



**AGENDA**

**MOLALLA CITY COUNCIL WORK SESSION  
July 27, 2022  
6:00 PM  
Molalla Civic Center  
315 Kennel Ave, Molalla, OR 97038**

**Mayor Scott Keyser**

**Council President Jody Newland  
Councilor Elizabeth Klein  
Councilor Terry Shankle**

**Councilor Leota Childress  
Councilor Crystal Robles  
Councilor Eric Vermillion**

*In accordance with House Bill 2560, the City of Molalla adheres to the following practices:  
Live-streaming of the Molalla City Council Meetings are available on Facebook at “Molalla City Council Meetings – LIVE” and “Molalla City Council Meetings” on YouTube.  
Citizens can submit Public Comment in the following ways: attend the meeting, email the City Recorder @ [recorder@cityofmolalla.com](mailto:recorder@cityofmolalla.com) by 4:00pm on the day of the meeting, or drop it off at City Hall, 117 N. Molalla Avenue.*

**1. CALL TO ORDER AND ROLL CALL**

**2. DISCUSSION ITEMS**

- A. Oregon Psilocybin Service Act –
  - I. Staff Report, Explanation of Measure 109, and Role of City Council.....Pg. 2
  - II. Oregon Psilocybin Services (OHA).....Pg. 5
  - III. Local Government FAQ’s (OHA).....Pg. 7

**3. ADJOURN**

*Agenda posted at City Hall, Library, and the City Website at <http://www.cityofmolalla.com/meetings>. This meeting location is wheelchair accessible. Disabled individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder’s Office at 503-829-6855.*



## CITY OF MOLALLA

117 N. Molalla Avenue  
PO Box 248  
Molalla, OR 97038

### Staff Report

### Agenda Category: General Discussion

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**Agenda Date:** July 27, 2022

**From:** Christie Teets, City Recorder  
**Approved by:** Dan Huff, City Manager

**SUBJECT:** Oregon Psilocybin Service Act

**FISCAL IMPACT:** Unknown

#### **SUMMARY:**

The Oregon Psilocybin Service Act (Measure 109) was approved by the voters in November 2020. The Measure provides for establishment of Psilocybin manufacturing and service centers. Psilocybin is a drug derived from certain mushrooms. There is evidence that the drug may be effective in treating depression, anxiety, trauma disorders and obsessive-compulsive disorder.

The Act provides for the Oregon Health Authority to adopt rules and regulate the field which includes manufacturers, delivery, sale/purchase, and use of the drug in a “service center.” The drug is not sold for use outside a service center.

This link is to OHA’s Frequently Asked Questions:

<https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/Pages/Psilocybin-FAQ.aspx>.

This link is to Measure 109:

<https://sos.oregon.gov/admin/Documents/irr/2020/034text.pdf>.

Measure 109 provides that a City may adopt an Ordinance to be referred to the electors of the City prohibiting the establishment in the area subject to the jurisdiction of the City (the “Opt-out” provisions). The Oregon Health Authority will regulate this product but has not completed the rulemaking process yet. A referral to the electors of the City may be made at the next statewide election on November 8, 2022.

**BACKGROUND:**

- A. In November 2020, Oregon voters approved Ballot Measure 109, known as the Oregon Psilocybin Service Act which allows for the manufacture, delivery, and administration of psilocybin at licensed facilities.
- B. ORS 475A.235 provides that the Oregon Health Authority will regulate the manufacturing, transportation, delivery, sale and purchase of psilocybin products and the provision of psilocybin services in the state.
- C. The Oregon Health Authority has initiated a rulemaking process and intends to begin accepting applications on January 2, 2023.
- D. The Oregon Health Authority has not completed the rulemaking process for implementing the state’s psilocybin regulatory program and staff does not know how the manufacture, delivery and administration of psilocybin at licensed psilocybin facilities will operate within the City.
- E. The Council may adopt an Ordinance to be referred to the electors of the City prohibiting the establishment of state licensed psilocybin product manufacturers and/or psilocybin service centers in the area subject to the jurisdiction of the City or an Ordinance to be referred to the electors to place a temporary ban on this matter until regulations can be established. The Council could also choose not to refer the Opt-out provision to the voters and direct staff to prepare Psilocybin regulations for Council review.

