



**JACKSON
COUNTY**
Oregon

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To: Jackson County Planning Commissioners
From: Charles Bennett
Subject: Psilocybin Text Amendments to JCLDO
File: 439-22-00005-LRP
Date: November 3, 2022

Attached for your review is a proposal for a Text Amendment to modify Jackson County Land Development Ordinance (JCLDO) Chapters 3, 4, 6 & 13, based on recent changes in State law.

The proposal requires approving a Major Text Amendment per the requirements of the Jackson County Land Development Ordinance (LDO) Section 3.8.3

A public hearing before the Jackson County Planning Commission is scheduled for **November 3, 2022 at 9:00 a.m.** in the Auditorium of the Jackson County Offices, 10 South Oakdale, Medford, Oregon, for a first evidentiary hearing on this proposal. At this hearing, Jackson County planning staff will present an overview of the proposal and findings supporting the proposed amendment. Please contact me at 774-6115 or by email at bennetch@jacksoncounty.org if you have any questions prior to the hearing.

Due to the COVID-19 pandemic, the meeting will be a web conference style meeting with County Staff and members of the County Planning Commission. To comply with public meeting law, a limited number of chairs will be provided in the Auditorium for citizens to listen to the meeting; however physical distancing and face masks are required.

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Jackson County Planning Commission
File No. 439-22-00005-LRP Exhibit # 1.
Offered by: Staff
Date: 10-21-2022 Received by: [Signature]

TEXT AMENDMENTS TO THE LAND DEVELOPMENT ORDINANCE

3.8.3 Approval Criteria

Recommendations and decisions on LDO text amendments will be consistent with and adequate to implement all applicable provisions of the Comprehensive Plan, the Statewide Planning Goals, and Oregon Administrative Rules. Notice of amendments will be provided by the County as required by ORS 197.610 and ORS 215.503.

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Jackson County Planning Commission

File No. 439-22-00005-LRP Exhibit # 2.

Offered by: Staff

Date: 10-21-2022 Received by: Pj



**JACKSON COUNTY
DEVELOPMENT SERVICES**

**TEXT AMENDMENTS TO THE JACKSON COUNTY
LAND DEVELOPMENT ORDINANCE**

STAFF REPORT

**DEVELOPMENT
SERVICES**

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FILE: 439-22-00005-LRP

APPLICANT: Jackson County

PROPOSAL: Text Amendment to modify Jackson County Land Development Ordinance (JCLDO) Chapters 3, 4, 6 & 13, based on recent changes in State law.

BACKGROUND: In 2020 Ballot Measure 109 also known as the Oregon Psilocybin Services Act was voted into law by Oregonians. Measure 109—and the corresponding Oregon Revised Statute 475A.530—allows the County to adopt “reasonable regulations” for time, place, and manner (TPM) concerning psilocybin businesses.

On September 7th, the Board directed staff to begin the TPM amendment process. On September 8, 2022, Staff discussed possible changes at a study session with the Jackson County Planning Commission (JCPC).

A notice of the proposed amendments (PAPA) was provided to Department of Land Conservation and Development (DLCD) on September 29, 2022 via electronic submittal. The proposed amendments are now scheduled before the JCPC for a first evidentiary hearing on November 03, 2022.

I. APPROVAL CRITERIA: In order to approve an amendment to the Jackson County Land Development Ordinance (JCLDO), the County must find compliance with the JCLDO, Section 3.8.3.

II. COMPLIANCE WITH JACKSON COUNTY LAND DEVELOPMENT ORDINANCE:

3.8 TEXT AMENDMENTS TO THE LAND DEVELOPMENT ORDINANCE

3.8.1 Purpose

The Board of Commissioners, in accordance with the procedures of this Section, may amend the text of this Ordinance. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but to make adjustments to the text of this Ordinance that are necessary in light of changed circumstances or changes in public policy, or that are necessary to advance the general welfare of the County.

3.8.2 Procedures

A) Initiation

Text amendments to this Ordinance may be initiated only by the Board of County Commissioners or the Jackson County or White City Planning

Jackson County Planning Commission
File No. 439-22-00005-LRP Exhibit # 3.

Offered by: *Staff*
Date: *10-21-2022* Received by: *[Signature]*

Commissions.

B) Standard Review Procedure

Applications for amendments to this Ordinance will follow the Type 4 review procedure set forth in Section 2.7, as identified in Table 2.7-2.

3.8.3 Approval Criteria

Recommendations and decisions on LDO text amendments will be consistent with and adequate to implement all applicable provisions of the Comprehensive Plan, the Statewide Planning Goals, and Oregon Administrative Rules. Notice of amendments will be provided by the County as required by ORS 197.610 and ORS 215.503.

FINDING: Staff finds the purpose of the proposed changes is consistent with the applicable criteria. The Board of Commissioners initiated the proposed JCLDO text amendments via Board Order No. 141-22 adopted September 7, 2022. The procedures for the amendment are adhered to by the Planning Commission hearing and recommendation to the Board. All noticing has been prepared consistent with the required State statutes.

