

BEFORE THE COMMON COUNCIL OF CANNON BEACH

FOR THE PURPOSE OF ADDING MUNICIPAL) ORDINANCE NO. 22-06
CODE CHAPTER 5.22, REGARDING)
PSILOCYBIN SERVICES)

WHEREAS The State of Oregon had legalized the manufacture, sale, and consumption of mushrooms containing psilocybin and that the Oregon Health Authority will regulate the manufacture and sale of these products; and

WHEREAS The Common Council of the City of Cannon Beach finds that psilocybin services exist in a unique regulatory environment; and

WHEREAS The Common Council of the City of Cannon Beach finds that the City has little experience with these types of businesses; and

WHEREAS The Common Council of the City of Cannon Beach finds that it is in the public interest to protect and enhance the City's small-town atmosphere and the community's attractive appearance; and

WHEREAS The Common Council of the City of Cannon Beach finds that City regulation of the time, place, and manner for the establishment and conduct of psilocybin related businesses is in the public interest; and

WHEREAS The Common Council of the City of Cannon Beach finds it in the public interest to consider amendments to its prior enactments, including amendments to Municipal Code Title 5 Business Taxes, Licenses and Regulations to include Chapter 5.22, Psilocybin;

NOW, THEREFORE, based on the foregoing, the Common Council of the City of Cannon Beach does ordain as follows:

Section 1. Municipal Code section 5.22.010, Definitions is amended to read as follows:

- A. "Psilocybin services" means the preparation, administration, and facilitation of integration or consumption sessions of psilocybin products. Psilocybin services shall only be performed by persons licensed by the Oregon Health Authority to produce or administer psilocybin products.
- B. "Psilocybin products" means psilocybin mushrooms or other preparations such as edibles or tinctures produced in a manner authorized by the Oregon Health Authority.
- C. "Service center" means a location licensed by the Oregon Health Authority for the administration of psilocybin products to members of the public by licensed facilitators.

- D. “Licensed facilitator” means a person who is licensed by the Oregon Health Authority to own or operate a service center and sell and administer psilocybin products.
- E. “Manufacturer” means a person who is licensed by the Oregon Health Authority to produce psilocybin products.
- F. “Manufacturing site” means a location licensed by the Oregon Health Authority for the production of psilocybin products.
- G. “Principal” means members, partners or corporate officers, and all stockholders holding more than ten percent of the voting stock for any applicant who is not a natural person.

Section 2. Municipal Code section 5.22.015, Licenses and Registration is amended to read as follows:

- A. Business License Required. Manufacturing Sites and Service Centers must be licensed annually under Chapter 5.04 to operate within the City.
- B. State Registration Required. To be eligible to apply for a business license under Chapter 5.04, manufacturing sites, manufacturers, service center, and licensed facilitators must be registered with the Oregon Health Authority and authorized by state law to operate.

Section 3. Municipal Code section 5.20.020, Transferability is amended to read as follows:

Business licenses for service centers or manufacturing sites shall not be transferred to any other person.

Section 4. Municipal Code section 5.20.025, Indemnification is amended to read as follows:

- A. Waiver. By accepting a business license for a service center or manufacturing site, the licensee waives and releases the City, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of a licensed facilitator or manufacturer, principal, person or legal entity with a financial interest in the facility, person or entity that has leased real property to the facility, employee, volunteer, client or customer for a violation of federal, state or local laws and regulations.
- B. Indemnification. By accepting a business license for a service center or manufacturing site, the licensee(s), jointly and severally if there is more than one, agree to indemnify and hold harmless the city, its officers, elected officials, employees, volunteers, and agents, insurers, and self-insurance pool against all liability, claims, and demands on account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind

whatsoever arising out of or in any manner connected with the operation of service center or manufacturing site that is the subject of the business license.

Section 5. Municipal Code section 5.20.030, Criminal Background Check is amended to read as follows:

Background Check Required/Disqualification. All applicants, principals, employees, volunteers, persons with a financial interest in the service center or manufacturing site must submit to a criminal background check performed by the Police Chief before a business license will be issued. A person who has been convicted of a felony may not be a licensee.

