

Agenda
Shady Cove Special City Council Meeting
Council Chambers and via Zoom
Wednesday, September 28, 2022
1 PM

<https://us02web.zoom.us/j/86829945335?pwd=SkJmS0RwZzN5UU4vN3pJaUs4MVlrdz09>

Meeting ID: 868 2994 5335

Passcode: 385337

One tap mobile

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I. Call to Order

- A. Roll Call
- B. Pledge of Allegiance
- C. Announcements by Presiding Officer

1. This Special Meeting is being digitally recorded.
2. The next regularly scheduled meeting of the City Council will be held on October 20 at 6 PM, both in Council Chambers and via Zoom.
3. The next regularly scheduled meeting of the Planning Commission is October 14 at 6 PM, both in Council Chambers and via Zoom.
4. The next meeting of the Parks and Rec Commission is not scheduled at this time.
5. The next meeting of the Emergency Management Commission is not scheduled at this time.
6. The next meeting of the Events Committee is September 30 at 11:45 AM at the Shady Cove Library.
7. Public may comment on agenda items - Public must state name, address and standing to discuss an issue. Issues must have a City-wide impact and not be personal issues. Depending on number of comments and time constraints, Council may limit the amount of time to 3 minutes per speaker.
8. These meeting dates and times are subject to change.

II. Public Comment on Agenda Items

III. New Business

- A. Psilocybin Ordinance

IV. Old Business

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Department at (541) 878-2225. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title II).

A. LOC Upcoming Training

V. Public Comment on Non-Agenda Items

VI. Council Comments on Non-Agenda Items

- A. Mayor Tarvin
- B. Councilor Evertt
- C. Councilor Murders
- D. Councilor Taylor
- E. Councilor Winfrey

Adjournment

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.

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.

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 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



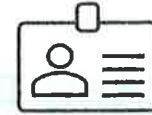
1. Preparation session: [The client](#) meets with a licensed facilitator for a preparation session.



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

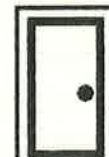
1. Psilocybin products are cultivated, produced and/or processed by a [licensed manufacturer](#). They are tracked in a product tracking system.



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.



475A.245 Application process for all licensees; rules. (1) Except as provided in subsection (2) of this section, an applicant for a license or renewal of a license issued under ORS 475A.210 to 475A.722 shall apply to the Oregon Health Authority in the form required by the authority by rule, showing the name and address of the applicant, location of the premises that is to be operated under the license and other pertinent information required by the authority. The authority may not issue or renew a license until the applicant has complied with the provisions of ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.

(2) The authority may reject any application that is not submitted in the form required by the authority by rule. The authority shall give applicants an opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS chapter 183.

(3) Except as provided in subsection (2) of this section, a revocation of, or a refusal to issue or renew, a license issued under ORS 475A.210 to 475A.722 is subject to the requirements for contested case proceedings under ORS chapter 183.

(4) An applicant for a facilitator license or renewal of a facilitator license issued under ORS 475A.325 need not show the location of any premises. [2021 c.1 §14]

475A.250 Grounds for refusing to issue license or issuing restricted license. (1) The Oregon Health Authority may not license an applicant under the provisions of ORS 475A.210 to 475A.722 if the applicant is under 21 years of age.

(2) The authority may refuse to issue a license or may issue a restricted license to an applicant under the provisions of ORS 475A.210 to 475A.722 if the authority makes a finding that the applicant:

(a) Has not completed any education or training required by the provisions of ORS 475A.210 to 475A.722 or rules adopted under ORS 475A.210 to 475A.722.

(b) Has not passed any examination required by the provisions of ORS 475A.210 to 475A.722 or rules adopted under ORS 475A.210 to 475A.722.

(c) Is in the habit of using alcoholic beverages, habit-forming drugs, or controlled substances to excess.

(d) Has made false statements to the authority.

(e) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

(f) Has been convicted of violating a federal law, state law or local ordinance if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license.

