

Article 53 – Home Occupations, Short-Term Rentals & Marijuana Businesses

ARTICLE 53 - HOME OCCUPATIONS, SHORT-TERM RENTAL & MARIJUANA BUSINESSES

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Section 53.10 - Purpose & Intent

The purpose of this Home Occupation Ordinance shall be to prescribe procedures under which a home occupation may be permitted outright or as a conditional use in the County. The intent of the Home Occupation Ordinance is to recognize and provide opportunities for small-scale commercial uses operated out of an existing dwelling or accessory building by a resident of a lot or parcel that do not unreasonably interfere with other permitted uses occurring on adjacent lands.

Section 53.15 - Definitions

A. Home Occupation is defined in Article 1.

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- B. Home occupations proposed inside the City of Hood River's Urban Growth Boundary shall comply with Article 17 (Section 17.04.100).

Section 53.20 - Permitted Uses

- A. Home occupations are permitted outright in the following zones pursuant to compliance with provisions in the zones in which the use is proposed: Commercial Zone (C-1), Mt. Hood Unincorporated Community Commercial Zone (MH-C1), Industrial Zone (M-1), and Light Industrial Zone (M-2).
 - i. Short-term rental home occupation uses are subject to the provision contained in Section 53.30 and 53.40 et seq.
 - ii. Marijuana businesses are subject to the provisions contained in Section 53.70 et seq. and not Section 53.30.

- B. An in-home commercial activity is not considered a home occupation and may not require a land use or conditional use permit where all of the following criteria can be met. (Coordination and permits with other agencies may be required.)
 1. Is conducted within a dwelling only by residents of the dwelling.
 2. Does not occupy more than 25-percent of the combined floor area of the dwelling.
 3. Does not serve clients or customers on-site or allow on-site retail sales.
 4. Does not include the on-site advertisement or display, other than vehicle or trailer signage.
 5. Does not generate additional traffic or parking beyond what normally occurs in the applicable zoning district.
 6. No materials or mechanical equipment are used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.
 7. Does not include the outside storage of materials, equipment or products.
 8. Complies with federal or state guidelines, rules and regulations.
 9. If complaints are received that the activity unreasonably interferes with other uses permitted in the zone in which the property is located, per the discretion of the Planning Director a land use or conditional use permit may be required.

Section 53.25 - Conditional Uses

- A. The following conditional uses are required to comply with provisions in Article 72 - Planning Director's Review Procedure and Section 53.30:

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1. A home occupation proposed in the following zones in an existing dwelling or pre-existing building on the same lot or parcel as the resident's dwelling: Residential Zone (R-1), Rural Residential Zone (RR), and Rural Center Zone (RC).
2. Expansion or change in use of home occupations or one or two person businesses existing prior to the adoption date of this Ordinance (see Section 53.35 Non-conforming Use).

B. Home occupations in the Forest Zones (F-1 and F-2) and Exclusive Farm Use (EFU) Zone are subject to Section 53.30 and respective Conditional Use Review Criteria contained in Articles 3 and 4 (Sections 3.05 and 4.05).

Section 53.30 - Home Occupation Standards

A home occupation shall comply with the following requirements:

- A. The use shall be operated by a resident of the property on which the business is located and employs on the site no more than five full-time or part-time persons at any given time. A home occupation shall be operated substantially in:
 1. The dwelling; or
 2. Other buildings normally associated with uses permitted in the zone in which the property is located, except that such other buildings may not be utilized as bed and breakfast facilities or rental units unless they are legal residences.

A home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located, and is a secondary use, incidental, accessory or subordinate to the residential uses or the existing building.

- B. A submitted application shall contain, at minimum, 1) a detailed site plan and floor plan, 2) specificity on the nature of the use, and 3) narrative addressing how the standards below are met.
- C. The use will not take an outward appearance nor manifest any characteristics of a business or operation of a retail or wholesale nature. There shall be no visible evidence of conduct of a home occupation from any road or adjacent property, except for one sign, up to 12 square feet may be permitted.
- D. No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.