**CURRENT SITUATION:**

- A. The Oregon Health Authority will continue with its rulemaking process and take applications.
- B. If Council desires to ban Psilocybin Service Centers and the manufacture of Psilocybin products in the City, Council needs to place this matter before the electors of the City.

**ANALYSIS:**

- A. Strategic Impact – None
- B. Financial – None
- C. Timing – If Council desires to ban Psilocybin Service Centers and the manufacture of Psilocybin products in the City, the Ordinance and ballot related materials must be prepared and submitted soon for inclusion in the November 8, 2022 election.

D. Policy/legal – ORS 475A sets out the requirement if the City desires to ban or temporarily ban Psilocybin Service Centers and the manufacture of Psilocybin products in the City. If a Measure to prohibit these uses is not passed by the voters, the City may not ban such Psilocybin uses.

**ALTERNATIVES:**

A. Take No Action – The Oregon Health Authority will continue to establish the rulemaking process and implement the program. Psilocybin Service Centers and other Psilocybin uses would be allowed in the City without any regulations except for state regulations.

B. Direct City staff to prepare documentation to refer to the voters a ban on Psilocybin Service Centers and the manufacture of Psilocybin products in the City.

C. Direct City staff to prepare documentation to refer to the voters a temporary ban on Psilocybin Service Centers and the manufacture of Psilocybin products in the City to allow time to place regulations within the City of Molalla.

D. Direct City Staff and Attorney to prepare appropriate “time, place and manner” regulations for Council’s consideration. The concern with this option is that we may not be aware of the Oregon Health Authority’s rules at the end of the year when we would need to adopt the local rules.

**RECOMMENDATION:**

Staff recommends that the City Council review the matter carefully and direct staff how to proceed. As a suggestion, Council may wish to decide first if you wish to ban the Psilocybin uses permanently or not. If the choice is not to send a permanent ban to the voters, the choice then would be between a temporary ban or to move directly to adopting regulations.

# Oregon Psilocybin Services

## What is psilocybin?

Psilocybin is a naturally occurring psychedelic compound. It is found in over 200 species of fungi (mushrooms). For centuries Indigenous and Tribal communities around the world have used psilocybin for spiritual, ceremonial and other purposes.

Psilocybin services will soon be an option in Oregon. However, psilocybin is still a Schedule I substance under the Federal Controlled Substances Act.

## What are the benefits of psilocybin?

Research suggests psilocybin may help address depression, anxiety, trauma and addiction. Studies have also found it can increase spiritual well-being.

To learn more about the research on psilocybin benefits and risks, see the [2021 Oregon Psilocybin Advisory Board Rapid Evidence Review](#). It is available in English and Spanish.

## What are psilocybin services?

In Oregon, “psilocybin services” refers to preparation, administration and integration sessions provided by a licensed facilitator.

The psilocybin products consumed must be cultivated or produced by a licensed psilocybin manufacturer and may only be provided to a client at a licensed psilocybin service center during an administration session.

Psilocybin services will be available to people age 21 or older and will not require a prescription or medical referral. People accessing psilocybin services are called “clients”.



## The Oregon Psilocybin Services Act

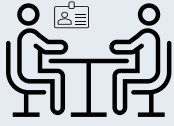
Ballot Measure 109 (M109) is also known as the Oregon Psilocybin Services Act. It was voted into law by Oregonians in November 2020. It is codified in [Oregon Revised Statutes in ORS 475A](#). M109 directs Oregon Health Authority (OHA) to license and regulate psilocybin products and the provision of psilocybin services.

Oregon is the first state in the U.S. to create a regulatory framework for psilocybin services.

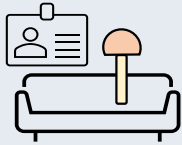
## The Oregon Psilocybin Services Section

The two-year development period for psilocybin services is from January 1, 2021 to December 31, 2022. During this time [Oregon Psilocybin Services \(OPS\)](#) is working with the Oregon Psilocybin Advisory Board and rulemaking advisory committees (RACs) to make rules for psilocybin products and services. All rules must be in place by December 31, 2022. The section will begin taking license applications on Jan. 2, 2023.