(g) Is not of good repute and moral character.

(h) Does not have a good record of compliance with ORS 475A.210 to 475A.722 or any rule adopted under ORS 475A.210 to 475A.722.

(i) Is not the legitimate owner of the premises proposed to be licensed, or has not disclosed that other persons have ownership interests in the premises proposed to be licensed.

(j) Has not demonstrated financial responsibility sufficient to adequately meet the requirements of the premises proposed to be licensed.

(k) Is unable to understand the laws of this state relating to psilocybin products, psilocybin services, or the rules adopted under ORS 475A.210 to 475A.722.

(3) Notwithstanding subsection (2)(f) of this section, in determining whether to issue a license or a restricted license to an applicant, the authority may not consider the prior conviction of the applicant or any owner, director, officer, manager, employee, agent or other representative of the applicant for:

(a) The manufacture of psilocybin or the manufacture of a marijuana item, as defined in ORS 475C.009, if:

(A) The date of the conviction is two or more years before the date of the application; and

(B) The person has not been convicted more than once for the manufacture of psilocybin or a marijuana item; or

(b) The possession of a controlled substance, as defined in ORS 475.005, or a marijuana item, as defined in ORS 475C.009, if:

(A) The date of the conviction is two or more years before the date of the application; or

(B) The person has not been convicted more than once for the possession of a controlled substance or a marijuana item. [2021 c.1 §15]

475A.270 Duty to request land use compatibility statement. (1) Prior to receiving a license under ORS 475A.290 or 475A.305, an applicant shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The Oregon Health Authority may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.

(2) Except as provided in subsection (3) of this section, a city or county that receives a request for a land use compatibility statement under this section must act on that request within 21 days of:

(a) Receipt of the request, if the land use is allowable as an outright permitted use; or

(b) Final local permit approval, if the land use is allowable as a conditional use.

(3) A city or county that receives a request for a land use compatibility statement under this section is not required to act on that request during the period that the authority discontinues licensing those premises pursuant to ORS 475A.718 (4).

(4) A city or county action concerning a land use compatibility statement under this section is not a land use decision for purposes of ORS chapter 195, 196, 197, 215 or 227. [2021 c.1 §19]

(Licensees in General)

475A.310 Proximity of psilocybin service center to school. Notwithstanding ORS 475A.305 (2)(e), a psilocybin service center may be located within 1,000 feet of a school if:

(1) The psilocybin service center is not located within 500 feet of:

(a) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(b) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and

(2) The Oregon Health Authority determines that there is a physical or geographic barrier capable of preventing children from traversing to the premises of the psilocybin service center. [2021 c.1 §27]

475A.315 Establishment of school after issuance of license. If a school described in ORS 475A.305 (2)(e) that has not previously been attended by children is established within 1,000 feet of a premises for which a license has been issued under ORS 475A.305, the psilocybin service center operator located at that premises may remain at that location unless the Oregon Health Authority revokes the license of the psilocybin service center operator under ORS 475A.477. [2021 c.1 §28]

475A.430 Prohibition against manufacturing psilocybin products outdoors. A psilocybin product manufacturer that holds a license under ORS 475A.290 may not manufacture psilocybin products outdoors. [2021 c.1 §52]

475A.435 Restrictions on delivery or receipt; waiver by authority. (1) A psilocybin product manufacturer that holds a license under ORS 475A.290:

(a) May deliver psilocybin products only to or on a premises for which a license has been issued under ORS 475A.290 or 475A.305; and

(b) May receive psilocybin products only from a psilocybin product manufacturer that holds a license under ORS 475A.290.

(2) A psilocybin service center operator that holds a license under ORS 475A.305:

(a) May deliver psilocybin products only to or on a premises for which a license has been issued under ORS 475A.305; and

(b) May receive psilocybin products only from a psilocybin product manufacturer that holds a license under ORS 475A.290 or a psilocybin service center operator that holds a license under ORS 475A.305.

