



# CITY OF JOHN DAY

mayor  
Ron Lundbom

city manager  
Nicholas Green

accounts clerk  
Chantal DesJardin

council  
Shannon Adair  
Gregg Haberly  
Dave Holland  
Heather Rookstool  
Elliot Sky  
Paul Smith

## EXHIBIT A. STAFF REPORT AMD-21-04 FOR ORDINANCE NO. 21-194-05

AN ORDINANCE AMENDING THE JOHN DAY DEVELOPMENT CODE TO ESTABLISH REGULATIONS CONCERNING MEDICAL AND RECREATIONAL MARIJUANA PRODUCERS, PROCESSORS, WHOLESALERS, LABORATORIES, AND RETAILERS; ALLOWING THESE FACILITIES IN SOME COMMERCIAL AND INDUSTRIAL ZONES WITH CERTAIN RESTRICTIONS. (Type IV)

### Type of Action Requested

<input type="checkbox"/>	<input type="checkbox"/>	Resolution	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	<input type="checkbox"/>	Formal Action	<input type="checkbox"/>	<input type="checkbox"/>	Report Only

**DATE SUBMITTED: June 15, 2021**  
**AGENDA DATE REQUESTED: June 22, 2021**

### PROPOSAL SUMMARY

Oregon State law authorizes the operation of medical and recreational marijuana businesses and provides those businesses with immunity from state criminal prosecution. In 2018, Grant County overturned a 2015 ban on recreational marijuana businesses after county residents voted to repeal the moratorium. Although the State of Oregon and Grant County have passed legislation authorizing marijuana businesses and providing criminal immunity under state law, the operation of those businesses remains illegal under federal law. The city council has home rule authority to decide whether, and under what conditions, certain commercial conduct should be regulated within the city and subject to the general and police powers of the city, except when local action has been clearly and unambiguously preempted by state statute. The City of John Day seeks to regulate the operation of marijuana businesses in the city in ways that protect and benefit the public health, safety, and welfare of existing and future residents and businesses in the city.

Several issues have been considered for discussion by the council;

1. Distance Requirements- the recommended standards include a 500-ft. buffer between retailers and a 1,000-ft. buffer between dispensaries. This requirement may be revised by the council within the bounds of state law.

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State law requires a 1,000 ft. buffer between dispensaries, but does not have a required buffer between retailers. The council may not impose a buffer greater than 1,000 ft. between retailers.

2. Fully Enclosed Hemp Production- the recommended standards include a requirement that industrial hemp be produced only in fully enclosed permanent structures. It is not necessary for cities to require enclosed hemp production- this standard would likely restrict the feasibility of hemp grows within city limits due to economic viability. The council may revise or remove this standard. If removed, the council should also reconsider the odor mitigation standard of this section.

## APPLICABLE CRITERIA

This request includes a legislative amendment to amend the John Day Development Code. Legislative amendments are policy decisions made by the City Council. The approval criteria in section 5-4.1.050.G apply. The amendment must also conform with the Transportation Planning Rule provisions in section 5-4.7.060, as applicable.

## CITY COUNCIL CONSIDERATIONS

The City Council’s review must focus on the relevant code criteria and follow the public hearing requirements for a Type IV Legislative Amendment under section 5-4.7.020. The City Council should accept the Planning Commission’s recommendation and approve the request if it conforms to the approval criteria.

## STAFF RECOMMENDATION

Staff recommends that the City Council **adopt Ordinance 21-194-05, with amendments, as applicable** and findings in this report.

## PUBLIC NOTIFICATION

The City of John Day mailed public notice of the first hearing on this amendment to all affected property owners on April 21, 2021 and published notice in the Blue Mountain Eagle on April 28, 2021. Notice of the final hearing was published on June 2, 2021 in conformance with the Development Code.

## ADOPTION PROCEDURE AND FINDINGS

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The following section shown in italics and boldface provides the decision making criteria as required by John Day Development Code Section 5-4.1.050.G.

