



**MEMORANDUM**

**TO:** Deschutes County Board of Commissioners

**FROM:** Peter Gutowsky, AICP, Director  
Will Groves, Planning Manager  
Tanya Saltzman, AICP, Senior Planner

**DATE:** July 20, 2022

**SUBJECT:** Measure 109 / Psilocybin / Time, Place, and Manner Amendments

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Staff seeks Board of County Commissioners' (Board) direction for the Community Development Department (CDD) to:

- Develop Time, Place, and Manner (TPM) amendments for psilocybin manufacturers and psilocybin service centers; and if so,
- Postpone until winter 2023 implementing either the Mule Deer Winter Range Inventory Update or Senate Bill (SB) 391, Rural Accessory Dwelling Units.

**I. BACKGROUND**

On July 13, 2022, the Board conducted an afternoon and evening hearing to consider Ordinance No. 2022-009, Referring a Measure to the Electors to Prohibit Product Manufacturers and Psilocybin Service Center Operators within Unincorporated Deschutes County.<sup>1</sup> The Board left the written record open until Monday, July 18, at 8:00 a.m. and on July 20, deliberated and adopted a first reading of Ordinance No. 2022-009. Second reading will occur on August 8. Upon second reading, it will be subject to Deschutes County voters for the November 8, 2022 General Election.

During deliberation the Board expressed interest in developing TPM amendments in the event voters reject prohibiting psilocybin manufacturing and psilocybin service centers in the unincorporated county. Amendments could be adopted by the end of the calendar year, prior to the Oregon Health Authority (OHA) accepting applications for licensure on January 2, 2023.

**II. EXISTING ZONING**

With no Psilocybin TPM regulations in place, existing zoning codes (DCC) would apply to psilocybin starting on January 2, 2023. As shown in Table 1 below, psilocybin production would be permitted

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<sup>1</sup> <https://mccmeetings.blob.core.usgovcloudapi.net/deschutes-pubu/MEET-Packet-6f352a4da40540c29c242c177aeb419e.pdf>.  
Action Item #7.

outright as a farm or agricultural use in eleven zones. Processing/manufacturing would be limited to three zones: Exclusive Farm Use (EFU), Rural Industrial and a Tumalo Industrial District and be subject to an administrative determination or site plan review. Psilocybin Service Centers would be limited to four zones, subject to a conditional use permit and site plan review.

**Table 1- Existing Code / Psilocybin Program**

Use	Zoning	Code
<b>Psilocybin Production</b>	EFU Zones	DCC 18.16.020 - Farm use is permitted outright.
	Multiple Use Agriculture	DCC 18.32.020 - Agricultural use is permitted outright.
	Forest Use Zone 1	DCC 18.36.020 - Farm use is permitted outright.
	Forest Use Zone 2	DCC 18.40.020 - Farm use is permitted outright.
	Open Space and Conservation Zone	DCC 18.48.020 - Farm use is permitted outright.
	Surface Mining Zone	DCC 18.52.030, - Farm use is permitted outright.
	Rural Residential	DCC 18.60.020 - Agricultural use is permitted outright.
	Rural Service Centers <sup>2</sup>	DCC 18.65.020, DCC 18.65.021, and 18.65.022 - Agricultural uses is permitted outright.
	Rural Commercial Zone <sup>3</sup>	DCC 18.74.020 & 18.74.027- Agricultural use is permitted outright.
	Urban Area Reserve	DCC 19.12.020 - Farm use is permitted outright.
Suburban Low Density Residential	DCC 19.20.020 - Agriculture is permitted outright.	
<b>Psilocybin Processing / Manufacturing</b>	Exclusive Farm Use Zones	DCC 18.16.025 - A facility for the processing of farm crops, is subject to an administrative determination and following standards: <ul style="list-style-type: none"> <li>The facility uses less than 10,000 square feet for its processing area and complies with all applicable siting standards. or</li> <li>Exception: A facility which uses less than 2,500 square feet for its processing area is exempt from any applicable siting standards.</li> </ul>
	Tumalo Industrial District	DCC 18.67.060 - Primary processing, packaging, treatment, bulk storage and distribution of agricultural products are permitted uses subject to site plan review.
	Rural Industrial Zone	DCC 18.100.010 - Primary processing, packaging, treatment, bulk storage and distribution of agricultural products are permitted uses, unless located within 600 feet from a residential dwelling, a lot within a platted subdivision, or a residential zone, subject to site plan review.
<b>Psilocybin Service Centers<sup>4</sup></b>	Rural Service Centers <sup>5</sup>	DCC 18.65.020, DCC 18.65.021, and 18.65.022 - Medical clinic is a conditional use.
	Terrebonne Commercial District	DCC 18.66.040 - Medical center in a building or buildings not to exceed 4,000 square feet or a conditional use.
	Sunriver Commercial District	DCC 18.108.050 - Medical clinic is a permitted use subject to site plan review.
	Sunriver Town Center District	DCC 18.108.055 - Medical clinic is a permitted use subject to site plan review.