Staff finds that the proposed amendments to the Jackson County Land Development Ordinance Chapters 3, 4, 6 & 13 as identified below are consistent with the Jackson County Comprehensive Plan, Statewide Planning Goals, and Oregon Administrative Rules and help to implement the goals and policies of the Comprehensive Plan.

Notice of the amendments have been provided to applicable County residents and DLCD as required by ORS 197.610.

OREGON REVISED STATUTES: PSILOCYBIN REGULATION (ORS 475A)

FINDING: Oregon Revised Statute (ORS) 475A.235 provides that The Oregon Health Authority (OHA) will regulate the manufacturing, transportation, delivery, sale and purchase of psilocybin products and the provision of psilocybin services in the state. ORS 475A.530 provides that a county may adopt an ordinance establishing reasonable regulations governing the time, place and manner for psilocybin serve centers and the manufacturing of psilocybin products within the area subject to the jurisdiction of the county. Staff finds that the Oregon Health Authority created rules (with additional draft rules pending) that establish psilocybin regulations which can be found in the Oregon Administrative Rules (OARs) Sections 333-333-1010 through 333-333-7150 and that the proposed changes are consistent with, and are in some cases reasonably more restrictive than the OARs.

OREGON ADMINISTRATIVE RULE: PSILOCYBIN, DEFINITIONS (OAR 333-333-1010)

FINDING: The purpose of this Administrative Rule section is to provide definitions to be used in regulating psilocybin. The ORS definition of “manufacturing” encompasses multiple land use categories. For land use purposes, the “manufacturing” definition in the JCLDO is divided into each specific use. Staff finds that the proposed JCLDO changes as listed below are consistent with the Rule.

THE STATEWIDE PLANNING GOALS

Goal 1, Citizen Involvement: Goal 1 is to develop a citizen involvement program that insures the opportunity for citizens to be in all phases of the planning process.

FINDING: Notice of the public hearing scheduled for November 03, 2022 was sent to unincorporated property owners within Jackson County and is posted on the County Website. Oral and written testimony will be accepted at the November 3rd hearing as well as subsequent public hearings.

Goal 2, Land Use Planning: Goal 2 is to establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions. Goal 2 also provides an exceptions process in Part II.

FINDING: No changes to the Comprehensive Plan are proposed. The Board of Commissioners initiated the text amendment process and public hearings are scheduled. This staff report provides for sufficient factual basis for the amendments. No goal exception is necessary.

Goal 3, Agricultural Lands: Goal 3 is to preserve and maintain agricultural lands.

FINDING: ORS 475A.570(1) recognizes psilocybin production as a “farm use”, and as such production and processing may occur on agricultural lands. However, ORS 475A did not create new permitted land uses under ORS 215.283 or OAR 660-033-120. Psilocybin Service Centers are not a use listed in ORS 215.283. ORS 475A.570(2) prohibits a new dwelling used in conjunction with psilocybin production, a farm stand, or a commercial activity in conjunction with a psilocybin farm use (subject to ORS 475A.570(3)). ORS 475A.570 (3) may allow a commercial activity as a psilocybin service center with the farm use being psilocybin production; however, it would be difficult for a psilocybin service center to qualify under the provision in Chapter 215. A psilocybin service center appears to be most similar to a use associated with a retreat setting (not a use listed under ORS 215.283). A psilocybin service center appears to utilize overnight accommodations, food service, and/or some level of medical services which do not promote farm crops nor enhance an agricultural community as required with Commercial Activities in Conjunction with Farm Use (CA/FU’s). Thus, psilocybin service centers will not be considered as commercial activities in conjunction with farm use in Jackson County. The proposed text amendments are consistent with preserving and maintaining agricultural lands.

Goal 4, Forest Lands: Goal 4 is to conserve forest lands.

FINDING: ORS 475A did not create new permitted land uses under OAR 660-006-0025. Psilocybin production as a farm use falls under an existing land use category on Forest Lands.

Goal 5, Natural Resources, Scenic and Historic Areas and Open Spaces: Goal 5 is to protect natural resources and conserve scenic and historic areas and open spaces.

FINDING: The proposed text amendments do not create or modify a resource list, Comprehensive Plan or Land Development Ordinance regulation adopted to protect a significant Goal 5 resource. The text amendments do not allow new uses that could be conflicting uses with a particular significant Goal 5 Resource because protection regulations and overlays are not changing.

Goal 6, Air, Water and Land Resources Quality: The goal is to maintain and improve the quality of the air, water and land resources of the state.

FINDING: The proposed text amendments do not change the County's Comprehensive Plan or regulations regarding air, water and land resource quality.

Goal 7, Areas Subject to Natural Hazards: The goal is to protect people and property from natural hazards.

FINDING: The proposed text amendments do not change the County's Comprehensive Plan or regulations regarding natural hazards.

