

STAFF REPORT
YAMHILL COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT

HEARING DATE: October 6, 2022

DOCKET NO.: G-02-22

REQUEST: To amend sections of the Yamhill County Zoning Ordinance (YCZO) to incorporate portions of Measure 109 (2020) which legalized the cultivation, processing and use of psilocybin (magic mushrooms).

APPLICANT: Yamhill County

CRITERIA: Section 1207.01 of the Yamhill County Zoning Ordinance, ORS 197 and ORS 475A.

EXHIBITS:

1. a. Proposed YCZO Section 200 – Definitions - Adopting Psilocybin Definitions
1. b. Proposed YCZO Section 402 - Exclusive Farm use EF-20, EF-40 and EF-80 – Allowing manufacturing as a conditional use.
1. c. Proposed YCZO Section 601 – RC Recreation Commercial – Allowing psilocybin service centers as a conditional use.
1. d. Proposed YCZO Section 801 - PAI Public Assembly, Institutional – Allowing psilocybin service centers as a conditional use.
2. Measure 109 (2020)
3. Comments Received

FINDINGS:

A. Analysis of the Proposed Amendments

BACKGROUND Measure 109, which legalized psilocybin in Oregon, automatically opts cities and counties into the psilocybin program, which is currently under development and is slated to begin statewide on January 2, 2023. The Board of Commissioners decided against placing a ballot measure before voters to either delay or opt out of the program. During deliberation the Board expressed interest in developing Time, Place and Manner, (TPM) amendments for both psilocybin manufacturing and psilocybin service centers in the unincorporated county. The goal is to adopt amendments to the Yamhill County Zoning Ordinance prior to the Oregon Health Authority (OHA) accepting applications for licensure on January 2, 2023.

The definitions listed in Section 475A.220 are proposed to be added to the Yamhill County Zoning Ordinance.

Measure 109 has very limited basic standards pertaining to land use. These include:

Production:

1. Cannot cultivate fungi outdoors;
2. Cannot be located on public land; and

3. Premises must have defined boundaries (TBD what that means exactly).

Service Centers:

1. Cannot be located within 1000 feet of a school;
2. Cannot be located on public land;
3. Cannot be located in a dwelling;
4. Cannot be located in an areas within city limits that is zoned exclusively for residential use; and
5. Must have defined boundaries (TBD what that means exactly).

The manufacturing of psilocybin is proposed to be added to the Exclusive Farm zone as a conditional use, subject to site design review.

Measure 109 provides no direction as to reasonable time, place, and manner restrictions. While some cities in the US have “decriminalized” psilocybin, Oregon is the first state to “legalize” the use of psilocybin so there are no other statewide examples to draw lessons from. Due to the size of the mushroom, and its affect, it is anticipated that the production of the mushrooms will take a relatively small amount of resources to produce (far less than what is needed for marijuana production). As for related manufacturing and service centers it is difficult for staff to estimate impacts from a transportation and land use standpoint without real world examples of psilocybin, processing, and service centers. Therefore, the range and extent of potential impacts of psilocybin production, processing and service centers cannot be defined at this early stage. This combined with the fact that rules are still in the process of review at the state, the Planning Commission decided at their September 1, 2022, work session to initially consider placement of psilocybin service centers in only a couple of zones.

Psilocybin service centers are proposed for the PAI Public Assembly Institutional zone because this zone allows a “Clinic” which is defined as

CLINIC: *A place used for the care, diagnosis, or treatment of sick, ailing, infirm or injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room or kept overnight on the premises.*

The RC Recreation Commercial zone was also selected because this zone allows both gatherings and entertainment. Since there is no medical requirement for the use of psilocybin (you only need to be over 21 years of age to have it administered at a service center) this drug can be taken for purely recreational purposes. Therefore, since the RC zone is for recreational uses this zone was also added to be considered for a service center. Due to the lack of known impacts, both of these zones are proposed to have the use listed as a conditional use.

Exhibits 1. a. through 1. d., as attached, contains proposed amendments regarding psilocybin.

B. ZONING ORDINANCE PROVISIONS AND ANALYSIS

1. Section 1207.01 of the Yamhill County Zoning Ordinance (YCZO) contains the process and review criteria pertinent to the proposed zoning ordinance text amendments. The ordinance standards are as follows:

- A. *An amendment may be initiated by the Board, the Commission, or the Director.*

Regarding the above criterion (A), the proposed amendments are a response to Measure 109 (2020) passed by Oregon voters. They are to identify the appropriate zones to include psilocybin, production, manufacturing, and service centers. The Planning Director requested the Board of Commissioners consider a ballot measure to either delay or opt-out of this program for two years. The Board declined to put forward a ballot measure but instead decided to request the Planning Director and Planning Commission to initiate ordinance amendments. The Planning Director initiated the ordinance amendment process and sent the required 35-day notice to the Department of Land Conservation and Development; therefore, the proposed amendments comply with criterion (A).

- B. *An owner of land may petition the Board, the Commission, or the Director to initiate such an amendment, but may not initiate the amendment by making such an application.*

As noted above, the Board decided to direct the Planning Commission to develop “Time, Place and Manner” regulations. At this direction the Planning Director scheduled a work session with the Planning Commission on September 1, 2022. Regarding criterion (B), as mentioned above the process was initiated by the Director in response to amendments to Measure 109 (2020). An owner of land did not petition the Board, Commission, or Director for the proposed amendments therefore criterion (B) is not applicable.

- C. *Such amendments shall be made only by the Board after review and recommendation by the Commission, and after public hearings have been held by both the Commission and Board, pursuant to Section 1402 of this ordinance.*

Regarding criterion (C), Section 1402.02 states: *Notice of any legislative public hearing authorized or required by this ordinance shall be published in a newspaper of general circulation in the county at least ten (10) days prior to the hearing date.* A newspaper notice was printed in the News Register on September 16th and in the Newberg Graphic on September 21st for the October 6, 2022, Planning Commission Hearing. In addition, the required 35-day notice was also sent to the Department of Land Conservation and Development. A public hearing will be held before the Planning Commission on October 6, 2022. The hearing will be held both in-person and virtually. The Planning

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Commission will make a recommendation on the proposed amendments and forward them on to the Board of Commissioners. The proposed amendments comply with criterion (C).

4. *D. Approval of a legislative ordinance amendment shall include findings showing the amendment is consistent with the comprehensive plan goals and policies.*

Regarding criterion (D), the ordinance amendments are required to be consistent with the Measure 109's amendments to ORS Chapter 475A. Yamhill County Comprehensive Plan Section IV(A), Goal 1, Policy d. states in part:

- d. Yamhill County will coordinate with the cities and appropriate local, state, and federal agencies in providing for the health and service needs of the public. . .*

Psilocybin has shown promise in dealing with health issues like depression and PTSD. Offering this as an optional treatment would broaden the health service needs of the public. Therefore, the proposed ordinance amendments comply with criterion (D).

5. *E. Changes to the County zoning map which result from legislative ordinance amendments shall be made and become effective upon filing said ordinance with the County Clerk.*

Regarding criterion (E) above, the request does not involve a map amendment so this criterion does not apply.

CONCLUSIONS FOR APPROVAL:

1. The proposal is to amend the text of the Yamhill County Zoning Ordinance.
2. The proposed text language complies with the review criteria for a legislative amendment in Section 1207.02 of the Yamhill County Zoning Ordinance.
3. The proposed amendments comply with the Yamhill County Comprehensive Plan goals and policies and state statutes.

1. a. Proposed YCZO Section 200 – Definitions – Adopting Psilocybin Definitions
1. b. Proposed YCZO Section 402 - Exclusive Farm use EF-20, EF-40 and EF-80 – Allowing manufacturing as a conditional use.
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The proposal is to add psilocybin definitions into the Zoning Ordinance.

(See page 10)

SECTION 200 – DEFINITIONS AND RULES OF CONSTRUCTION

201. RULES OF CONSTRUCTION

[Last Amended 6/28/18; Ord.906]

201.01 Interpretations.

For the purposes of this ordinance, all words, terms and expressions contained herein shall be interpreted in accordance with the following rules of construction, unless the context requires otherwise:

- A. The particular controls the general;
- B. The word "shall" is mandatory, the word "may" is permissive;
- C. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular;
- D. The words "used for" or "occupied for" include the words "intended for", "designed for", "arranged to be used for", "erected for", "constructed for", "reconstructed for", "repaired for", "moved for", "structurally altered for" or "extended for the purpose of";
- E. The word "person" includes a "firm", "association", "organization", "partnership", "trust", "company", or "corporation" as well as an "individual"; and
- F. Any word or term not defined herein shall be used with a meaning of common standard use. Any words, terms or phrases not defined herein, shall be construed according to their common, ordinary and accepted meaning.

202. DEFINITIONS

[Last amended 10/17/13, Ord 884]

ABANDONMENT OF SURFACE MINING: A cessation of surface mining operation for more than five (5) consecutive years when the cessation is not part of an approved Department of Geology and Mineral Industries permit.

ACCEPTED FARMING PRACTICE: A mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use. [Added 7/9/98; Ord.648]

ACCESS: A means of egress and ingress for pedestrians and vehicles to the parcel to which access is required.

ACCESSORY STRUCTURE: A structure or building, the use of which is incidental and secondary to the principal structure or building on the same parcel.

ACCESSORY USE: A use which is incidental and secondary to the principal use on the same parcel. Amended 8/23/89; Ord.492]

AIRCRAFT LANDING FIELD: Any area of land or water used for the landing and take-off of aircraft, any appurtenant areas which are used for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon. Airport buildings include buildings used for maintenance, service or repair of aircraft. [Added 4/15/87; Ord. 444]

AIRPORT HAZARD: Any structure, tree, or use of land which exceeds height limits established by the Airport Imaginary Surfaces. [Added 8/17/88; Ord. 468]

AIRPORT IMAGINARY SURFACES: Those imaginary areas in space which are defined by the approach zone, transitional zone, horizontal surface, clear zone, and conical surface and in which any object extending above these imaginary surfaces is an obstruction. [Added 8/17/88; Ord. 468]

AMENDMENT, LEGISLATIVE: A legislative amendment is an amendment to the zoning ordinance to establish or change a specific policy related to uses, criteria, procedure or other ordinance provisions of substantial general applicability. A legislative amendment may apply to the zone map or text of the zoning ordinance. Added 8/23/89; Ord. 492]

AMENDMENT, QUASI-JUDICIAL: A quasi-judicial amendment is a zone map amendment changing the zone map from one zone designation to another. A quasi-judicial amendment applies to a specified tax lot or lots and results in the realignment of zone district boundaries.[Added 8/23/89; Ord. 492]

APPROACH ZONE: A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach zone is the same width as the primary surface and extends to a width of: 1250 feet for a utility runway having only visual approaches; 1500 feet for a runway other than a utility runway having only visual approaches; 2000 feet for a utility runway having a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile. The approach zone extends for a horizontal distance of 5000 feet at a slope of 20:1, horizontal:vertical for all utility and visual runways and 10,000 feet at a slope of 34:1 for all nonprecision instrument runways other than utility. [Added 8/17/88; Ord. 468]

AREAS OF SPECIAL FLOOD HAZARD: The land in a floodplain subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V (see also definition of floodplain). [Added 10/17/13; Ord. 884]

AUTOMOBILE SERVICE STATION: A use which includes the retail sale of motor fuels, lubricating oils and vehicle accessories and may include the servicing and repair of motor vehicles as an accessory use. An automobile service station is not a repair garage nor a body shop.

[Amended 8/23/89; Ord. 492]

AUTOMOBILE REPAIR GARAGE: A use which provides for the repair and maintenance of motor vehicles, and includes any mechanical and body work.

[Amended 8/23/89; Ord. 492]

AUTOMOBILE WRECKING YARD: An area of land used for the storage, wrecking, dismantling, disassembling or sale of inoperable motor vehicles, trailers or farm equipment, or parts thereof.

[Amended 8/23/89; Ord. 492]

BASEMENT: A portion of a building which has more than one (1) foot but not more than one-half (1/2) of its height measured from finished floor to finished ceiling above the average grade of the ground. For purposes of Section 901, a basement is any area of a building having its floor subgrade (below ground level on all sides).

[Last Amended 2/24/2010; Ord.851]

BED AND BREAKFAST INN: A single-family dwelling where lodging is offered for compensation, having no more than nine (9) sleeping rooms for this purpose. A bed and breakfast inn may offer a morning meal for overnight guests only. A bed and breakfast inn is conducted within the residence of the operator.

