

ORDINANCE 2022-27

AN ORDINANCE CREATING MUNICIPAL CODE SECTION 5.03.040.030 “PSILOCYBIN” AND CHAPTER 8.18, "PSILOCYBIN FACILITIES," AND DECLARING AN EMERGENCY

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1. Municipal Code Section 5.03.040.030 is hereby created as set forth in Exhibit A.

Section 2. Municipal Code Chapter 8.18 is hereby created as set forth in Exhibit B.

Section 3. Emergency. Because prompt and continuous psilocybin code enforcement and siting rules are necessary for the peace, health, and safety of the people of the City of Corvallis and the surrounding area, the City Council declares that an emergency exists, and this ordinance shall be effective upon its passage by the Council.

Section 4. No other provision in the municipal code is amended by this ordinance.

PASSED by the City Council this 21st day of November, 2022.

APPROVED by the Mayor this 22nd day of November, 2022.

EFFECTIVE this 22nd day of November, 2022.

DocuSigned by:
Biff Traber
C931E9D22C1D4A4...

Mayor

ATTEST:

DocuSigned by:
A. Downing
DC12967B0C5C423...

City Recorder

ORDINANCE 2022-27

EXHIBIT A

Section 5.03.040.030 - PSILOCYBIN

Section 5.03.040.030.01 – Definitions

- 1) “Facilitation” means the provision of psilocybin-related services to a client by a licensed facilitator during a preparation, administration, or integration session.
- 2) “Intoxicant” means any substance that has intoxicating effects, and includes alcohol, prescription drugs, non-prescription drugs, and any other controlled substances.
- 3) “Premises” relates to licensed psilocybin service centers licensed by the Oregon Health Authority and means all areas of a location that are licensed under the Oregon Revised Statutes including:
 - a) All public and private enclosed areas at the location that are used in the licensed business operated at the location, including offices, treatment rooms, rest rooms and storerooms; and
 - b) All areas outside a building that are used in the licensed business operated at the location including those used to operate the psilocybin service center and provide psilocybin services to clients.
- 4) “Psilocybin Product” means psilocybin-producing fungi, mycelium and mixtures or substances containing a detectable amount of psilocybin, including whole fungi, homogenized fungi, psilocybin extract and edible psilocybin products. This includes products manufactured and administered at psilocybin service centers and other related psilocybin businesses as regulated by the Oregon Health Authority and defined in Oregon Revised statutes.
- 5) “Service Center” has the same meaning as set forth in ORS 475A.

Section 5.03.040.030.02 – Prohibition Against Providing or Selling Psilocybin to Person Less than 21 years of Age.

- 1) A person may not knowingly or recklessly sell, give, or otherwise make available a psilocybin product to a person less than twenty-one (21) years of age.
- 2) It is an affirmative defense to section (1) that the person selling, giving, or otherwise making available psilocybin product was provided a false identification of age of the person where a reasonable person would not have determined the identification of altered, invalid, expired or that the identification exhibited by the person under 21 years of age did not accurately describe the person to whom the psilocybin was sold, served or otherwise made available.
- 3) Violation of this section constitutes an infraction.

Section 5.03.040.030.03 – Prohibition Against Production of False Identification of Age.

- 1) A person may not knowingly or recklessly produce any piece of identification that falsely indicates the person’s age to any psilocybin related business including a psilocybin service center.
- 2) Violation of this section is a Class A infraction.

- 3) In addition to and not in lieu of any other penalty established by law, a person under 21 years of age who violates subsection (1) of this Section through misrepresentation of age may be required to perform community service.

Section 5.03.040.030.04 – Prohibition Against Purchase or Attempted purchase of psilocybin by person under 21; entry of psilocybin premises by person under 21.

- 1) A person under 21 years of age may not possess, attempt to purchase, or purchase psilocybin products.
- 2) A person under 21 years of age may not knowingly or recklessly enter or attempt to enter premises of a psilocybin service center or any portion of the premises that is posted or otherwise identified as being prohibited to the use of persons under 21 years of age.
- 3) Violation of this section constitutes a Class A infraction.
- 4) In addition to and not in lieu of any other penalty established by law the court may require a person who violates subsection 1) of this section through misrepresentation of age to perform community service
- 5) In addition to and not in lieu of any penalty established by law, the court may order a person who violates this section to undergo assessment and treatment. The court must order a person to undergo assessment and treatment if the person has previously been found to have violated this section.
- 6) When a person is ordered to undergo assessment and treatment as provided in this section, the court shall require the person to do all of the following:
 - a) Pay to the court the fee described under ORS 813.030 in addition to any fine imposed under ORS 475B.260.
 - b) Complete an examination by an agency or organization designated by the court to determine whether the person has a problem condition involving psilocybin as described in ORS 813.040. The designated agencies or organizations must meet minimum standards established under ORS 430.357 to perform the diagnostic assessment and treatment of problem psilocybin use and must be certified by the Director of the Oregon Health Authority.
 - c) Complete a treatment program, paid at the expense of the person convicted, as follows:
 - i) If the examination required under this section shows that the person has a problem condition involving psilocybin, a program for rehabilitation for problem psilocybin use approved by the director.
 - ii) If the examination required by this section shows that the person does not have a problem condition involving psilocybin, a psilocybin information program approved by the director.
- 7) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the Oregon Health Authority or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws related to psilocybin businesses.
- 8) It is an affirmative defense to (2) of this section that the person entered or attempted to enter the premises in order to obtain medical assistance because the person consumed a psilocybin product or in order to obtain medical assistance for another person who was in need of medical assistance because that person consumed a psilocybin product.

Section 5.03.040.030.05 – 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.

