

1 Oregon Constitution, Oregon Law (Chapter 2013 for general law counties), and under the federal
2 Controlled Substances Act, 21 USC 801, et.seq. arguably authorize other actions by the County,
3 it is the Board’s desire to continue in place a coordinated system of local regulations of medical
4 and recreational marijuana facilities and uses consistent with the Oregon voters’ ultimate
5 decisions to legalize medical and recreational marijuana. That being said, the County reserves
6 the right to continue to explore issues including locational and operational restrictions, and
7 further controls, as the regulatory systems, both statewide and local unfold; and

8 WHEREAS consistent with those reserved rights, the Board initiated subsequent
9 consideration of amendments to Ordinance #484 adopting temporary regulations of recreational
10 marijuana. After public hearings by the Planning Commission and the Board of Commissioners
11 the Board deliberated and made the following motion concerning the terms of the proposed
12 Ordinance²:

13 Motion to adopt Planning Commission recommendations #s2 and 3. Those are set
14 forth below. The Motion passed unanimously by the Board of Commissioners.

15 Recommendation #2. The Planning Commission recommends that the provision *be*
16 *removed* from Ordinance #484 that requires recreational marijuana outlets and
17 recreational marijuana wholesale facilities be sited on parcels of land located a
18 minimum distance of 250 feet from any residentially zoned property (as measured
19 from property boundary to property boundary).

20 Recommendation #3. The Planning Commission recommends that Ordinance #484
21 be amended to apply different separation requirements for marijuana production
22 facilities based on the land use zone in which they are located, as follows:

- 23 a. Recreational marijuana production facilities approved on properties Rural
24 Residential RR-5 and Rural Residential RR-10 must be located at least 250
25 feet from a dwelling no on the subject property.

² An additional motion was made concerning modification of minimum acreage sizes in A-C zones. That decision will be incorporated into a separate amendment to Ordinance # 484, which will come before the Board of Commissioners at a later time.

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- 1 b. In Agricultural Conservation A-C and Timber Conservation T-C zones, *indoor*
2 recreational marijuana production facilities must be located at least 250 feet
3 from a dwelling not on the subject property.
4 c. In the A-C and T-C zones, *outdoor* production of recreational marijuana must
5 be located at least 500 feet from a dwelling not on the subject property.
6 d. In the Planned Industrial I-P zone, no set minimum separation is required
7 between a marijuana production facility and a dwelling not on the subject
8 property.

9 WHEREAS the Board adopts the Final Order of the Planning Commission concerning
10 these recommendations as further findings in support of this Ordinance.

11 Now, therefore,

12 The Lincoln County Board of Commissioners ordains as follows:

13 SECTION 1.

14 These amendments to Ordinance #484 are temporary regulations that supplement Lincoln
15 County Code Chapter 1 and do not nullify or modify the obligation to meet all requirements of
16 that Chapter and any other applicable state and local laws, including but not limited to land use
17 and recreational marijuana laws and rules. These regulations apply only to the unincorporated
18 areas of Lincoln County.

19
20 SECTION 2.

21 The following definitions apply to this Ordinance:

22 (1) Recreational Marijuana Production Site (RMPS) -- means a location, licensed
23 under OAR Chapter 845 Division 25, where marijuana is produced for commercial recreational
24 use. Production of marijuana means the manufacture, planting, cultivation, growing or
25 harvesting of marijuana for recreational use. Production does not include the drying of
26 marijuana by a marijuana processor, if the marijuana processor is not otherwise producing
27 marijuana.

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1 (2) Recreational Marijuana Processor (RMP) -- means a business, licensed by OLCC,
2 that will transform the raw marijuana into another product or extract. "Processes" means the
3 processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid
4 concentrates or cannabinoid extracts. It does not include packaging or labeling of marijuana
5 items. Marijuana processing does not include drying marijuana by a marijuana producer, which
6 is "preparation" of farm products and part of the definition of farm use under OAR 660-033-
7 0020(7)(b)(A).