Added 7/9/98; Ord.648; Amended 09/02/04, Ord 746]

BILLBOARD: A pre-existing off-premise sign or sign assemblage maintained as advertising rental space by a business enterprise.

BLANKETING: The visual blocking of one sign by another as seen by a motorist traveling a road or highway.

BOARD: The Yamhill County Board of Commissioners.

BOARDING, LODGING OR ROOMING HOUSE: A building or buildings where lodging with or without meals is provided for compensation for not less than five (5) persons in addition to members of the family occupying such building or buildings.

BOARDING OF HORSES FOR PROFIT: The keeping, breeding, rehabilitation, feeding, training and management of horses for a fee.

[Amended 8/23/89; Ord. 492]

BUILDING: A structure of a permanent nature having a fixed base on, or fixed connection to, the ground.

[Amended 8/23/89; Ord. 492]

BUILDING INSPECTOR: The Yamhill County Building Official or the official's duly authorized representative.

[Amended 8/23/89; Ord. 492]

CHURCH: A nonresidential place of worship which may include but is not limited to a synagogue, temple, mosque, chapel or meeting house. Activities customarily associated with the practices of the religious activity, include worship services, religion classes, weddings, funerals, child care and meal programs. These activities may be prohibited or restricted when it is found that the level of service of public facilities including transportation, water supply, sewer and storm drain systems is not adequate to serve the church.

[Added 12/05/02; Ord. 720]

CLEAR ZONE: Extends at the same slope and horizontal angle as the approach zone from the primary surface to a point where the approach surface is 50 feet above the runway end elevation.

[Added 8/17/88; Ord. 468]

CLERK: The Yamhill County Clerk or the clerk's duly authorized representative.

[Amended 8/23/89; Ord. 492]

CLINIC: A place used for the care, diagnosis or treatment of sick, ailing, infirm or injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room or kept overnight on the premises.

CLUB OR LODGE: A building and/or facilities owned and operated for a social, educational, or recreational, scientific, benevolent or charitable purpose, to which membership is required for participation, but is not operated primarily for profit or to render a service which is customarily carried on as a business. A club does not include a public or private kindergarten, school, college or research institution, daycare or rehabilitation facility of any kind.

COMMERCIAL DAIRY FARM: A dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033-0135(5)(a) or (7)(a), whichever is applicable, from the sale of fluid milk. [Added 12/05/02; Ord. 720]

COMMISSION: The Yamhill County Planning Commission.

COMMUNITY SANITARY-SEWER SYSTEM: A public or private sewage collection, treatment and disposal system, and all appurtenant improvements as approved by the Oregon Department of Environmental Quality. A community sanitary sewer system includes a municipal sanitary sewer system. [Added 5/15/85; Ord. 408]

COMMUNITY WATER-SUPPLY SYSTEM: A public or private water supply, treatment, storage, transmission and distribution system, and all appurtenant improvements as approved by the Public Health Engineering Branch, Health Division, Oregon Department of Human Resources. A community water supply system includes a municipal water supply system. [Added 5/15/85; Ord. 408]

COMPREHENSIVE PLAN: The generalized, coordinated land-use map and policy statement adopted by County Ordinance No. 62 and all subsequent amendments thereto that covers all unincorporated land in Yamhill County and addresses all functional and natural activities and systems in said unincorporated land. "Land" includes water, both surface and subsurface, and the air. "Coordinated" means the needs of all government, semi-public and private agencies, and the citizens of Yamhill County have been considered and accommodated to the greatest extent possible. "Functional and natural activities and systems" include, but are not limited to, sewer and water systems, transportation systems, educational facilities, natural resources and air and water quality management programs and other topics of local importance.

CONDITIONAL USE: A use not permitted outright in a zoning district but which may be allowed by permit, subject to review for compatibility with existing and anticipated future uses, and compliance with Section 1202 and any other applicable provisions of this ordinance. [Amended 8/23/89; Ord. 492]

CONICAL SURFACE: A surface extending upward at a slope of 20:1 for a distance of 4,000 feet from the periphery of the horizontal surface. [Added 8/17/88; Ord. 468]

CONSTRUCTION: The placement of construction materials in a permanent position and fastened in a permanent manner. Where excavation, demolition, or removal of an existing structure has substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be

deemed to be construction, provided that work shall be carried on diligently. Installation of a septic tank/drainfield shall be considered construction. Added 8/23/89; Ord. 492]

COUNTY: The unincorporated area of Yamhill County, Oregon.

DEVELOPMENT: For purposes of Section 901, any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials located within the area of special flood hazard. [Added 10/17/13; Ord. 884]

DIRECTOR: The Yamhill County Planning Director or the Director's duly authorized representative. [Amended 8/23/89; Ord. 492]

DWELLING: A building containing one (1) dwelling unit designed for and occupied by one (1) family only. The term dwelling includes a manufactured dwelling but does not include a hotel, motel, travel trailer, boarding, lodging or rooming house, private hospital, rest home or nursing home or other accommodations used for transient occupancy. [Amended 12/05/02; Ord. 720]

DWELLING, ACCESSORY: An interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling. The accessory dwelling includes its own independent living facilities with provisions for sleeping, cooking and sanitation; designed for residential occupancy independent of the principal dwelling. [Amended 6/28/18; Ord.906]

DWELLING, DUPLEX: A building containing two (2) dwelling units, designed for and occupied by not more than two (2) families.

DWELLING, MULTI-FAMILY: A building containing three (3) or more dwelling units, designed and occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units.

DWELLING UNIT: One (1) room or rooms connected together, constituting an independent housekeeping establishment designed and used for occupancy by one (1) family, including dependent relatives and caretakers, and includes permanent provisions for living, sleeping, cooking (limited to one kitchen only) and sanitation (full bathroom).

FAMILY: One or more person related by blood, marriage, legal adoption or legal guardianship plus not more than five (5) additional persons, including foster and shelter care persons or, up to five (5) unrelated persons, all living together as a single housekeeping unit. [Amended 8/23/89; Ord. 492]

FARM USE - The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" also includes the current employment of land for the primary purpose of obtaining profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in the subsection. "Farm use" does not include the use of land subject to the

provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3), or land described in ORS 321.267(1)(e) or 321.415(5).
[Added 7/9/98; Ord.648]

FLOOD OR FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation of runoff of surface waters from any source. [Added 10/17/13; Ord. 884]

FLOOD, BASE: A flood, the level of which has a one percent chance of being equaled or exceeded in any given year. Commonly referred to as a 100-year flood. Designation on maps always includes the letters A or V.
[Amended 2/24/10; Ord. 851]

FLOOD FRINGE: The area of the floodplain lying outside of the floodway. [Added 8/23/89; Ord. 492]

FLOOD INSURANCE RATE MAP (FIRM): The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards (floodplain) and the risk premium zones.
Added 8/23/89; Ord. 492]

FLOOD INSURANCE STUDY: The official report provided by the Federal Insurance Administration that includes flood profiles and the water surface elevation of the base flood. [Added 2/24/10; Ord. 851; Modified 10/17/13; Ord. 884]

FLOOD LEVEE: Earthen embankment or other manmade structure designed and constructed to contain, control or divert the flow of water so as to provide protection from temporary flooding.
[Added 8/23/89; Ord. 492]

FLOOD OBSTRUCTION: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, structure, or matter which is in, along, across, or projecting into any channel, watercourse, or floodplain area; which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water; or which is placed where the flow of water might carry the same downstream to the damage of life or property.
[Added 8/23/89; Ord. 492]

FLOODPLAIN: The area adjoining a river, stream, or watercourse which may be subject to periodic inundation of floodwaters and is subject to a one percent or greater chance of flooding in any given year. Also called the area of special flood hazard.
[Added 2/24/10; Ord. 851]

FLOODPROOFING: Any combination of structural and nonstructural additions, changes, or adjustments to properties and structures primarily for the reduction or elimination of flood damage potential to lands, water and sanitary facilities, structures and contents of buildings.
Added 8/23/89; Ord. 492]

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
[Added 10/17/13; Ord. 884]

FLOOR AREA: The sum of the areas of each story of a building measured between the exterior walls of such building, but excluding garages and attic space providing headroom of less than seven feet.

GRADE: The average elevation of the finished ground elevation at the centers of all walls of a building, except that if a wall is parallel to and within five (5) feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground elevation.

HEARINGS OFFICER: The Yamhill County Hearings Officer.

HEIGHT: The vertical distance from the finished grade to the highest point of the structure.

HOME OCCUPATION: An activity involving off-site sales, the manufacture of a product or the provision of a service carried on in compliance with Section 1004 of this ordinance by a resident of the property on which the business is located. "Home occupation" does not include the retail sale of products unless such sales are secondary to the primary home occupation use.

[Amended 4/15/87; Ord. 444; Amended 8/23/89; Ord. 492; Amended 7/9/88; Ord. 648]

HORIZONTAL SURFACE: A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each end of the primary surface of each visual or utility runway, and 10,000 feet from the center of each end of the primary surface of all other runways and connecting the adjacent arcs by lines tangent to those areas.

[Added 8/17/88; Ord. 468]

HOSPITAL, PRIVATE: A use which provides for the care of the sick, ailing, infirm, injured or aged other than in a public hospital, and includes convalescent homes and nursing homes.

KENNEL: A site providing for the accommodation of four (4) or more dogs of licensable age under the Yamhill County Dog Control Ordinance, where such dogs are kept for board, propagation, training, or sale.

[Amended 8/23/89; Ord. 492]

KITCHEN: Any area designed or used for preparation or cooking of food, and including any of the following: a sink larger than 18 inches by 18 inches; a 220-volt electrical outlet; a gas or propane service line; a dishwashing machine; a range hood, exhaust vent, or similar equipment; or a stove, range, or oven.

KITCHEN, WET BAR: an area within a dwelling unit, other than a kitchen, that contains a sink with a maximum size of 18 inches by 18 inches. The maximum size of the trap arm and drain for the wet bar sink must not exceed 1.5 inches. The area is not a wet bar if any of the following is also present: a sink larger than 18 inches; a 220-volt electrical outlet; a gas or propane service line; a dishwashing machine; a range hood, exhaust vent, or similar equipment; or a stove, range, or oven.

LIVESTOCK: Domestic animals of types customarily raised or kept on farms for profit or other purposes, but not including household pets.

LIVESTOCK FEEDING YARD: An enclosure or structure of 1,000 square feet or more in ground area designed or used for the concentrated feeding or fattening of livestock for marketing; or an enclosure or structure of less than 1,000 square feet in ground area designed or used for the concentrated feeding or fattening of five (5) or more head of livestock for marketing.

LIVESTOCK SALES YARD: A enclosure or structure designed or used for holding livestock for purposes of sale or transfer by auction, consignment or other means.

LOT: See "Parcel".

LOWEST FLOOR, FLOOD: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, useable solely for parking of vehicles, building or access storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance. Added 2/24/10; Ord. 851]

MANUFACTURED HOME: Any of the following:

- a. Residential trailer: a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed before January 1, 1962.
- b. Mobile home: a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
- c. Manufactured home: a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction.
- d. A manufactured home does not include any unit identified as a recreational vehicle by the manufacturer. Added 7/9/98; Ord.648]

MINERAL RESOURCE: Sand, gravel, rock, stone, precious metals, oil, gas, coal, ore, soil or other earth materials.

MINERAL RESOURCE EXTRACTION: The initial removal or excavation of a mineral resource from the deposit area by mechanical techniques, including the removal of overburden and stockpiling of the raw material.

MINERAL RESOURCE PROCESSING: The blasting, crushing, washing, screening, weighing, sorting, blending or refining of mineral resources.

MINERAL RESOURCE SITE/OPERATION: A tract of land from which mineral resources are removed or excavated, stockpiled or processed for sale and intended for use off-premise as commercial or industrial products through retailing, wholesaling, contract purchase or other means. Operation does not include site preparation such as land clearing.

MOTEL: One (1) or more attached or detached buildings containing housekeeping or sleeping units designed and used for the temporary accommodation of tourists or transients with off-street parking space for each such unit.

NEW CONSTRUCTION: For purposes of Section 901, structures for which the "start of construction" commenced on or after the effective date of this ordinance and any subsequent improvements to such structures. [Added 10/17/13; Ord. 884]

NONCONFORMING USE: A building, structure or use which was legally established prior to the adoption of any provision of this ordinance with which the building, structure or use does not comply.

