



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

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Memorandum

DATE: July 20, 2016

TO: Deschutes County Board of Commissioners

FROM: Nick Lelack, AICP, Director
Peter Gutowsky, AICP, Planning Manager
Matt Martin, AICP, Associate Planner

RE: Marijuana Regulations / Rescinding "Opt-Out" Ordinance / Tentative Schedule

I. Background

On June 1, 2016, the Board of County Commissioners (Board) adopted Ordinance Nos. 2016-017, 018, and 019 by emergency, establishing immediate standards for existing and new medical marijuana grow sites.¹ Two weeks later, on June 15, the Board adopted Ordinance Nos. 2016-013, 014, and 015. Effective July 1, 2016, these define, permit, and establish standards for the following marijuana related uses:²

- Medical marijuana processing;
- Medical marijuana dispensaries;
- Recreational marijuana production;
- Recreational marijuana processing;
- Recreational marijuana wholesale; and,
- Recreational marijuana retail.

All of these ordinances are now in effect because they were not appealed to the Land Use Board of Appeals.

II. Rescinding "Opt-Out" Ordinance / Tentative Schedule

Ordinance No. 2015-009, the "Opt-Out" ordinance adopted by the Board on December 21, 2015 remains in place, prohibiting marijuana related uses in unincorporated Deschutes County, except for medical marijuana grow sites.³ As the Board considers rescinding Ordinance No. 2015-009, the Community Development Department (CDD) offers the following schedule:

¹ <https://www.deschutes.org/cd/page/recreational-and-medical-marijuana-land-use-regulation>. Medical grow sites registered prior to June 1, 2016 are recognized as legal non-conforming uses. The ordinances adopted by the Board on June 1, 2016 require these grow sites to conform to certain standards in a specified timeframe (lighting, odor, noise, etc.).

² Ibid.

³ Medical marijuana grow sites are permitted because State law, HB 3400 prevents a local government from prohibiting them under an "Opt-Out" ordinance.

- August 10, Board Regular Meeting: Discuss rescinding Ordinance No. 2015-009. If the Board decides to rescind it, consider an effective date of September 8. This will provide CDD with approximately five weeks to prepare for the administering of marijuana regulations. The Planning Division is hiring an Associate and Assistant Planner. Both will join CDD in August to assist staff with its significant case load.
- August 23, Public Workshop: The Planning Division will host an afternoon and evening workshop from 3:00 to 5:00 p.m. and 6:00 to 8:00 p.m. at the Deschutes Services Center, Barnes and Sawyer rooms to provide potential applicants and interested parties an overview of the local marijuana regulations, application fees, and County procedures for processing land use applications.
- September 6, Marijuana Regulations in Effect: If the “Opt-Out” ordinance is rescinded, applicants will be able to submit marijuana related land use applications starting at 8:00 a.m.

III. Administrating Marijuana Regulations

If the Board rescinds Ordinance No. 2015-009, all marijuana related uses, excluding existing medical marijuana grow sites registered by the Oregon Health Authority by June 1, 2016, will require land use approval. This includes medical marijuana grow sites converting to recreational marijuana production. Depending on the proposed land use and location, application fees will vary. Examples include \$1,500 for an Administrative Determination for growing recreational marijuana in an Exclusive Farm Use zone, to \$6,420 for marijuana processing in a Multiple Use Agriculture zone.⁴ A Hearings Officer deposit of \$5,000 will be required as part of a complete application.

As with all other similar applications, neighboring property owners, Sherriff’s office, affected State agencies, fire districts, and irrigation districts, to name a few, will receive notice of marijuana applications.⁵ Applicants will also be required to post notice of the application on their property for a minimum of 10 continuous days prior to the end date for receipt of comments. The sign is required to be visible from any adjacent public way.

⁴ All new site plans, as well as major and minor alterations are also subject to additional fees based on the square footage of a proposed structure and developed acreage over an acre.

⁵ Notice requirements for property owners are 250 feet for proposals not within a farm or forest zone (DCC 22.24.030(A)(1b2) and 750 feet for those within a farm and forest zone (DCC 22.24.030(A)(1b3)).