

**W**hen Oregon legalized recreational marijuana in 2015, the state Legislature gave counties and cities the responsibility of setting standards for the industry. Local governments can restrict where and how marijuana can be grown and sold, or choose to opt out of the recreational weed market completely.

Local control gives communities the power to shape the growing industry, but also places a burden on the agencies that manage land and water use decisions and deal with disputes between neighbors.

## LOCAL CONTROL

Statewide, 77 cities have prohibited recreational marijuana, including Coburg, Creswell and Junction City in Lane County. Of the 36 counties in Oregon, 16 have decided to not allow marijuana production. A Eugene attorney seeking to sell marijuana in Creswell is seeking to challenge that city's decisions (see "Pot Petition," EW July 27).

Jackson, Josephine, Lane and Clackamas counties account for nearly 60 percent of the recreational grow applications in the state. The Oregon Liquor Control Commission (OLCC) is in charge of the recreational marijuana permitting program. Jackson and Josephine counties have the highest totals because the climate in southern Oregon is ideal for marijuana cultivation and because there is a history of growing in the area.

Lane County has the third-most producer applications, at 211. According to OLCC documents, 93 of the 211 applications for marijuana production in Lane County have been approved. The remaining 118 are either in the process of being reviewed, not yet assigned to an investigator or lack local land use approval.

OLCC documents show there are more producer licenses awaiting review or not yet assigned to an investigator than there are approved licenses. A major influx of applications is stretching OLCC's ability to manage the program.

Jason Boyer, an owner and administrator of Wild West Growers in Eugene, says producers often don't realize how lengthy the licensing process can be. He says it takes between two and six months to be assigned an OLCC inspector.

Boyer says it's important that growers meet permit requirements, including 8-foot high fences, security plans and surveillance systems, before inspectors come.

"You need to look ahead and have your growing system ready," Boyer says. He knows growers who didn't get their licenses on time and lost out on valuable growth for their plants.

To be a large-scale professional producer "people need to know the actual expense," Boyer says. Entry into the statewide recreational marijuana production business

requires an initial investment of at least \$250,000 to set up a successful grow that meets OLCC and local compliance standards, he says.

Rob Bovett, legal counsel for the Association of Oregon Counties, says that because land use law in Oregon is implemented on a county-by-county basis, there's little consistency for recreational growers.

"If you've seen one county's land use plan, you've seen just that — one plan," Bovett says.

In Lane County, growing marijuana is allowed without additional land use permits on forest and agricultural land and with additional provisions in industrial and residential commercial zones.

Proponents of the industry would like to see recreational grows permitted in rural residential zones because those lands are generally available in smaller parcel sizes than forest and farmland.

But rural residents have raised concerns that having the cash-dominated businesses in their neighborhoods could contribute to crime and that heavy summer water demand for the crop could tax already overworked wells.

According to Lane County spokesperson Devon Ashbridge, the county has seen an estimated 20 percent increase in questions to land managers regarding marijuana since legalization. The county has also seen an increase in marijuana related land use complaints.

Unlike Lane County, Eugene treats marijuana businesses like any other commercial, industrial or agricultural enterprise. Boyer of Wild West Growers says the city has been helpful and responsive in the permitting and inspections process.

In Jackson County, which has the highest number of OLCC permit applications, recreational marijuana grows are allowed on 94 percent of privately owned lands in a county with notoriously little police and public services. Like Lane County, Jackson County does not allow recreational marijuana grows in rural residential areas.

Josephine County, which has the second most OLCC recreational applications, allows recreational production in rural residential zones.

Differences in county rules fit the law's intent to allow local control, according to Rob Bovett. As part of his work for AOC, he has lobbied for counties to keep local control and options. Bovett sees the current laws as an effective way of maintaining decision-making authority in local hands.

Corinne Celko, a lawyer with the Emerge Law Group in Portland, says implementing the new system has been difficult because there are different and at times conflicting laws and regulations, from the federal government all the way down to counties and cities.

She says local planning and building divisions, which in many cases are already stretched thin in terms of resources,

have a difficult time sorting out the rules that govern the fledgling industry. How best to regulate and permit legalized marijuana businesses is "a novel question that's not easily answered for the growing industry," Celko says.

## WATER FOR WEED

The budding industry has also increased the workload for the Oregon Water Resources Department (OWRD), which must certify that growers have legal water rights under the OLCC licensing process. From 2015 to 2016 groundwater applications in the Rogue Basin of southern Oregon more than doubled.

Racquel Rancier, the senior policy coordinator for OWRD, says the laws that govern water access aren't different for marijuana than any other crop.

"The water rights process is a public process," Rancier says. Considerations for granting water permits include impacts on existing water users and making sure the process offers multiple avenues for public comment and objections from neighboring water users.

The rapid growth of the industry, especially in southern Oregon, has led "to an increase in complaints and concerns from neighbors about water use," Rancier says.

## BE A GOOD NEIGHBOR

Opponents of legalization and neighbors unhappy about the skunky crop growing next door have brought several legal cases against recreational marijuana growers.

In Clackamas County, landowners are bringing racketeering charges against neighboring growers aimed at enforcing federal RICO (Racketeer Influenced and Corrupt Organizations) laws. Vineyard owners in Yamhill County have sought to block a neighboring weed grow over complaints about the scent tainting their grapes (See "Into the Weeds with Wine," EW July 13).

These complaints come against a backdrop of increased federal scrutiny of legalized marijuana by Attorney General Jeff Sessions. Of particular concern to Sessions is an Oregon State Police report that pointed out that the state was over-producing marijuana and contributing to the black market in other states.

Despite the multiple hoops growers have to jump through, and the somewhat shaky legal ground they grow on, the marijuana business is booming in Oregon. In the 2016 to 2017 fiscal year, the industry contributed more than \$70 million in taxes to state coffers.

The greatest obstacle recreational growers face likely isn't a law but rather their relationships with neighbors.

Lawyer Celko says the most important advice she can give to clients is "to be active in your local government rule-making process and to become involved in the community in which you desire to do business."



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