

NOTICE TO NEIGHBORS

DEAR NEIGHBORS

Our Marijuana Regulation Time, Place, and Manner (TPM) Committee has been working with Yamhill County Commissioners Mary Starrett and Lindsay Berschauer regarding the importance of establishing Marijuana TPM Regulations for the County. Chair Starrett agreed to hold a **public work session** of the Commissioners on this topic and we need to rally to encourage them to manage the marijuana industry in our County to minimize significant impacts such as fire, loss of water, and noxious odors for neighbors that we are already experiencing.

The Board and Staff Work Session is scheduled for:

DATE: Thursday, December 9th, 2021

TIME: 10:00am. Board of Commissioner's Business Mtg followed by the Work Session

NOTE: Due to Covid, attending Commissioner's Business or Work Session meetings is not allowed, but can be viewed via live stream at: <https://www.co.yamhill.or.us/meetings>

Once on this site, go to the date and time of the Board of Commissioners Formal/Informal Session meeting. You will see the agenda for the day, any packet information, and a link to video. Once on the video, you will see a live link to view the meeting. **If you have problems viewing this site, call: 503-434-7501**

Please **NOTE** that a work session is not a public hearing where the public can show up and testify, but rather it is a meeting for Commissioners and staff to discuss the issue and options that have been presented regarding the implementing of Marijuana TPM Regulations.

- The public can observe and listen to the discussion, via live stream or via You Tube if you missed the meeting.
- It is **VERY IMPORTANT** for you to send letters, emails, and sign the petition to each County Commissioner to let them know your concerns regarding adopting Marijuana TPM Regulations.
- Instructions on how to Send Letters, Emails & Sign the Petition are included in this Notice. All Residents of all Counties are requested to participate.
- Background information and the options we developed for consideration by the Commissioners is included below.

NOW IS THE TIME FOR ACTION

By State law, Commissioners have local authority to regulate marijuana; **however**, Yamhill County Commissioners have not done so, resulting in public safety risks to our community. ***Almost every other County in Oregon has adopted sensible Marijuana Time, Place and Manner (TPM) Safety Regulations.***

NOW is the time to make your thoughts, concerns, and experiences known to Yamhill County policy makers. Anyone can send a letter, email, or sign the petition, whether you live in Yamhill County or not. If you live in Washington or any other County or City, you can share in your letter or email how recreational and medical marijuana is impacting your public safety, quality of life, and property values. A **“Sample Letter”** is included for you at the end of this Notice.

DEADLINE to Send Email/Letter & Sign the Petition = THURSDAY, DECEMBER 2, 2021

1. **SEND A LETTER OR EMAIL** to each Commissioner. Please send us a copy for our records to SaveChehalemMountain@gmail.com.
 - **MAIL NOW** to Yamhill County Commissioners, 535 NE Fifth Street, McMinnville, OR 97128. A “Sample Letter” is included for you at the end of this Notice.
 - **EMAIL NOW** to the following: starrettm@co.yamhill.or.us, berschauerl@co.yamhill.or.us, kullac@co.yamhill.or.us, BOCinfo@co.yamhill.or.us, cc: SaveChehalemMountain@gmail.com
2. **SIGN THE PETITION NOW** on Change.org: <https://chng.it/fpCs7h896z>
3. **ATTEND THE WORK SESSION on December 9** via live stream at <https://www.co.yamhill.or.us/meetings>

BACKGROUND

Marijuana was legalized in Oregon in 2014; however, it is still a federally illegal drug. Because of this, the Oregon Legislature implemented **HB3400**, giving local jurisdictions the legal authority to adopt Marijuana TPM Regulations to control potential community impacts.

A majority of Yamhill County citizens opposed allowing recreational marijuana production, processing, wholesaling and retailing anywhere in the County in a vote of **18,720-NO** to **18,660-YES**. Commissioners at the time decided not to adopt Marijuana TPM Regulations, but rather to **“just wait and see”** and use the County Site Design Review process to manage impacts in our EFU-20, -40, and -80 acre zones.