(3) The sale of psilocybin products to a client by a psilocybin service center operator that holds a license issued under ORS 475A.305 must be restricted to the premises for which the license has been issued.

(4) The Oregon Health Authority may by order waive the requirements of subsections (1) and (2) of this section to ensure compliance with ORS 475A.210 to 475A.722 or a rule adopted under ORS 475A.210 to 475A.722. An order issued under this subsection does not constitute a waiver of any other requirement of ORS 475A.210 to 475A.722 or any other rule adopted under ORS 475A.210 to 475A.722. [2021 c.1 §53]

475A.440 Prohibition against selling or delivering psilocybin products to persons under 21 years of age. A licensee or licensee representative may not sell or deliver a psilocybin product to a person under 21 years of age. [2021 c.1 §54]

475A.468 Requirement that psilocybin products comply with minimum standards. (1) A psilocybin product may not be sold or offered for sale within this state unless the psilocybin product complies with the minimum standards prescribed by the statutory laws of this state.

(2) The Oregon Health Authority may prohibit the sale of a psilocybin product by a psilocybin service center operator for a reasonable period of time for the purpose of determining whether the

psilocybin product complies with the minimum standards prescribed by the statutory laws of this state. [2021 c.1 §61]

475A.471 Other prohibitions. (1) A person may not make false representations or statements to the Oregon Health Authority in order to induce or prevent action by the authority.

(2) A licensee may not maintain a noisy, lewd, disorderly or insanitary establishment or supply impure or otherwise deleterious psilocybin products.

(3) A licensee may not misrepresent to a person or to the public any psilocybin products. [2021 c.1 §62]

475A.477 Grounds for revocation, suspension or restriction of license. The Oregon Health Authority may revoke, suspend or restrict a license issued under ORS 475A.210 to 475A.722 or require a licensee or licensee representative to undergo training if the authority finds or has reasonable ground to believe any of the following to be true:

(1) That the licensee or licensee representative:

(a) Has violated a provision of ORS 475A.210 to 475A.722 or a rule adopted under ORS 475A.210 to 475A.722, including any code of professional conduct or code of ethics.

(b) Has made any false representation or statement to the authority in order to induce or prevent action by the authority.

(c) Is insolvent or incompetent or physically unable to carry on the management of the establishment of the licensee.

(d) Is in the habit of using alcoholic liquor, habit-forming drugs, marijuana, psilocybin products or controlled substances to excess.

(e) Has misrepresented to a person or the public any psilocybin products sold by the licensee or licensee representative.

(f) Since the issuance of the license, has been convicted of a felony, of violating any of the psilocybin products laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance committed on the premises for which the license has been issued.

(2) That there is any other reason that, in the opinion of the authority, based on public convenience or necessity, warrants revoking, suspending or restricting the license. [2021 c.1 §64]

(Employees and Other Workers)

475A.498 Use of psilocybin product allowed only at service center and only under facilitator supervision. A client may purchase, possess, and consume a psilocybin product:

(1) Only at a psilocybin service center; and

(2) Only under the supervision of a psilocybin service facilitator. [2021 c.1 §57]

Note: As originally enacted by the people, the leadline to ORS 475A.498 read “Prohibition against purchasing, possessing, and consuming a psilocybin product outside a psilocybin service center.” The leadline was changed by editorial action.

475A.504 Prohibition regarding person who is visibly intoxicated; penalty. (1) A person may not sell, give or otherwise make available a psilocybin product to a person who is visibly intoxicated.

(2) Violation of this section is a Class A misdemeanor. [2021 c.1 §72]

475A.507 Prohibition against giving psilocybin product as prize; penalty. (1) A psilocybin product may not be given as a prize, premium or consideration for a lottery, contest, game of chance, game of skill or competition of any kind.

