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BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code
Title 18, Deschutes County Zoning, to Modify
Marijuana Annual Reporting Requirements.

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ORDINANCE NO. 2021-012

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File No. 247-21-000579-TA) to the Deschutes County Code (DCC) Title 18, Chapter 18.116, Supplementary Provisions, to modify marijuana annual reporting requirements; and

WHEREAS, the Deschutes County Planning Commission reviewed the proposed changes on July 22, 2021 and forwarded to the Deschutes County Board of County Commissioners ("Board") a unanimous recommendation of approval pending minor clarifications to the proposed language; and

WHEREAS, the Board considered this matter after a duly noticed public hearing on August 25, 2021 and concluded that the public will benefit from the proposed changes to the Deschutes County Code Title 18; now, therefore,

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

Section 1. AMENDMENT. DCC 18.116. Supplementary Provisions, is amended to read as described in Exhibit "A", attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

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Section 2. FINDINGS. The Board adopts as its findings, Exhibit "B" attached and incorporated by reference herein.

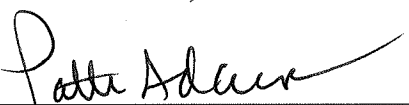
Dated this 29 of September, 2021

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


ANTHONY DEBONE, Chair


PHILIP CHANG, Vice Chair

ATTEST:

Recording Secretary


PATTI ADAIR

Date of 1st Reading: 8 day of September, 2021.

Date of 2nd Reading: 29 day of September, 2021.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Anthony DeBone	X	—	—	—
Philip Chang	X	—	—	—
Patti Adair	X	—	—	—

Effective date: 28 day of December, 2021.

Chapter 18.116. SUPPLEMENTARY PROVISIONS

18.116.330 Marijuana Production, Processing, Retailing, and Wholesaling

* * *

D. Annual Reporting

1. An annual report is required unless the approved applicant has (a) secured a license from the OLCC; (b) operated through at least one growing season; and (c) obtained a passing inspection from the Community Development Department. Thereafter, mandated annual reporting is not applicable unless the license is modified, in which case annual reporting is required until (a), (b), and (c) are once again satisfied. An annual report shall be submitted to the Community Development Department by the real property owner or licensee, if different, each February 1, documenting all of the following as of December 31 of the previous year, including the applicable fee as adopted in the current County Fee Schedule and a fully executed Consent to Inspect Premises form:
 - a. Documentation demonstrating compliance with the:
 - i. Land use decision and permits.
 - ii. Fire, health, safety, waste water, and building codes and laws.
 - iii. State of Oregon licensing requirements.
 - b. Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance with DCC 18.116. 330(C)(1)(a) shall serve as acknowledgement by the real property owner and licensee that the otherwise allowed use is not in compliance with Deschutes County Code; authorizes permit revocation under DCC Title 22, and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.
 - c. Other information as may be reasonably required by the Planning Director to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
 - d. Marijuana Control Plan to be established and maintained by the Community Development Department.
 - e. Conditions of Approval Agreement to be established and maintained by the Community Development Department.
 - f. This information shall be public record subject to ORS 192.502(17).

(Ord. 2021-012 §1, 2021; Ord. 2021-004 §7, 2021; Ord. 2020-007 §16, 2020; Ord. 2019-012, 2019; Ord. 2018-012 §3, 2018; Ord. 2016-015 §10, 2016)

FINDINGS

I. PROPOSAL

This is a legislative text amendment to Deschutes County Code (DCC), Title 18, County Zoning. The changes are as follows:

- DCC 18.116.330(D)(1): Adds text to state **“An annual report is required unless the approved applicant has (a) secured a license from the OLCC; (b) operated through at least one growing season; and (c) obtained a passing inspection from the Community Development Department. Thereafter, mandated annual inspection is not applicable unless the license is modified, in which case annual inspection is required until (a), (b), and (c) are once again satisfied. An annual report shall be submitted to the Community Development Department...”** (new text indicated in bold type).

II. REVIEW CRITERIA

Deschutes County lacks specific criteria in DCC Titles 18, 22, or 23 for reviewing a legislative plan amendment. Nonetheless, since Deschutes County is initiating one, the County bears the responsibility for justifying that the amendments are consistent with Statewide Planning Goals and its existing Comprehensive Plan.