The “wait and see” approach might have seemed logical at the time, but it left Yamhill County residents vulnerable to significant public health and safety impacts. Yamhill County **DOES NOT** require any:

1. **Carbon filters** for indoor grows, overwhelming communities with a skunky **odor** that drifts for miles.
2. **Setbacks** for outdoor marijuana grow to limit odors from neighboring property owners. Clackamas County has a 100’ setback from all property lines for all outdoor grows.
3. **Minimum lot size** on which marijuana can be produced or processed, allowing marijuana to be grown and chemically processed on very small EFU lots.
4. **Marijuana extraction chemical processing** to be restricted to industrial zones only, putting neighboring property owners at risk of fires, often without fire suppression.

5. **Easement road** written permission from all surrounding neighbors who also use the same road, meaning there is no say on increased traffic on narrow rural roads.
6. **Limit per tract of land for Oregon Liquor and Cannabis Commission (OLCC) Recreational Marijuana or Oregon Health Authority (OHA) Medical Marijuana licenses.** Limiting licenses to 1 per parcel is important to keep EFU farmlands from being industrialized. For example, a marijuana producer received approval for 60 metal ag buildings on a 20-acre parcel, poured 60' x 100' cement slabs, and leased them out to many different OLCC or OHA licensed growers.
7. Control of **greenhouse lighting** from 7:00 pm-7:00 am which can impact night skies, and subject neighboring property owners to all-night stadium type lighting.
8. **Exterior lighting** restrictions on lighting directed skyward or outside the boundaries of the property.
9. **Noise control** limiting sound to 30 dB or 50 dB at the property line, thus allowing marijuana growers to use large commercial fans and generators in their greenhouses and buildings and keep neighbors awake all night.
10. **Permits for Water use** for marijuana production, so limited water availability, impact to underground or surface water, or requiring hauling in of water from a local supplier is not addressed.
11. **Fencing restrictions**, so fencing could be over 10' with barbed wire or other barriers, concertina coils, or anti-climb spikes.
12. **Security camera** restrictions assuring that cameras are not monitoring their neighbors.

The July 14, 2021, OLCC licensing report identified the following recreational marijuana sites in Yamhill County. This does **not** include pending OLCC applications or the large number of OHA medical marijuana grow sites.

- 44 recreational marijuana production sites
- 12 recreational retail sites
- 2 recreational marijuana wholesale sites

DANGEROUS PROTOCOLS

It is important to note that a dangerous protocol has been set in Oregon by legalizing both medical and recreational marijuana without considering its ramifications. This has opened the door to Mexican Cartels and other out-of-country/ overseas Cartels to set up large illegal marijuana grows, endangering surrounding neighbors, engaging in theft of water at gun point, polluting the environment, involving human trafficking and stretching local law enforcement resources. Josephine County Sheriff Daniels indicates that there are likely 1000s of illegal Cartels that have flooded into Oregon to set up their marijuana/hemp grows and are operating illegally, generally in areas without strong local Marijuana TPM Regulations to manage the operations. Some Counties have declared a State of Emergency to involve Federal assistance because local law enforcement is so overwhelmed.

MARIJUANA TPM COMMITTEE

Over the past several months, this committee met with Commissioner Starrett, Commissioner Berschauer, Planning Director Ken Friday, and County Counsel Todd Sadlo to discuss our concerns and to provide our thoughts on options to tighten Marijuana Regulations in Yamhill County. Commissioner Kulla declined to meet with the Committee outside a public meeting because of a potential conflict of interest and his involvement in legal and ethics complaints on this topic.

The following **3 OPTIONS** were presented and discussed with the Commissioners, and Chair Starrett agreed to hold a public work session of the Board to discuss what options might work best for Yamhill County and its residents:

- **OPTION 1** - Request the Board of Commissioners to expand the conditions that have been applied to previous Site Design Review approvals and request the Board to adopt a policy statement on their intent to protect the health and safety of residents, first responders, the environment, and wildlife, and to consistently apply conditions for approvals.
- **OPTION 2** - Consistent with HB3400, Section 134, request the Board to adopt an ordinance for Marijuana Time-Place-Manner Regulations similar to those adopted by other counties.
- **OPTION 3** - Consistent with HB3400, Section 134, request the Board to identify marijuana categories, including marijuana production, processing, wholesaling or retailing to be referred to the voters at the next general election and let the voters decide whether they want to “Opt Out” of the identified categories.