(2) Violation of this section is a Class A violation. [2021 c.1 §73]

(Civil Enforcement of ORS 475A.210 to 475A.722)

475A.513 Civil penalty for violating ORS 475A.210 to 475A.722. In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of ORS 475A.210 to 475A.722 or a rule adopted under ORS 475A.210 to 475A.722 a civil penalty that does not exceed \$5,000 for each violation. The authority shall impose civil penalties under this section in the manner provided by ORS 183.745. Moneys collected under this section shall be deposited in the Psilocybin Control and Regulation Fund established under ORS 475A.492. [2021 c.1 §75]

(Criminal Enforcement of ORS 475A.210 to 475A.722)

475A.516 Authority of law enforcement to enforce ORS 475A.210 to 475A.722. The law enforcement officers of this state may enforce ORS 475A.210 to 475A.722 and assist the Oregon Health Authority in detecting violations of ORS 475A.210 to 475A.722 and apprehending offenders. A law enforcement officer who has notice, knowledge or reasonable ground of suspicion of a violation of ORS 475A.210 to 475A.722 shall immediately notify the district attorney who has jurisdiction over the violation and furnish the district attorney who has jurisdiction over the violation with names and addresses of any witnesses to the violation or other information related to the violation. [2021 c.1 §76]

475A.519 Duty to notify Oregon Health Authority of conviction of licensee. The county courts, district attorneys and municipal authorities, immediately upon the conviction of a licensee of a violation of ORS 475A.210 to 475A.722, or of a violation of any other law of this state or ordinance of a city or county located in this state an element of which is the possession, delivery or manufacture of a psilocybin product, shall notify the Oregon Health Authority of the conviction. [2021 c.1 §77]

475A.521 Penalty for violation of rule adopted under ORS 475A.235. Subject to ORS 153.022, violation of a rule adopted under ORS 475A.235 (2)(c) is a Class C violation. [2021 c.1 §78]

Note: As originally enacted by the people, the leadline to ORS 475A.521 read “Penalty for violating sections 3 to 129 of this 2020 Act.” The leadline was changed by editorial action.

(Regulation by Cities and Counties of Psilocybin Products)

475A.524 Preemption of municipal charter amendments and local ordinances. The provisions of ORS 475A.210 to 475A.722 are designed to operate uniformly throughout the state and are paramount and superior to and fully replace and supersede any municipal charter amendment or local ordinance inconsistent with the provisions of ORS 475A.210 to 475A.722. Amendments and ordinances that are inconsistent with the provisions of ORS 475A.210 to 475A.722 are repealed. [2021 c.1 §79]

475A.527 No local licenses. The authority to require a license for the manufacturing or sale of psilocybin products in this state, or for the provision of psilocybin services in this state, is vested solely in the Legislative Assembly. [2021 c.1 §80]

475A.530 Local time, place and manner regulations. (1) For purposes of this section, “reasonable regulations” includes:

(a) Reasonable conditions on the manner in which a psilocybin product manufacturer that holds a license issued under ORS 475A.290 may manufacture psilocybin products;

(b) Reasonable conditions on the manner in which a psilocybin service center operator that holds a license issued under ORS 475A.305 may provide psilocybin services;

(c) Reasonable limitations on the hours during which a premises for which a license has been issued under ORS 475A.210 to 475A.722 may operate;

(d) Reasonable requirements related to the public’s access to a premises for which a license has been issued under ORS 475A.210 to 475A.722; and

(e) Reasonable limitations on where a premises for which a license may be issued under ORS 475A.210 to 475A.722 may be located.

(2) Notwithstanding ORS 30.935, 215.253 (1) or 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under ORS 475A.210 to 475A.722 if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under ORS 475A.305 from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under ORS 475A.305. [2021 c.1 §81]

475A.534 Local tax or fee; referral to electors for approval. (1)(a) The authority to impose a tax or fee on the manufacturing or sale of psilocybin products in this state, or on the provision of psilocybin services in this state, is vested solely in the Legislative Assembly.