OAR: Oregon Administrative Rule

[Added 7/9/98; Ord.648]

OFFICIAL ZONING MAP: That zoning map and any amendments thereto adopted as part of the Yamhill County Zoning Ordinance, No. 310, 1982, as amended, as described in Section 302.

[Amended 8/23/89; Ord. 492]

OPEN SPACE: Any land so designated by the Comprehensive Plan, or any land area, the preservation of which in its present use would:

- A. Conserve and enhance natural or scenic resources;
- B. Protect air or streams or water supply;
- C. Promote conservation of soils or wetlands;
- D. Conserve landscaped areas, such as public or private golf courses, which reduce pollution and enhance the value of abutting or neighboring property;
- E. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space;
- F. Enhance recreation opportunities;
- G. Preserve historic sites;
- H. Promote orderly urban or rural development; or
- I. Retain in their natural state tracts of land, on such conditions as may be reasonably required by Yamhill County.

ORS: Oregon Revised Statutes

[Added 7/9/98; Ord.648]

OWNER: An owner of land or the authorized agent of an owner.

PARCEL (or LOT): A unit of land created by an authorized subdivision or partitioning of land or that was created by deed or land sale contract on or prior to October 3, 1975. A lot or parcel does not include a unit of land created on or after October 4, 1975 solely to establish a separate tax account or to obtain financing for construction or other purposes.

[Amended 8/23/89; Ord. 492]

PARCEL COVERAGE: The area of a parcel covered by a building or buildings expressed as a percentage of the total parcel area.

PARCEL DEPTH: The mean horizontal distance between the front parcel line and the rear parcel line of a parcel.

PARCEL LINE, FRONT: Any boundary line separating the parcel from a public road. Where a parcel has no frontage on a public road, the front parcel line is the line of the easement or private road which serves the parcel and which is nearest to the principal dwelling, if any.

PARCEL LINE, REAR: The boundary line or lines most distant from the front parcel line and not intersecting a front parcel line.

PARCEL LINE, SIDE: Any boundary line not a front or rear parcel line.

PARCEL SIZE: The total horizontal area within the parcel lines of a parcel.

PARCEL, THROUGH: A parcel, other than a corner parcel, that abuts on two (2) or more roads.

PARCEL WIDTH: The mean horizontal distance between the side parcel lines of a parcel measured within the parcel boundaries.

PARK: Any public or private land reserved for recreational, educational, cultural, or open space uses.
[Added 7/9/98; Ord.648]

PARKING SPACE, OFF-STREET: A space adequate for parking one (1) automobile with room for opening doors on both sides, together with properly related access to a road or alley and maneuvering room.

PERMITTED USE: A use permitted outright in a zoning district which complies with all of the regulations applicable in that district.
[Amended 8/23/89; Ord. 492]

PLACE OF PUBLIC ASSEMBLY: A structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation or similar activity.
[Added 8/17/88; Ord. 468]

PLANNED UNIT DEVELOPMENT: A development approved as a zone overlay to combine a site-specific design with underlying zone provisions, the purpose of which is to allow design flexibility, application of new technology and/or other ordinance modifications in exchange for providing site improvements, administrative mechanisms, and other amenities not required of typical development. PUD's are intended to accomplish substantially the same objectives as are intended by Comprehensive Plan and underlying Zone provisions applicable to the specific property.
Added 8/23/89; Ord. 492]

PRIMARY SURFACE: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is 250 feet for utility runways having only visual approaches, 500 feet for utility runways having nonprecision instrument approaches and 500 feet for other than utility runways.
[Added 8/17/88; Ord. 468]

PRINCIPAL DWELLING: The primary dwelling on any parcel.

PRINCIPAL USE: The primary use of a lot or parcel, which may be either a permitted or conditional use.
Amended 8/23/89; Ord. 492]

PSILOCYBIN: As defined in ORS 475A.220 (1)-(16).

For convenience ORS 475.220 (1)-(16) includes:

(1) "Administration session" means a session held at a psilocybin service center at which a client purchases, consumes, and experiences the effects of a psilocybin product under the supervision of a psilocybin service facilitator.

(2) "Client" means an individual that is provided psilocybin services in this state.

(3) “Integration session” means a meeting between a client and a psilocybin service facilitator that may occur after the client completes an administration session.

(4) “Legal entity” means a corporation, limited liability company, limited partnership, or other legal entity that is registered with the office of the Secretary of State or with a comparable office of another jurisdiction.

(5) “Licensee” means a person that holds a license issued under ORS 475A.290, 475A.305, 475A.325 or 475A.594.

(6) “Licensee representative” means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that the person acts in a representative capacity.

(7) “Manufacture” means the manufacture, planting, cultivation, growing, harvesting, production, preparation, propagation, 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, and includes any packaging or repackaging of the psilocybin product or labeling or relabeling of its container.

(8)(a) “Premises” includes the following areas of a location licensed under ORS 475A.210 to 475A.722:

(A) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms;

(B) All areas outside a building that the Oregon Health Authority has specifically licensed for the manufacturing of psilocybin products or the operation of a psilocybin service center; and

(C) For a location that the authority has specifically licensed for the operation of a psilocybin service center outside a building, that portion of the location used to operate the psilocybin service center and provide psilocybin services to clients.

(b) “Premises” does not include a primary residence.

(9) “Preparation session” means a meeting between a client and a psilocybin service facilitator that must occur before the client participates in an administration session.

(10) “Psilocybin” means psilocybin or psilocin.

(11) “Psilocybin product manufacturer” means a person that manufactures psilocybin products in this state.

(12)(a) “Psilocybin products” means:

(A) Psilocybin-producing fungi; and

(B) Mixtures or substances containing a detectable amount of psilocybin.

(b) “Psilocybin products” does not include psilocybin services.

(13) “Psilocybin service center” means an establishment:

(a) At which administration sessions are held; and

(b) At which other psilocybin services may be provided.

(14) “Psilocybin service center operator” means a person that operates a psilocybin service center in this state.

(15) “Psilocybin service facilitator” means an individual that facilitates the provision of psilocybin services in this state.

(16) “Psilocybin services” means services provided to a client before, during, and after the client’s consumption of a psilocybin product, including:

(a) A preparation session;

(b) An administration session; and

(c) An integration session.

PUBLIC WORKS DEPARTMENT: The Yamhill County Department of Public Works.
[Added 8/23/89; Ord. 492]

RECREATIONAL VEHICLE (or RV): A travel trailer, camper, motor home, or other unit built on a single chassis, designed to be self-propelled or permanently towable by a light duty truck, and that is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use or emergency purposes, and that has a gross floor area not exceeding 400 square feet.
[Added 7/9/98; Ord.648 Amended 2/24/10; Ord. 851]

RECREATIONAL VEHICLE (or RV) PARK: Any lot or tract developed primarily to provide parking and related services to two or more transient recreational vehicles on a fee basis.
Added 7/9/98; Ord.648]

RESIDENTIAL FACILITY: A residential care, residential training, or residential treatment facility licensed or registered by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460, or licensed by the Children's Services Division under ORS 418.205 to 418.327 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.
[Added 3/19/98; Ord. 643]

RESIDENTIAL HOME: A residential treatment or training or an adult foster home licensed under the authority of the Department of Human Resources, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.
[Added 3/19/98; Ord. 643]

RESORT: Any area of land or water used for open-land commercial or private recreation where overnight lodging, meals, and related tourist services are provided in conjunction with such recreational use.

ROAD: Any public or private access road, street, alley, highway, walkway easement or way platted, recorded or shown on any official map, whether or not such street is actually developed or used.

ROAD DEPARTMENT: The Yamhill County Road Department, otherwise referred to as the Public Works Department.
[Amended 8/23/89; Ord. 492]

SANITARIAN: The Yamhill County Senior Environmental Health Specialist or the Specialist's authorized representative.

SCHOOL: A public or private elementary school, grade school, middle school, junior high school, high school, college or university. The term "school", as used in this ordinance, does not include commercial operations which offer classes of a primarily recreational nature.
[Added 7/9/98; Ord.648]

SECONDARY DWELLING: A dwelling other than a principal dwelling, used for a caretaker, health care or farmworker residence, guest house or similar use accessory to the principal residence.
[Amended 8/23/89; Ord. 492]

SETBACK: The horizontal distance measured perpendicularly from the property line to the nearest point of any structure on any parcel. Ordinary building projections such as eaves, bay windows, and chimneys, and unroofed decks or porches not more than 30 inches above ground level are not subject to setback requirements.
[Amended 1/14/99; Ord. 668]

SIGN: An identification, description, illustration or device which is affixed to or represented directly or indirectly, upon land, or a building or structure, and which attracts the attention of, or conveys a message to any person not on the premises on which the sign is located in respect to a product, service, activity, person, institution, place or business; provided, however, that the following shall not be included in the application of sign regulations herein:

- A. Signs not more than two (2) square feet in area and bearing only property numbers, postal box numbers, names of occupants of premises or other identification of premises, or traffic directional signs, providing such signs do not have commercial connotations.
- B. Flags and insignia of any government, except when displaced in connection with commercial promotion.
- C. Legal notices, or identification, informational or directional signs erected or required by governmental bodies.
- D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights; and sculpture and other work of fine art created for appreciation rather than advertising.
- E. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

[Amended 8/23/89; Ord. 492]

SIGN, FLASHING: Any illuminated sign within or upon which the illumination is not maintained stationary and constant in intensity and color.
[Amended 8/23/89; Ord. 492]

SIGN, ILLUMINATED: Any sign designated to give forth any artificial light or designed to be illuminated by artificial light from another source, and does not include a flashing sign.
Amended 8/23/89; Ord. 492]

SIGN, OFF-PREMISE: A sign which advertises goods, products, services, accommodations or activities which are not sold, manufactured, distributed or made available on or from the premises.
[Amended 8/23/89; Ord. 492]

SIGN, OFF-PREMISE/BUSINESS IDENTIFICATION: Small off-premise, blue and white reflective signs located in public road rights-of-way for the purpose of advising motorists of the locations of parks, restaurants, wineries or other places of interest.
Added 8/23/89; Ord. 492]

SIGN, OFF-PREMISE/ADVERTISING: An attached or detached sign or billboard which advertises goods, products, services, accommodations or activities which are not sold, manufactured, distributed or made available on the property where the sign is located.
Added 8/23/89; Ord. 492]

SIGN, PROJECTING: Any sign attached to a structure and projecting perpendicularly out from the wall or roof to which it is attached. [Amended 8/23/89; Ord. 492]

SIGN, SURFACE AREA: The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area on one side of any free standing sign or roof or wall mounted sign with backing, or the area resulting from encircling the lettering and all of the other elements of signage displayed on roof or wall mounted signs without backing. Frames and structural members not bearing advertising matter shall not be included in computation of surface area. [Amended 8/23/89; Ord. 492]

SIGN WITH BACKING: Any sign that is displayed upon, against or through any material or colored surface or backing that forms an integral part of such display, and that differentiates the overall display from the background against which it is placed. Words, letters, and other advertising elements attached directly to a roof or wall shall not be considered a sign with backing. [Added 8/23/89; Ord. 492]

START OF CONSTRUCTION: For purposes of Section 901, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Added 10/17/13; Ord. 884]

STRUCTURE: Something constructed or built and having a fixed base on, or fixed construction to the ground or another structure. For purposes of Section 901, a walled and roofed building including a gas or liquid storage tank that is principally above ground. [Amended 2/24/10; Ord. 851]

STRUCTURAL ALTERATION: Any change to the supporting members of a building, including foundations, bearing walls or partitions, columns, beams, girders or any structural change in the roof or in the exterior walls.

SUBSTANTIAL DAMAGE: For purposes of Section 901, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value before the damage occurred. [Added 10/17/13; Ord. 884]

SUBSTANTIAL IMPROVEMENT: For purposes of Section 901, any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term can exclude; any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have

been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or; any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places. [Added 10/17/13; Ord. 884]

TRANSITIONAL ZONES: A surface extending upward at a slope of 7:1 beginning on each side of the primary surface, and from the sides of the approach zones, then extending upward to a height of 150 feet above the airport elevation. [Added 8/17/88; Ord. 468]

TRAVEL TRAILER: A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet. [Amended 7/9/98; Ord.648]

TRAVEL TRAILER SPACE: An area in a travel trailer park used for one (1) travel trailer.

USE: The purpose for which land or a building or structure is used, designed, arranged or intended, or for which it is occupied or maintained.