OPTION 1 - Expand SDR Conditions

Expanding the current Site Design Review conditions could minimize the need to adopt a Marijuana Time-Place-Manner Ordinance, and would be the easiest and least costly for Yamhill County to pursue. If the Board chooses this option, we suggest that the following policy be adopted by the Board and that the following conditions be applied to all applications through the Site Design Review process. None of the recommended conditions would preclude use of a property for production or processing.

RECOMMENDED POLICY

The production, processing, wholesaling and retailing of marijuana, which is federally illegal, was approved by Oregon voters in November 2014. Yamhill County voted against legalizing marijuana (18,720-no, 18,660-yes). The Board of Commissioners at the time chose to allow marijuana production and processing, but recognized that certain conditions were necessary to make marijuana production and processing compatible with other land uses. Conditions are applied through Site Design Review of applications.

It is the policy of Yamhill County that production and processing of marijuana shall be done in such a manner as to minimize adverse impacts to the health and safety of Yamhill County residents, first responders, the environment, and wildlife, and shall be grown only in Exclusive Farm Use (EFU) zones. More than one Oregon Liquor and Cannabis Commission (OLCC) or Oregon Health Authority (OHA) license per tract of land will be prohibited. The following conditions shall be applied to marijuana production, processing, wholesaling, and retailing through Yamhill County’s Site Design Review process.

RECOMMENDED CONDITIONS

We recommend that the following conditions be imposed in addition to those generally imposed in a Site Design Review application: (NOTE: At the end of our recommended conditions are standard conditions from Board Order 20-50 from a specific marijuana facility application).

- **Building permits** issued for marijuana processing facilities will be designated “Industrial Farm” to activate local Fire Department inspections.

- **Flammable butane or other chemical extraction** marijuana processing will not be permitted in EFU zones and will be restricted to industrial zones only.
- **Outdoor marijuana production** will not occur within 100' feet of all property lines. Outdoor production means producing marijuana in an expanse of open or cleared ground, or in a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources. A mature marijuana plant is a flowering plant.
- **Minimum parcel size** for marijuana production and processing shall be 10 acres.
- **Exterior lighting** shall not be directed skyward or outside the boundaries of the subject lot of record.
- Interior light shall not be visible from adjoining or nearby properties from 7 pm to 7 am.
- No marijuana production or processing facility will be approved without adequate and **legal direct road access** or easement road use permission from a public, county, or state road.
- Facilities will meet standards for **odor control**, such as carbon filters that are changed annually.
- **Doors and windows of indoor marijuana production** or processing facilities will remain closed.
- **Fencing** will be no higher than 10' with no barbed wire or other barriers, concertina coils, or anti-climb spikes allowed.
- **Noise** shall not exceed a maximum of 50 dB or 30 dB at the property line.
- If used, **security cameras** shall be directed to record only the subject property and may be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the Oregon Liquor and Cannabis Commission (OLCC) or registration requirements of the Oregon Health Authority (OHA).
- A County process to ensure that all conditions applied to a specific application are met and adhered to shall be clearly defined by the County prior to approval.