Goal 8, Recreational Needs: The goal is to satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

FINDING: The proposed text amendments do not change the County's Comprehensive Plan or regulations regarding recreational needs.

Goal 9, Economic Development: The goal is to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

FINDING: The proposed text amendments do not restrict the County's Comprehensive Plan or regulations regarding economic development. The amendments will provide for additional business and economic development opportunities not previously available.

Goal 10, Housing: The goal is to provide for the housing needs of the citizens of the state.

FINDING: The proposed text amendments do not change the County's Comprehensive Plan or regulations regarding housing.

Goal 11, Public Facilities and Services: The goal is to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

FINDING: The proposed text amendments do not change the County's Comprehensive Plan or regulations regarding public facilities and services. Uses will continue to require appropriate levels of available public facilities depending on their Rural or Urban setting.

Goal 12, Transportation: The goal is to provide and encourage a safe, convenient and economic transportation system.

FINDING: The proposed text amendments do not change the County's Comprehensive Plan or regulations regarding the transportation system. Text amendments include consideration of similarly situated uses in existing zoning districts.

Goal 13, Energy Conservation: The goal is to conserve energy.

FINDING: The proposed text amendments do not change the County's Comprehensive Plan or regulations regarding energy.

Goal 14, Urbanization: The goal is to provide for an orderly and efficient transition from rural to urban land use.

FINDING: The proposed text amendments do not change the County's Comprehensive Plan or regulations regarding urbanization.

Goals 15-19, Various

FINDING: Goals 15-19 are site specific Goals not found in Jackson County.

JACKSON COUNTY COMPREHENSIVE PLAN

AGRICULTURAL LANDS

FINDING: Policy 3 & 4 express concerns about minimizing conflicts between agricultural and nonagricultural lands as well as prioritizing farm uses on agricultural lands. As stated above in Statewide Goal 3, ORS 475A.570(1) recognizes psilocybin production as a "farm use", and as such production and processing may occur on agricultural lands. However, ORS 475A did not create new permitted land uses under ORS 215.283 or OAR 660-033-120. Psilocybin Service Centers are not a use listed in ORS 215.283. ORS 475A.570(2) prohibits a new dwelling used in conjunction with psilocybin production, a farm stand, or a commercial activity in conjunction with a psilocybin farm use (subject to ORS 475A.570(3)). ORS 475A.570 (3) may allow a commercial activity as a psilocybin service center with the farm use being psilocybin production; however, it would be difficult for a psilocybin service center to qualify under the provision in Chapter 215. A psilocybin service center appears to be most similar to a use associated with a retreat setting (not a use listed under ORS 215.283). A psilocybin service center appears to likely utilize overnight accommodations, food service, and/or some level of medical services which do not promote farm crops nor enhance an agricultural community as required with Commercial Activities in Conjunction with Farm Use (CA/FU's). Thus, psilocybin service centers will not be considered as commercial activities in conjunction with farm use in Jackson County. The proposed text amendments are consistent with preserving and maintaining agricultural lands.

CITIZEN INVOLVEMENT

FINDING: Policies 1-4 encourage the legislative process to inform, notify and support participation of citizens early and often. The County created an information hotline, posted the project on its website, provided written notice to unincorporated citizens of Jackson County and submitted public notice to local media outlets.

RURAL AND SUBURBAN LANDS

FINDING: Policy 5 encourages limitation of uses permitted in Rural Service Commercial to only those uses necessary to serve the limited commercial needs of rural residents. Psilocybin service

centers would not have a sustainable customer population if relying mostly on the needs of rural residents in the nearby community and are more likely to rely on clients throughout the community; thereby, psilocybin service centers are not listed as a permitted use in rural service commercial zoning districts.

III. PROPOSED CHANGES TO JACKSON COUNTY LAND DEVELOPMENT ORDINANCE
New language is noted in Bold Underlining.

A. CHAPTER 3. APPLICATION REVIEW AND DECISION

3.14 PSILOCYBIN USE REGULATIONS

3.14.1 Applicability

Notwithstanding any other provision of the JCLDO to the contrary, Chapter 3.14 applies to all Psilocybin Manufacturing (production, processing, and testing) and Psilocybin Service Centers as defined in ORS 475A.

A) Section 3.14 Applies to:

- 1) All psilocybin production in the Exclusive Farm Use, Forest Resource, Woodland Resource, Open Space Reserve, General and Light Industrial zoning districts;**
- 2) All psilocybin processing in the Exclusive Farm Use and General Industrial and Light Industrial zoning districts; and**
- 3) Psilocybin Service Centers in the General Commercial zoning districts; and**
- 4) Psilocybin Testing Laboratories in General Industrial or Light Industrial zoning districts.**

FINDING: In accordance with ORS 475A.530 local jurisdictions may set time, place, and manner regulations. Staff's recommendation on how psilocybin is incorporated into the JCLDO is to use the current JCLDO language and allowances where possible while attempting to recommend regulations that mitigate impacts.