UTILITY: Any area of land or any structure used for the generation, storage conversion or transfer of energy or for communication facilities, such as telephone, telegraph, radio or television, or for municipal water or wastewater treatment. [Amended 1/14/99; Ord.668]

UTILITY RUNWAY: A runway that is constructed and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less. [Added 8/17/88; Ord. 468]

VARIANCE, FLOOD: For purposes of Section 901, a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance. [Added 2/24/10; Ord. 851]

WATER DEPENDENT USE: A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreating, energy production or source of water. For purposes of Section 901, a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. [Amended 2/24/10; Ord. 851]

WATER-RELATED USE: A use which is not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, road and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to water location needs. [Added 8/23/89; Ord. 492]

YARD: A required open area unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded parcel upward; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

YARD, FRONT: Any yard abutting a street or lying parallel to the front parcel line.

YARD, REAR: Any yard abutting a rear parcel line.

YARD, SIDE: Any yard abutting a side parcel line.

YURT: A round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

Added 12/05/02; Ord. 720]

DOCKET G-02-22

The proposal is to add psilocybin manufacturing into the EF zone as a conditional use, subject to both site design review and ORS 215.296. See 402.04(T).

(See page 15)

SECTION 400 – NATURAL RESOURCE DISTRICT

402. EXCLUSIVE FARM USE DISTRICT (EF-80, EF-40, and EF-20)

[Last amended 9/22/11, Ord 867; 5/24/2012 Ord 872; 08/01/18; Ord. 903]

402.01 Purpose.

The purpose of the Exclusive Farm Use District is to identify and protect land designated as Exclusive Farm Use on the Comprehensive Plan that is suitable and desirable for commercial agricultural operations and other uses which are compatible with such operations. Properties in the Exclusive Farm District are primarily large, contiguous relatively flat terrace, valley-floor or low foothill holdings. In Exclusive Farm Use Districts, nonfarm residential and other development which might likely be affected by normal farm management practices, will be limited or prohibited so as to maximize the productivity potential of vicinity farmlands.

402.02 Permitted Uses.

In the Exclusive Farm Use District, the following uses shall be permitted subject to the standards and limitations set forth in subsection 402.09 and any other applicable provisions of this ordinance:

- A. Farm uses as defined in Subsection 402.10.
 - B. Farm stands subject to a Type A miscellaneous land use application to evaluate health and safety requirements such as access, parking and sewage disposal, and to determine if:
 - 1. The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and
 - 2. The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.
- [Amended 12/05/02; Ord. 720; 5/24/2012; Ord 872]
- C. Propagation and harvesting of a forest product.
 - D. Creation of, restoration of, or enhancement of wetlands.
 - E. A facility for the processing of farm crops located on a farm operation and provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. The application will also be subject to Section 1101, Site Design Review.
- [Added 3/19/98, Ord. 643; amd Ord 872]

- F. Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale, or transmission towers over 200 feet in height. The applicant will also be subject to Section 1101, Site Design Review. A facility is "necessary" if it satisfies the requirements of ORS 215.275. [Amended 12/05/02; Ord. 720]
- G. Accessory uses, including buildings other than dwellings customarily provided in conjunction with farm use.
- H. Winery, as defined in subsection 402.10, subject to Section 1101, Site Design Review. [Amended 11/30/94, Ord. 582]
- I. Operations for the exploration of minerals as defined by ORS 517.750.
- J. Operations for the exploration for and the production of geothermal resources as defined by ORS 522.005, and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a wellhead, subject to the requirements of Section 404.10.
- K. Signs, pursuant to the sign provisions set forth in Section 1006.
- L. The following transportation facilities:
 1. Climbing and passing lanes within the right of way existing as of July 1, 1987.
 2. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
 3. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.
 4. Minor betterment of existing public roads and highway-related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous publicly owned property utilized to support the operation and maintenance of public roads and highways.
- M. Alteration, restoration or replacement of a lawfully established dwelling that:
 1. Has intact exterior walls and roof structure;
 2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 3. Has interior wiring for interior lights;
 4. Has a heating system; and
 5. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling replaced under this section shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for

exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.

6. A secondary farm dwelling authorized pursuant to Section 402.03(F)(4)(c) may only be replaced by a manufactured dwelling. [Amended 3/19/98, Ord. 643]
- N. Public or private school, including all buildings essential to the operation of a school, subject to the Type B application procedures and Section 1101, Site Design Review. The school must be at least three miles from an urban growth boundary, and is not permitted on a tract identified as high-value farmland. Existing facilities on high-value farmland that are wholly within a farm use zone may be maintained, enhanced, or expanded. [Amended 3/19/98, Ord. 643; 8/13/98, Ord. 657]
- O. Churches and cemeteries in conjunction with churches, subject to the Type B application procedures and Section 1101, Site Design Review. The uses must be at least three miles from an urban growth boundary, and are not permitted on a tract identified as high-value farmland. Existing facilities on high-value farmland that are wholly within a farm use zone may be maintained, enhanced, or expanded. [Amended 3/19/98, Ord. 643; 8/13/98, Ord. 657]
- P. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground. [Added 3/19/98, Ord. 643]
- Q. On-site filming and activities accessory to on-site filming, as defined in ORS 215.306(4), may be conducted subject to ORS 30.930 to 30.947, when it involves no more than 45 days on any site within any one-year period and does not involve erection of sets that would remain in place for longer than any 45-day period. [Added 3/19/98, Ord. 643]
- R. Fire service facilities providing rural fire protection services. [Added 12/05/02; Ord. 720]
- S. Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505. [Added 12/05/02; Ord. 720]
- T. Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:
1. A public right of way;
 2. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

3. The property to be served by the utility. [Added 12/05/02; Ord. 720]

- U. Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural, or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in the exclusive farm use zone. [Added 12/05/02; Ord. 720]
- V. The maintenance, expansion or enhancement of an existing site on the same tract for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality, together with equipment, facilities or buildings necessary for its operation. The use must satisfy the standards set forth in ORS 215.296(1)(a) and (b) and the standards set forth in Section 1101, Site Design Review. The maintenance, expansion or enhancement of an existing use on the same tract on high-value farmland is permissible only if the existing use is wholly within a farm use zone. No other Yamhill County Zoning Ordinance criteria or Comprehensive Plan goal or policy shall apply as an approval standard for this use. [Added 9/22/11; Ord. 867]
- W. A "residential home" as defined in ORS 197.660 may be established in an existing dwelling. [Added 5/24/12; Ord. 872]
- X. Agri-tourism and other commercial events or activities that are related to and supportive of agriculture subject to Section 1013, Agri-Tourism Use Permits. [Added 5/24/12; Ord. 872]

402.03 Permitted Dwellings

The following residential uses shall be permitted in the Exclusive Farm Use District subject to the standards and limitations set forth in Section 402.09 and satisfaction of the criteria specified for each use. Furthermore, the decision-making body may attach reasonable conditions to approvals in order to insure compliance with relevant criteria. The following uses are subject to the type of notice requirements of Section 1301 indicated.

- A. Principal dwelling customarily provided in conjunction with farm use on high-value farmland, subject to the following (Type A notice):
 - 1. The subject tract is currently employed for farm use, and produced at least \$80,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract.
 - 2. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (1) of this Section.
 - 3. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract. [Subsection A added 3/19/98, Ord. 643]
- B. Principal dwelling customarily provided in conjunction with farm use on a tract that is not high-value farmland, subject to the following (Type A notice):
 - 1. The subject tract is currently employed for farm use, and produced at least \$40,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract. [Amended 12/05/02; Ord. 720]

2. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (1) of this Section.
 3. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract. [Subsection B added 3/19/98, Ord. 643]
- C. Principal dwelling customarily provided in conjunction with farm use on a parcel at least 160 acres in size that is not high-value farmland, under the following circumstances (Type A notice):
1. The subject tract is currently employed for farm use, as defined in Subsection 402.10(C).
 2. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale as defined in subsection 4 of this section.
 3. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract.
 4. The determination of whether the farm is "commercial" will be based upon whether the farm:
 - (a) Contributes in a substantial way to the area's existing agricultural economy; and
 - (b) Helps maintain agricultural processors and established farm markets;
 - (c) When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered. [Subsection C amended 3/19/98, Ord. 643]
- D. Principal dwelling customarily provided in conjunction with farm use on a tract that is not high-value farmland, under the following circumstances (Type A notice):
1. The subject tract is at least as large as the median size of those commercial farm tracts capable of generating at least \$10,000 in annual gross sales that are located within the study area defined in subsection (6) of this Section.
 2. The subject tract is capable of producing annual gross sales of county indicator crops, as determined by OAR 660-33-135(4), at a level equal to or greater than the median of those farms within the study area defined in subsection (6) of this Section.
 3. The subject tract is currently employed for a farm use at a level capable of producing the annual gross sales required in subsection (2) of this Section. If no farm use has been established at the time of application, land-use approval shall be subject to a condition that no building permit for a residence may be issued prior to the establishment of the farm use required in this subsection.
 4. The subject lot or parcel on which the dwelling is proposed is at least 10 acres in size.
 5. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract.

6. In order to identify the commercial farm tracts to be used in subsections (1) and (2) of this Section, the gross sales capability of each tract in the study area, including the subject tract, must be determined, using the gross sales figures provided by the Land Conservation and Development Commission pursuant to OAR 660-33-135(4) as follows:
 - (a) Identify the study area. This includes all the land in the tracts wholly or partially within one mile of the perimeter of the subject tract;
 - (b) Determine for each tract in the study area the number of acres in every land classification from the county assessor's data;
 - (c) Determine the potential earning capability for each tract by multiplying the number of acres in each land class by the gross sales per acre for each land class provided by the Land Conservation and Development Commission pursuant to OAR 660-33-135(4). Add these to obtain a potential earning capability for each tract;
 - (d) Identify those tracts capable of grossing at least \$10,000 based on the data generated in subsection (6)(c) of this Section;
 - (e) Determine the median size and gross sales capability for those tracts capable of generating at least \$10,000 in annual gross sales to use in subsections (1) and (2) of this Section. [Subsection D added 3/19/98, Ord. 643]

E. A secondary dwelling for a relative of the farm operator under the following circumstances (Type A notice):

1. The tract is currently employed for farm use, as defined in Subsection 402.10(C), at a commercial scale.
2. The dwelling shall be located on the same lot or parcel as the dwelling of the farm operator.
3. The dwelling shall be occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling- niece, nephew, or first cousin of either if the farm operator does, or will require the assistance of the relative in the management and farm use of the existing commercial farm use. [Amended 12/05/02; Ord. 720]
4. The farm operator shall continue to play the predominant role in the management of the farm. A farm operator is a person who operates a farm, doing the work and making day-to-day decisions about such things as planting, harvesting, feeding, and marketing. [Subsection E amended 3/19/98, Ord. 643]

F. A secondary dwelling customarily provided in conjunction with farm use for farm help, under the following circumstances (Type A notice):

1. The secondary dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator. [Amended 12/05/02; Ord. 720]

2. There is no other dwelling on lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm and that could reasonably be used as a secondary farm dwelling.
 3. The primary farm dwelling to which the proposed dwelling would be accessory satisfies one of the following:
 - (a) On land identified as high-value farmland, the primary farm dwelling is located on a farm operation that is currently employed for farm use, and produced at least \$80,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract; or
 - (b) On land not identified as high-value farmland, the primary farm dwelling is located on a farm operation that is currently employed for farm use, and produced at least \$40,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract.
 4. The secondary dwelling will be located:
 - (a) On the same lot or parcel as the primary farm dwelling; or
 - (b) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
 - (c) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The secondary dwelling may remain if it is re-approved as a principal dwelling under this ordinance; or
[Subsection F added 3/19/98, Ord. 643, Amended 12/05/02; Ord. 720]
 - (d) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi- unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing on the farm or ranch operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subparagraph to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or
 - (e) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(5) or (7), whichever is applicable;
[Subsection d and e added 12/05/02; Ord. 720]
- G. A dwelling may be considered customarily provided in conjunction with a commercial dairy if:

1. The subject tract will be employed as a commercial dairy as defined in this ordinance; and
 2. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and
 3. Except for seasonal farm worker housing, there is no other dwelling on the subject tract; and
 4. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and
 5. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
 6. The Oregon Department of Agriculture has approved the following:
 - (a) A permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and
 - (b) A Producer License for the sale of dairy products under ORS 621.072.
[Added 12/05/02; Ord. 720]
- H. Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in the county inventory as historic property and on the National Register of Historic Places (Type A notice).
- I. Principal dwelling not provided in conjunction with farm use on a lot or parcel created before January 1, 1993, subject to the following standards and criteria (Type B notice):
1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.
 2. The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II soils. Soil assessments may be submitted from a professional soil classifier pursuant to OAR 660-033-0030. [Amended 5/24/12; Ord. 872]
 3. The dwelling will be sited on a lot or parcel created before January 1, 1993.
 4. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern of the area, the cumulative impact of possible new nonfarm dwellings on other lots or parcels in the area similarly situated shall be considered. To address this standard, the county shall:
 - (a) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish

it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;

- (b) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.) And the dwelling development trends since 1993. Determine the potential number of nonfarm/lot of record dwellings that could be approved, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph;
 - (c) Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of the existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.
- 5. The dwelling complies with other conditions the county considers necessary, including but not limited to provision for sewage disposal, emergency vehicle access, and public road approach.
 - 6. The tract on which the dwelling is to be sited does not include a dwelling.
 - 7. Prior to issuance of a residential building permit, the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm or forest use; and that additional tax or penalty has been imposed, if any is applicable, as provided by ORS 308A.050 to 308A.128 or other special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax imposed as the result of disqualification has been paid. A parcel that has been disqualified under this subsection shall not re-qualify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.

