, shall make any request for an extension of time in writing. Upon receipt of the written request, the 30 day period may be extended at the sole discretion of the Community Development Director. Failure to remedy violations within the time period proscribed by these rules or by the Community Development Director shall result in the non-issuance or revocation of the Annual Compliance Certificate.

F. The Marijuana Business shall immediately inform the County in writing of any proposed substantial changes submitted to the OLCC, OHA, or other state regulatory agency to the Marijuana Business, including, but not limited to:

1. A proposed change of ownership or possessory interest;
2. Any proposed changes involving the nature, scope, management, location, increase, or decrease in size of the Marijuana Business; or
3. A proposed change in the methodology by which oils are extracted or processed.

5.35.060 ODOR

A. A building or structure used for the indoor production of Marijuana shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.

B. The filtration system shall be maintained in working order and shall be in use during regular business hours. The filters shall be changed a minimum of once every 365 days.

C. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

D. An alternative odor control system is permitted if the Applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.

5.35.070 SECURITY CAMERAS AND LIGHTING

A. If utilized, on-site security cameras shall be directed to record only the subject property and public right-of-way, except as required to comply with licensing requirements of the OLCC or registration requirements of the OHA.

B. Light cast by light fixtures inside a building used for a Marijuana Business shall not be visible outside the building between the hours of 7:00 pm to 7:00 am.

C. Outdoor marijuana grow lights shall not be illuminated from 7:00 pm to 7:00 am.

D. Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) 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.

5.35.080 SEVERANCE

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

SECTION 3.00 EFFECTIVE DATE

First reading by the Board of County Commissioners this ____ day of November, 2018.

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

JOSEPHINE COUNTY
BOARD OF COMMISSIONERS

Daniel E. DeYoung, Chair

Lily N. Morgan, Vice Chair

Simon G. Hare, Commissioner

ATTEST:

Recording Secretary

APPROVED AS TO FORM:

Wally Hicks, Legal Counsel