Section 6. Municipal Code section 5.20.035, Standards of Operation is amended to read as follows:

- A. Registration and Compliance with Oregon Health Authority Rules. The facility's registration as a service center or manufacturing site under ORS 475A must be in good standing with the Oregon Health Authority, and the facility must comply with all applicable laws and regulations administered by the Oregon Health Authority for facilities.
- B. Compliance with Other Laws. The facility must comply with all applicable laws and regulations, including, but not limited to, zoning regulations, building codes, and fire codes.
- C. Hours of Operation. Operating hours for service centers and manufacturing sites must be no earlier 8:00 AM and no later than 10:00 PM on the same day.
- D. Public View into Facility. All doorways, windows, and other openings shall be located, covered, or screened in such a manner to prevent a view into the interior from any existing public or semipublic area.
- E. Odors. The facility must use an air filtration and ventilation system which, to the greatest extent feasible, confines all objectionable odors associated with the facility to the premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
- F. Lighting. Facilities must maintain adequate outdoor lighting over each exterior exit. Exterior lighting is subject to the limits in section 17.44.15.
- G. Registry Identification Card Required. All persons working within a service center or manufacturing site must have a valid registry identification card and be in compliance with the rules adopted by the Oregon Health Authority. This requirement does not apply to the building official, fire fighters, law enforcement officers, emergency medical first responders, or state or federal agency staff.

- H. Sales in Facility. Sales or other transfers of psilocybin products on the facility premises must occur inside the facility building and must be conducted only between the facility and individuals with registry identification cards.
- I. On-Site Use. Psilocybin products shall be consumed on the premises in accordance with Oregon Health Authority rules.
- J. Outdoor Storage. Outdoor storage of merchandise, raw materials or other material associated with a service center or manufacturing site is prohibited.
- K. Secure Disposal. A service center or manufacturing site must provide for secure disposal of psilocybin product remnants or by-products; remnants or by-products shall not be placed within the facility's exterior refuse containers.
- L. Home Occupation. A psilocybin services facility, service center, or manufacturing site may not be operated as a home occupation.
- M. Drive-Through, Walk-Up. A psilocybin services facility, service center, or manufacturing site may not have a walk-up or drive-through window.
- N. Labeling. All products containing psilocybin products must be labeled as required by Oregon Health Authority rules.

Section 7. Municipal Code section 5.20.040, Location is amended to read as follows:

- A. Restrictions on Location. A psilocybin services facility, service center, or manufacturing site shall not locate:
 - 1. Within a residence or mixed-use property that includes a residence.
 - 2. Within any of the following zones:
 - Residential Very Low Density (RVL)
 - Residential Lower Density (RL)
 - Residential Moderate Density (R1)
 - Residential Medium Density (R2)
 - Residential High Density (R3)
 - Residential Alternative/Manufactured Dwelling (RAM)
 - Residential Motel (RM)
 - Manufactured Dwelling and Recreation Vehicle Park (MP)
 - Open Space/Recreation (OSR)
 - Estuary (E)
 - Park Management (PK)
 - Open Space (OS)

Institutional (IN)
Institutional Reserve (IR)

3. Within 1,000 feet of a public elementary or secondary school for which attendance is compulsory under ORS 339.020.
 4. Within 1,000 feet of a private or parochial elementary or secondary school teaching children as described in ORS 339.030(1)(a).
- B. Distances. For purposes of this section, all distances shall be measured as a straight line from the nearest point on the perimeter of the tax lot containing the psilocybin services facility to the nearest point of the perimeter of the tax lot containing the use identified in section 5.22.040(3) and (4).

Section 8. Municipal Code section 5.20.045, Signs is amended to read as follows:

Signs. A psilocybin services facility may display signs as allowed under chapter 17.56.