3.14.2 Psilocybin Production

Psilocybin production is limited to the Exclusive Farm Use, Forest Resource, Woodland Resource, Open Space Reserve, General Industrial, and Light Industrial zoning districts subject to the following standards:

A) Procedures

- 1) All psilocybin production shall be permitted through a Type 1 land use authorization per LDO Section 3.1.2;**

2) No outdoor psilocybin production.

B) Setbacks

1) Psilocybin production may not be located:

Within 1,000 feet from a public elementary or secondary school for which attendance is compulsory under ORS 339.030 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a).

2) Distance Calculations:

For the purposes of determining the distances in sections 3.14.2(B)(1), "within 1,000 feet," means a straight line measurement in a radius extending the specified distance or less in any direction from the closest point anywhere on the boundary line of the real property parcel comprising the uses in sections 3.14.2(B)(1) to the closest point anywhere on the premises of a psilocybin production.

C) Exclusive Farm Use and Forest Zoning Districts

1) If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with licensing requirements of the Oregon Health Authority.

D) Light and General Industrial Zoning Districts

1) All psilocybin production is subject to Section 3.14.2(B) &(C)(1).

2) All psilocybin production shall only be allowed in Light and General Industrial zoning districts as an accessory and subordinate use to psilocybin processing (manufacturing).

E) Prohibited Uses in the EFU Zoning District

The following uses are prohibited on EFU zoned property when the county finds that the use is associated with or in conjunction with psilocybin production.

1) A farm dwelling as described in 4.2.6(C), (D), and (E);

2) A farm stand as described in section 4.2.7(D); and

3) A commercial activity in conjunction with a farm use as described in section 4.2.7(A).

F) Additional Regulations

- 1) All development associated with psilocybin production shall meet any applicable siting standards, development regulations and use limitation of this Ordinance.**

FINDING: ORS 475A.570(1) recognizes psilocybin production as a “farm use”, and as such production and processing may occur on agricultural lands or where “farm uses” are permitted or as an accessory and subordinate use to processing in a Light or General Industrial zoning district. “Farm uses” are not permitted in residential zones. ORS 475A.430 prohibits outdoor psilocybin production. ORS 475A.570(2) prohibits a new dwelling used in conjunction with psilocybin production, a farm stand, or a commercial activity in conjunction with a psilocybin farm use (subject to ORS 475A.570(3)).

3.14.3 Psilocybin Processing

All psilocybin processing is limited to General Industrial, Light Industrial, and EFU zoning districts and shall be subject to the following standards:

A) Procedures

- 1) General and Light Industrial Zoning districts:**
- a) Psilocybin processing may be permitted through a Type 1/2 land use permit.**
 - b) No on-site retail sales are allowed.**
 - c) No outdoor storage of psilocybin in any form, including remnants, by-products and waste is permitted.**
 - d) Psilocybin processing establishments are subject to Section 3.2, Site Plan Review.**
- 2) In an EFU zoning district all psilocybin processing may be permitted through a Type 2 land use permit.**
- 3) In an EFU zoning district all psilocybin processing may be permitted in compliance with Section 4.2.4.**
- 4) Exclusive Farm Use Zoning district:**
- a) All psilocybin processing shall be located entirely within one or more completely enclosed buildings.**
 - b) Waste Management
Psilocybin waste shall be stored in a secured waste receptacle in the possession of and under the control of the licensee.**

c) Security cameras

If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with licensing requirements of the Oregon Health Authority.

FINDING: Psilocybin processing falls within the JCLDO definitions (#160 & #161) of “Manufacturing/Production, High Impact” or “Manufacturing/Production, Low Impact”. Both types of uses are allowed in an industrial zone subject to site plan review through a Type 1 or 2 review. Psilocybin processing as a manufacturing, low impact use and can only occur within an industrial zone. Psilocybin processing as a manufacturing, high impact use may be farm crop processing as a limited, less intensive use allowed through a Type 2 land use review. Some extraction methods and intensities may not be appropriate in an EFU zone thus require discretionary review and consideration of comments from affected agencies such as fire districts, DEQ etc. OAR 333-333-2020(1)(d) requires all psilocybin products to be stored in a locked area.

3.14.4 Psilocybin Service Centers

All Psilocybin Service Centers are limited to General Commercial zoning districts and shall be subject to the following standards:

A) A Psilocybin Service Center may not be located:

- 1) In an Aggregate Removal, Exclusive Farm Use, Forest Resource, Woodland Resource, Open Space Reserve, Rural Use, Urban Residential, Rural Residential, Interchange Commercial, Neighborhood Commercial, Rural Service, Unincorporated Communities Rural Service Commercial, General Industrial, or Light Industrial Zoning Districts;**
- 2) Within 1,000 feet from a public elementary or secondary school for which attendance is compulsory under ORS 339.030 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a).**

B) Distance Calculations:

- 1) For the purposes of determining the distances in sections 3.14.4(A)(2), “within 1,000 feet,” means a straight-line measurement in a radius extending the specified distance or less in any direction from the closest point anywhere on the boundary line of the real property parcel comprising the uses in sections 3.14.4(A)(2) to the closest point anywhere on the premises of a Psilocybin Service Center.**

C) Additional Regulations:

- 1) **Psilocybin Service Centers may not operate as a Commercial Activity in Conjunction with Farm Use as defined in Section 4.2.7(A) & 6.4.4.E.**
- 2) **All development associated with Psilocybin Service Centers shall meet any applicable siting standards, development regulations and use limitation of this Ordinance.**
- 3) **Psilocybin Service Centers are subject to Section 3.2, Site Plan Review.**
- 4) **The hours of operation will be limited to 6:00 a.m. to 11:59 p.m.**

FINDING: Draft OAR 333-333-4300 prohibits psilocybin service centers in a residence. Draft OAR 333-333-4480 limits hours of operation. ORS 475A.570 (3) may allow a commercial activity as a psilocybin service center with the farm use being psilocybin production; however, it would be difficult for a psilocybin service center to qualify under the provision in Chapter 215. A psilocybin service center appears to be most similar to a use associated with a retreat setting (not a use listed under ORS 215.283). A psilocybin service center appears to likely utilize overnight accommodations, food service, and/or some level of medical services which do not promote farm crops nor enhance an agricultural community as required with Commercial Activities in Conjunction with Farm Use (CA/FU's). Thus, psilocybin service centers will not be considered as commercial activities in conjunction with farm use in Jackson County. The proposed text amendments are consistent with preserving and maintaining agricultural lands. Psilocybin service centers may be similar to a medical service use which is allowed in a General Commercial zoning district. Rural Service Commercial zones including Applegate, Ruch and Sams Valley unincorporated communities are intended for uses necessary to serve the limited commercial needs of rural residents and is not included as permitted zoning district for psilocybin service centers.

3.14.5 Psilocybin Testing Laboratories

All psilocybin testing laboratories are limited to General Industrial and Light Industrial zoning districts and shall be subject to the following standards:

- A) **All development associated with Psilocybin Testing Laboratories shall meet any applicable siting standards, development regulations and use limitation of this Ordinance.**
- B) **Psilocybin Testing Laboratories are subject to Section 3.2, Site Plan Review.**

FINDING: ORS 475A.590 sets psilocybin testing standards and processes. A testing laboratory

is most similar to a research and development use found with industrial uses.

B. CHAPTER 4. RESOURCE DISTRICTS

TABLE 4.2-1: USE TABLE FOR EXCLUSIVE FARM USE (EFU) DISTRICT
 1 = Type 1 2 = Type 2 Review 3 = Type 3 Review 4 = Type 4 Review
 X = Prohibited HVFL = High-Value Farmland

#	USE	HVFL	ALL OTHER	STATE LAW REFERENCE	SEE ALSO
FARM AND FOREST USES					
1	Farm use	1	1	ORS 215.203 (definition); OAR 660-033-0120	3.13.2, 3.13.3, 3.14.2, 3.14.3
2	Buildings, other than dwellings, customarily provided in conjunction with farm use	1	1	ORS 215.283(1)(f); OAR 660-033-0120	3.13.2, 3.14.2
3	Propagation or harvesting of a forest product.	1	1	ORS 215.283(1)(c); OAR 660-033-0120	
4	Temporary facility for primary processing of forest products	2	2	ORS 215.283(2)(j); OAR 660-033-0120 & 0130(6)	4.2.3 and 4.2.4(B)
5	Facility for processing farm crops or biofuel production	2	2	ORS 215.283(1)(u), ORS 315.141; OAR 660-033-0130(28)	4.2.4(A), 3.13.3, 3.14.3
NATURAL RESOURCE USES					

FINDING: ORS 475A.570(1) recognizes psilocybin production as a “farm use” and Section 3.14.2 has been added to the Table 4.2-1. Psilocybin farm crop processing is subject to Section 3.14.3.

TABLE 4.2-1: USE TABLE FOR EXCLUSIVE FARM USE (EFU) DISTRICT
 1 = Type 1 2 = Type 2 Review 3 = Type 3 Review 4 = Type 4 Review
 X = Prohibited HVFL = High-Value Farmland

#	USE	HVFL	ALL OTHER	STATE LAW REFERENCE	SEE ALSO
6	Creation, restoration, or enhancement of wetlands	1	1	ORS 215.283(1)(p); OAR 660-033-0120	
7	The propagation, cultivation, maintenance, & harvesting of aquatic or insect species	2	2	ORS 215.283(2)(p); OAR 660-033-0120 & 033-0130(5) & (27)	4.2.3 4.2.5(A)
RESIDENTIAL USES					
8	Dwelling customarily provided in conjunction with farm use	2	2	ORS 215.283(1)(f); OAR 660-033-0120, 0130(1), (30) & 0135	4.2.6(A) & (C), 3.13.2(F), 3.14.2(E)
9	Farm dwelling for relative	2	2	ORS 215.283(1)(e); OAR 660-033-0120 & 0130(9), (30)	4.2.6(A) & (D), 3.13.2(F), 3.14.2(E)
10	Accessory farm dwellings, including farmworker housing	2	2	ORS 215.277-278 and ORS 215.283(1)(f); OAR 660-033-0120 & 0130(24), (30)	4.2.6(A) & (E), 3.13.2(F), 3.14.2(E)

FINDING: ORS 475A.570(2) prohibits a new dwelling used in conjunction with psilocybin production.