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- E. All off-street parking must be provided on the subject parcel where the home occupation is operated.
- F. Only limited retail sales and sales accessory to services associated with the home occupation are permitted.
- G. The existence of a home occupation shall not be justification for a plan and zone change to commercial or industrial use.
- H. Approval is personal to the applicant and shall not run with the land or another individual.
- I. There is only a minor increase, if any, in traffic traveling to and from the dwelling unit or other building.
- J. Compliance with applicable requirements of the zone in which the use is located.
- K. Pre-existing building must be located on the same parcel or lot as the dwelling in which the persons engaged in the home occupation reside.
- L. No more than one home occupation shall be permitted in conjunction with any dwelling or parcel, except as allowed under Article 56 (B&B Facilities) and Article 73 (Home Occupations to Host Weddings and Related Events).
- M. Any unauthorized change or departure in the use of an approved home occupation shall require additional review by the County Planning Department and may be grounds for revocation.
- N. Complies with Federal, State and Local laws. Non-compliance with any of these laws can result in the home occupation being terminated.

Section 53.35 - Nonconforming Use

Any proposed expansion or change in use of either a home occupation or one or two person business in operation prior to the adoption date of this Ordinance shall be subject to the requirements of this Ordinance, Article 65 (Non-Conforming Use) and require a conditional use permit. In the event of a denial of such application, the home occupation or one or two person business shall be allowed to continue as originally approved, as a nonconforming use.

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SHORT-TERM RENTALS

Section 53.40 Purpose

The purpose of this section is to regulate short-term rentals to protect the integrity of resource lands, to monitor and provide reasonable means for citizens to mitigate impacts created by occupancy of short-term rentals, and to protect the public health, safety and general welfare of individuals and the community at large.

Use Table

Short-term rentals are permitted as specified for each of the different zoning districts, subject to the following review Type and regulations:

Table 53.40 Summary of Use Table for Short-Term Rentals

Zoning	Review Type ¹	Subject To ²
Forest		
Forest Zone (F-1)	C (Type II)	Article 4; Section 4.05
Primary Forest Zones (F-2)	P	
Exclusive Farm Use (EFU); High Value	C (Type II)	Article 3; Section 3.05
Exclusive Farm Use (EFU); Non-High Value	C (Type II)	Article 3; Section 3.05
Residential (R-1)	Type I	
Rural Residential (RR)	Type I	
Hood River Urban Growth Area (UGA)		Article 17
Commercial (C-1)	Type I	
Rural Center (RC)	Type I	
Rural Unincorporated Community (RUC-1)	Type I	
Mt. Hood Unincorporated Community Commercial (MH-C1)	Type I	
Industrial (M-1)	P	
Industrial (M-2)	P	
Airport Development (AD)	P	
Natural Area (NA)	P	
Overlays: SPO, EP, FP, GH, HHO	P	
National Scenic Area		Article 75

¹ “P” means the use is prohibited.

² “Subject To” column identifies certain provisions to which the use is subject.

* Permitted uses are subject to the applicable short-term rental provisions (Sections 53.45 -

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53.55) and other applicable Articles of the *Hood River County Zoning Ordinance*.

Section 53.45 Permit Required

An owner shall obtain a revocable short-term rental permit prior to using a dwelling unit as a short-term rental and shall comply with the following requirements:

- A. No more than 100 short-term rental permits shall be issued by the county at any one time; no more than 25 of the 100 permits issued shall be on resource zoned land.
- B. Only one short-term rental per parcel shall be permitted.
- C. The short-term rental permit shall be renewed every two-years by December 31 thereafter. Failure to maintain and renew the short-term rental permit shall be considered abandonment of use.
- D. The short-term rental permit is not transferable to a new owner. If the property is transferred or sold, the new owner will need to re-apply for a short-term rental permit.
- E. The short-term rental permit does not relieve the owner of the obligation to pay County Transient Room Taxes (TRT) and personal property tax. Non-compliance will result in revocation of the permit.
- F. No recreational vehicle, travel trailer, or tent or other temporary shelter shall be used in conjunction with the short-term rental. No occupancy of a parked vehicle or trailer in conjunction with the short-term rental is permitted.
- G. The Planning Director or designee may visit and inspect the site of a short-term rental on a prescribed schedule to ensure compliance with all applicable regulations, during normal business hours, and with reasonable notice and other procedural safeguards as necessary.
- H. If the terms of the short-term rental permit are not met, the permit may be revoked and the owner subject to enforcement and Class I or Class II penalties per Article 1 or any amendments thereto.
- I. The county will monitor and enforce unpermitted short-term rentals through periodic review and audits. An unpermitted short-term rental is subject to enforcement, and Class I or Class II penalties per Article 1 of this ordinance, Chapter 1.08 (Code Enforcement), Chapter 8.08 (Health and Safety) and Chapter 8.12 (Noise Code) of the Hood River County Code.

Section 53.50 Short-Term Rental Permit Application Requirements

An application for a short-term rental permit shall be completed on the form provided by the County and shall provide the following information:

- A. Property Owners - A list of all the property owners of the short-term rental including names, addresses and telephone numbers.
- B. Affidavit of Adjacent Property Owner Notification – The applicant of a short-term rental shall provide, in writing to adjacent neighbors within 250-feet, a local telephone number,

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name, and address of a property manager who will accept and handle complaints immediately relating to tenant activities. Notice for applications in resource zones shall be provided in accordance requirements identified in ORS 215 et seq.

- C. Site Plan - A site plan, drawn to scale, showing the location of buildings, septic systems and required parking.
- D. Floor Plan - A floor plan identifying the number of bedrooms proposed for use.
- E. Property Management Plan - A property management plan demonstrating how the short-term rental will be managed and how impacts to neighboring properties will be minimized; specifically, nuisances, parking and garbage. The property management plan shall also include the name, address and telephone number of local points of contacts available to respond immediately to complaints and promptly remedy any violation of these standards.
- F. Environmental Health – Issue Authorization Notice to use Existing Septic System per OAR 340-071-0205. Review of Drinking Water source per OAR 333-061 and Travelers’ Accommodation Licensing per ORS 446.320.
- G. Assessor – Proof County Assessor has been notified.
- H. TRT – Proof of registration for County TRT certificate.
- I. Building Safety – Satisfactory completion of an inspection performed by the Hood River County Building Department.
- J. Proof of Insurance – Include certification of insurance coverage.
- K. Certify Accuracy - Certification of the accuracy of the information submitted and agreement to comply with the conditions of the permit.
- L. Other - Other information as requested by the County.

Section 53.55 Short-Term Rental Standards

All short-term rentals shall meet the following standards:

- A. Resource Lands (EFU and F-1 Forest zones) – Short-term rentals shall be operated within the primary dwelling of the subject property. It shall be occupied and operated by a resident of that dwelling. The primary use of the dwelling will remain residential and shall not be rented out a predominance (i.e., more than 180 days) of the year. Outbuildings, including agricultural buildings, farm worker housing and other lawful dwellings on the property, shall not be converted to short-term rentals. The STR shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
- B. Appearance and Identification - The exterior of the building shall retain a residential appearance with house numbers maintained on the front of the building and visible from the street or road. No junk or garbage shall be allowed to accumulate in any yards and all vehicles shall park in designated parking areas.
- C. Occupancy Limits - The maximum occupancy for each short-term rental unit shall be

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calculated on the basis of two (2) persons per bedroom, plus two additional overnight occupants. On properties containing both a residential dwelling and an accessory residential dwelling, only one residential structure may be rented out as a short-term rental, but not both.