8 (3) Recreational Marijuana Wholesaler (RMW) -- means a business, licensed by
9 OLCC, that purchases marijuana items for resale to a person other than a consumer.

10 (4) Recreational Marijuana Retail Outlet (RMRO) -- is a facility, licensed by OLCC,
11 that is allowed to sell marijuana items to persons 21 years of age and older.

12
13 SECTION 3.

14 Notwithstanding any other provision of this Ordinance, persons 21 years of age and older
15 may grow up to four (4) plants per residence, regardless of how many people live in the
16 residence, in any zone. No more than four plants per residence are allowed under this Section.

17
18 SECTION 4.

19 RMPSs are authorized in the following zones under the conditions and standards set
20 forth. Other standards and conditions applicable under Chapter 1 of the Lincoln County Code, or
21 otherwise under state or local laws or rules, including but not limited to setbacks, lot coverage,
22 parking, special standards and signage apply to these uses in the same manner as any other use in
23 the underlying zone.

24 (1) Rural Residential Zone RR-5 and RR-10 as a conditional use;

25 (2) Planned Industrial Zone I-P as a conditional use;

26 (3) Agricultural Conservation Zone A-C as outright use subject to special standards.

27 Before use is established, must apply to County and comply with the special standards.

1 (4) Timber Conservation Zone T-C as outright use subject to special standards.
2 Before use is established, must apply to County and comply with the special standards.

3 Special Standards in All Zones

4 (1) All state requirements met and maintained, including but not limited to licensing
5 and state locational requirements.

6 (2) All applicable building and fire codes are met and maintained for any structures
7 used for production of marijuana.

8 (3) The RMPS may not be co-located within the same building or on the same
9 property with any marijuana social club or smoking club.

10 (4) The RMPS must utilize an air filtration and ventilation system that confines all
11 odors associated with the RMPS to the premises as defined herein. The air filtration and
12 ventilation system, to the greatest extent feasible, shall confine all objectionable odors
13 associated with the facility to the premises. For the purposes of this provision, the
14 standard for judging “objectionable odors” shall be that of an average, reasonable person
15 with ordinary sensibilities after taking into consideration the character of the
16 neighborhood in which the odor is made and the odor is detected.

17 (5) A RMPS must be located at least

18 a. 1,000 feet away from any other registered RMPS;

19 b. 250 feet away from any residence not on the subject
20 property **in the RR-5 and RR-10 Zones and 500 feet away from any**
21 **residential dwelling on adjacent property in the A-C and T-C zones if**
22 **an outdoor grow;**

23 c. 1,000 feet away from the boundary of any property
24 containing a pre-school or pre-kindergarten, head start program,
25 community learning center, or certified child care facility regulated under
26 ORS Chapters 329, 329A and 657, and any public park (state, city or
27 county);

1 d. The distance measurement for subsection b. above shall be
2 made from the nearest corner of the accessory structure to the closest
3 portion of any adjacent residence. Otherwise all distances are as
4 measured from property boundary to property boundary.

5 **(6)** All production of marijuana must take place indoors in a detached accessory
6 building. **Indoor production facilities in the Agricultural Conservation A-C and**
7 **Timber Conservation T-C zones must be located at least 250 feet away from any**
8 **residence not on the subject property.** Outdoor production of marijuana shall be
9 permitted on Agricultural Conservation A-C and Timber Conservation T-C zoned
10 properties, provided that the subject property is a minimum of 20 acres in size and the
11 facility/crop is located no closer than 500 feet from a dwelling not located on the subject
12 property. Permitted outdoor canopy sizes shall be limited to the maximum size consistent
13 with the two-tier system employed by OLCC.

