

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: May 15, 2024

Approx. Start Time: 10:30 a.m.

Approx. Length: 30 min

Presentation Title: Psilocybin Service Centers and Manufacturing Facilities

Department: County Counsel

Presenters: Stephen Madkour, County Counsel; Caleb Huegel, Assistant County Counsel

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Staff is requesting direction from the Board on how to proceed with respect to the allowance and regulation of psilocybin product manufacturers and psilocybin service centers within the unincorporated areas of Clackamas County.

EXECUTIVE SUMMARY:

In the November 2020 election, Oregon voters passed Ballot Measure 109, which directs the Oregon Health Authority (OHA) to license and regulate psilocybin product manufacturers and psilocybin service centers in Oregon. Measure 109, known as the Oregon Psilocybin Services Act, is codified at ORS chapter 475A. In 2022, Oregon Psilocybin Services (OPS), a section of OHA's Public Health Division, adopted administrative rules implementing Measure 109. Those rules, which were informed by recommendations from the Oregon Psilocybin Advisory Board (OPAB), are codified at OAR chapter 333, division 333. In January 2023, OPS began accepting license applications. Psilocybin service centers began opening their doors to clients in the summer of 2023.

Measure 109 allows the Board to adopt an ordinance banning psilocybin product manufacturers and/or psilocybin service centers in the unincorporated areas of Clackamas County. ORS 475A.718(1). If the Board adopts such an ordinance, it must be referred to the voters in the next statewide general election. ORS 475A.718(2). The Board adopted such an ordinance, designated Ordinance 05-2022, on July 28, 2022. That ordinance was approved in the November 2022 election. However, that ordinance is automatically repealed on December 31, 2024. The next statewide general election is the November 2024 election. If the Board wishes to extend the previous ban permanently or temporarily, it must adopt an ordinance to that effect. To be placed on the November 2024 ballot, that ordinance must be filed with the elections official by August 16, 2024.

Measure 109 also authorizes local governments to adopt reasonable time, place, and manner regulations to supplement the regulations found in state law. ORS 475A.530(2). Such regulations may govern the manner in which psilocybin product manufacturers and/or psilocybin service centers may operate, the hours during which they operate, the public's access to them, and where they may be located (e.g., zoning). ORS 475A.530(1). If the Board does not wish to extend the previous ban, it may nevertheless choose to adopt such regulations.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

What is the cost? Unknown

What is the funding source? N/A

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department's Strategic Business Plan goals?

This item aligns with County Counsel's purpose of providing research, consultation, strategy, technical, regulatory, implementation, and compliance services to the County and its elected officials so they can conduct their operations in a manner that comports with local, state, and federal regulations and laws.

- How does this item align with the County's Performance Clackamas goals?

This item aligns with the Performance Clackamas goal to "Build Public Trust through Good Government" by responding to a state mandate and by considering regulations related to a use that is not currently addressed within the County's code.

LEGAL/POLICY REQUIREMENTS:

The legal requirements associated with referring a permanent or temporary ban to the voters and with adopting reasonable time, place, and manner regulations are discussed above and below.

PUBLIC/GOVERNMENTAL PARTICIPATION:

Within Clackamas County, Measure 109 passed with 52.4% of the vote (128,890 votes in favor and 117,098 votes opposed).

If the Board wishes to extend the previous ban permanently or temporarily, then it must adopt an ordinance to that effect. Public notice will be provided and public hearings will be held, as required by law, prior to the adoption of any such ordinance. The ordinance would then be placed on the November 2024 ballot.

If the Board decides to adopt reasonable time, place, and manner regulations, another policy session will be held to request direction from the Board on the scope of those regulations. Public notice will be provided and public hearings will be held, as required by law, prior to the adoption of any ordinance imposing those regulations.


OPTIONS:

- (1) Direct staff to schedule a public hearing and draft, for referral to the voters in the November 2024 election, an ordinance **permanently** banning psilocybin product manufacturers and/or psilocybin service centers within the unincorporated areas of Clackamas County;
- (2) Direct staff to schedule a public hearing and draft, for referral to the voters in the November 2024 election, an ordinance **temporarily** banning psilocybin product manufacturers and/or psilocybin service centers within the unincorporated areas of Clackamas County;
- (3) Take no action, and rely on the regulations on psilocybin product manufacturers and psilocybin service centers found in state law; or
- (4) Direct staff to schedule another policy session regarding reasonable time, place, and manner regulations on psilocybin product manufacturers and/or psilocybin service centers within the unincorporated areas of Clackamas County.

RECOMMENDATION:

This is a policy-based decision to be made by the Board. Staff will be able to implement any of the options identified above but express no opinion as to a preferred option.

SUBMITTED BY:

Division Director/Head Approval 
Department Director/Head Approval _____
County Administrator Approval _____

For information on this issue or copies of attachments, please contact Caleb Huegel @ 503-655-8364