

# CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

## Policy Session Worksheet

**Presentation Date:** August 7, 2024      **Approx. Start Time:** 2:30 p.m.      **Approx. Length:** 30 minutes

**Presentation Title:** Psilocybin Ballot Title and Explanatory Statement

**Department:** County Counsel

**Presenters:** Jane Vetto, County Counsel, Caleb Huegel, Assistant County Counsel

### WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Staff is requesting direction from the Board on whether to file a draft ballot title and explanatory statement with the elections official.

### EXECUTIVE SUMMARY:

In the November 2020 election, Oregon voters passed Ballot Measure 109, which directs the Oregon Health Authority to license and regulate psilocybin product manufacturers, psilocybin testing laboratories, psilocybin service centers, and psilocybin service facilitators in Oregon. Measure 109 allows the Board to adopt an ordinance banning psilocybin product manufacturers and psilocybin service centers in the unincorporated areas of Clackamas County, which must be referred to the voters for approval at the next statewide general election. On May 15, 2024, the Board held a policy session and directed staff to prepare an ordinance for adoption. The Board adopted the ordinance, designated Ordinance No. 02-2024, on June 27, 2024 and directed staff to prepare materials for the ballot referral.

For Ordinance 02-2024 to be placed on the November 2024 ballot, the county must file a proposed ballot title with the elections official by August 16, 2024. Staff have drafted a ballot title and explanatory statement for the Board's review. That language is attached. A ballot title consists of a caption, a question, and a summary. The caption must describe the subject of the referral and may not exceed 10 words. The question must plainly phrase the main purpose of the referral and may not exceed 20 words. The summary must describe the major effect of the referral and may not exceed 175 words. After receiving a proposed ballot title, the elections official must publish notice of its receipt, and registered voters who are dissatisfied with the proposed ballot title because it is insufficient, not concise, or unfair may petition the circuit court to review it.

If no petition for review is filed within seven business days of when the proposed ballot title is filed with the elections official, or after the court's review is complete, the county must file a final ballot title and an explanatory statement with the elections official. An explanatory statement is an impartial, simple, and understandable statement explaining the measure, and it may not exceed 500 words. The measure will then be placed on the ballot.

### 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 ballot titles and explanatory statements are discussed above.

**PUBLIC/GOVERNMENTAL PARTICIPATION:**

Public notice was provided and two public hearings were held on Ordinance No. 02-2024. If the Board approves the draft ballot title and explanatory statement, registered voters who are dissatisfied with it may petition the circuit court to review it. If the measure is placed on the ballot, proponents and opponents may campaign for and against its approval. They will then be able to vote on the measure.

**OPTIONS:**

- (1) Direct staff to file the draft ballot title and explanatory statement with the elections official.
- (2) Direct staff to file the draft ballot title and explanatory statement, with certain amendments, with the elections official.
- (3) Direct staff to amend the draft ballot title and explanatory statement in certain ways and schedule another policy session before August 16, 2024.
- (4) Take no action, and allow psilocybin product manufacturers and psilocybin service centers within the unincorporated areas of Clackamas County starting on January 1, 2025.

**RECOMMENDATION:**

Staff recommends Option 1, Direct staff to file the draft ballot title and explanatory statement with the elections official.

**ATTACHMENTS:**

Draft Ballot Title and Explanatory Statement

**SUBMITTED BY:**

Division Director/Head Approval \_\_\_\_\_  
 Department Director/Head Approval \_\_\_\_\_  
 County Administrator Approval \_\_\_\_\_

## **Draft Ballot Title and Explanatory Statement**

### **Caption (9 words)**

Permanently bans certain psilocybin-related businesses within unincorporated Clackamas County.

### **Question (18 words)**

Shall psilocybin product manufacturers and psilocybin service centers be permanently banned in the unincorporated areas of Clackamas County?

### **Summary (140 words)**

State law allows the manufacture of psilocybin products and the operation of psilocybin service centers in Oregon. Psilocybin service centers are defined as establishments where a client purchases, consumes, and experiences the effects of a psilocybin product under the supervision of a psilocybin service facilitator. State law allows the governing body of a county to adopt an ordinance banning psilocybin product manufacturers and psilocybin service centers within the unincorporated areas of the county. If the governing body adopts such an ordinance, it must be referred to the voters in the next statewide general election. The Clackamas County Board of Commissioners adopted such an ordinance on June 27, 2024. As a result, this measure is being referred to the voters. Approval of this measure would permanently ban psilocybin product manufacturers and psilocybin service centers within the unincorporated areas of Clackamas County.

### **Explanatory Statement (279 words)**

Psilocybin is a naturally occurring hallucinogenic chemical that is produced in certain forms of fungi. State law allows the manufacture of psilocybin products and the operation of psilocybin service centers in Oregon.

Psilocybin product manufacturing is defined as the manufacture, planting, cultivation, growing, harvesting, production, preparation, propagation, compounding, conversion or processing of a psilocybin product, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the psilocybin product or labeling or relabeling of its container. Psilocybin service centers are defined as establishments where a client purchases, consumes, and experiences the effects of a psilocybin product under the supervision of a psilocybin service facilitator.

State law allows the governing body of a county to adopt an ordinance banning psilocybin product manufacturers and psilocybin service centers within the unincorporated areas of the county. If the governing body adopts such an ordinance, it

must be referred to voters in the next statewide general election. In 2022, the Clackamas County Board of Commissioners adopted an ordinance temporarily banning such businesses. That ordinance was referred to and approved by the voters. On June 27, 2024, the Board adopted an ordinance permanently banning such businesses. As a result, this measure is being referred to the voters.

Approval of this measure would permanently ban psilocybin product manufacturers and psilocybin service centers within the unincorporated areas of Clackamas County. Such businesses would still be allowed within jurisdictions (*e.g.*, cities within Clackamas County, cities within other counties, and the unincorporated areas of other counties) whose governing bodies have not adopted ordinances banning such businesses.