Section 5.03.040.030.06 – Prohibition for Psilocybin Facilitator Consuming Psilocybin During Session

- 1) A psilocybin service facilitator may not consume a psilocybin product during the facilitation of psilocybin to another person, including the session that facilitator is supervising.
- 2) Violation of this section constitutes a Class C Misdemeanor.

Section 5.03.040.030.07 – Prohibition Against Giving Psilocybin Product as Prize

- 1) A psilocybin product may not be given as a prize, premium, promotion or consideration for a lottery, contest, game of chance, game of skill or competition of any kind.
- 2) Violation of this section constitutes a Class A Infraction.

ORDINANCE 2022-27

EXHIBIT B

Chapter 8.18 – PSILOCYBIN FACILITIES

Section 8.18.010 – Definitions

- 1) “License” means a license and the licensure process controlled by the Oregon Health Authority as set out in ORS Chapter 475A.
- 2) “Licensee” means a holder of any type of license issued by the Oregon Health Authority under ORS Chapter 475A.
- 3) “Psilocybin Production” means the manufacture, planting, cultivation, growing, harvesting, production, preparation, propagation, any packaging or repackaging of psilocybin-producing fungi or labeling or relabeling of its container, provided that the psilocybin manufacturer is licensed by the Oregon Health Authority with a psilocybin manufacturing endorsement for fungi cultivation. It does not include psilocybin processing.
- 4) “Psilocybin Processing” means the 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, provided that the psilocybin manufacturer is licensed by the Oregon Health Authority with a psilocybin manufacturing endorsement for psilocybin extraction and/or edible psilocybin production.
- 5) "Psilocybin service center" means an establishment licensed by the Oregon Health Authority:
 - a. At which administration sessions are held; and
 - b. At which other psilocybin services may be provided.
- 6) “Sober adult” means an individual over 21 years of age who has not undergone any psilocybin treatment for at least 24 hours and who does not appear to be under the influence of any other intoxicant.

Section 8.18.020 – Prohibition against employing persons under 21 years of age.

It shall be a violation of this chapter for a license holder to employ individuals under the age of twenty-one (21) to engage in the manufacturing, delivery, or provision of psilocybin products, services, or sales.

Section 8.18.030 – Siting of Service Centers

- 1) A psilocybin treatment service center shall not be located within 1,000 feet of:
 - a) Either of the following, unless authorized to be so sited by the Oregon Health Authority:
 - i. A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
 - ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a).

- b) A publicly owned playground, play field, or recreation facility;
 - c) Another psilocybin treatment service center.
- 2) If any of the uses described Subsection 1 of this Section is established subsequent to the legal establishment of a psilocybin treatment service center, the service center may remain at that location unless the Oregon Health Authority revokes the license of the service center operator or the service center use is otherwise abandoned for a period of more than one year.
- 3) A service center is considered a “Medical Service” use for purposes of enforcing the Land Development Code
- 4) A service center may not be located within an accessory dwelling unit (ADU) on a lot whose primary use is a residence.
- 5) A service center may be located within a mixed-use building so long as the service center is located in a space designated for commercial uses and not a space designated for residential uses, a dwelling unit, or a residence.
- 6) Psilocybin-related business may not be located at the same location as:
 - a) Any marijuana-related business;
 - b) Any business licensed for the retail sale of alcohol;
 - c) Any residence (i.e. home business)
- 7) Nothing in this Section should be construed as exempting Psilocybin Service Centers from applicable requirements set forth in the Corvallis Land Development Code.

Section 8.18.040 – Operation of Service Centers

- 1) A Service Center can operate only with proper licensing from the State of Oregon.
- 2) A Psilocybin Service Center may only operate between the hours of 7 a.m. through 10 p.m., daily.

Section 8.18.050 – Release of Clients from Service Center

- 1) Except as provided in subsection (2) of this Section, service centers may not release individuals after a psilocybin treatment session unless they are released into the care of a sober adult.
- 2) An individual may be released from a psilocybin service center without an accompanying sober adult only if they are not exhibiting signs of intoxication of psilocybin.

Section 8.18.060 – Siting of Production and Processing Facilities

- 1) A facility that produces or processes psilocybin shall not be located within 1,000 feet of:
 - a. Either of the following, unless authorized to be so sited by the Oregon Health Authority:
 - i. A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
 - ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a).
 - b. A publicly owned playground, play field, or recreation facility;
- 2) If any of the uses described Subsection 1 of this Section is established subsequent to the legal establishment of a psilocybin treatment service center, the service center may remain at that location unless the Oregon Health Authority revokes the license of the

service center operator or the service center use is otherwise abandoned for a period of more than one year.

- 3) The production and processing of psilocybin are considered a “horticulture” sub-use of an “Agriculture” use for purposes of enforcing the Land Development Code
 - a. Production and processing of psilocybin are excluded from zones that permit horticulture for personal use as an accessory use.

Section 8.18.070 - Enforcement authority.

The City is authorized to administer and enforce the provisions of this Chapter. The City may exercise any enforcement powers as provided in this code.

Section 8.18.080 - Enforcement remedies.

- 1) Any persons violating any provision herein shall, upon conviction thereof, be punished by imprisonment for a period not to exceed 90 days, or by fine not to exceed \$1000.00, or both.
- 2) The City Attorney may also seek injunctive relief and civil penalties in the Corvallis Municipal Court or pursue any administrative remedies provided in this code.
- 3) Each day a violation exists or continues to exist is deemed to be a separate violation subject to penalty.

Section 8.18.090 – Severability.

The sections, subsections, paragraphs, and clauses of this chapter are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs, and clauses.

Section 8.18.100 – Savings Clause.

Notwithstanding any amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this chapter affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.