



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Repealing Deschutes County
Ordinance No. 2018-012.

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ORDINANCE NO. 2019-012

WHEREAS, on October 24, 2018, the Board of County Commissioners (the "Board") adopted Ordinance No. 2018-012, revising the Deschutes County Code pertaining to marijuana production in unincorporated Deschutes County after a duly noticed public hearing on August 28, 2018; and

WHEREAS, twelve petitioners appealed Ordinance No. 2018-012 to the Land Use Board of Appeals ("LUBA") on February 12, 2019 raising new arguments that were not previously presented to the Board; and

WHEREAS, after reviewing the *Petition for Review* filed with LUBA and the new arguments and evidence contained therein, and upon recommendation of county staff, the Board directed the withdrawal of Ordinance No. 2018-012 for additional consideration pursuant to ORS 197.830(13)(b); and

WHEREAS, in furtherance of the County Commissioners' direction, staff timely filed a *Notice of Withdrawal* with LUBA on February 28, 2019; and

WHEREAS, due to the time necessary to reconsider the amendments (including the associated new arguments and evidence) and pending outcome of marijuana bills introduced during the Oregon Legislature's 2019 session, LUBA granted the County 180 days to reconsider the withdrawn ordinance rather than the standard 90 days; and

WHEREAS, the Board held a duly noticed public hearing on July 3, 2019 to take public testimony from the twelve petitioners (and others) regarding Ordinance No. 2018-012; and

WHEREAS, a significant portion of written and oral public testimony received during and after the July 3 public hearing requested that the Board prohibit the establishment of new marijuana businesses ("Opt Out") in unincorporated Deschutes County rather than further revising Ordinance No. 2018-012; and

WHEREAS, the County Commissioners later determined that an Opt Out is the more prudent option at this time for numerous reasons, including that an Opt Out requires that the matter be referred to the Deschutes County voters at the next General Election on November 3, 2020; and

WHEREAS, an Opt Out allows the Board to repeal Ordinance No. 2018-12 rather than being forced to unnecessarily expend County resources defending the constitutionality of the State of Oregon's Recreational Marijuana program pending a vote of the Deschutes County voters; and

WHEREAS, regardless of the Opt Out and subsequent results of the General Election, existing marijuana businesses within the unincorporated county established prior to the adoption of Ordinance No. 2019-014 must continue to comply with all Deschutes County Code provisions in effect at the time of their land use approval; and

WHEREAS, for the foregoing reasons, the Board chooses to repeal Ordinance No. 2018-012 in its entirety; now, therefore

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. Deschutes County Ordinance No. 2018-012 is repealed in its entirety.

Section 2. All Deschutes County Code regulations adopted pursuant to Ordinance Nos. 2016-013, 2016-014, 2016-015, 2016-016, 2016-017, 2016-018 and 2016-019 and in existence prior to Ordinance No. 2018-012 shall remain in effect.

Dated this 3 of September, 2019

BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

Absent, excused
PHILIP G. HENDERSON, Chair

Patti Adair
PATTI ADAIR, Vice Chair

ATTEST:

Ann Reinbeck
Recording Secretary

Anthony DeBone
ANTHONY DEBONE

Date of 1st Reading: 19 day of August, 2019.

Date of 2nd Reading: 3 day of September, 2019.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Philip G. Henderson	—	—	—	X
Patti Adair	X	—	—	—
Anthony DeBone	X	—	—	—

Effective date: 2 day of December, 2019.