A. Statewide Planning Goals and Guidelines

Goal 1: Citizen Involvement: The amendments do not propose to change the structure of the County’s citizen involvement program. Notice of the proposed amendments were provided to the *Bulletin* for the Board public hearing.

Goal 2: Land Use Planning: This goal is met because ORS 197.610 allows local governments to initiate post acknowledgments plan amendments (PAPA). An Oregon Land Conservation and Development Department 35-day notice was initiated on June 9, 2021. The Planning Commission held a public hearing on July 22, 2021 and the Board of County Commissioners will hold a public hearing on August 25, 2021. The Findings document provides the adequate factual basis for the amendments.

Goal 3: Agricultural Lands: The proposed amendments do not make changes regarding marijuana’s status as a farm crop, or the appropriate location of commercial grow sites and processing operations, and therefore continue to support Statewide Goal 3, to preserve and maintain agricultural lands. The proposed amendments to the County Code are consistent with these provisions of state law and are therefore consistent with Goal 3.

Goal 4: Forest Lands: The proposed text amendments do not propose to change the County’s Plan policies or implementing regulations for compliance with Goal 4, and therefore are in compliance.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources: Complies because the text amendment does not propose to change the County’s Plan policies or implementing regulations for Goal 5 open spaces, scenic and historic areas, and natural resources.

Goal 6: Air, Water and Land Resources Quality: The proposed text amendments do not propose to change the County’s Plan policies or implementing regulations for compliance with Goal 6, and therefore are in compliance.

Goal 7: Areas Subject to Natural Disasters and Hazards: The proposed text amendments do not propose to change the County's Plan or implementing regulations regarding natural disasters and hazards; therefore, they are in compliance.

Goal 8: Recreational Needs: Complies because the text amendment does not propose to change the County's Plan or implementing regulations regarding recreational needs.

Goal 9: Economy of the State: Goal 9 and its implementing regulations focus on economic analysis and economic development planning required in urban Comprehensive Plans. The proposed amendments apply to rural lands but do not propose to amend the Comprehensive Plan. Nevertheless, changing the reporting requirements will not have a direct effect on the economy of the state.

Goal 10: Housing: This goal is not applicable because, unlike municipalities, unincorporated areas are not obligated to fulfill certain housing requirements.

Goal 11: Public Facilities and Services: Complies because the text amendments do not propose to change the County's Plan or implementing regulations regarding public facilities and services.

Goal 12: Transportation: The proposed text amendments do not propose to change the County's Plan or implementing regulations regarding the Transportation System Plan; therefore, they are in compliance.

Goal 13: Energy Conservation: Complies because the text amendments do not propose to change the County's Plan or implementing regulations regarding energy conservation.

Goal 14: Urbanization: Complies because the text amendments do not propose to change the County's Plan or implementing regulations regarding urbanization.

Goals 15 through 19 are not applicable to the proposed text amendments because the County does not contain these types of lands.

D. Deschutes County Comprehensive Plan

Chapter 1, Comprehensive Planning: This chapter sets the Goals and Policies of how the County will involve the community and conduct land use planning. As described above, the proposed regulations will be discussed at work sessions with the Board of County Commissioners, as well as to the Planning Commission, which is the County's official committee for public involvement. Both will conduct separate public hearings.

These actions also satisfy the Goals and relevant Policies of Section 1.3, Land Use Planning Policies. Goal 1 of this section is to "maintain an open and public land use process in which decisions are based on the objective evaluation of facts." Staff, the Planning Commission, and the Board reviewed the text amendments.

Chapter 2, Resource Management: This chapter sets the Goals and Policies of how the County will protect resource lands, including but not limited to, Agriculture and Forest as well as Water Resources and Environmental Quality.

Section 2.2, Agricultural Lands Policies, states that Goal 1 is to "preserve and maintain agricultural lands and the agricultural industry." Changing annual reporting requirements for existing marijuana production and processing businesses will not have a direct effect on the agricultural lands they may operate on.

Goal 2 promotes a diversified, sustainable, revenue-generating agricultural sector. Policy 2.2.10 calls for the promotion of economically viable opportunities and practices while Policy 2.2.11 encourages small farming enterprises including but not limited to, niche markets and organic farming and valued-added projects. The proposed text amendments do not change existing marijuana businesses' ability to operate as a revenue generating agricultural businesses.

Goal 3 specifies the Exclusive Farm Use (EFU) policies, classifications, and codes are consistent with local and emerging agricultural conditions and markets. As noted above, the proposed amendments only impact reporting aspects of marijuana recreational production and processing businesses, not agricultural conditions and markets.



