



MODEL



Model Psilocybin Ordinance & Ballot Measure

JUNE 2022

Cities and counties that desire to prohibit the establishment of psilocybin-related businesses may do so by referral at a statewide general election, meaning an election in November of an even-numbered year. Cities and counties should consult the secretary of state's referral manual and work with the city recorder, elections official, or similar official to determine the procedures necessary to refer an ordinance to the voters.

Once the governing body of a city or county adopts an ordinance, its city or county must submit the ordinance to the Oregon Health Authority (OHA). The OHA will then stop registering and licensing the prohibited businesses until the next statewide general election, when the voters will decide whether to approve or reject the ordinance. In other words, the governing body's adoption of an ordinance acts as a moratorium on new psilocybin-related businesses until the election.

In addition, it is important to note that once election officials file the referral with the county election office, the ballot measure is certified to the ballot. At that point, the restrictions on public employees engaging in political activity will apply. Consequently, cities should consult the secretary of state's manual *Restrictions on Political Campaigning by Public Employees* and their city attorney to ensure that public employees are complying with state elections law in their communications about the pending measure. The model ordinances and ballot measures below contain two versions. The first is a permanent ban of psilocybin-related businesses until the ordinance is repealed and the second acts as a two-year moratorium.

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This document is not a substitute for legal advice. City and county councils considering prohibiting psilocybin-related activities should not rely solely on this sample. Any city or county council considering any form of regulation of psilocybin should consult with its city or county attorney regarding the advantages, disadvantages, risks and limitations of any given approach.

Legal counsel can also assist a city or county in preparing an ordinance that is consistent with local procedures, existing ordinances and charter, and advise on what process is needed to adopt the ordinance. The sample provided is intended to be a starting point, not an end point, for any jurisdiction considering prohibiting psilocybin-related activities.

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PERMANENT BAN

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ORDINANCE NO. _____

AN ORDINANCE DECLARING A BAN ON PSILOCYBIN SERVICE CENTERS AND THE MANUFACTURE OF PSILOCYBIN PRODUCTS

WHEREAS, in November 2020, Oregon voters approved Ballot Measure 109, known as the Oregon Psilocybin Service Act (codified at ORS 475A), which allows for the manufacture, delivery and administration of psilocybin at licensed facilities; and

WHEREAS, 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; and

WHEREAS, the Oregon Health Authority has initiated a rulemaking process to implement the state's psilocybin regulatory program and intends to begin accepting applications for psilocybin-related licenses on January 2, 2023; and

WHEREAS, as of June {date}, 2022, the Oregon Health Authority has not completed the rulemaking process for implementing the state's psilocybin regulatory program, and the City of {city} is uncertain how the manufacture, delivery and administration of psilocybin at licensed psilocybin facilities will operate within the city; and

WHEREAS, ORS 475A.718 provides that a city 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; and

WHEREAS, the {city} City Council believes that prohibiting psilocybin product manufacturers and psilocybin service centers within the city's jurisdictional boundaries to enable the adoption of the state's psilocybin licensing and regulatory program and to allow the city to adopt reasonable time, place, and manner regulations on the operation of psilocybin facilities is in the best interest of the health, safety and welfare of the people of {city}; and

WHEREAS, the City Council seeks to refer to the voters of {city} the question of whether to establish a ban on state-licensed psilocybin product manufacturers and psilocybin service centers within the city's jurisdictional boundaries.

Now, therefore,

THE CITY OF {CITY} ORDAINS AS FOLLOWS:

Section 1. Prohibition.

The establishment of psilocybin product manufacturers licensed under ORS 275A.290 and psilocybin service centers licensed under ORS 475A.305 is prohibited in the City of {city}.

Section 2. Referral.

This ordinance is referred to the electors of the city of {city} for approval at the next statewide general election on November 8, 2022.

Section 3. Effective Date.

This ordinance takes effect and becomes operative 30 days after the day on which it is approved by a majority of voters.

First reading this ____ day of _____, 2022.

Second reading and passage by this Council this ____ day of _____, 2022.

Signed by the Mayor this ____ day of _____, 2022.

ATTEST:

SIGNED:

{NAME}, City Recorder

{NAME}, Mayor

BALLOT TITLE

A caption which reasonably identifies the subject of the measure.

10-word limit under ORS 250.035(1)(a)

Prohibits psilocybin-related businesses within {city}. [Prohibition sunsets after two years.]

QUESTION

A question which plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure.

20-word limit under ORS 250.035(1)(b)

Shall {city or county} prohibit {psilocybin-related businesses} in {city or county}?

SUMMARY

A concise and impartial statement summarizing the measure and its major effect.

17-word limit under ORS 250.035(1)(c)

State law allows operation manufacturer, distribution and possession of psilocybin and psilocin. State law provides that a {city or county} council may adopt an ordinance to be referred to the voters to prohibit the establishment of any of those registered or licensed activities.

Approval of this measure would prohibit the establishment of {psilocybin project manufacturers} and/or {psilocybin service center operators} within the area {subject to the jurisdiction of the city} or {in the unincorporated area subject to the jurisdiction of the county}.

