



**MEMORANDUM**

**TO:** Deschutes County Board of Commissioners

**FROM:** Tanya Saltzman, AICP, Senior Planner

**DATE:** August 12, 2021

**SUBJECT:** Preparation for Public Hearing: Marijuana Retail Hours and Annual Reporting Text Amendments

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Staff will present proposed text amendments to the Board of County Commissioners (Board) on August 16, 2021, in preparation for an August 25 public hearing concerning legislative amendments to 1) extend the permitted hours for marijuana retail businesses and 2) modify marijuana annual reporting requirements.

Staff submitted a 35-day Post-Acknowledgement Plan Amendment (PAPA) notice to the Department of Land Conservation and Development (DLCD) on June 9, 2021. Staff initially brought these issues to the Planning Commission for a preliminary discussion on May 13,<sup>1</sup> and had a subsequent discussion with the Board of County Commissioners on May 24,<sup>2</sup> at which time the Board directed staff to initiate the text amendment process. Staff held a public hearing before the Planning Commission on July 22, 2021, at which time the Planning Commission recommended approval with minor clarifications that are noted below. Staff has provided the proposed amendments and findings as part of draft Ordinance No. 2021-011 (attached), as well as record documents prior to this work session.

**I. BACKGROUND**

Both components of the proposed legislative amendments initially began with requests from Deschutes County property owners.

The Board received a request from a marijuana retailer to adjust marijuana retail hours of operation in rural Deschutes County. Deschutes County Code 18.116.330(C)(1) currently permits hours of operation from 9 a.m. to 7 p.m. for marijuana retail; however, the OLCC permits hours of operation from 7 a.m. to 10 p.m. This discrepancy may put these businesses at a competitive disadvantage, as

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<sup>1</sup> [https://deschutescountyor.iqm2.com/Citizens/Detail\\_Meeting.aspx?ID=2770](https://deschutescountyor.iqm2.com/Citizens/Detail_Meeting.aspx?ID=2770)

<sup>2</sup> [https://deschutescountyor.iqm2.com/Citizens/Detail\\_Meeting.aspx?ID=2701](https://deschutescountyor.iqm2.com/Citizens/Detail_Meeting.aspx?ID=2701)

retail operations within Bend and La Pine city limits generally adhere to OLCC guidelines.<sup>3</sup> As one local business owner has described, the more restrictive hours may be having an impact on profit and opportunities to hire more staff. There are currently two marijuana retail businesses in unincorporated Deschutes County—one near La Pine and the other just outside of Sunriver.

The Board also received a request from a marijuana producer to modify or remove annual reporting and inspection requirements for marijuana-related businesses to reduce redundancies for business owners and operational capacity strains on staff.

In its current form, annual reporting by marijuana establishments—which requires applicants to document their satisfaction of their conditions of land use approval—is submitted to the Community Development Department (CDD) by February 1 of each year, including the applicable fee (\$796 in 2020) for those businesses with licenses, and a fully executed Consent to Inspect Premises form. Staff then reviews and logs those annual reports and uses them as a basis for a site visit in the summer/fall to verify observable conditions of approval, such as odor and noise mitigation systems, water source, and other criteria. For 2021, staff anticipates conducting site visits for approximately 34 businesses throughout the county. In reporting years 2018, 2019, and 2020, staff observed 100 percent compliance with observable conditions of approval, and for those with local approval but still in the queue for their OLCC license, staff verified that none of them were producing marijuana.

OLCC, the licensing authority for recreational marijuana, performs its own “proactive compliance inspections” of marijuana businesses, which address some of the same land use conditions that Deschutes County monitors, as well as items such as harvest weight and worker compliance.

## II. PROPOSAL

The proposed text amendments are as follows:

- DCC 18.116.330(C)(1): Changes hours of operation for marijuana retailing from 9:00 a.m. – 7:00 p.m. to 7:00 a.m. – 10:00 p.m., in line with OLCC hours.
- DCC 18.116.330(D)(1): Adds text to state “**If directed by the Board of County Commissioners**, an annual report shall be submitted to the Community Development Department...” (new text indicated in bold type).

The applicant, in this case Deschutes County Community Development, has submitted findings summarizing the amendments and stating that the text amendments are in compliance with the Statewide Planning Goals, and applicable policies of the Deschutes County Comprehensive Plan.

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<sup>3</sup> <https://potguide.com/oregon/marijuana-dispensaries/bend/>. Operating hours for dispensaries in Bend range from 8:00 a.m. to 8:00 p.m.; 8:00 a.m. to 9:00 p.m., 8:00 a.m. to 9:50 p.m., 8:00 a.m. to 10:00 p.m., 9:00 a.m. to 9:00 p.m. 9:00 a.m. to 10:00 p.m., 10:00 a.m. to 6:00 p.m., 12:30 to 8:30 p.m., and various times in between. There are three dispensaries in La Pine; operating hours range from 9:00 a.m. to 9:00 p.m., 9:00 a.m. to 10:00 p.m., and 10:00 a.m. to 9:00 p.m.

### **III. PLANNING COMMISSION HEARING AND RECOMMENDATION**

A public hearing was held before the Planning Commission on July 22, 2021. Prior to the hearing one written comment was received in support of the extension of retail hours:

- Matt Hurt, COO, Constellation Holdings LLC dba Cannabis Nation

During the public hearing, one individual representing a marijuana retail business in Deschutes County provided oral testimony in support of the retail hour extension.

At the conclusion of the staff presentation, the Planning Commission closed the oral and written record, and then deliberated. The Planning Commission voiced its strong support for the extension of retail hours, noting that the existing hours provided a competitive disadvantage to businesses in the unincorporated county. Concerning the annual reporting requirements, the original language provided to the Planning Commission was viewed as too general: the original version read “An annual report shall be submitted, if requested, to the Community Development Department...” As such, the Planning Commission requested staff to refine the wording to reflect that annual reporting would be undertaken by staff if directed by the Board of County Commissioners. With this request for clarifying language, the Planning Commission voted unanimously (5-0; one absent, one vacancy) to recommend approval of the proposed amendments.

### **IV. ADOPTION BY EMERGENCY**

Staff has provided two draft ordinances for Board consideration—one for adoption by emergency, and one for non-emergency. While the type of adoption will likely have no measurable effect on changes to annual reporting requirements, which are usually initiated by staff in December, the effective date of an adopted ordinance has the potential to affect the operations of retail businesses in the unincorporated County.

### **V. NEXT STEPS**

A public hearing with the Board is scheduled for August 25, 2021.

#### **Attachments:**

1. Draft Ordinance No. 2021-011 - Emergency
2. Draft Ordinance No. 2021-011 – Non-Emergency
3. Corresponding Exhibits to Ordinance No. 2021-011:
  - Exhibit A – DCC Chapter 18.116, Supplementary Provisions
  - Exhibit B – Findings

#### **Full Record:**

2021-07-22 Planning Commission Public Hearing Packet  
2021-07-21 Public Comment - Hurt  
2021-07-08 PC Work Session Packet  
2021-06-09 DLCD Confirmation Email