BOARD OF
COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: 9/29/2021

SUBJECT: Consideration of Second Reading: Ordinance No. 2021-012 – Marijuana Annual Reporting

RECOMMENDED MOTION:

Conduct second reading of Ordinance No. 2021-012, Marijuana Annual Reporting.

BACKGROUND AND POLICY IMPLICATIONS:

The Board of County Commissioners will conduct a second reading of Ordinance No. 2021-012 on September 29, 2021. The Board held a public hearing on August 25 concerning Ordinance No. 2021-011, legislative amendments to 1) extend the permitted hours for marijuana retail businesses and 2) modify marijuana annual reporting requirements.

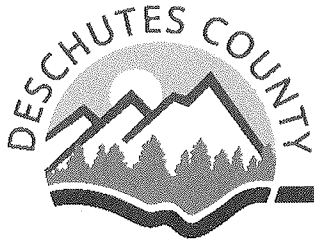
During deliberations, the Board chose to decouple the two components of Ordinance No. 2021-011. The amendments addressing the extension of marijuana retail hours were maintained in Ordinance No. 2021-011 (adopted on September 8). The other half of the original text amendment package concerning marijuana annual reporting was repackaged into a new ordinance (Ordinance No. 2021-012) for the Board's separate consideration. The new ordinance contained requested changes to the language to reflect the Board's desired annual reporting requirements once following OLCC licensure, as outlined in the attached proposal. On September 8, 2021, the Board voted to approve new Ordinance No. 2021-012 and conducted first reading.

BUDGET IMPACTS:

None.

ATTENDANCE:

Tanya Saltzman, Senior Planner, Community Development

**MEMORANDUM**

TO: Deschutes County Board of Commissioners

FROM: Tanya Saltzman, AICP, Senior Planner

DATE: September 23, 2021

SUBJECT: Second Reading: Marijuana Annual Reporting Text Amendments (Ordinance No. 2021-012)

The Board of County Commissioners (Board) will conduct a second reading of Ordinance No. 2021-012 on September 29, 2021. The Board held a public hearing on August 25 concerning Ordinance No. 2021-011, legislative amendments to 1) extend the permitted hours for marijuana retail businesses and 2) modify marijuana annual reporting requirements.¹

During deliberations, the Board chose to decouple the two components of Ordinance No. 2021-011. The amendments addressing the extension of marijuana retail hours were maintained in Ordinance No. 2021-011 (adopted on September 8). The other half of the original text amendment package concerning marijuana annual reporting was repackaged into a new ordinance (Ordinance No. 2021-012) for the Board's separate consideration. The new ordinance contained requested changes to the language to reflect the Board's desired annual reporting requirements once following OLCC licensure, as outlined in the proposal below. On September 8, 2021, the Board voted to approve new Ordinance No. 2021-012 and conducted first reading.

Desired outcome: Conduct second reading of Ordinance No. 2021-012, Marijuana Annual Reporting.

I. BACKGROUND

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 13,² and had a subsequent discussion with the Board of County Commissioners on May 24,³ at which time the Board directed staff to initiate

¹ <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-4>

² https://deschutescountyor.iqm2.com/Citizens/Detail_Meeting.aspx?ID=2770

³ https://deschutescountyor.iqm2.com/Citizens/Detail_Meeting.aspx?ID=2701

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 of the amendments addressing annual reporting, with requested clarifications to the language. A summary of the proposed amendments and background information was provided to the Board in the packet submitted for its August 18, 2021 work session.⁴

II. PROPOSAL

The proposed text amendments are as follows:

- DCC 18.116.330(D)(1): Adds text to state **“An annual report is required unless the approved applicant has (a) secured a license from OLCC; (b) operated through at least one growing season; and (c) obtained a passing inspection from the Community Development Department. Thereafter, mandated annual reporting is not applicable unless the license is modified, in which case annual reporting is required until (a), (b), and (c) are once again satisfied. An annual report shall be submitted to the Community Development Department...”** (new text indicated in bold type).

Attachments:

1. Ordinance No. 2021-012
2. Corresponding Exhibits to Ordinance No. 2021-012:
 - Exhibit A – DCC Chapter 18.116, Supplementary Provisions
 - Exhibit B – Findings

⁴ <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-40>