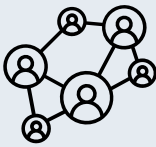
## How a client will access psilocybin services



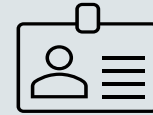
1. Preparation session: [The client](#) meets with a licensed facilitator for a preparation session.



2. Administration session: The client consumes the product at the service center and begins their session with a licensed facilitator.



3. Integration session: The client can take part in an optional session to follow up with a licensed facilitator and learn about additional peer support and other resources.

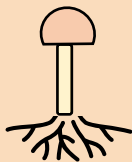


To provide these services, a [licensed facilitator](#) must complete:

- A training program with curriculum approved by OPS
- An exam administered by OPS, and
- All other license requirements.

## How psilocybin products will get to a service center

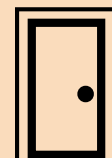
1. Psilocybin products are cultivated, produced and/or processed by a [licensed manufacturer](#). They are tracked in a product tracking system.



2. The products are tested by a [licensed testing laboratory](#). The lab must be accredited by the Oregon Environmental Laboratory Accreditation Program (ORELAP). The test results are entered into the product tracking system.



3. The products are sold or transferred from a licensed manufacturer to a [licensed service center](#). This is tracked in the product tracking system.



## Oregon Psilocybin Services

### Local Government - Frequently Asked Questions (FAQ)

**When must local governments pass a resolution by to refer the matter to the voters in November?**

Oregon Psilocybin Services is responsible for licensing and regulating the production and sale psilocybin products and services. We cannot offer any guidance on election requirements. This question is better suited for local counsel or Secretary of State.

**Are you able to provide some insight now as to what future rules will look like? Is there any chance the rules due out by the end of the year might be completed earlier?**

As directed by M109, the [Oregon Psilocybin Advisory Board \(OPAB\)](#) will provide their final recommendations on rules by June 30, 2022. OPS will then share the first set of draft rules in early September in time for the Rules Advisory Committee (RAC) meetings. Rules will be further revised based on RAC input, and an updated set of proposed rules will be posted by November 1<sup>st</sup>, 2022. The public comment period will run from November 1 – November 18, 2022. We are unable to expedite this timeframe.

**Can local governments still charge generally applicable development application fees, for the LUCS or other development activities?**

Under ORS 475A.534 local governments cannot impose a tax or fee on the manufacturing and sale of psilocybin products, nor a tax or fee on the provision of psilocybin services. Generally applicable fees that are charged to other types of business are not prohibited.

**Will the rules address or seek to prevent a customer driving after they've left a facility?**

The Oregon Psilocybin Advisory Board (OPAB) and its five subcommittees have been meeting since spring of 2021, and this is a topic that has been discussed in numerous meetings over the past year. The board has made recommendations on client transportation and safety, and these recommendations will be considered during rule making.

**Will the State be relying on local governments to verify the location requirements included under rules during the LUCS review process or will OHA staff review licenses for conformance with the State required siting requirements when they receive the completed LUCS from the applicant?**

OPS will verify that applicants satisfy the location requirements contained in ORS 475A. For example, we will ensure that landlords have given consent for manufacturer licenses as required by statute. Local governments will be responsible for verifying that the proposed use is consistent with their zoning code via the LUCS process. Local governments will also be responsible for verifying compliance with local TPM's.

**Section 27 permits centers to be within 1000 ft (but not less than 500) with OHA approval of a physical/geographic barrier. Can you give specific examples of such barriers? Can cities prevent centers from being established at such a proximity?**

A barrier under this section is something that prevents access – such as a body of water or an interstate highway.

**There is a provision for referring a prohibition to the voters. However, is there a specific requirement that local government allow siting of facilities under land use regulations? In other words, if the current land use code would not allow siting, is that not enforceable? Thanks.**

Oregon Psilocybin Services is not able to offer guidance on this issue. This question is better suited for local counsel.

**What does the preparation session assess? For example, does it look at other psychiatric medications the individual may be using?**

We have reached out to Oregon's professional licensing boards to ensure that they are aware of M109 and aware that a number of their licensees are interested in pursuing licensure under M109. This includes the Oregon Medical Board, Oregon State Board of Nursing, Oregon Board of Naturopathic Medicine, Oregon Board of Licensed Professional Counselors and Therapists, Oregon Board of Psychology, Oregon Board of Licensed Social Workers, and others. Many board members and licensed professionals have provided feedback to OHA and have been involved in discussions with the Oregon Psilocybin Advisory Board (OPAB), OPAB subcommittees, Rules Advisory Committees (RACs), Rulemaking Public Hearings, Rulemaking Public Comment Period, and other partner meetings.