[Subsection I amended 8/13/98, Ord. 657; Amd 5/24/12 Ord 872]

- J. Principal lot of record dwelling not on high-value farmland subject to the following standards and criteria Type A notice):
 - 1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:

- (a) and has been owned continuously by such owner since prior to January 1, 1985;
or
 - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
2. The tract on which the dwelling is to be sited does not include a dwelling.
 3. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
 4. The lot or parcel is not high-value farmland as defined in Subsection 402.10(E).
 5. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 6. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
 7. The County Assessor shall be notified that the county intends to allow the dwelling.
 8. For purposes of this section 402.03(J), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.

[Subsection J amended 5/10/95, Ord. 591; 10/2/96, Ord. 615; 8/13/98, Ord. 657]

K. Principal lot of record dwelling not in conjunction with farm use on Class III and IV high-value farmland, subject to the following standards and criteria (Type A notice):

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - (a) and has been owned continuously by such owner since prior to January 1, 1985;
or
 - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
2. The tract on which the dwelling is to be sited does not include a dwelling.
3. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
4. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
5. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.

6. The tract on which the dwelling is to be sited is:
 - (a) Composed predominantly of high-value farmland as defined in subsection 402.10(E)(2) or (3); and
 - (b) Twenty-one acres or less in size.

7. The tract on which the dwelling is to be sited is:
 - (a) Bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993; or
 - (b) Not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. No more than two of the four dwellings may be within an Urban Growth Boundary, but only if the subject tract abuts an urban growth boundary; or
 - (c) A flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within 1/4 mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary;
 - i. "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
 - ii. "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot. [Amended 12/05/02; Ord. 720]

8. The County Assessor shall be notified that the county intends to allow the dwelling.

9. For purposes of this section 402.03(K), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members. [Subsection K amended 5/10/95, Ord. 591; 10/2/96, Ord. 615; 8/13/98, Ord. 657]

- L. Principal lot of record dwelling not in conjunction with farm use on Class I and II high-value farmland, subject to the following standards and criteria (Type C notice):
 1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:

- (a) and has been owned continuously by such owner since prior to January 1, 1985; or
 - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
2. The tract on which the dwelling is to be sited does not include a dwelling.
 3. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
 4. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 5. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
 6. The tract on which the dwelling is to be sited is on high-value farmland as defined in subsection 402.10(E)(1).
 7. The Planning Commission determines that:
 - (a) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot or parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;
 - (b) The dwelling will comply with the provisions of Section 402.07(A); and
 - (c) The dwelling will not materially alter the overall land use pattern of the area.
 8. The County Assessor shall be notified that the county intends to allow the dwelling.
 9. For purposes of this section 402.03(L), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.

10. The State Department of Agriculture shall be provided notice of the application at least twenty (20) days prior to the public hearing before the Planning Commission.
[Subsection L amended 5/10/95, Ord. 591; 10/2/96, Ord. 615; 8/13/98, Ord. 657]

402.04 Conditional Uses.

The following uses are allowed in the Exclusive Farm Use District upon conditional use approval. Approval of these uses is subject to the Conditional Use criteria and requirements of Section 1202, and subsection 402.07(A) of this ordinance and any other provision set forth below. Applications shall be reviewed under the Type B procedure of Section 1301:

- A. One manufactured dwelling or recreational vehicle, or the temporary use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or relative, as defined in ORS 215, of the resident, subject to the following: [Amended 12/05/02; Ord. 720]
 1. The resident or relative of the resident is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence.
 2. The permit for the manufactured dwelling for the term of hardship shall be valid for a period of two years or a shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.
 3. The permit for the temporary dwelling for the term of hardship shall be granted to the applicant only and shall not be deemed to run with the land.
 4. The temporary dwelling shall use the same subsurface sewage disposal system as the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.
 5. When a recreational vehicle is allowed to be used as a temporary structure the recreational vehicle site shall have services, inspected and approved by the building department which includes electricity, plumbing and connection to an approved septic system. [Amended 12/05/02; Ord. 720]
 6. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. In the case of a recreational vehicle, within three months of the end of the hardship, it shall be removed, demolished or may remain on the property and used in accordance with Section 402.09(H). A temporary residence approved under this paragraph is not eligible for replacement. [Amended 3/19/98, Ord. 643/Amended 12/05/02; Ord. 720]
- B. A facility for the primary processing of forest products, subject to Subsection 402.07(B).
- C. Residential facility, as defined in ORS 197.660, in an existing dwelling. [Amended 5/24/12; Ord. 872]
- D. Community centers, parks, or playgrounds owned by a governmental agency or a nonprofit community organization, and operated primarily by and for residents of the local rural community, subject to Section 1101, Site Design Review. A public park may also be established consistent with the provisions of ORS 195.120. [Amended 12/05/02; Ord. 720]

- E. Dog kennel, except dog kennels are not allowed on a tract identified as high-value farmland. Existing dog kennels on high-value farmland that are wholly within a farm use zone may be expanded subject to conditional use approval. [Amended 3/19/98, Ord. 643]
- F. The propagation, cultivation, maintenance, and harvesting of aquatic or insect species. The insect species must comply with ORS 215.283(2)(p). Notice shall be mailed to the State Department of Agriculture at least 20 days prior to any administrative decision or initial public hearing on the application. [Amended 3/19/98, Ord. 643; 5/24/12, Ord 872]
- G. Commercial activities that are in conjunction with farm use as defined in Section 402.10(B), but not including the processing of farm crops which are a permitted use as described in subsection 402.02(E), subject to Section 1101, Site Design Review. [Amended 3/19/98, Ord. 643]
- H. The following mineral, aggregate, oil, and gas uses, subject to the standards of Section 404:
 - 1. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted in this Section.
 - 2. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral, and other subsurface resources subject to ORS 215.298.
 - 3. Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement more than two miles from one or more vineyards, totaling 40 acres or more, planted as of the date of application for processing.
 - 4. Processing of other mineral resources and other subsurface resources.
- I. Home occupation, subject to the standards and limitations set forth in Section 1004
- J. The following transportation facilities:
 - 1. Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
 - 2. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings not resulting in the creation of new land parcels.
 - 3. Improvement of public road and highway related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
- K. Personal use airports subject to subsection 402.07(C).
- L. Golf course, as defined in subsection 402.10(D), except new golf courses are not allowed on a tract identified as high-value farmland. Existing golf courses on high-value farmland that are wholly within a farm use zone may be expanded to a total of no more than 36 holes, subject to conditional use approval and provided the expansion is consistent with the definition in Section 402.10(D). [Amended 3/19/98, Ord. 643]
- M. Commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height, subject to Subsection 402.07(D) and Section 1101, Site Design Review. Photovoltaic solar power generation facilities are not allowed on a tract that contains predominantly Class I through IV soils. [Amended 08/01/18, Ord. 903]

- N. Roads, highways and other transportation facilities and improvements not allowed under Subsections 402.02(K) or 402.04(J), subject to compliance with OAR 660-12. [Amended 3/19/98, Ord. 643]
- O. Private parks, playgrounds, hunting and fishing preserves and campgrounds as defined in subsection 402.10(A), subject to Section 1101, Site Design Review, except such uses are not allowed on a tract identified as high-value farmland. Existing facilities on high-value farmland that are wholly within a farm use zone may be expanded subject to conditional use approval. [Amended 3/19/98, Ord. 643]
- P. On-site filming and activities accessory to on-site filming, as defined in ORS 215.306(4), that exceed 45 days on any site within a one-year period or involve erection of sets that would remain in place for longer than 45 days subject to ORS 30.930 to 30.947. [Added 8/13/98, Ord. 657]
- Q. Operations for the extraction and bottling of water. [Added 8/13/98, Ord. 657]
- R. Room and board arrangements for a maximum of five unrelated persons in an existing dwelling. [Added 8/13/98, Ord. 657]
- S. "Living History Museum" as defined in Oregon Administrative Rules 660-033-130(21). [Added 12/05/02; Ord. 720]
- T. Manufacture of psilocybin as defined in Oregon Revised Statute 475A.220, subject to Section 1101 Site Design Review.**

402.05 Prohibited Uses.

Subdivisions and planned unit developments shall be prohibited.

402.06 Nonconforming Uses.

Nonconforming uses found in the Exclusive Farm Use District are subject to the nonconforming use provisions of Section 1205 as well as to any other applicable provisions of this ordinance.

402.07 Additional Standards for Approval of Conditional Uses

- A. In the Exclusive Farm Use District, prior to establishment of a conditional use, the applicant shall demonstrate compliance with the following criteria in addition to other requirements of this ordinance:
 - 1. The use will not force significant change in accepted farming or forest practices on surrounding lands devoted to farm or forest use.
 - 2. The use will not significantly increase the cost of accepted farming or forest practices on surrounding lands devoted to farm or forest use.
- B. A facility for primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in Section 402.10(C). Such facility may be approved for a one-year period which is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.

- C. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through a waiver action by the Oregon Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to applicable rules of the Oregon Aeronautics Division.
- D. A power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise on a tract not identified as high-value farmland. Photovoltaic solar power generation facilities are not allowed on a tract that contains predominantly Class I through IV soils, unless an exception is taken pursuant to OAR 660, Division. [Amended 08/01/18; Ord. 903]

402.08 Permit Expiration Dates and Declaratory Statements for Dwelling Approvals

- A. Notwithstanding other provisions of this Ordinance and except as provided for in subsection 402.08 (D), a discretionary decision, except for a land division, approving a proposed development in the Exclusive Farm Use district is void two years from the date of the final decision if the development action is not initiated in that period. An extension period of up to 12 months may be granted if: [Amended 12/05/02; Ord. 720]
 - 1. An applicant makes a written request for an extension prior to expiration of the development approval period, stating the reasons that prevented the applicant from beginning or continuing development within the approval period; and
 - 2. The Planning Director determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
- B. Approval or denial of an extension granted under this rule is an administrative decision, is not a land-use decision described in ORS 197.015, and is not subject to appeal as a land-use decision. However, the Board, on its own motion, may order review of the decision of the Director within 15 days of the decision.
- C. Additional one-year extensions may be authorized by the Planning Director where applicable criteria for the decision have not changed.
- D. If a permit is approved for a proposed residential development on agricultural land outside of an urban growth boundary, the permit shall be valid for four years. Any extension of a permit for residential development shall be valid for two years. For the purpose of this subsection, "residential development" only includes the dwellings provided for under ORS 215.283(1)(s), 215.284, and 215.705(1) to (3). [Added 12/05/02; Ord. 720]
- E. Prior to issuance of any residential building permit for an approved dwelling located within 1 mile of an area which has been designated in the plan or zone or otherwise approved by Yamhill County for mineral resource uses, the landowner shall be required to sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records of Yamhill County;

"The subject property is located in an area designated for mineral resource uses. It is the County policy to protect mineral resource operations from conflicting land uses in such

designated areas. Accepted mineral resource and quarry practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the responsibility of the operator of a mineral resource operation to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of State law." [Added 8/13/98, Ord. 657]

- F. Prior to issuance of a residential building permit, the landowner shall sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Yamhill County:

"The subject property is located in an area designated by Yamhill County for agricultural uses. It is the county policy to protect agricultural operations from conflicting land uses in such designated areas. Accepted agricultural practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the agricultural operator's responsibility to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of state law." [Added 8/13/98, Ord. 657]

402.09. Standards and Limitations.

In the Exclusive Farm Use District, the following standards and limitations shall apply:

- A. Dwelling Density.
1. Not more than one principal dwelling shall be allowed on any parcel.
 2. Permitted Secondary Uses. Not more than one permitted secondary dwelling, as described in Subsection 402.03 A or B, shall be allowed per 40 acres.
 3. Not more than one dwelling not in conjunction with farm use shall be allowed on any parcel.
- B. Parcel Size and Dimension.
1. Newly-Created Parcels.
 - (a) Any new farm parcel proposed to be created shall be a minimum of 80 acres in the EF-80 district, 40 acres in the EF-40 district, and 20 acres in EF-20 district.
 - (b) Any new nonfarm parcel proposed to be created for nonfarm uses other than dwellings shall be no larger than the minimum size necessary for its use.
 2. Lot-line adjustments. Any parcels subject to an alteration in size through a lot-line adjustment shall be shown to be of a size at least as appropriate to maintain the existing commercial agricultural enterprise in the area as were the parcels prior to adjustment. When one or more parcels subject to a proposed adjustment are larger than the minimum lot size in the zone, the same number of parcels shall be as large or larger than the minimum lot size after the adjustment. When all parcels subject to the proposed adjustment are as large or larger than the minimum lot size in the zone, no parcel shall be reduced below the applicable minimum lot size. The lot line adjustment shall not result in an increase in the potential number of dwellings on the parcels. When an area that contains an existing dwelling will be conveyed from one parcel (Parcel A) to the adjacent parcel (Parcel B), Parcel B must either receive land use approval for the

dwelling under the terms of this ordinance, or, in the alternative, a deed affidavit shall be recorded by the owner of Parcel A prohibiting the establishment of any new principal dwellings on the adjusted parcel or parcels. [Amended 3/19/98, Ord. 643; 1/14/99, Ord. 668]

3. Existing Lots. Any permitted or conditional use provided for in this District may be established on an existing lot subject to satisfaction of the applicable requirements of the Exclusive Farm Use District.
4. A division of land smaller than the minimum parcel size noted under 402.09 (A) may be approved for the purpose of establishing a church, including cemeteries in conjunction with the church provided it satisfies the following:
 - (a) The church has been approved under subsection 402.02(O);
 - (b) The newly created lot or parcel is not larger than five acres; and
 - (c) The remaining lot or parcel, not including the church, meets the minimum parcel size described in 402.09(A) by itself or after consolidation with another lot or parcel. [Amended 12/05/02; Ord. 720]
5. A division of land smaller than the minimum parcel size noted under 402.09 (A) may be approved for the purpose of creating a parcel for a park provided it satisfies the following:
 - (a) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and
 - (b) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
 - (c) A parcel created pursuant to this subsection that does not contain a dwelling:
 - i. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - ii. May not be considered in approving or denying an application for siting any other dwelling;
 - iii. May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
 - iv. May not be smaller than 25 acres unless the purpose of the land division is:
 1. To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or
 2. To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property. [Amended 12/05/02; Ord. 720]

C. Setbacks.

The minimum setback for all yards shall be 30 feet for all uses, except as follows:

1. The minimum setback for all yards for a livestock feeding or sales yard shall be 200 feet from the centerline of any watercourse used for domestic water supply, 500 feet from any residential zoning district or urban growth boundary unless the applicant has received a conditional use permit pursuant to Section 1202, and 50 feet from property lines in all other circumstances. [Amended 3/19/98, Ord. 643]
2. The minimum setback for signs shall be five feet.
3. An accessory structure not more than 15 feet in height, and at least 60 feet from a road, or off-site dwelling, may be located a minimum distance of three feet from the property line in a side yard or rear yard.
4. A swimming pool may be located in a required rear yard, provided it lies a minimum of five feet from the rear property line.
5. The minimum setback for a kennel shall be 50 feet from any property line and 500 feet from any off-site dwelling.
6. Fences, Walls, and Hedges. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision area requirements of subsection (F). [Subsection C amended 7/9/98, Ord. 648]

D. Parcel Coverage.

Not applicable, except that for any parcel of less than one acre, maximum parcel coverage shall be 15 percent.

E. Access.

Before a dwelling may be established on any parcel as provided in this Section, the parcel shall have a legal, safe, and passable means of access by abutting at least 20 feet either directly upon a public road, or by a private easement which is at least 30 feet in width for its entire length and which also abuts upon a public road for at least 30 feet. Nothing in this Section shall be construed to vary or waive the requirements for creation of new access contained in any Land Division Ordinance legally adopted by Yamhill County.

F. Clear-Vision Areas.

A clear-vision area shall be maintained on the corner of any parcel at the intersection of any two of the following: county roads, public roads, private roads serving four or more parcels, and railroads. A clear-vision area shall contain no sight-obscuring structures or plantings exceeding 30 inches in height within a triangle formed by the lot corner nearest the intersection, and the two points 20 feet from this corner as measured along the parcel lines adjacent to the intersecting rights-of-way. Trees exceeding this height may be located such that their branches extend into this triangle, provided they are maintained to allow at least 12 feet of visual clearance within the triangle below the lowest hanging branches.

G. Height.

1. The maximum building height for any dwelling shall be 35 feet.
2. The maximum building height for all other structures shall be 45 feet.
3. Structures used for the storage of farm products, and appurtenances usually required to be placed above the roof level and not intended for human occupancy such as spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys and wind generators are not subject to the height limitations of this ordinance.

H. Occupancy of Recreational Vehicles.

1. One recreational vehicle shall be permitted to be parked on any parcel in conjunction with a principal dwelling, and may be used for the temporary accommodation of guests for a period of up to 30 days total in any year. In no case shall any recreational vehicle be used as a principal dwelling or rented unless the necessary permits have been obtained. [Amended 7/9/98, Ord. 648]
2. Temporary structures as may be required during construction of any authorized permanent structure may be placed. Such temporary structure shall be removed within 30 days of occupancy of the permanent structure.
3. One manufactured dwelling may be stored on a lot or parcel for a period not to exceed nine months upon approval of the Director, with one extension of up to nine months if unusual circumstances are shown to exist. In no case shall a stored manufactured dwelling be connected to water or sewage disposal facilities.

I. Off-Street Parking.

1. In the Exclusive Farm Use District, prior to establishment of any dwelling, sufficient area must be provided to allow for at least one emergency vehicle turnaround.
2. Parking requirements for those uses which may generate traffic beyond what is normally expected in the Exclusive Farm Use District shall be determined by the Director, subject to the provisions of Section 1007.

402.10 Definition of Terms Used in this Section

The following terms apply only to Section 402, and have no relevance to the same term used in other sections of this ordinance unless specifically stated.

- A. Campground - Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designated and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers to existing native trees and vegetation or other natural features between campsites. Campsites may be occupied by a tent, travel trailer or recreational vehicle. The campground may also provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. Separate sewer, water or electric service

hook-ups shall not be provided to individual camp sites. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period. The park or campground may be public or private.

[Amended 8/13/98, Ord. 657/Amended 12/05/02; Ord. 720]

B. Commercial Activities in Conjunction with Farm Use - As authorized under subsection 402.04(G), a commercial activity in conjunction with farm use is:

1. The processing, packaging, and wholesale distribution and storage of a product not derived primarily from farm activities on the premises;
2. Retail sales and promotion of agricultural products, supplies and services directly related to the production, harvesting, and processing of agricultural products. Such uses include, but are not limited to, the following:
 - Storage, distribution and sale of feed, fertilizer, seed, chemicals, and other products used for commercial agriculture
 - Livestock auction or sales yards
 - Farm equipment storage and repair facilities
 - Storage, repair, or sale of fencing, irrigation pipe and pumps, and other commercial farm-related equipment and implements
 - Veterinarian clinics
 - Slaughtering of animals, including attendant retail and wholesale sales
 - Wineries not listed as a permitted use
 - Rental or lease of facilities, with or without a fee, in conjunction with an agricultural use for events such as parties, receptions, and banquets with the primary intent of indirect promotion of the product harvested or processed on the site.
 - Four or more promotional events in a calendar year that are directly related to the marketing of products harvested or processed on the site that are reasonably expected to attract more than 750 visitors daily. An "event" shall not exceed three consecutive days.

[Subsection B amended 11/30/94, Ord. 582]

C. Farm Use - The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" also includes the current employment of land for the primary purpose of obtaining profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the

extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in the subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3), or land described in ORS 321.267(1) (3) or 321.824(3).

[Amended 5/24/12; Ord. 872]

"Preparation" of products or by-products includes but is not limited to the cleaning, treatment, sorting, composting or packaging of the products or by-products.

"Products or by-products raised on such land" means the those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring on land being used for the primary purposes of obtaining a profit in money from the farm use of the land. [Subsection C amended 3/19/98, Ord. 643; Added to 09/02/04, Ord 746]

"Current employment" of land for farm use includes:

- Farmland, the operation or use of which is subject to any farm-related government program;
- Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
- Land planted in orchards or other perennials prior to maturity;
- Wasteland, dry or covered with water, neither economically tillable nor grazeable, lying in adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
- Except for land under a single family dwelling, land under buildings supporting accepted farming practices, including the processing facilities allowed by ORS 215.283(1)(r) and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.283(2)(a);
- Water impoundments lying in or adjacent to and in common ownership with farm use land;
- Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot in not utilized in conjunction with farm use;
- Land lying fallow for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family;
- Any land described under ORS 321.267 (1)(e) or 321.415 (5);
- Any land in an exclusive farm use zone used for the storage of agricultural products that would otherwise be disposed of through open field burning or propane flaming;
- Land used for the primary purpose of obtaining a profit in money by breeding, raising, kenneling or training of greyhounds for racing; and
- Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:

- (i) Only the crops of the landowner are being processed;
- (ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or
- (iii) The landowner is custom processing crops into biofuel from other landowners in the area for their sale or use.

As used in this subsection, "accepted farming practice" means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

"Cultured Christmas trees" means trees:

- (a) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;
- (b) Of a marketable species;
- (c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and
- (d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation.

[Amended 5/24/12; Ord. 872]

D. Golf course - An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:

1. A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes.
2. A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes.
3. A "non-regulation golf course" means a golf course or golf course-like development that does not meet this definition of golf course, including but not limited to executive golf courses, par three golf courses, pitch and putt courses, miniature golf courses, and driving ranges. Non-regulation golf courses are not permitted by this section.
4. An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course and conforms to the following:
 - a. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course include parking, maintenance buildings, cart storage and repair, practice range or driving range, clubhouse, restrooms,

lockers and showers, food and beverage service, pro shop, and a practice or beginners course as part of an 18 hole or larger golf course or golf tournament.

- b. Accessory uses to a golf course do not include sporting facilities unrelated to golf such as tennis courts, swimming pools, or weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing.
- c. A use is accessory to a golf course only when limited in size and orientation to serve the needs of persons and their guests who patronize the golf course to golf.
- d. Commercial activities such as a pro shop are accessory to a golf course only when located in the clubhouse.
- e. Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.
[Amended 09/02/04, Ord. 746]

E. High-value farmland - A tract composed predominantly of:

- 1. Soils rated Class I, II, prime, or unique, either irrigated or not irrigated.
- 2. The following Class III soils: Carlton, Chehalem, Dayton, Jory, Laurelwood, Nekia, Willakenzie, Woodburn, and Yamhill.
- 3. The following Class IV soils: Carlton, Dayton, Jory, Laurelwood, Willakenzie, and Yamhill.

Soil classes, soil ratings or other soil designations used in or made pursuant to the lot of record dwelling are those of the Natural Resource Conservation Service Internet soil survey for that class, rating or designation before November 4, 1993. For purposes of approving a lot of record dwelling, the soil class, soil rating or other soil designation of the parcel may be changed if the property owner submits a statement of agreement from the Natural Resources Conservation Service that the class, rating or designation should be adjusted based on new information; or if the property owner submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the class, rating or designation should be changed, along with a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report and finds the analysis to be soundly and scientifically based.
[Amended 8/13/98, Ord. 657]

F. Public parks - includes only the uses specified under OAR 660-034-0035.

[Added 8/13/98, Ord. 657]

G. Seasonal Farm Worker - Any person who, for an agreed remuneration or rate of pay, performs temporary labor for another to work in production of farm products or planting, cultivating or harvesting of seasonal agricultural crops or in forestation or reforestation of lands, including but not limited to the planting, transplanting, tubing, precommercial thinning and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash and other related activities.

