

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 1st, 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.