<sup>2</sup> Rural Service Centers include: Brothers, Hampton, Millican, Whistlestop, Wildhunt, and Alfalfa.

<sup>3</sup> Rural Commercial Zones include: Deschutes Junction, Deschutes River Store, Pine Forest and Roseland.

<sup>4</sup> Psilocybin Service Centers<sup>4</sup> are not expressly identified in DCC. Applicants would be required to request a similar use authorization. DCC 18.116.010, Authorization of Similar Uses.

[https://deschutescounty.municipalcodeonline.com/book?type=ordinances#name=18.116.010\\_Authorization\\_Of\\_Similar\\_Uses](https://deschutescounty.municipalcodeonline.com/book?type=ordinances#name=18.116.010_Authorization_Of_Similar_Uses)

<sup>5</sup> See footnote 2.

### III. PSILOCYBIN TPM AMENDMENTS

Developing Psilocybin TPM amendments are not on CDD's FY 2022-23 Work Plan.<sup>6</sup> CDD recently initiated the Comprehensive Plan Update and a Transportation Growth Management (TGM) grant. The grant updates the Tumalo Community Plan and creates a Sisters Country Trails Plan. Two other high priority projects, the Mule Deer Winter Range Inventory Update and SB 391, Rural Accessory Dwelling Units (ADUs) involve amending the Comprehensive Plan and DCC. While staff has spent significant time coordinating and preparing findings for both, legislative amendments have not yet been initiated. Public hearings are anticipated for this fall. Additionally, long range planning staff continue to provide assistance to the Current Planning Section which is experiencing high volumes of land use applications and open positions.

To create capacity for CDD to initiate Psilocybin TPM amendments, the Board will need to postpone implementing either the Mule Deer Winter Range Inventory Update or SB 391 until winter 2023. Initiating Psilocybin TPM amendments requires significant staff time condensed over a five month period as noted below:

**Table 2 - Psilocybin TPM Schedule**

<b>Task</b>	<b>Timeline <sup>7</sup></b>
1. Present regulatory concepts at a Board work session that leads to a preferred alternative	August 8
2. Draft amendments and findings	August 8 - 24
3. 35-day DLCD Post Acknowledgement Plan Amendment Notice	August 25
4. Planning Commission Work Session	September 8
5. Planning Commission Public Hearing	September 29
6. Planning Commission Deliberation	October 13 and 27 if needed
7. Board Work Session	November 14
8. Board Hearing	November 28
9. Board Deliberation	December 5
10. Consideration of First Reading	December 14
11. Consideration of Second Reading	December 28
12. DLCD Notice of Adoption	December 28

### IV. BOARD DIRECTION

Consider directing CDD to:

- Develop Psilocybin TPM amendments for psilocybin manufacturers and psilocybin service centers; and if so,
- Postpone until winter 2023 implementing either the Mule Deer Winter Range Inventory Update or SB 391; or
- Other.

<sup>6</sup> [https://www.deschutes.org/sites/default/files/fileattachments/community\\_development/page/110/2022-23\\_work\\_plan\\_annual\\_report\\_-\\_final.pdf](https://www.deschutes.org/sites/default/files/fileattachments/community_development/page/110/2022-23_work_plan_annual_report_-_final.pdf). Pages 35-38.

<sup>7</sup> Dates are tentative.