

**MEMORANDUM**

TO: Deschutes County Planning Commission

FROM: Tanya Saltzman, AICP, Senior Planner

DATE: July 15, 2021

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

The Planning Commission will hold a July 22 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 13,¹ and had a subsequent discussion with the Board of County Commissioners on May 24,² at which time the Board directed staff to initiate the text amendment process. Staff presented the proposed amendments to the Planning Commission at a work session on July 8, 2021.³

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 retail operations within Bend and La Pine city limits generally adhere to OLCC guidelines.⁴ As one local business owner has described, the more restrictive hours may be having an impact on profit

¹ https://deschutescountyor.iqm2.com/Citizens/Detail_Meeting.aspx?ID=2770

² https://deschutescountyor.iqm2.com/Citizens/Detail_Meeting.aspx?ID=2701

³ https://deschutescountyor.iqm2.com/Citizens/Detail_Meeting.aspx?ID=2790

⁴ <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.

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 beginning in 2022 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 scheduled “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 “An annual report shall be submitted, **if requested**, to the Community Development Department...” (new text indicated in bold type).
 - Staff notes that during the Planning Commission work session, some commissioners discussed the option of providing more clarity in this added phrase; the Planning Commission may choose to address this during deliberations.

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.

III. NEXT STEPS

At the conclusion of the public hearing, the Planning Commission can:

- Continue the hearing to a date certain;
- Close the oral record and leave the written record open to a date certain;
- Close the oral record and the written record and set a date for deliberations; or
- Close the hearing and begin deliberations.

Attachments:

1. Proposed Text Amendments – DCC Chapter 18.116.330
2. Proposed Findings