Under M109, a facilitator must complete a psilocybin facilitator training program that has been through OHA curriculum approval. Rules related to training program curriculum have already been adopted and include training on preparation sessions, intake process, and client safety. Facilitators will not be required to hold other professional licenses. There have been discussions among OPAB members regarding available research on potential drug interactions and other client and product safety issues. Those discussions will continue to inform the rulemaking process and will be addressed in some manner within the rules based on available research and recommendations by OPAB members.

**Once rules are adopted and the program begins, will OHA have dedicated enforcement staff and resources allocated to pursuing violations regarding both production and the service centers?**

Yes. We will have a compliance team that will inspect facilities and ensure compliance with statute and rule. The compliance program will investigate any complaints or violations.

**Are you aware of any local jurisdictions in Oregon that have proposed or adopted development code amendments in response to Measure 109?**

At this time, we do not have a comprehensive understanding of this issue.

**Can you give an overview of preemption with this new law?**

Oregon Psilocybin Services is not able to offer guidance on this issue. This question is better suited for local counsel.

**What does the research/data gathering strategy (both within OHA and in partnership with other learning institutions) look like for the program once its active and how will we be able to access the research? Are you aware of any Oregon-specific research projects in the works in conjunction with this program?**

OPAB reviewed available scientific and medical information, as directed by M109, and published a [Scientific Literature Review](#) in July 2021 – also translated in Spanish. Research suggests that psilocybin may help reduce depression, anxiety (including end of life anxiety), problematic alcohol and tobacco use, and trauma-related disorders (including PTSD).

Tracking the latest research is a collective effort, and we rely on partners to share new research as it becomes available. OPAB is directed to make recommendations to OHA regarding long-term planning and sustainability, to monitor federal laws, and to consider new research as it becomes available. OPAB is comprised of medical, clinical, academic, research professionals, those with expertise in harm reduction, psychedelic research, public health, mental and behavioral health, equity, and lived experience.

**How long would a client be required to stay at the facility before leaving to ensure that they are not publicly intoxicated or driving intoxicated?**

These issues have been discussed and will be addressed in rule. We have received recommendations from OPAB and expect rules to address minimum duration, requirements related to transportation, client, and product safety.

**What impacts, if any, are you aware of that cultivation and processing might have on adjacent properties. Will there be the potential for odors and other impacts?**

The OPAB consists of mycologists who bring expertise to the Oregon Psilocybin Advisory board (OPAB) and subcommittees. At this time, we are unaware of any odor or impacts to adjacent properties. Fungi is not a plant. It grows very differently. Psilocybin-producing mushrooms do not take the same amount of land, water, energy, and resources as plants such as cannabis.

Rules related to psilocybin products have already been adopted. They prohibit the use of manure as a growth medium. The use of solvents is also limited. For example, there will be no butane, and extraction under pressure is also prohibited, so many of the extraction issues present in other industries will likely not be issues here.

M109 specifically requires that we set production limits for manufacturing licenses. These limits will be included in rules adopted later this year. Manufacturing facilities will be sized to the market and as directed by M109.

**Has there been discussion of rules limiting hours of operation?**

The Oregon Psilocybin Advisory Board (OPAB) has not made any recommendation on this point, so it is still an open point of discussion. Draft rules will come out in early September. We invite people to apply to serve on the RACs – where this will be discussed. Local governments do have the ability to adopt reasonable time, place, and manner (TPM) restrictions.

**Section 91(3) appears to give an affirmative right to a service center to lawful growers of the fungi. Service centers don't have much for sideboards in the ballot measure. If a grower asserts a right for, say, a service center consisting of a 3-day retreat with food-service and overnight stays, is that presumed to supersede state and/or local land use prohibitions on retreat centers?**

This is a complex question. As we get further into the rulemaking process, we'd be happy to reconvene with local government partners to discuss more details once they are known.