.....  
Decision-Making Criteria. The recommendation by the Planning Commission and the decision by the City Council shall be based on the following factors:

***1. Approval of the request is consistent with the Statewide Planning Goals;***

**Finding:** specific findings of compliance with statewide land use goals are addressed below.

**Goal 1—Citizen Involvement**

**Finding:** The Code establishes procedures for text amendments such as the subject proposal to implement Goal 1. The Code specifically calls for various forms of notice and public hearings. The City has provided the requisite notices and held the requisite public hearings to satisfy the Code and therefore Goal 1 (See 5. Public Notification).

**Goal 2—Land Use Planning.**

**Finding:** Staff is following the prescribed procedure for a text amendment to ensure adequate review of the proposed text amendment. This staff report identifies the basis for making a decision on the subject proposal pursuant to applicable code criteria. Staff finds Goal 2 is met.

**Goals 3-8**

**Finding:** The proposed text amendments will have no foreseeable impact on Agricultural Lands, Forest Lands, Natural Resources, Scenic and Historic Areas, Open Spaces, Air, Water and Land Resources Quality, Recreational needs or resources, or the City’s ability to plan for natural hazards. These Goals do not apply.

**Goal 9—Economic Development**

**Finding:** The proposed amendments will increase the variety of economic activities available within the City of John Day.

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The marijuana industry has infused the Oregon economy with tens of thousands of jobs and Billions of dollars in the last six years. In addition to job and new business creation, retailers are taxed by the state at a rate of 17% for all recreational marijuana sold. 10% of the collected tax revenue is distributed directly to cities on a per-capita basis, but the allocation does not apply to cities that have banned marijuana businesses. In addition to the shared revenue John Day would receive, municipalities may enact a local tax of up to 3% on recreational sales in their area with voter approval.

This proposal will allow for significant economic expansion and diversification. Staff finds Goal 9 is met.

## **Goal 10—Housing**

**Finding:** The proposed amendment does not affect the City’s supply of land available for residential development or otherwise inhibit residential development.

## **Goal 11—Public Facilities and Services**

**Finding:** The proposed amendment does not impact the City’s ability to plan for or supply public facilities or services. This Goal does not apply.

## **Goal 12—Transportation**

**Finding:** The proposed amendment has no impact on the City’s ability to plan for and supply an adequate transportation system. It does not allow for higher levels of development than presently permitted or otherwise change the function or classification of any transportation facility. This Goal does not apply.

## **Goal 13—Energy Conservation**

**Finding:** The proposed amendment has no impacts on energy use. This Goal does not apply.

## **Goal 14—Urbanization**

**Finding:** The proposed text amendments do not impact the transition of rural land to urban uses.

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## ***2. Approval of the request is consistent with the Comprehensive Plan; and***

**Finding:** The proposed amendment affects multiple zones and uses within the City of John Day, but is not likely to notably increase demand on existing facilities beyond that of currently projected commercial growth. The areas affected by this amendment are broadly provided with adequate public facilities and services to accommodate significant commercial and industrial expansion. Existing and planned public facilities were designed to accommodate larger commercial and industrial sectors.

## ***3. The property and affected area is presently provided with adequate public facilities and services, including transportation, sewer and water systems, to support the use, or such facilities and services are provided for in adopted City plans and can be provided concurrently with the development of the property.***

**Finding:** The proposed amendment affects multiple zones and uses within the City of John Day, but is not likely to notably increase demand on existing facilities beyond that of currently projected commercial growth. The areas affected by this amendment are broadly provided with adequate public facilities and services to accommodate significant commercial and industrial expansion. Existing and planned public facilities were designed to accommodate larger commercial and industrial sectors.

## **CITY COUNCIL MOTION**

After hearing the staff presentation and any public testimony, including any rebuttal, the commission will close the hearing and deliberate. The following motion is suggested:

“I move to approve AMD-21-04 based on the findings contained in the staff report [with conditions, if any].”

*The staff report may be amended during the course of the hearing.*

### **Enclosure(s)**

- Proposed Amendments
- Background Information

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