TABLE 4.2-1: USE TABLE FOR EXCLUSIVE FARM USE (EFU) DISTRICT 1 = Type 1 2 = Type 2 Review 3 = Type 3 Review 4 = Type 4 Review X = Prohibited HVFL = High-Value Farmland					
#	USE	HVFL	ALL OTHER	STATE LAW REFERENCE	SEE ALSO
	replacement			OAR 660-033-0120 & 0130(12), (30)	
18	Registered child care facility/certified group child care home	2	2	ORS 657A.440	4.2.6(K)
COMMERCIAL USES					
19	Commercial activities in conjunction with farm use including processing of farm crops into biofuel not permitted under ORS215.203(2)(b)(L) or ORS 215.213(1)(x) and ORS 215.283(1)(u)	3	3	ORS 215.283(2)(a); OAR 660-033-0120 & 0130(5)	4.2.3, 4.2.7(A) 6.4.4(E), 3.13.2(F), <u>3.14.4(C)</u>

FINDING: ORS 475A.570(2) prohibits a commercial activity in conjunction with a psilocybin farm use and psilocybin service centers will not be considered as commercial activities in conjunction with farm use as stated in Section 3.14.4(C).

TABLE 4.2-1: USE TABLE FOR EXCLUSIVE FARM USE (EFU) DISTRICT 1 = Type 1 2 = Type 2 Review 3 = Type 3 Review 4 = Type 4 Review X = Prohibited HVFL = High-Value Farmland					
#	USE	HVFL	ALL OTHER	STATE LAW REFERENCE	SEE ALSO
	to the public greater than 25 days in a calendar year				
27	Farm stand	1	1	ORS 215.283(1)(o); OAR 660-033-0120 & 0130(23)	4.2.7(D), 3.13.2(F), <u>3.14.2(E)</u>
28	Landscape business in conjunction with growing/marketing of nursery stock on the land that constitutes farm use	2	2	ORS 215.283(2)(z), ORS 674.520, ORS 671.318; OAR660-033-0130(5)	4.2.7(H)

FINDING: ORS 475A.570(2) prohibits a farm stand in conjunction with psilocybin production.

4.2.6(J) Residential Home [ORS 197.660(definition); 197.665(3); and 215.283(2)(o); OAR 660-033-0120 & 0130(5) & (30)]

- 1) The existing dwelling shall have been lawfully established.

2) For purposes of this Section, “residential home” means a residential treatment or training or an adult foster home licensed by or under the authority of the Department of Land Conservation and Development, as defined in ORS 443.400, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five (5) or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home. **A Psilocybin Service Center is not a residential home or facility.**

FINDING: ORS 475A.220(8)(b) states that a “premises” does not include a primary residence.” Draft OAR 333-333-4300 prohibits a psilocybin service center in a residence. ORS 443.400 defines a “Resident” as “any individual residing in a facility who receives residential care, treatment or training. ORS 443.405 excludes “a place providing care and treatment on less than a 24-hour basis.”

#	USE	TYPE	STATE LAW REFERENCE	SEE ALSO
FARM AND FOREST USES				
1	Farm use	1	ORS 215.203 (definition); OAR 660-006-0025(3)(b)	3.13.2, 3.14.2
2	Forest operations or practices including (not limited to), reforestation of forest land, road construction & maintenance, harvesting of forest tree species, application of chemicals, & disposal of slash	1	ORS Chapter 527; OAR 660-006-0025(2)(a)	

FINDING: ORS 475A.570(1) recognizes psilocybin production as a “farm use” and Section 3.14.2 has been added to Table 4.3-1.