Conditions of Approval

1. The processing facility and parking area shall be sited in the location identified on the site map contained within the application and shall substantially conform to the proposed site plans (see Exhibit A1.1 and Exhibit C2.1).
2. Prior to operation of the processing facility or issuance of building permits, the applicant shall obtain any necessary septic permits from the County Sanitarian.
3. Prior to operation of the processing facility, any required building, plumbing, mechanical, or electrical permits shall be obtained from the Yamhill County Planning Department.
4. Prior to issuance of permits, the water supply, access, and applicable fire safety standards shall be required to meet the Tualatin Valley Fire & Rescue standards and evidence of this approval shall be provided to the Planning Department.
5. Prior to operation of the processing facility the applicant shall obtain all permits required by the Department of Environmental Quality (DEQ), the Oregon Liquor Control Commission (OLCC), the Oregon Health Authority (OHA), and the Oregon Department of Agriculture (ODA) and evidence of these approvals shall be provided to the Planning Department.
6. Any lighting used to illuminate the processing facility or grounds shall be placed, shielded or deflected so as not to shine onto adjacent dwellings or create excessive glare along the adjacent road. Any lighting from an interior grow operation shall either be turned off or shielded daily from 9:00 p.m. to 7:00 a.m.
7. Prior to operation of the processing facility, the applicant shall establish and permanently maintain parking in accordance with the submitted plan and section 1007 of the YCZO. Should the number of employees increase, the number of parking spaces shall increase as well. No on-street parking is allowed.
8. The farm operation shall provide at least one-quarter (¼) of the farm crops processed at the facility.
9. Annually, beginning one year from the approval date for the processing facility, the applicant shall submit to the Yamhill County Planning Director a written statement prepared by a certified public accountant that certifies compliance of the processing facility with Condition #8 of the Site Design Review approval for the processing facility.
10. The HVAC system for the structure containing the processing facility shall be equipped and maintained with activated carbon filters or similar device to ensure noxious odors are fully mitigated.
11. Industrial hemp waste shall be stored and disposed of in accordance with ODA and DEQ regulations and there shall be no burning of industrial hemp waste products on the premises.

12. Marijuana waste shall be stored and disposed of in accordance with OLCC and DEQ regulations and there shall be no burning of marijuana waste products on the premises.

13. This approval is for the processing of industrial hemp to produce CBD extracts and recreational marijuana to produce THC extracts, as stated in the application. Any change to the products created will require another site design review application. Other crops shall not be processed in this facility unless another site design review application is approved.

14. Prior to use of the processing facility, the applicant will provide to the Planning Director a copy of a water right permit, certificate, or other water utilization from the Oregon Water Resource Department; or a statement that water is supplied from a public or private water provider, along with name, contact information, and a copy of the service contract of the water provider.

15. Approval of the industrial hemp and recreational processing facility is personal to the applicant, OreTex Farms, LLC, JCB Farms, LLC, WAG Holdings LLC, and Christopher Bryan, and may not be transferred to another party.

16. Prior to operation of the processing facility, the applicant shall build a masonry wall, to the roofline, to partially enclose the HVAC units located on the north side of the northernmost existing building, positioned to attenuate the sound of the units at the dwelling located just north of the property line.

17. The use of outdoor amplified music or sound is not permitted.

18. Prior to operation of the processing facility, the applicant shall clear vegetation from the southeast corner of the applicant's parcel and/or public right-of-way, at the junction of NE Jaquith Road and NE Mountain Top Road, in accordance with the clear-vision standards provided in subsection 402.09(F) of the *Yamhill County Zoning Ordinance*. In this manner, the applicant shall ensure that sightlines are improved in accordance with the standards both at the applicant's driveway accessing NE Jaquith Road, as well as at the junction of NE Jaquith Road and NE Mountain Top Road, located at the southeast corner of the applicant's parcel. Work in the right-of-way shall be in accordance with Public Works permit requirements. Clearing of vegetation on any neighboring property is not required, but if any such clearing is performed, it may only be done with such property owner's consent. Sight distances shall be maintained as required by this condition for as long as the processing facility is operating.

19. Modification of any of the above conditions requires approval under Section 1101.02 of the *Yamhill County Zoning Ordinance*. Violation of any of the above conditions may result in revocation of the site design review permit with the process detailed in Sections 1101.06 and 1101.07 of the *Yamhill County Zoning Ordinance*.

*END

OPTION 2 – Adopt Time-Place-Manner

Adopting an ordinance for Marijuana Time-Place-Manner Regulations might be the most complicated in terms of time and cost, but it provides clarity and consistency in the long-term development of the marijuana industry and public health, safety, and environmental concerns. An ordinance would eliminate lengthy controversial Site Design Review public meetings, appeals, and expensive citizen lawsuits that are occurring in Yamhill County.

