



MEMORANDUM

TO: Deschutes County Planning Commission
FROM: Tanya Saltzman, AICP, Senior Planner
DATE: June 16, 2022
SUBJECT: Measure 109 / Psilocybin

The purpose of this memorandum is to update the Planning Commission on the Board of County Commissioners' (Board) direction concerning Measure 109/psilocybin. On June 13, 2022, the Board directed staff to hold a public hearing on July 13 for an ordinance referring an opt out of the psilocybin program to voters in the November 2022 general election.¹ A summary of the proceedings leading up to this decision is provided below.

On June 1, 2022, staff provided the Board with an overview of Measure 109, which legalized psilocybin in Oregon subject to the criteria noted in the measure and subsequent rulemaking.² The memorandum (footnoted below) provided an introduction to the origin of the measure, the types of licenses that will be available, the role of the Oregon Health Authority (OHA) and its committees, and the rulemaking process. During the discussion, staff noted the compressed timeline: OHA is currently in the process of rulemaking, which may not be complete until December 2022, yet OHA is due to begin accepting applications for licenses on January 2, 2023. As noted, OHA licenses will require a Land Use Compatibility Statement (LUCS) to be issued by the County. This timeline places the Board—as well as the industry and the public—in a difficult position of not knowing key aspects of the program in advance of the program beginning.

Measure 109 does contain limited basic criteria pertaining to land use. For instance, psilocybin service centers may not be located within 1,000 feet of elementary or secondary schools (500 feet if there is a physical or geographic barrier), and manufacturing facilities may not be located outdoors. Staff continues to monitor the rulemaking process and is coordinating with Association of Oregon Counties as well as the Department of Land Conservation and Development on any pertinent developments to the program.

As noted in Measure 109, counties are automatically opted in to the psilocybin program, but counties can refer an opt out measure to the voters in the next general election. In consultation with Legal Counsel, staff has determined that given the associated timelines, it was necessary for the Board to determine as soon as possible if it wanted to refer an opt out ordinance to the voters on November 8.

¹ <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-60>

² <https://www.deschutes.org/bcc/page/board-commissioners-meeting>

Proceeding with an opt out ballot measure requires several steps in order to file a ballot title with the County Clerk by the required August 19 deadline, including a public hearing to consider an opt out ordinance (ORS 475A.718(1)), and adequate public notice for that hearing. Given that OHA rulemaking is not expected to be complete until the end of the year and therefore no new information on the program is expected in the near future, staff chose to elevate this decision point to the Board to ensure enough time for the ballot measure process, if that option was selected.

Next Steps

As noted above, the Board determined at its June 13 meeting that it would like to hear from the public about a potential opt out measure. A public hearing with the Board will be held on July 13 on an ordinance referring the matter to the November general election. It should be noted that this is not a land use hearing about any proposed development regulations governing psilocybin, but rather a hearing to solicit input on allowing the public to vote its preference for either moving forward with the psilocybin program or opting out of the program. Staff will continue to update the Planning Commission as the process proceeds.