

**City of North Powder
Agenda
August 10, 2022
7PM City Hall**

Pledge of Allegiance

Reason for meeting: To consider adopting an ordinance referring to the voters a ban on psilocybin service centers and the manufacturing of psilocybin products.

Staff Report

Public Testimony

Entertain Motion

Council Discussion

Read proposed ordinance

Read by Title Only

Ask for Vote

STAFF REPORT

Explanation: Oregon Ballot Measure 109 has legalized the use of psilocybin mushrooms in certain circumstances. The action before the City Council is to determine how the City shall proceed based on the options available under the measure.

Background:

- A. In November 2020, Oregon voters (56%) approved Ballot Measure 109, known as the Oregon Psilocybin Service Act which allows for the manufacturing, delivery and administration of psilocybin at supervised, licensed facilities.
- B. Psilocybin mushrooms are wild or cultivated mushrooms that contain psilocybin, a naturally occurring psychoactive and hallucinogenic compound that produce changes in perception, mood, and cognitive processes.
- C. ORS 475A.235 provides that the Oregon Health Authority (OHA) will regulate the manufacturing, transportation, delivery, sale and purchase of psilocybin products and the provision of psilocybin services in the State.
- D. The OHA has initiated a rulemaking process and intends to begin accepting applications for proposed facilities, beginning on January 2, 2023.
- E. The OHA has not completed the rulemaking process for implementing the State's psilocybin program and there are still a lot of things unknown about the regulation process.
 - For instance, there is nothing known so far about how the OHA will regulate the administration of psilocybin so as to prevent DUIs when persons leave the service centers.
 - Additionally, the criteria for dosage levels have not been released.
 - The State can impose a 15% tax on the sale of psilocybin products, but a municipality cannot impose a local tax.
- F. Because of the unknown elements of the rulemaking process, city staffs throughout the State do not know how the manufacturing, delivery and administration of psilocybin at supervised, licensed facilities will occur within city jurisdictions.

Options for Consideration:

The City has the following options for moving forward now that Measure 109 has passed:

Option 1: Do not refer the matter to the voters and allow Measure 109 (now codified as ORS 475A) to take effect.

- *This is the easiest option, but doing nothing gives the City the least control over the siting of psilocybin facilities within the City's jurisdiction once the State starts granting licenses. The City would not have time to watch how the process unfolds in other jurisdictions and give OHA time to iron out its licensing process*

Option 2: Do not refer the matter to the voters, but develop Time, Place and Manner restriction as allowed in Measure 109 (now codified as ORS 475A).

- *Measure 109 allows cities to adopt an ordinance establishing Time, Place and Manner restrictions. If done as a stand-alone ordinance, this can be done immediately and in effect prior to the January 2, 2023, in advance of the State granting licenses. This stand-alone ordinance would not be a land use action subject to the much greater public notice and hearing process required when amending the City's land development code.*

Option 3 (Recommended): Refer to the voters a total ban on the ability for psilocybin facilities to be sited within the City's jurisdiction.

- *Options 3 and 4 are very similar, but this option imposes a permanent ban vs. a temporary ban/moratorium. Both options must be referred to the voters and the City may only choose one of these options, not both.*
- *If the City adopts an ordinance banning these activities, it will be referring this question to the voters, and if the voters pass a total ban, the City would not need to revisit this matter unless it wished to repeal the ban.*

(Note: To refer this question to the voters, the City Council must pass an ordinance with an emergency clause for the ordinance to become effectively immediately upon its passage. This urgency is required as the deadline to submit a ballot title to the County Election clerk is August 19, 2022.)

Option 4: Refer to the voters a 2-year ban (moratorium) on the ability for psilocybin facilities to be sited within the City's jurisdiction.

- *A 2-year ban (moratorium) would give the City time to watch how the process unfolds in other jurisdictions and give OHA time to iron out its licensing process. Then, the City could develop Time, Place and Manner restrictions based on what we learn.*
- *If the City Council adopts an ordinance establishing a 2-year moratorium, referring this question to the voters, and the voters pass a 2-year moratorium, the City Council can refer the question of a temporary or permanent ban to the voters again at the end of the 2-year period.*
- *One concern regarding Option 4 is the ability to adequately educate the voters regarding the purpose of the temporary ban so they can make an informed decision.*

SUGGESTED MOTION 1: I move that an emergency be declared to exist and that the proposed Ordinance declaring a ban on psilocybin service centers and the manufacturing of psilocybin products, with an emergency declaration be Read first in full and then Read by Title Only, Put to a Vote, and Adopted.

Option #3

**CITY of NORTH POWDER
ORDINANCE NUMBER 2022-01**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH POWDER, UNION COUNTY,
OREGON, DECLARING A BAN ON PSILOCYBIN SERVICE CENTERS AND THE MANUFACTURE OF
PSILOCYBIN PRODUCTS; AND DECLARING AN EMERGENCY**

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 August 10, 2022, the Oregon Health Authority has not completed the rulemaking process for implementing the state's psilocybin regulatory program, and the City North Powder 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 Council seeks to refer to the voters of City of North Powder 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 NORTH POWDER 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 North Powder..

Section 2. REFERRAL. This Ordinance is referred to the electors of the City of North Powder for approval at the next statewide general election on November 8, 2022.

Section 3. EMERGENCY. This Ordinance being necessary of the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

Section 4. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption by the City Council of the City of North Powder, Union County, Oregon, and its approval by the Mayor; specifically, August 10, 2022.

ADOPTED AND APPROVED on this Tenth (10th) day of August, 2022, by _____
() of _____ () Councilors present and voting in the affirmative.

John Frieboes, Mayor

ATTEST:

Beth Wendt
City Recorder

Option # 4

**CITY of NORTHPOWDER
ORDINANCE NUMBER 2022-01**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH POWDER, UNION COUNTY,
OREGON, DECLARING A TEMPORARY BAN ON PSILOCYBIN SERVICE CENTERS AND THE
MANUFACTURE OF PSILOCYBIN PRODUCTS; AND DECLARING AN EMERGENCY**

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 August 3, 2022, the Oregon Health Authority has not completed the rulemaking process for implementing the state's psilocybin regulatory program, and the City of North Powder 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 of North Powder; and

WHEREAS, the City of North Powder City Council believes that temporarily 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 the City of North Powder; and

WHEREAS, the City Council seeks to refer to the voters North Powder, Oregon, 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 NORTH POWDER 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 North Powder.

Section 2. REFERRAL. This Ordinance is referred to the electors of the City of North Powder for approval at the next statewide general election on November 8, 2022.

Section 3. EMERGENCY. This Ordinance being necessary of the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

Section 4. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption by the City Council of the City of North Powder, Union County, Oregon, and its approval by the Mayor; specifically, August 3, 2022.

Section 5. SUNSET. This Ordinance is repealed on December 31, 2024.

ADOPTED AND APPROVED on this Tenth (10th) day of August, 2022, by _____
() of _____ () Councilors present and voting in the affirmative.

John Frieboes, Mayor

ATTEST:

Beth Wendt
City Recorder