(b) A county, city or other municipal corporation or district may not adopt or enact ordinances imposing a tax or fee on the manufacturing or sale of psilocybin products in this state or on the provision of psilocybin services in this state. [2021 c.1 §82]

475A.538 Repeal of city, county ordinance that prohibits certain establishments. (1) The governing body of a city or county may repeal an ordinance that prohibits the establishment of any one or more of the following in the area subject to the jurisdiction of the city or in the unincorporated area subject to the jurisdiction of the county:

- (a) Psilocybin product manufacturers that hold a license issued under ORS 475A.290;
- (b) Psilocybin service center operators that hold a license issued under ORS 475A.305; or
- (c) Any combination of the entities described in this subsection.

(2) If the governing body of a city or county repeals an ordinance under this section, the governing body must provide the text of the ordinance to the Oregon Health Authority, in a form and manner prescribed by the authority, if the ordinance concerns a premises for which a license has been issued under ORS 475A.210 to 475A.722. [2021 c.1 §83]

(Powers and Duties of State Agencies and Officers and Governor)

475A.542 Duty of Oregon Liquor and Cannabis Commission to assist. The Oregon Liquor and Cannabis Commission shall assist and cooperate with the Oregon Health Authority and the State Department of Agriculture to the extent necessary for the authority and the department to carry out the duties of the authority and the department under ORS 475A.210 to 475A.722. [2021 c.1 §84]

475A.546 Duty of State Department of Agriculture to assist. The State Department of Agriculture shall assist and cooperate with the Oregon Health Authority to the extent necessary for the authority to carry out the duties of the authority under ORS 475A.210 to 475A.722. [2021 c.1 §85]

475A.550 Authority of State Department of Agriculture. The State Department of Agriculture may possess, test and dispose of psilocybin products. [2021 c.1 §86]

475A.554 Prohibition against refusing to perform duties on basis that certain conduct is prohibited by federal law. (1) The Oregon Health Authority, the State Department of Agriculture and the Oregon Liquor and Cannabis Commission may not refuse to perform any duty under ORS 475A.210 to 475A.722 on the basis that manufacturing, distributing, dispensing, possessing or using psilocybin products is prohibited by federal law.

(2) The authority may not revoke or refuse to issue or renew a license or permit under ORS 475A.210 to 475A.722 on the basis that manufacturing, distributing, dispensing, possessing or using psilocybin products is prohibited by federal law. [2021 c.1 §87]

AUTHORITY OF CITIES AND COUNTIES TO PROHIBIT ESTABLISHMENT OF PSILOCYBIN-RELATED BUSINESSES

475A.718 Adoption of ordinances; referral to electors for approval. (1) The governing body of a city or county may adopt ordinances to be referred to the electors of the city or county as described in subsection (2) of this section that prohibit or allow the establishment of any one or more of the following in the area subject to the jurisdiction of the city or in the unincorporated area subject to the jurisdiction of the county:

- (a) Psilocybin product manufacturers that hold a license issued under ORS 475A.290;
- (b) Psilocybin service center operators that hold a license issued under ORS 475A.305; or
- (c) Any combination of the entities described in this subsection.

(2) If the governing body of a city or county adopts an ordinance under this section, the governing body shall submit the measure of the ordinance to the electors of the city or county for approval at the next statewide general election.

(3) If the governing body of a city or county adopts an ordinance under this section, the governing body must provide the text of the ordinance to the Oregon Health Authority.

(4) Upon receiving notice of a prohibition under subsection (3) of this section, the authority shall discontinue licensing those premises to which the prohibition applies until the date of the next statewide general election.

(5) If an allowance is approved at the next statewide general election under subsection (2) of this section, the authority shall begin licensing the premises to which the allowance applies on the first business day of the January immediately following the date of the next statewide general election.

(6) Notwithstanding any other provisions of law, a city or county that adopts an ordinance under this section that prohibits the establishment of an entity described in subsection (1) of this section may not impose a tax or fee on the manufacturing or sale of psilocybin products. [2021 c.1 §128]