



**MEMORANDUM**

**TO:** Deschutes County Board of Commissioners  
**FROM:** Tanya Saltzman, AICP, Senior Planner  
**DATE:** June 8, 2022  
**SUBJECT:** Measure 109 / Psilocybin

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The purpose of this memorandum is to follow up on staff's recent presentation to the Board of County Commissioners (Board) concerning psilocybin/Measure 109, and to receive direction for next steps.

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.<sup>1</sup> During the discussion, staff noted the compressed timeline: Oregon Health Authority (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 previously 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). Staff continues to monitor the rulemaking process and is coordinating with other 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 will be necessary for the Board to determine as soon as possible if it would like to refer an opt out ordinance to the voters on November 8.

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

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

is expected in the near future, staff has chosen to elevate this decision point to the Board to ensure enough time for the ballot measure process, if that option is chosen by the Board.

Staff requests Board direction on how to proceed. Staff will share a flowchart to outline the options surrounding a ballot measure (taking into account potential outcomes of a vote) versus allowing Measure 109 to proceed with the existing and forthcoming rules.