14 **(7) Set back requirements from adjacent residences not on the subject property**
15 **in sections (5)(b) and (6) above do not apply to RMPS facilities in the I-P zone.**

16 **(8)** ~~(7)~~ All employees and volunteers of the RMPS must submit to a criminal
17 background check by Lincoln County or its designees pursuant to ORS 181.533 and
18 OAR 257-010-0025(1)(a). It shall be a violation of these standards to employ or allow a
19 volunteer in the RMPS operation if the employee or volunteer has been convicted of the
20 manufacture or delivery of a controlled substance in Schedule I or Schedule II within five
21 years of the date of the background check, or if the employee or volunteer has been
22 convicted more than once at any time, or if the employee or volunteer has been convicted
23 of any felony involving children or crime prohibited within 1,000 feet of a school.

24 **(9)** ~~(8)~~ An indoor RMPS shall not exceed 5,000 square feet or the allowable square
25 footage of an accessory use within the zone, whichever is smaller, in an RR-5 and RR-10
26 zone.

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- 1 **(10)** ~~(9)~~ An indoor RMPS shall not exceed the maximum size allowed by state rules or
2 the allowable square footage of an accessory use within the zone, whichever is the
3 smaller, in an A-C, T-C or I-P zone.
- 4 **(11)** ~~(10)~~ Farming of a marijuana crop shall not be used to demonstrate compliance
5 with the approval criteria for a dwelling. (See Section 34, Chapter 614, Oregon Laws
6 2015).
- 7 **(12)** ~~(11)~~ A farm stand shall not be used for the sale, or to promote the sale, of
8 marijuana items. (See Section 34, Chapter 614, Oregon Laws 2015).
- 9 **(13)** ~~(12)~~ A commercial activity carried on in conjunction with a marijuana crop is
10 prohibited. (See Section 34, Chapter 614, Oregon Laws 2015).
- 11 **(14)** ~~(13)~~ A change in use (including rezoning) of a neighboring property to a use
12 identified in this Section after the RMPS has been established shall not result in the
13 RMPS being in violation of this Section.

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SECTION 5.

16 RMPs are authorized in the following zones under the conditions and standards set forth. Other
17 standards and conditions applicable under Chapter 1 of the Lincoln County Code, or otherwise
18 under state or local laws or rules, including but not limited to setbacks, lot coverage, parking,
19 special standards and signage apply to these uses in the same manner as any other use in the
20 underlying zone.

- 21 (1) Planned Industrial Zone I-P as a conditional use;
- 22 (2) In Planned Industrial I-P, Agricultural Conservation A-C and Timber
23 Conservation T-C zoned properties, production and processing facilities shall be
24 permitted to co-locate on the same property with a conditional use approval.

25 Special Standards in All Zones

- 26 (1) All state requirements met and maintained, including but not limited to licensing
27 and state locational requirements.

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1 (2) All applicable building and fire codes are met and maintained for any structures
2 used for processing of marijuana.

3 (3) The RMP may not be co-located within the same building or on the same property
4 with any other marijuana facility except as noted in Section 5(2) above. The RMP must utilize an
5 air filtration and ventilation system that confines all odors associated with the RMP to the
6 premises as defined herein. The air filtration and ventilation system, to the greatest extent
7 feasible, shall confine all objectionable odors associated with the facility to the premises. For the
8 purposes of this provision, the standard for judging “objectionable odors” shall be that of an
9 average, reasonable person with ordinary sensibilities after taking into consideration the
10 character of the neighborhood in which the odor is made and the odor is detected.

11 (4) A RMP must be located at least
12 a. 1,000 feet away from any other registered RMP;
13 b. 250 feet away from any residence not on the subject property;
14 c. 1,000 feet away from the boundary of any property containing a pre-
15 school or pre-kindergarten, head start program, community learning center, or certified
16 child care facility regulated under ORS Chapters 329, 329A and 657, and any public park
17 (state, city or county);
18 d. The distance measurement for subsection b. above shall be made from the
19 nearest corner of the accessory structure to the closest portion of any adjacent residence.
20 Otherwise all distances are as measured from property boundary to property boundary.

21 (5) All processing of marijuana must take place indoors in a detached accessory
22 building.

23 (6) Processing shall be limited to dry, water or CO-2 processes on properties zoned
24 A-C or T-C. Any process involving butane or other flammable materials is prohibited in
25 these zones.