- D. Parking - The short-term rental shall have one onsite parking space per each bedroom unit with a minimum of two parking spaces required. If the garage is to be utilized to meet the parking requirement, a photo of the interior of the garage shall be submitted to show the garage is available for parking. The garage shall continually be available for guest parking as long as the short-term rental permit is valid.
- E. Access - Road access to the short-term rental shall meet minimum county road standards and shall be adequately maintained and remain clear of obstructions, including illegally parked cars, recreational vehicles, boats, trailers, junk, etc., to ensure the unimpeded passage of emergency vehicles and other vehicular traffic.
- F. Nuisances and Garbage - The short-term rental shall be operated in a way that will prevent disturbances to neighboring properties not typical of a residential neighborhood, including, but not limited to: loud music and noises, excessive traffic, junk/debris accumulation in the yards, garbage removal, trespassing, or excess vehicles, boats or recreational vehicles parked in the streets in front of the rental. Said provisions shall be documented in the Property Management Plan.
- G. Pets - Pets shall be secured at all times while on the property and nuisance barking by pets is prohibited.
- H. Signage - No on or off-premise signage advertising the short-term rental is permitted.
- I. License and Permit Requirements - The short-term rental permit and permit number issued by Hood River County shall be prominently and permanently displayed inside the unit near the front entrance of the rental and shall list the name, address and phone numbers of the property owner or the designated local contact. The permit number shall also be display in all advertising.
- J. Federal, State & Local Laws - The short-term rental shall meet all applicable State and local health, safety laws and building codes.
- K. Other - Other conditions may be imposed, such as additional parking, improved access, fencing, landscaping, or minimum screening to ensure the proposed use is compatible with the surrounding residential character.

Section 53.60 Compliance

All complaints shall proceed as follows:

- A. The complaining party shall first attempt to communicate with the local contact person designated on the permit and property management plan, describe the problem and leave a contact phone number for call back information;
- B. The contact person shall respond promptly to the complaint, regardless of time of day,

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and make reasonable efforts to remedy any situation that is out of compliance with the permit;

- C. If the response is not satisfactory to the complaining party, then the complaining party may next provide a written complaint to the County Planning Department and Code Compliance program, which complaint shall identify and be signed by the complaining party. The complaint shall include a description of the informal attempts to resolve the complaint. A copy of the written complaint shall be provided to the owner and contact person by the county; and
- D. The County Planning Department/Code Compliance program shall attempt to resolve the complaint. If so required, the owner or local contact person shall provide a written response to the complaint with the anticipated corrective action within 10 days. A copy of the complaint will be filed with the short-term rental permit.
- E. A permitted short-term rental is subject to enforcement, and Class I or Class II penalties per Article 1 of this ordinance, Chapter 1.08 (Code Enforcement), Chapter 8.08 (Health and Safety) and Chapter 8.12 (Noise Code) of the Hood River County Code.

Section 53.65 Revocation

A permit for a short-term rental may be revoked subject to the procedures identified Article 1 Section 1.140 Extensions, Enforcement/Revocation. The Planning Director may immediately revoke all short-term rental permits from the owner upon three (3) violations of the permit or this Article.

MARIJUANA BUSINESSES

Section 53.70 Purpose & Intent

This section describes the requirements for establishing marijuana businesses, including all medical and recreational marijuana production, processing, wholesaling, and retail uses in Hood River County. The purpose of this section is to:

- Establish reasonable time, manner and place requirements for new business that produce, process, wholesale or retail marijuana.
- Provide clear and objective standards for marijuana businesses.
- Minimize conflict with other permitted uses in underlying zones.
- Protect resources identified in the Hood River County Comprehensive Plan.
- Protect the public health, safety, and general welfare of the citizens of the county.

Section 53.75 Applicability

In construing this section, related provisions of state law and administrative rule provide relevant context. These regulations shall not apply to:

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- Personal use of marijuana.
- Any Marijuana Business, structure or building legally established prior to the adoption of this article.
- Any marijuana retailer that applied for a registration with the Oregon Health Authority and has subsequently obtained full, unconditional approval prior to the adoption of this article.

The alteration, expansion or replacement of a Marijuana Business will be subject to this section.

Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses:

- A. More than one marijuana business established on the same parcel. This does not preclude a single business from maintaining more than one (1) type of license or permit.
- B. New dwellings used in conjunction with a marijuana crop.
- C. A farm stand, as described in ORS 215.283(1)(o), used in conjunction with a marijuana crop.
- D. A commercial activity, as described in ORS 215.283(2)(a), carried on in conjunction with a marijuana crop.
- E. Marijuana production, processing, wholesaling and retailing are not permitted in conjunction with a home occupation, Bed & Breakfast or winery.

Section 53.80 Definitions

Marijuana Processing - The processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority; excludes packaging or labeling.

Marijuana Production / Grow - The manufacture, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Liquor Control Commission, or registered with the Oregon Health Authority and is a “person designated to produce marijuana by a registry identification cardholder.”

1. Outdoor Production means producing marijuana:
 - (a) In an expanse of open or cleared ground; or
 - (b) 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.

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2. Indoor Production means producing marijuana in any manner:
- (a) Utilizing artificial lighting on mature marijuana plants; or
 - (b) Other than “outdoor production,” as that is defined in this section.

Marijuana Retailing - The sale of marijuana items to a consumer, provided that the marijuana retailer is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.

Marijuana Wholesaling - The purchase of marijuana items for resale to a person other than a consumer, provided that the marijuana wholesaler is licensed by the Oregon Liquor Control Commission.

Section 53.85 Use Table & Procedures

Table 53.85 below identifies the marijuana uses permitted as specified for each of the different zoning districts, subject to the review Type and regulations.

As used in the Table “P” means the use is prohibited; including new agriculture dwellings to support the commercial growing of marijuana, farm stands to sell marijuana products, and commercial activities in conjunction with marijuana on EFU.

As used in the Table “A” means the use is allowed outright subject to the general provisions set forth by this ordinance and do not require land use review.

Type I (Ministerial Action) and Type II (Non-Ministerial or Administrative Action) are review types defined in Article 3 - Definitions.

Table 53.85 Summary of Use Table for Marijuana Businesses

Zoning District	Production / Grow	Processing	Retailing
Forest (F-1 & F-2)	Type I	P	P
Exclusive Farm Use (EFU)	Type I	Type II ¹	P
Residential (R-1)	P	P	P
Rural Residential (RR)	P	P	P
Hood River UGA	See Article 17	See Article 17	See Article 17
Commercial (C-1)	P	P	Type II
Rural Center (RC)	P	P	P
Rural Unincorporated Community (RUC-1)	P	P	P
Mt. Hood Unincorporated Community	P	P	P

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Zoning District	Production / Grow	Processing	Retailing
Commercial (MH-C1)			
Industrial (M-1)	Type I ²	Type II	P
Industrial (M-2)	Type I ²	Type II	P
Airport Development (AD)	Type I	P	P
Natural Area (NA)	P	P	P
Overlays: SPO, EP, FP, GH, HHO	P	P	P
National Scenic Area	P	P	P

¹ Processing products and floor area subject to ORS 215.283(1)(r), as amended.

² Indoor production is permitted; outdoor production is prohibited.

* Wholesaling, specific to products grown off-site, is prohibited.

* Permitted uses are subject to the applicable provisions Section 53.90 – 53.95 and other applicable Articles of this *Ordinance*.

Section 53.90 Marijuana Business Standards

A Marijuana Business reference in Table 53.85 above shall be subject to the following standards and criteria:

- A. Minimum Yard Depth & Setbacks (EFU and Forest Zones) - Outdoor marijuana canopies, buildings and structures used for indoor or outdoor marijuana production, and buildings and structures used for marijuana processing in the EFU and Forest zones shall be located at least 50-feet from any property line or a greater distance of 80-feet from an existing dwelling situated on neighboring property. The distance shall be measured using a straight-line extending horizontally from the nearest part of the canopy area or building or structure used for marijuana production or marijuana processing to the point nearest to any property line.