- H. Tract - One or more contiguous lots or parcels under the same ownership.
- I. Winery - As authorized under subsection 402.02(H), a winery is a facility that produces and sells wine and conforms to the following attributes: [Amended 5/24/12; Ord. 872]
1. A winery herein defined has a maximum annual production of:
 - (a) Less than 50,000 gallons and:
 - i. Owns an on-site vineyard of at least 15 acres;
 - ii. Owns a contiguous vineyard of at least 15 acres;
 - iii. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of vineyard contiguous to the winery; or
 - iv. Obtains grapes from any combination of (i), (ii), or (iii) above; or
 - (b) At least 50,000 gallons and no more than 100,000 gallons and:
 - i. Owns an on-site vineyard of at least 40 acres;
 - ii. Owns a contiguous vineyard of at least 40 acres;
 - iii. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of vineyard contiguous to the winery; or
 - iv. Obtains grapes from any combination of (i), (ii), or (iii) above.
 - (c) Prior to the issuance of building permits, the applicant shall provide evidence that the vineyards described in subsections (a) and (b) have been planted, or the contract has been executed, as applicable. [Added 3/19/98, Ord. 643]
 2. The winery shall allow only the sale of:
 - (a) Wines produced in conjunction with the winery; and
 - (b) Items directly related to wine, the sales of which are incidental to the retail sale of wine on-site and do not exceed 25 percent of the total gross receipts of the retail facility. Such items include those served by a limited service restaurant, as defined in ORS 624.010.
 3. Permitted on-site marketing of wine includes up to three events of one to three days in duration during a calendar year intended to draw customers to the site for the tasting and purchase of wine, with an anticipated maximum of 750 daily visitors. The frequency and duration of these events may be limited through site design review approval based on the adequacy of public facilities. Rent or lease of space within or adjacent to the winery facility for events such as parties, receptions, and banquets that are not directly related to promotion of the wine is not included in this definition of a winery.

4. A facility for production and sale of wine that does not conform to the attributes described in subsections 402.10(I)(1) through (3) above may be deemed a commercial activity in conjunction with farm use pursuant to subsection 402.04(G).

[Amended 5/24/12; Ord. 872]

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DOCKET G-02-22

The proposal is to add psilocybin service centers into the PAI zone as a conditional use, subject to site design review. See 601.03(E). (See page 2)

SECTION 600 – COMMERCIAL DISTRICTS

601. RECREATION COMMERCIAL DISTRICT (RC)

[Last Amended 06/28/18; Ord. 906]

601.01 Purpose.

The purpose of the RC District is to provide specialized commercial services in conjunction with a recreational use. This district is intended to meet present foreseeable demand for recreational commercial services both inside and outside urban growth boundaries where special location and space requirements are necessary for the recreational use. The size and intensity of development or facilities and uses within this district shall be commensurate with the capability of land and water areas to support the uses intended, and shall not result in any unusual service demands on nearby urban centers.

601.02 Permitted Uses.

In the RC District, the following uses shall be permitted subject to the standards and limitations set forth in subsection 601.07, and pursuant to Section 1101 for site design review.

- A. Resort;
- B. Entertainment facility, food store (maximum floor area of two thousand (2,000) square feet), gift, souvenir or antique shop, motel, restaurant or other similar uses in conjunction with a resort;
- C. Indoor commercial recreation facility;
- D. Golf course, golf course and driving range or driving range, not in conjunction with a golf course; [Golf Course Added 12/05/02; Ord. 720]
- E. Miniature golf;
- F. RV park, subject to the RV park provisions of Section 1003;
- G. Dwelling in conjunction with a permitted use. Site design review is not required for the dwelling; [Amended 7/9/98, Ord. 648]
- H. Accessory uses;
- I. Temporary structures as may be required during construction of an authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector;
- J. Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to the requirements in subsection 404.10;
- K. Community or municipal water supply system;

- L. Community or municipal sewer system; and
- M. Signs, pursuant to the sign provisions set forth in Section 1006.
- N. Country inn. [Added 5/24/12; Ord. 872]
- O. Accessory dwelling unit within an urban growth boundary, subject to the standards in Section 1014. Site design review is not required for the accessory dwelling unit. [Added 06/28/18; Ord. 906]

601.03 Conditional Uses.

In the RC District, pursuant to the Type B application procedure as set forth in Section 1301, and subject to the conditional use review criteria listed in Section 1202, and subject to Section 1101 for site design review and any other applicable criteria established by this ordinance, the following uses may be allowed conditionally:

- A. Drive-in theater;
- B. Open-land commercial or private recreation use, such as zoo, racing circuit, motorcycle hill climb, skydiving facility and similar uses;
- C. Home occupation, subject to the standards and limitations set forth in Section 1004;
- D. Utility facility, subject to Section 1101 for site design review.
- E. "Psilocybin service center" as defined in Oregon Revised Statute 475A.220, subject to Section 1101 Site Design Review.

601.04 Similar Uses.

Any use not specifically listed as a permitted or conditional use in this district that is similar in character, scale and performance to the permitted uses specified in subsection 601.02 may be allowed as a similar use, subject to the provisions of Section 1206, and pursuant to the Type A application procedure set forth in Section 1301.

601.05 Prohibited Uses.

Uses of land and water not specifically mentioned in this section, and not allowed as a similar use, are prohibited in the RC District.

601.06 Nonconforming Uses.

Nonconforming uses found in the RC District are subject to the nonconforming use provisions of Section 1205 as well as any other applicable provisions of this ordinance.

601.07 Standards and Limitations.

In the RC District, the following standards and limitations shall apply:

- A. Dwelling Density.
 - 1. Not more than one (1) dwelling shall be permitted on any parcel.

B. Parcel Size and Dimension.

1. Minimum Parcel Size. The minimum parcel size for any use, including a PUD, shall be two (2) acres.
2. Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 3:1.

C. Setbacks.

1. Front Yard. The minimum front yard setback shall be thirty (30) feet, except as follows:
 - (a) The minimum setback for all yards for an RV park shall be twenty (20) feet when abutting a road and otherwise shall be ten (10) feet for all yards; and
 - (b) The minimum setback for all yards for signs shall be five (5) feet.
2. Side and Rear Yard. The minimum side and rear yard setbacks shall be thirty (30) feet, except as provided in this subsection.
3. An accessory structure not more than fifteen (15) feet in height, at least sixty (60) feet from a road and at least ten (10) feet from any dwelling, may be located a minimum distance of three (3) feet from the property line in a side yard or rear yard.
4. A swimming pool may be located in a required rear yard, provided it lies a minimum of five (5) feet from the rear property line.
5. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision area requirements of subsection 601.07(E).

[Amended 7/9/98, Ord. 648]

D. Access.

Before a dwelling may be established on any parcel as provided in this section, the parcel shall have a legal, safe and passable means of access by abutting at least twenty (20) feet either directly upon a public road, or by a private easement which is at least thirty (30) feet in width for its entire length and which also abuts upon a public road for at least thirty (30) feet. Nothing in this section shall be construed to vary or waive the requirements for creation of new access contained in any Land Division Ordinance legally adopted by Yamhill County.

E. Clear-Vision Areas.

A clear-vision area shall be maintained on the corner of any parcel at the intersection of any two of the following: County roads, public roads, private roads serving four or more parcels; and railroads. A clear-vision area shall contain no sight-obscuring structures or plantings exceeding thirty (30) inches in height within a triangle formed by the lot corner nearest the intersection, and the two points twenty (20) feet from this corner as measured along the parcel lines adjacent to the intersecting rights-of-way. Trees exceeding this height may be located such that their branches extend into this triangle, provided they are maintained to allow at least twelve (12) feet of visual clearance within the triangle below the lowest hanging branches.

F. Height.

1. The maximum building height for any dwelling shall be thirty-five (35) feet;
2. The maximum building height for all other structures shall be forty-five (45) feet; and
3. Appurtenances usually required to be placed above the roof level and not intended for human occupancy such as spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys and wind generators are not subject to the height limitations of this ordinance.

G. Off-street Parking.

Off-street parking and loading requirements for any use in the RC District shall be as provided in Section 1007.

DOCKET G-02-22

The proposal is to add psilocybin service centers into the PAI zone as a conditional use, subject to site design review. See 801.03(C). (See page 2)

SECTION 800 – PUBLIC FACILITIES DISTRICTS

801. PUBLIC ASSEMBLY INSTITUTIONAL DISTRICT (PAI)

[Last amended 7/9/98, Ord. 648]

801.01 Purpose.

The purpose of the PAI District is to accommodate the present foreseeable demand for public and private assembly uses and institutional facilities to serve both local and regional needs. When sited adjacent to urban development, PAI uses shall be compatible and coordinated with city comprehensive plans. The PAI District shall be subject to the site design review provisions of this ordinance regarding the review, approval and staging of all phases of development and the programming, installation and maintenance of all improvements.

801.02 Permitted Uses.

In the PAI District, the following uses shall be permitted subject to the standards and limitations set forth in subsection 801.07 and pursuant to Section 1101 for site design review:

- A. Any use providing for the public or private assembly of persons for religious, charitable, philanthropic, cultural, recreational, or educational purposes, including churches, auditoriums, armories, youth centers, social halls, fairgrounds, group camps, schools, kindergartens, play-schools, day nurseries and day-care schools;
- B. Clinic;
- C. Club or lodge;
- D. Convalescent or nursing home;
- E. Cemetery;
- F. Dwelling for caretaker or watchman in conjunction with a permitted use. Site design review is not required for the dwelling; [Amended 7/9/98, Ord. 648]
- G. Accessory uses;
- H. Temporary structures as may be required during construction of an authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector;
- I. Community or municipal water supply system;
- J. Community or municipal sewer system;

- K. Signs, pursuant to the sign provisions set forth in Section 1006;
- L. Farm uses, subject to the limitations in subsection 801.07(J); and [Amended 7/9/98, Ord. 648]
- M. Propagation and harvesting of a forest product. [Amended 7/9/98, Ord. 648]

801.03 Conditional Uses.

In the PAI District, pursuant to the Type B application procedure set forth in Section 1301, and subject to the conditional use review criteria listed in Section 1202, and subject to Section 1101 for site design review and any other applicable criteria established by this ordinance, the following uses may be allowed conditionally:

- A. Duplex or multi-family dwelling, or group living quarters, in conjunction with a permitted use; and
- B. Operations conducted for the exploration of oil, natural gas or geothermal resources subject to the requirements in subsection 404.10.
- C. Psilocybin service center" as defined in Oregon Revised Statute 475A.220, subject to Section 1101 Site Design Review.

801.04 Similar Uses.

Any use not specifically listed as a permitted or conditional use in this district that is similar in character, scale and performance to the permitted uses specified in subsection 801.02, may be allowed as a similar use subject to the provisions of Section 1206, and pursuant to the Type A application procedure set forth in Section 1301.

801.05 Prohibited Uses.

Uses of land and water not specifically mentioned in this section, and not allowed as a similar use, are prohibited in the PAI District

801.06 Nonconforming Uses.

Nonconforming uses found in the PAI District are subject to the nonconforming use provisions of Section 1205 as well as any other applicable provisions of this ordinance.

801.07 Standards and Limitations.

In the PAI District, the following standards and limitations shall apply:

- A. Dwelling Density.
 - 1. Permitted Uses. Not more than one (1) dwelling, as allowed for a caretaker or watchman in conjunction with a permitted use, shall be allowed on any parcel.

2. Conditional Uses. The maximum overall dwelling density for any dwelling allowed by conditional use shall be established by the decision-making body subject to Section 1101 for site design review.

B. Parcel Size and Dimension.

1. Minimum Parcel Size. The minimum parcel size for any use shall be one (1) acre, plus 10,000 square feet for each dwelling.
2. Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 3:1.

C. Setbacks.

The minimum setback for all yards shall be thirty (30) feet for all uses, except as follows:

1. The minimum setback shall be five (5) feet for all yards for signs.
2. No structure housing livestock shall be located within a distance of fifty (50) feet of any front parcel line, twenty-five (25) feet of any other parcel line, and forty (40) feet of any dwelling.
3. An accessory structure not more than fifteen (15) feet in height, at least sixty (60) feet from a road, and at least ten (10) feet from any dwelling may be located a minimum distance of three (3) feet from the property line in a side yard or rear yard.
4. A swimming pool may be located in a required rear yard, provided it lies a minimum of five (5) feet from the rear property line.
5. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision area requirements of subsection 801.07 (F).