26 (7) All employees and volunteers of the RMP must submit to a criminal background
27 check by Lincoln County or its designees pursuant to ORS 181.533 and OAR 257-010-
28 0025(1)(a). It shall be a violation of these standards to employ or allow a volunteer in the

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1 RMP operation if the employee or volunteer has been convicted of the manufacture or
2 delivery of a controlled substance in Schedule I or Schedule II within five years of the
3 date of the background check, or if the employee or volunteer has been convicted more
4 than once at any time, or if the employee or volunteer has been convicted of any felony
5 involving children or crime prohibited within 1,000 feet of a school.

6 (8) An indoor RMP shall not exceed 300 square feet or the allowable square footage
7 of an accessory use within the zone, whichever is smaller, in an RR-5 and RR-10 zone.

8 (9) An indoor RMP shall not exceed 1,500 square feet or the allowable square footage
9 of an accessory use within the zone, whichever is the smaller, in an A-C, T-C or I-P zone.

10 (10) A change in use (including rezoning) of a neighboring property to a use identified
11 in this Section after the RMP has been established shall not result in the RMP being in
12 violation of this Section.

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14 SECTION 6.

15 RMW are authorized in the following zones under the conditions and standards set forth.
16 Other standards and conditions applicable under Chapter 1 of the Lincoln County Code, or
17 otherwise under state or local laws or rules, including but not limited to setbacks, lot coverage,
18 parking, special standards and signage apply to these uses in the same manner as any other use in
19 the underlying zone.

20 (1) Retail Commercial Zone C-1 and General Commercial Zone C-2 as outright
21 permitted use subject to special standards. Before use is established, must apply to County and
22 comply with the special standards.

23 (2) Planned Industrial Zone I-P as a conditional use.

24 Special Standards for RMW in all zones

25 (2) All state requirements met and maintained, including licensing and state locational
26 requirements.

27 (3) All applicable building and fire codes are met and maintained.

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1 (4) The RMW may not be co-located within the same building or on the same
2 property with any marijuana social club or smoking club. .

3 (5) Hours of operation are limited to 10:00 am to 7:00 pm.

4 (6) Entrances and off- street parking areas to RMW shall be well lit and not visually
5 obscured from public view / right of way.

6 (7) A RMW must be located at least:

7 a. 1,000 feet away from any other registered RMW;

8 ~~b. 250 feet away from any residentially zoned property;~~

9 b. (e) 1,000 feet away from the boundary of any property containing a pre-
10 school or pre-kindergarten, head start program, community learning center, or
11 certified child care facility regulated under ORS Chapters 329, 329A and 657, and
12 any public park (state, city or county). In an I-P zone, a RMW may be located
13 within 1,000 feet of any public park (state, city or county).;

14 c. (d) All distances are as measured from property boundary to property
15 boundary.

16 (8) All employees and volunteers of the RMW must submit to a criminal background
17 check by Lincoln County or its designees pursuant to ORS 181.533 and OAR 257-010-
18 0025(1)(a). It shall be a violation of these standards to employ or allow a volunteer in the RMW
19 operation if the employee or volunteer has been convicted of the manufacture or delivery of a
20 controlled substance in Schedule I or Schedule II within five years of the date of the background
21 check, or if the employee or volunteer has been convicted more than once at any time, or if the
22 employee or volunteer has been convicted of any felony involving children or crime prohibited
23 within 1000 feet of a school.

24 (9) A change in use (including rezoning) of a neighboring property to a use identified
25 in this Section after the RMW has been established shall not result in the RMW being in
26 violation of this Section.

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28 SECTION 7.

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1 RMROs are authorized in the following zones under the conditions and standards set
2 forth. Other standards and conditions applicable under Chapter 1 of the Lincoln County Code, or
3 otherwise under state or local laws or rules, including but not limited to setbacks, lot coverage,
4 parking, special standards and signage apply to these uses in the same manner as any other use in
5 the underlying zone.