EXPLANATORY STATEMENT

An impartial, simple and understandable statement explaining the measure and its effect for use in the county voters' pamphlet.

500-word limit under ORS 251.345 and OAR 165-022-0040(3)

Approval of this measure would prohibit the establishment {and operation} of psilocybin-related businesses within the {city or county}.

A {city or county} council may adopt an ordinance prohibiting the establishment of psilocybin related businesses within the {city or county}, but the council must refer the ordinance to the voters at a statewide general election. The {CITY or COUNTY} OF {NAME} {city or county} council has adopted an ordinance prohibiting the establishment of psilocybin-related businesses within the {city or county} and, as a result, has referred this measure to the voters.

If approved, this measure would prohibit psilocybin-related businesses within the {city or county}.

TWO-YEAR MORATORIUM

ORDINANCE NO. _____

AN ORDINANCE DECLARING A TEMPORARY BAN ON PSILOCYBIN SERVICE CENTERS AND THE MANUFACTURE OF PSILOCYBIN PRODUCTS

WHEREAS, in November 2020, Oregon voters approved Ballot Measure 109, known as the Oregon Psilocybin Service Act (codified at ORS 475A), which allows for the manufacture, delivery and administration of psilocybin at licensed facilities; and

WHEREAS, 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; and

WHEREAS, the Oregon Health Authority has initiated a rulemaking process to implement the state's psilocybin regulatory program and intends to begin accepting applications for psilocybin-related licenses on January 2, 2023; and

WHEREAS, as of June {date}, 2022, the Oregon Health Authority has not completed the rulemaking process for implementing the state's psilocybin regulatory program, and the City of {city} is uncertain how the manufacture, delivery and administration of psilocybin at licensed psilocybin facilities will operate within the city; and

WHEREAS, ORS 475A.718 provides that a city 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; and

WHEREAS, the {city} City Council believes that prohibiting psilocybin product manufacturers and psilocybin service centers within the city's jurisdictional boundaries to enable the adoption of the state's psilocybin licensing and regulatory program and to allow the city to adopt reasonable time, place, and manner regulations on the operation of psilocybin facilities is in the best interest of the health, safety and welfare of the people of {city}; and

WHEREAS, the City Council seeks to refer to the voters of {city} the question of whether to establish a two-year temporary ban on state-licensed psilocybin product manufacturers and psilocybin service centers within the city's jurisdictional boundaries.

Now, therefore,

THE CITY OF {CITY} ORDAINS AS FOLLOWS:

Section 1. Prohibition.

The establishment of psilocybin product manufacturers licensed under ORS 275A.290 and psilocybin service centers licensed under ORS 475A.305 is prohibited in the city of {city}.

Section 2. Referral.

This ordinance is referred to the electors of the city of {city} for approval at the next statewide general election on November 8, 2022.

Section 3. Effective Date.

This ordinance takes effect and becomes operative 30 days after the day on which it is approved by a majority of voters.

Section 4. Sunset.

This ordinance is repealed on December 31, 2024.

First reading this ____ day of _____, 2022.

Second reading and passage by this Council this ____ day of _____, 2022.

Signed by the Mayor this ____ day of _____, 2022.

ATTEST:

SIGNED:

{NAME}, City Recorder

{NAME}, Mayor

BALLOT TITLE

A caption which reasonably identifies the subject of the measure.

10-word limit under ORS 250.035(1)(a)

Prohibits psilocybin-related businesses within {city}. [Prohibition sunsets after two years.]

QUESTION

A question which plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure.

20-word limit under ORS 250.035(1)(b)

Shall {city or county} prohibit {psilocybin-related businesses} in {city or county}?

SUMMARY

A concise and impartial statement summarizing the measure and its major effect.

17-word limit under ORS 250.035(1)(c)

State law allows operation manufacturer, distribution and possession of psilocybin and psilocin. State law provides that a {city or county} council may adopt an ordinance to be referred to the voters to prohibit the establishment of any of those registered or licensed activities.

Approval of this measure would prohibit the establishment of {psilocybin project manufacturers} and/or {psilocybin service center operators} within the area {subject to the jurisdiction of the city} or {in the unincorporated area subject to the jurisdiction of the county.}

EXPLANATORY STATEMENT

An impartial, simple and understandable statement explaining the measure and its effect for use in the county voters' pamphlet.

500-word limit under ORS 251.345 and OAR 165-022-0040(3)

Approval of this measure would prohibit the establishment {and operation} of psilocybin-related businesses within the {city or county}.

A {city or county} council may adopt an ordinance prohibiting the establishment of psilocybin related businesses within the {city or county}, but the council must refer the ordinance to the voters at a statewide general election. The {CITY or COUNTY} OF {NAME} {city or county} council has adopted an ordinance prohibiting the establishment of psilocybin-related businesses within the {city or county} and, as a result, has referred this measure to the voters.

If approved, this measure would prohibit psilocybin-related businesses within the {city or county} until December 31, 2024.