

ZDO-271 – Marijuana Production License Limits FAQs

Clackamas County is considering amendments to its Zoning and Development Ordinance (ZDO) to limit the number of licensed marijuana production premises and registered grow sites per tract in the Ag/Forest (AG/F), Exclusive Farm Use (EFU), or Timber (TBR) zoning districts. The proposed amendments in File ZDO-271 can be viewed [online here](#).

What would ZDO-271 do, if adopted by the Board of County Commissioners?

ZDO-271 would limit a tract in the AG/F, EFU, and TBR zoning districts to only one premises licensed for marijuana production by the Oregon Liquor Control Commission (OLCC) or only one medical marijuana grow site registered by the Oregon Health Authority (OHA).

What is a “tract”?

For the purposes of administering the County’s marijuana land use regulations, a “tract” is defined by Section 202 of the County’s Zoning and Development Ordinance (ZDO) [online here](#) as one or more contiguous lots of record under the same ownership.

What is a “lot of record”?

A “lot of record”, as also defined by Section 202 of the ZDO, is a lot, parcel, other unit of land, or combination thereof, that conformed to all zoning and Subdivision Ordinance requirements and applicable Comprehensive Plan provisions, in effect on the date when a recorded separate deed or contract creating the lot, parcel, or unit of land was signed by the parties to the deed or contract; except:

1. Contiguous lots under the same ownership when initially zoned shall be combined when any of these lots, parcels or units of land did not satisfy the lot size requirements of the initial zoning district, excluding lots in a recorded plat.
2. A unit of land created solely to establish a separate tax account, or for mortgage purposes, that does not conform to all zoning and Subdivision Ordinance requirements and applicable Comprehensive Plan provisions, in effect on the date when a recorded separate deed, tax account or contract creating it was signed by the parties to the deed or contract, unless it is sold under the foreclosure provisions of Chapter 88 of the Oregon Revised Statutes.

What if more than one OLCC-licensed premises or OHA-registered grow site is already located on a single tract?

Multiple OLCC-licensed production premises and/or OHA-registered grow sites already located on a single tract may be considered a “legal nonconforming” use (sometimes referred to as a “grandfathered right”) if the proposed amendments in ZDO-271 are adopted. Under state law and Clackamas County [ZDO Section 1206](#), the lawful use of any building, structure, or land at the time of the enactment or amendment of any zoning ordinance or regulation may be continued.

However, a marijuana production land use permit issued from Clackamas County may not, on its own, be sufficient to establish a legal nonconforming use right to multiple licensed premises and/or registered grow sites, no matter how much marijuana production area was authorized in that land use permit, particularly if multiple licensed premises and/or registered grow sites are not already located on the subject tract. Moreover, future changes to federal or state law beyond the County’s control could affect the status of marijuana production, which may in turn affect marijuana-related nonconforming uses.

Would ZDO-271 make other changes to the County’s marijuana land use regulations?

No other substantive changes to the County’s marijuana land use regulations are proposed in ZDO-271. However, ZDO-271 would clarify – but not substantially change – marijuana production and processing requirements related to: the qualifications of an engineer conducting odor mitigation or acoustical studies; the equipment subject to noise standards; the use of shared access easements and private drives; and structural setbacks. Housekeeping edits are also proposed to conform ZDO Section 841 to the format of other 800-series sections in the ZDO.

Would ZDO-271 limit the number of licensed premises and registered grow sites per tract in zoning districts other than the Ag/Forest (AG/F), Exclusive Farm Use (EFU), or Timber (TBR) zoning districts?

No. The proposed limitations would only affect property zoned AG/F, EFU, or TBR. The other zones where licensed/registered marijuana production is permitted already have significant limitations on the scope of such production, including a prohibition on outdoor production and limits on the building square footage that may be used.