Marijuana production or processing on resource zones shall be located a minimum of 1,000-feet from a licensed school, daycare facility, publicly owned park or recreational use area or facility. The measurement shall be made using a straight line extending horizontally from the closest point anywhere on the property line of the subject property to the closest property line of the affected property.

- B. Access – The subject property shall have frontage on, or direct access from, a constructed public, county, or state road, and take access on a road or easement serving the subject property. Road access to the marijuana business shall meet current county

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road standards and shall be adequately maintained and remain clear of obstructions.

- 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 Liquor Control Commission or registration requirements of the Oregon Health Authority.

- D. Lighting - Lighting shall be regulated as follows:
 - 1. Light cast by light fixtures (i.e., artificial lighting) inside any structure or building used for marijuana production or processing shall use adequate light barriers to ensure article lighting is not visible from adjacent properties. Example of light barriers include: light deprivation greenhouses or similar technologies, fully shielded and directional lights, retractable shade clothes, not-transparent building materials, and landscaping or other natural features.
 - 2. Outdoor marijuana grow lights shall not be illuminated during the period commencing 30 minutes before sunset and ending 30 minutes after sunrise the following date.
 - 3. Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall be downcast, shielded and hooded, and not spill onto adjacent lots.

- E. Odor – Industrial Zones: Marijuana production and processing in the M-1 and M-2 zones is allowed if the building or structure is equipped with a charcoal, air filtration system or a building design that mitigates marijuana odor. The marijuana producer or marijuana processor must operate and maintain the filtration system in a manner such that no more than faint odor and no pungent odors are detectable from the property line.

- F. Fences, walls or other barriers
 - 1. Shall be limited in area by being located no more than 20-feet in any direction from the outer extent of all areas used for Marijuana Business activities, including but not limited to buildings, structures, outdoor marijuana canopies, and areas used for off-street parking, loading, and storage.
 - 2. Shall not be electrified, use barbed wire, razor wire, concertina coils, anti-climb spikes or any other similar security feature designed to discourage ingress through the potential of causing bodily harm.
 - 3. Shall not include plastic sheeting, knitted polyethylene, woven polypropylene, vinyl coated polyester, or similar materials.
 - 4. Development standards of that zone shall apply (e.g., height and vision clearance).

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- G. Water - The applicant shall submit proof of a legal water source for the proposed marijuana production or marijuana processing. Proof could include, but is not limited to, a copy of a water right that serves the proposed use or a letter from the irrigation district, municipal water provider or the Watermaster.

SECTION 53.95 Marijuana Retailing

Marijuana retailing shall be subject to the following standards and criteria:

- A. Hours & Window Service - A marijuana retailer may only sell to consumers between the hours of 8:00 a.m. and 8:00 p.m. and may only permit consumers to be present in the building space occupied by the marijuana retailer between the hours of 8:00 a.m. and 8 p.m. The use shall not have a walk-up window or drive-thru window service.
- B. Odor - A marijuana facility shall be equipped with a carbon or charcoal filtration system for odor control.
1. The system shall consist of one or more fans and filters.
 2. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) sufficient to scrub or purge the facility total interior air volume, minus sealed grow rooms and non cannabis areas like offices, once per hour.
 3. The filter(s) shall be rated for the required CFM.
 4. The filtration system shall be maintained in working order and shall be in use.
 5. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the charcoal filtration system otherwise required.
- C. Co-Location of Related Activities and Uses - Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.
- D. Minimum Separation Distances - A Marijuana Retail Business shall be located a minimum of 1,000 feet from:
1. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.020, including associated property and parking lot;

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2. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including associated property and parking lot;
3. A licensed daycare facility or preschool, including associated property and parking lot;
4. A public park, public playground, government-owned recreational use area or facility, public library, living history museum, community centers, licensed treatment center, or multifamily dwelling owned by a public housing authority;
5. Other marijuana retailer of the same type (e.g., recreational or medical);

The measurement shall be made using a straight line extending horizontally from the closest point anywhere on the property line of the Marijuana Business property to the closest property line of the affected property.