NOTE: If Marijuana TPM Regulations were implemented, all existing OLCC licensed recreational marijuana or OHA medical marijuana approved licenses would be “grandfathered in” and would become a nonconforming use that can continue to operate under the regulations that were in place when they were approved. If any of the currently licensed facilities wish to expand, open another location or make any changes, they must then abide by any new regulations that have been put into place.

OPTION 3 – Refer to Voters to Decide on an “Opt Out”

Opting out would curtail certain new marijuana activities from occurring in Yamhill County. From our view, outdoor marijuana production and butane and chemical processing are the leading causes of public health, safety, and environmental concerns. If butane and chemical processing were allowed only in industrial zones, and processing and outdoor production were required to be 100’ off all property lines, controversy would be greatly reduced and voters would not need to choose whether or not to allow the marijuana industry to expand in Yamhill County.

Section 134 of HB3400 allows for a local jurisdiction to refer it to the voters and let them decide whether they want to OPT OUT or not. The governing body of a city or county may adopt ordinances to be referred to the electors of the city or county that prohibit or allow the establishment of one or more of the following in the area subject to the jurisdiction of the city or the unincorporated area subject to the jurisdiction of the county:

- Marijuana processor sites registered under section 85
- Medical marijuana dispensaries
- Marijuana producers licensed under section 19, chapter 1
- Marijuana processors licensed under section 20, chapter 1
- Marijuana wholesalers licensed under section 21, chapter 1
- Marijuana retailers licensed under section 21, chapter 1
- or any combination of the entities described above which can be submitted to the electors at the next statewide general election.

As an example, Deschutes County Commissioners in the last 2020 general election referred to the voters a measure concerning allowing additional recreational marijuana production or processing sites in unincorporated Deschutes County. The outcome of the vote was **57.91%-NO and 42.09%-YES.**

HERE IS A DRAFT LETTER OR EMAIL TO HELP YOU ORGANIZE YOUR THOUGHTS

We need to urge the County Commissioners to regulate the marijuana industry to minimize significant impacts that we are already experiencing, such as fire, loss of water, noxious odors, and air quality impacts on neighbors. Make your voice heard on the need to establish medical and recreational marijuana regulations by voicing your concerns.

SAMPLE LETTER

Date

Regarding Regulation of Medical & Recreational Marijuana: Implementing Marijuana Time, Place & Manner Regulations

Dear Chair Starrett, Vice Chair Berschauer and Commissioner Kulla,

I reside at _____ in _____ County and am writing to voice my support of the implementation of Marijuana Time, Place, and Manner (TPM) Regulations in Yamhill County.

BRIEFLY ADD YOUR OWN THOUGHTS OR CONCERNS ON HOW MARIJUANA HAS IMPACTED YOU.

In November 2014, the majority of Yamhill County citizens voted against allowing any recreational marijuana production, processing, wholesaling or retailing in unincorporated Yamhill County (18,720-**NO** to 18,660-**YES**).

The Commissioners at that time chose not to implement marijuana regulations with the authority they had under HB3400 and rather took a “let’s just wait and see” approach. The County uses its Site Design Review process to try to minimize the impacts to neighbors in our EFU-20-40-80-acre zones for recreational marijuana and provides NO regulations for medical marijuana.

Since that time, our rural communities have been subjected to overwhelming odors, noise, increased traffic, no required setbacks, marijuana operations on small lots, abuse of easement road use, multiple licenses on a single tract of land, intimidating fencing and security cameras, extreme exterior lights and constant greenhouse lights, and major concerns about water availability in limited groundwater areas. Most importantly Yamhill County is allowing dangerous marijuana chemical extraction processing labs to operate in our rural farming communities, creating potential fire hazards in vulnerable areas with limited water and emergency responder access. Chemical processing facilities belong in industrial zones, not on a heavily wooded rural property.

We ask the Commissioners to protect its citizens by adopting marijuana regulations that safeguard public health and safety, quality of life, and property values. We would like to thank Chair Starrett for bringing our concerns regarding marijuana regulations to a work session for further discussion with the other Commissioners and staff.

Sincerely,

Your Name, Address, Email address, Phone number