Section 9. Municipal Code section 5.20.050, Examination of Books, Records, Premises is amended to read as follows:

- A. Examination of Books, Records and Premises. To determine compliance with the requirements of this chapter and other chapters of the Cannon Beach Municipal Code, a licensee shall allow the city manager, police chief, building official, public works director, finance director, or other city official designated by the city manager to examine, at any reasonable time, the premises of the facility, including wastewater from the facility, and any and all facility financial, operational and facility information, including books, papers, payroll reports, and state and federal income tax returns. Every licensee is directed and required to furnish the means, facilities and opportunity for making such examinations and investigations.
- B. Compliance with Law Enforcement. As part of investigation of a crime or a violation of this chapter which law enforcement officials reasonably suspect has taken place on the facility's premises or in connection with the operation of the facility, the police chief or his or her designee shall be allowed to view surveillance videotapes or digital recordings at any reasonable time. Without reducing or waiving any provisions of this chapter, the Cannon Beach Police Department shall have the same access to the facility, its records and its operations as allowed to state inspectors.

Section 10. Municipal Code section 5.20.055, Enforcement is amended to read as follows:

- A. The City may deny, suspend or revoke a business license for failure to comply with this chapter, for submitting falsified information to the city or the Oregon Health Authority, or for noncompliance with any other city ordinances or state law.

- B. **Civil Penalty.** In addition to the other remedies provided in the Cannon Beach Municipal Code, any person or entity, including any person who acts as the agent of, or otherwise assists, a person or entity who fails to comply with the requirements of this chapter or the terms of a license issued under this chapter, who undertakes an activity regulated by this chapter without first obtaining a license, who fails to comply with a cease and desist order issued pursuant to this chapter, or who fails to comply with state law shall be subject to a civil penalty not to exceed \$1,000 per violation.
- C. **Other Remedies.** In addition to the other remedies provided in this section, the city may institute any legal proceedings in municipal court or circuit court necessary to enforce the provisions of this chapter. Proceedings may include, but are not limited to, injunctions to prohibit the continuance of a licensed activity, and any use or occupation of any building or structure used in violation of this chapter.
- D. **Remedies not Exclusive.** The remedies provided in this section are not exclusive and shall not prevent the city from exercising any other remedy available under the law, nor shall the provisions of this chapter prohibit or restrict the city or other appropriate prosecutor from pursuing criminal charges under city ordinance or state law.

Section 11. Municipal Code section 5.20.060, Public Nuisance is amended to read as follows:

- A. **Public Nuisance.** Any premises, house, building, structure or place of any kind where psilocybin products are grown, processed, manufactured, sold, bartered, distributed or given away in violation of state law or this chapter, or any place where marijuana is kept or possessed for sale, barter, distribution or gift in violation of state law or this chapter, is a public nuisance.
- B. **Action to Remedy Public Nuisance.** The city may institute an action in municipal court or circuit court in the name of the city to abate, and to temporarily or permanently enjoin, such nuisance. The court has the right to make temporary and final orders as in other injunction proceedings. The city shall not be required to give bond in such an action.


Section 12. Municipal Code section 5.20.065, Confidentiality is amended to read as follows:

- A. **Confidentiality.** Except as otherwise required by law, it shall be unlawful for the city, any officer, employee or agent to divulge, release or make known in any manner any financial or employee information submitted or disclosed to the city under the terms of this chapter. Nothing in this section shall prohibit the following:
 - 1. The disclosure of names and facility addresses of any licensee under this chapter or of other individuals associated with a psilocybin services facility such as other owners;
 - 2. The disclosure of general statistics in a form which would prevent identification of financial information regarding a facility or facility operator;

3. The presentation of evidence to a court or tother tribunal having jurisdiction in the prosecution of any criminal law or civil claim by the City under this chapter;
4. The disclosure of information upon request of a local, state, or federal law enforcement official; or
5. The disclosure of information when such disclosure of conditionally exempt information is required under public records law procedures or when such disclosure is required under the Oregon Public Records Law.

ADOPTED by the Common Council of the City of Cannon Beach this 4th day of October 2022, by the following roll call vote:

YEAS: Councilors Benefield, McCarthy, Ogilvie and Risley
NAYS: None
EXCUSED: Mayor Steidel




Sam Steidel, Mayor

Attest:



Bruce St. Denis, City Manager

Approved as to Form:



Ashley Driscoll, City Attorney