6 (3) Retail Commercial Zone C-1 and General Commercial C-2 Zone as outright use
7 subject to special standards. Before use is established, must apply to County and comply with
8 the special standards.

9 (4) Planned Industrial Zone I-P as a conditional use.

10 Special Standards for RMRO in all zones

11 (10) All state requirements met and maintained, including licensing and state locational
12 requirements.

13 (11) All applicable building and fire codes are met and maintained.

14 (12) No manufacture or production of any extracts, oils, resins or similar derivatives of
15 marijuana on the premises of the RMRO and no open flames shall be allowed in the preparation
16 of any product.

17 (13) The RMRO may not be co-located within the same building or on the same
18 property with any other marijuana facility.

19 (14) The RMRO must utilize an air filtration and ventilation system that, to the greatest
20 extent feasible, shall confine all objectionable odors associated with the facility to the premises.
21 For the purposes of this provision, the standard for judging “objectionable odors” shall be that of
22 an average, reasonable person with ordinary sensibilities after taking into consideration the
23 character of the neighborhood in which the odor is made and the odor is detected.

24 (15) Hours of operation are limited to 10:00 am to 7:00 pm.

25 (16) Entrances and off- street parking areas to RMRO shall be well lit and not visually
26 obscured from public view / right of way.

27 (17) A RMRO must be located at least:

28 a. 1,000 feet away from any other registered RMRO;

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1 ~~b. 250 feet away from any residentially zoned property;~~

2 b. e. 1,000 feet away from the boundary of any property containing a pre-
3 school or pre-kindergarten, head start program, community learning center, or
4 certified child care facility regulated under ORS Chapters 329, 329A and 657, and
5 any public park (state, city or county). In an I-P zone, a RMRO may be located
6 within 1,000 feet of any public park (state, city or county);

7 ~~c. d.~~ All distances are as measured from property boundary to property
8 boundary.

9 (18) All employees and volunteers of the RMRO must submit to a criminal
10 background check by Lincoln County or its designees pursuant to ORS 181.533 and OAR 257-
11 010-0025(1)(a). It shall be a violation of these standards to employ or allow a volunteer in the
12 RMRO operation if the employee or volunteer has been convicted of the manufacture or delivery
13 of a controlled substance in Schedule I or Schedule II within five years of the date of the
14 background check, or if the employee or volunteer has been convicted more than once at any
15 time, or if the employee or volunteer has been convicted of any felony involving children or
16 crime prohibited within 1000 feet of a school.

17 (19) A change in use (including rezoning) of a neighboring property to a use identified
18 in this Section after the RMRO has been established shall not result in the RMRO being in
19 violation of this Section.

20
21 SECTION 8.

22 Severability.

23 (1) The sections, subsections, paragraphs and clauses of this Ordinance are severable.
24 The invalidity of one section, subsection, paragraph, or clause shall not affect the
25 validity of the remaining sections, subsections, paragraphs and clauses.

26 (2) If any section or all of this Ordinance is invalidated, County reserves the right to
27 continue its interpretation of existing County Code provisions as applied to
28 recreational marijuana uses including RMPS, RMP, RMW, and RMROs.

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SECTION 9.

Rescission; Codification; Emergency

(1) This Ordinance is temporary and amends existing Ordinance #484. County Counsel will not codify this Ordinance into the Lincoln County Code.

(2) In accordance with the legislative findings supporting this Ordinance, and this Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its passage.

DATED this 4th day of January, 2017.

LINCOLN COUNTY BOARD OF COMMISSIONERS


DOUG HUNT, Commissioner

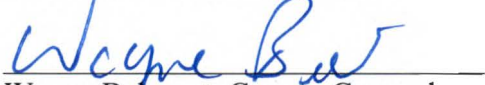

TERRY N. THOMPSON, Commissioner

excused
BILL HALL, Chair

ATTESTED TO:


Tanya Graham, Recorder

APPROVED AS TO FORM:


Wayne Belmont, County Counsel

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