C. CHAPTER 6. USE REGULATIONS

CATEGORY	SPECIFIC USE	ZONING DISTRICTS													SEE ALSO
		RU	RURAL RESIDENTIAL		URBAN RESID.		COMMERCIAL					INDUSTRIAL			
			RR 00 & 10	RR-2.5 & 5A	UR-1 & To	UR-4 & -30	G C	IC	N C	R S	A R S	R R S	S V R S	GI	
RESOURCE USES (FARM, FOREST, AGGREGATE, NATURAL RESOURCES)															
Agriculture	Horse boarding & riding facilities	1	3	-	-	-	-	-	-	-	-	-	-	-	6.3.1(A)
	Intensive Livestock	2	3	-	-	-	-	-	-	-	-	-	-	-	6.3.1(A)
	Non intensive agriculture	1	1	1*	1*	1	1	1	1	1	1	1	1	1	6.3.1(A); 6.5.3; 12.3.1
Farm Use	Plant nursery	1	2	3	-	-	2	2	2	2	2	-	-	-	6.3.1(B); 6.4.4(D)
	Marijuana Production	-	-	-	-	-	-	-	-	-	-	-	1/2	1/2	3.13.2
	Psilocybin Production	-	-	-	-	-	-	-	-	-	-	-	1/2	1/2	3.14.2
Forestry	Manage, grow, harvest, process timber & forest products	1	1	1	-	-	-	-	-	-	-	-	-	-	
Mineral and aggregate	Aggregate or surface mining, stockpiling or processing (e.g. batch plants)	3	1	1	1	1	1	1	1	1	1	1	1	2	4.4.8; 6.3.4(A)

FINDING: ORS 475A.570(1) recognizes psilocybin production as a “farm use”, and as such psilocybin production may occur as an accessory and subordinate use to processing in a Light or General Industrial zoning district. Psilocybin production is not permitted in any other non-resource zoning district.

TABLE 6.2-1 USE TABLE FOR BASE ZONING DISTRICTS															
1 = Type 1 Permit 2 = Type 2 Permit 3 = Type 3 Permit 4 = Type 4 Permit															
CATEGORY	SPECIFIC USE	ZONING DISTRICTS													SEE ALSO
		RU	RURAL RESIDENTIAL		URBAN RESID.		COMMERCIAL					INDUSTRIAL			
		RR 00 & 10	RR-5 RR-2.5 & RR-5A	UR-1 UR-4 To UR-10	UR -30	G C	IC C	N C	R S	A R S	R R S	S V R S	GI	LI	
	Grocery Store	-	-	-	-	1/2	-	-	2/3	2/3	2	2	-	-	6.3.3(P)
	Wine shop	-	-	-	-	1/2	-	1/2	2/3	2/3	2	2	-	-	5.5.3, 6.3.3(Y), 12.3.1
Landscaping Sales/Service	Landscaping contracting	2	-	-	-	1/2	-	-	3	3	3	3	1/2	1/2	
	Landscaping Maintenance	3	3	3	3	-	-	-	-	-	-	-	1/2	1/2	
Medical Services	Emergency medical center	-	3	3	3	1/2	-	-	2	2	2	2	-	-	
	Hospital	-	-	-	3	3	-	-	-	-	-	-	-	-	
	Medical / dental / optical clinic	-	3	3	3	1/2	-	1/2	2	2	2	2	-	-	12.3.1
	Psilocybin Service Center	-	-	-	-	1/2	-	-	-	-	-	-	-	-	3.14.4
Office	Studio: Broadcasting / recording	-	-	3	-	1/2	-	-	3	3	-	3	-	-	
	Information Technology Center	-	3	3	-	1/2	-	-	-	-	-	-	2	1/2	
	Business or professional office	-	-	-	-	1/2	-	1/2	3	2	2	2	-	-	12.3.1
	Studio: art / dance / music/ skills	-	-	-	-	1/2	-	1/2	2	2	3	2	-	-	12.3.1
Personal Services	Barber or beauty shop	-	-	-	-	1/2	1/2	1/2	2	2	-	2	-	-	6.3.3(F), 12.3.1
	Laundromat or dry cleaner	-	-	-	-	1/2	-	1/2	3	3	-	3	-	-	5.5.3, 6.3.3(S)
	Mortuary	-	-	-	-	1/2	-	-	-	-	-	-	-	-	
	Tanning salon	-	-	-	-	1/2	-	-	-	-	-	2	-	-	12.3.1
Recreation and Entertainment	Amusement establishment (indoors)	-	-	-	-	1/2	-	-	-	-	-	-	-	-	

FINDING: Psilocybin Service Centers are similar to a medical service and can be permitted in a General Commercial zoning district subject to site plan review.

INDUSTRIAL/MANUFACTURING USES															
Equipment Storage and Repair	Equipment storage	-	-	-	-	1/2	-	-	-	-	-	-	1/2	1/2	6.3.4
	Heavy machinery /Equipment repair	-	-	-	-	1/2	-	-	3	3	3	2	1/2	1/2	6.3.4(B)
	Outdoor storage areas	-	-	-	-	-	-	-	-	-	-	-	1/2	1/2	6.3.4
	Wrecking/salvage or junk yard	-	-	-	-	3	-	-	-	-	-	-	1/2	1/2	6.3.4(E)
Industrial Services	Industrial services, low-impact	-	-	-	-	-	-	-	-	-	-	-	1/2	1/2	6.3.4
	Industrial services, high-impact	-	-	-	-	-	-	-	-	-	-	-	1/2	-	6.3.4
	Laundry/dry cleaning plant	-	-	-	-	-	-	-	-	-	-	-	1/2	1/2	
	Psilocybin Testing Laboratories	-	-	-	-	-	-	-	-	-	-	-	1/2	1/2	3.14.5
Manufacturing & Production	Firewood processing/sales	2	-	-	-	-	-	-	-	-	-	-	1/2	-	
	Manufacturing and production, low-impact	-	-	-	-	-	-	-	-	-	-	-	1/2	1/2	6.3.4, 3.13.3, 3.14.3

TABLE 6.2-1 USE TABLE FOR BASE ZONING DISTRICTS															
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CATEGORY	SPECIFIC USE	ZONING DISTRICTS													SEE ALSO
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	Manufacturing and production, high-impact	-	-	-	-	-	-	-	-	-	-	-	1/2	1/2	6.3.4, 3.13.3, 3.14.3

FINDING: ORS 475A.590 sets psilocybin testing standards and processes. A testing laboratory is most similar to a research and development use found with industrial uses. Psilocybin processing falls within the JCLDO definitions (#160 & #161) of “Manufacturing/Production, High Impact” or “Manufacturing/Production, Low Impact” where both uses are allowed in an industrial zone subject to Section 3.14.3.

6.4.4(C)(4) *Prohibited Home Occupations*

Some uses by their nature have a pronounced tendency to rapidly increase beyond the limits permitted for home occupations and have a character that is more suited to commercial or industrial districts. Therefore, the uses with the characteristics specified below will not be permitted as home occupations:

- a) Auto or vehicle oriented (repair, painting, detailing, wrecking, transportation services, or similar activities);
- b) Retail sales or professional services, other than by appointment only; and
- c) Large appliance repair; and
- d) All marijuana production, processing, wholesaling and retailing/dispensing; **and**
- e) All psilocybin production, processing, wholesaling, testing, and service centers.

FINDING: ORS 475A.220 defines “premises” as not including a primary residence. Draft OAR 333-333-4300 prohibits a bed and breakfast and a residence in a licensed premises. A psilocybin service center could have a tendency of including uses beyond the character of a residence and more suited to commercial districts.

6.4.4(D)(4) *Prohibited Home Businesses*

Some uses by their nature have a pronounced tendency to rapidly increase beyond the permitted limits, and have a character that is more suited to commercial or industrial districts. Therefore, the uses with the characteristics specified below will not be permitted as home businesses:

- a) Auto or vehicle oriented (repair, painting, detailing, wrecking or similar activities);
- b) Retail sales or professional services, other than by appointment only;
- c) Large appliance repair; and
- d) All marijuana production, processing, wholesaling and retailing/dispensing; **and**
- e) All psilocybin production, processing, wholesaling, testing, and service centers

FINDING: ORS 475A.220 defines “premises” as not including a primary residence. Draft OAR

333-333-4300 prohibits a bed and breakfast and a residence in a licensed premises. A psilocybin service center could have a tendency of including uses beyond the character of a residence and more suited to commercial districts.

D. Chapter 13. DEFINITIONS

208) PSILOCYBIN: means psilocybin or psilocin

209 PSILOCYBIN MANUFACTURE: Is a term defined under ORS 475A.220(7) and encompasses multiple land use types.

210 PSILOCYBIN PREMISES: includes the following areas of a location licensed under ORS 475A.210 to 475A.722:

(1) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms;

(2) All areas outside a building that the Oregon Health Authority has specifically licensed for the manufacturing of psilocybin products or the operation of a psilocybin service center; and

(3) For a location that the authority has specifically licensed for the operation of a psilocybin service center outside a building, that portion of the location used to operate the psilocybin service center and provide psilocybin services to clients.

(4) "Premises" does not include a primary residence.

211) PSILOCYBIN PROCESSING: The processing, compounding, or conversion of psilocybin into products, concentrates, or extracts, provided that the processor is licensed with the Oregon Health Authority.

212) PSILOCYBIN PRODUCTION: The manufacture, planting, cultivation, growing, trimming, harvesting, or drying of psilocybin, provided that the producer is licensed with the Oregon Health Authority

213) PSILOCYBIN SERVICE CENTER: means an establishment:

(1) At which administration sessions are held; and

(2) At which other psilocybin services may be provided.

(3) Is not a commercial activity in conjunction with farm use.

FINDING: Definitions from ORS 475A related to land use are proposed to be added to the JCLDO. It is necessary to break the ORS definition of "Psilocybin Manufacture" into their respective land use types such as processing or production. The definitions listed in JCLDO 13.3 Terms Defined are in alphabetical order. The definitions below the added psilocybin definitions will be renumbered.

IV. RECOMMENDATION:

Staff recommends that the Jackson County Planning Commission recommend approval of the text amendments modifying the Jackson County Land Development Ordinance (JCLDO) Chapters 3, 4, 6 & 13.

JACKSON COUNTY PLANNING DIVISION

Charles Bennett

By: Charles Bennett
Planner III

Date: October 17, 2022

Attachments:

- 1) Text Amendments to Chapters 3, 4 ,6 & 13 (Full Chapters)