[Amended 7/9/98, Ord. 648]

D. Parcel Coverage.

The maximum parcel coverage shall be thirty (30) percent for any use.

E. Access.

Before a dwelling may be established on any parcel as provided in this section, the parcel shall have a legal, safe and passable means of access by abutting at least twenty (20) feet either directly upon a public road, or by a private easement which is at least thirty (30) feet in width for its entire length and which also abuts upon a public road for at least thirty (30) feet in width for its entire length and which also abuts upon a public road for at least thirty (30) feet. Nothing in this section shall be construed to vary or waive the requirements for creation of new access contained in any Land Division Ordinance legally adopted by Yamhill County.

F. Clear-Vision Areas.

A clear-vision area shall be maintained on the corner of any parcel at the intersection of any two of the following: county roads; public roads; private roads serving four or more parcels;

and railroads. A clear-vision area shall contain no sight-obscuring structures or plantings exceeding thirty (30) inches in height within a triangle formed by the lot corner nearest the intersection, and the two points twenty (20) feet from this corner is measured along the parcel lines adjacent to the intersection rights-of way. Trees exceeding this height may be located such that their branches extend into this triangle, provided they are maintained to allow at least twelve (12) feet of visual clearance within the triangle below the lowest hanging branches.

G. Height.

1. The maximum building height for any dwelling shall be thirty-five (35) feet;
2. The maximum building height for all other structures shall be sixty (60) feet; and
3. Appurtenances usually required to be placed above the roof level and not intended for human occupancy such as spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys and wind generators are not subject to the height limitations of this ordinance.

H. Off-street Parking.

Off-street parking and loading requirements for any use in the PAI District shall be as provided in Section 1007.

I. Livestock.

The keeping of livestock may be allowed pursuant to subsection 801.03 and subject to the following restrictions:

1. On any parcel of one-half ($\frac{1}{2}$) acre or less the total number of fowl, rabbits and other similar small animals shall not exceed twenty-five (25) and no other livestock of any kind shall be permitted.
2. On any parcel of less than ten (10) acres, the total number of horses, cows, sheep, pigs, goats and other similar large animals over the age of six (6) months shall not exceed one (1) for each one (1) acre of parcel area;
3. On any parcel of less than ten (10) acres, the total number of fowl, rabbits and other similar small animals shall not exceed twenty-five (25), plus one (1) for each five hundred (500) square feet of parcel area in excess of one-half ($\frac{1}{2}$) acre and the total number of bee colonies shall not exceed one (1) per two thousand (2,000) square feet of parcel area;
4. All livestock shall be properly fenced and contained so as to minimize adverse impacts to surrounding property owners; and
5. All animal food shall be stored in metal or other rodent-proof receptacles.

2. Measure 109 (2020)/ORS 475A

Chapter 475A — Psilocybin Regulation

2021 EDITION

PSILOCYBIN REGULATION

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475A.722 Severability

475A.005 [1989 c.791 §2; 1991 c.291 §1; 1993 c.508 §44; 1995 c.79 §388; 1997 c.631 §565; 2001 c.104 §215; 2001 c.780 §§1,1a; 2003 c.14 §308; 2005 c.625 §§74,75; 2007 c.71 §154; repealed by 2009 c.78 §64]

475A.010 [1989 c.791 §1; 1999 c.59 §145; 2001 c.780 §§2,2a; repealed by 2009 c.78 §64]

475A.015 [1989 c.791 §12; 1999 c.59 §146; repealed by 2009 c.78 §64]

475A.020 [1989 c.791 §3; 2001 c.780 §§3,3a; repealed by 2009 c.78 §64]

475A.025 [1993 c.699 §20; repealed by 2009 c.78 §64]

475A.030 [1993 c.699 §22; 2001 c.780 §§4,4a; repealed by 2009 c.78 §64]

475A.035 [1989 c.791 §4; 1991 c.218 §1; 1991 c.237 §1; 1991 c.934 §2; 1999 c.59 §147; 2001 c.780 §§5,5a; 2005 c.830 §31; repealed by 2009 c.78 §64]

475A.040 [1991 c.218 §5; 2001 c.780 §§20,20a; repealed by 2009 c.78 §64]

475A.045 [1989 c.791 §5; 1991 c.237 §2; 1991 c.276 §1; 1991 c.800 §1; 1995 c.459 §1; 1999 c.59 §148; 2001 c.780 §§6,6a; repealed by 2009 c.78 §64]

475A.050 [1989 c.791 §19; 2001 c.780 §§21,21a; repealed by 2009 c.78 §64]

475A.055 [1989 c.791 §6; 1991 c.218 §2; 1991 c.799 §1; 1991 c.934 §1; 1993 c.553 §1; 1993 c.699 §10; 2001 c.780 §§7,7a; repealed by 2009 c.78 §64]

475A.060 [1991 c.934 §4; 2001 c.780 §§22,22a; repealed by 2009 c.78 §64]

475A.065 [1991 c.934 §5; repealed by 2009 c.78 §64]

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475A.075 [1989 c.791 §7; 1991 c.218 §3; 1991 c.238 §1; 1991 c.275 §1; 1991 c.799 §2; 1991 c.828 §1; 1993 c.699 §18; 1995 c.459 §2; 1999 c.59 §149; 1999 c.168 §11; 2001 c.780 §§8,8a; 2005 c.830 §34; repealed by 2009 c.78 §64]

475A.080 [1989 c.791 §13; 2001 c.780 §§9,9a; 2005 c.830 §30; repealed by 2009 c.78 §64]

475A.085 [1989 c.791 §8; 1991 c.322 §1; 1993 c.699 §21; 2001 c.780 §§10,10a; 2003 c.14 §§309,310; 2005 c.830 §32; repealed by 2009 c.78 §64]

475A.090 [1993 c.699 §13; repealed by 2001 c.780 §32]

475A.091 [2001 c.780 §35; 2003 c.576 §254; 2005 c.830 §41; repealed by 2009 c.78 §64]

475A.095 [1993 c.699 §14; repealed by 2001 c.780 §32]

475A.096 [2001 c.780 §36; 2005 c.830 §42; repealed by 2009 c.78 §64]

475A.100 [1993 c.699 §15; 2001 c.780 §§11,11a; repealed by 2009 c.78 §64]

475A.105 [1993 c.699 §16; repealed by 2001 c.780 §32]

475A.110 [1989 c.791 §9; 1991 c.275 §2; 1991 c.290 §1; 1991 c.322 §2; 1991 c.800 §2; 1993 c.553 §2; 1999 c.59 §150; 2001 c.780 §§12,12a; 2003 c.14 §§311,312; 2003 c.576 §§464,465; repealed by 2009 c.78 §64]

475A.111 [2001 c.780 §37; 2003 c.576 §255; 2005 c.22 §352; repealed by 2009 c.78 §64]

475A.115 [1989 c.791 §12a; 1999 c.59 §151; 2001 c.780 §§13,13a; repealed by 2009 c.78 §64]

475A.120 [1989 c.791 §10; 1991 c.276 §2; 1991 c.290 §2; 1991 c.934 §7; 1993 c.552 §1; 1993 c.553 §3; 1993 c.699 §6; 1995 c.79 §389; 1997 c.592 §1; 2001 c.780 §§14,14a; 2005 c.830 §§35,36; repealed by 2009 c.78 §64]

475A.125 [1989 c.791 §11b; 1991 c.276 §3; 1991 c.290 §3; 1993 c.699 §7; 1995 c.79 §390; 1997 c.592 §2; 1999 c.59 §152; repealed by 2001 c.780 §32]

475A.126 [2001 c.780 §38; 2005 c.830 §§37,38; repealed by 2009 c.78 §64]

475A.130 [1989 c.791 §11c; 1993 c.699 §9; 1999 c.59 §153; 2001 c.780 §15; 2001 c.834 §§5a,9a; 2005 c.830 §39; repealed by 2009 c.78 §64]

475A.135 [1989 c.791 §20; 1999 c.59 §154; repealed by 2001 c.780 §32]

475A.155 [1989 c.791 §14; 1991 c.290 §4; 1993 c.699 §4; 1997 c.592 §3; 1999 c.59 §155; 2001 c.666 §§20,21; 2005 c.830 §39a; repealed by 2009 c.78 §64]

475A.160 [1997 c.592 §4; 1999 c.864 §1; 2001 c.780 §§16,16a; 2005 c.830 §40; repealed by 2009 c.78 §64]

Note: Unless otherwise noted, the division headings, subdivision headings and leadlines for ORS 475A.200 to 475A.722 were enacted as part of Ballot Measure 109 (2020) and were not provided by Legislative Counsel.

USE OF PSILOCYBIN

(Generally)

475A.200 Legislative findings. The People of the State of Oregon find that:

(1) Oregon has the one of the highest prevalence of mental illness among adults in the nation;

(2) An estimated one in every five adults in Oregon is coping with a mental health condition;

(3) The Governor has declared addiction as a public health crisis in this state;

(4) The 2019-2021 Governor's Budget proposes spending over \$2.8 billion on mental health and behavioral health programs;

(5) Studies conducted by nationally and internationally recognized medical institutions indicate that psilocybin has shown efficacy, tolerability, and safety in the treatment of a variety of mental health conditions, including but not limited to addiction, depression, anxiety disorders, and end-of-life psychological distress;

(6) The United States Food and Drug Administration has:

(a) Determined that preliminary clinical evidence indicates that psilocybin may demonstrate substantial improvement over available therapies for treatment-resistant depression; and

(b) Granted a Breakthrough Therapy designation for a treatment that uses psilocybin as a therapy for such depression;

(7) The Oregon Health Authority has direct supervision of all matters relating to the preservation of life and health of the people of this state;

(8) During a two-year program development period, the authority should:

(a) Examine, publish, and distribute to the public available medical, psychological, and scientific studies, research, and other information relating to the safety and efficacy of psilocybin in treating mental health conditions; and

(b) Adopt rules and regulations for the eventual implementation of a comprehensive regulatory framework that will allow persons 21 years of age and older in this state to be provided psilocybin services; and

(9) An advisory board should be established within the authority for the purpose of advising and making recommendations to the authority. [2021 c.1 §1]

Note: As originally enacted by the people, the leadline to ORS 475A.200 read “Findings.” The leadline was changed by editorial action.

475A.205 Purposes of ORS 475A.200 to 475A.722. (1) The People of the State of Oregon declare that the purposes of chapter 1, Oregon Laws 2021, are:

(a) To educate the people of this state about the safety and efficacy of psilocybin in treating mental health conditions;

(b) To reduce the prevalence of mental illness among adults in this state, and to improve the physical, mental, and social well-being of all people in this state;

(c) To develop a long-term strategic plan for ensuring that psilocybin services will become and remain a safe, accessible and affordable therapeutic option for all persons 21 years of age and older in this state for whom psilocybin may be appropriate;

(d) To protect the safety, welfare, health and peace of the people of this state by prioritizing this state’s limited law enforcement resources in the most effective, consistent and rational way; and

(e) After a two-year program development period, to:

(A) Permit persons licensed, controlled and regulated by this state to legally manufacture psilocybin products and provide psilocybin services to persons 21 years of age and older, subject to the provisions of chapter 1, Oregon Laws 2021; and

(B) Establish a comprehensive regulatory framework concerning psilocybin products and psilocybin services under state law.

(2) The People of the State of Oregon intend that the provisions of chapter 1, Oregon Laws 2021, together with other provisions of state law, will:

(a) Prevent the distribution of psilocybin products to other persons who are not permitted to possess psilocybin products under the provisions of ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722, including but not limited to persons under 21 years of age; and

(b) Prevent the diversion of psilocybin products from this state to other states. [2021 c.1 §2]

Note: As originally enacted by the people, the leadline to ORS 475A.205 read “Purposes of this 2020 Act.” The leadline was changed by editorial action.

Note: Legislative Counsel has substituted “chapter 1, Oregon Laws 2021,” for the words “this 2020 Act” in section 2, chapter 1, Oregon Laws 2021, compiled as 475A.205. Specific ORS references have not been substituted, pursuant to 173.160. The sections for which substitution otherwise would be made may be determined by referring to the 2021 Comparative Section Table located in Volume 22 of ORS.

475A.210 Short title. ORS 475A.210 to 475A.722 shall be known and may be cited as the Oregon Psilocybin Services Act. [2021 c.1 §3]

475A.215 Construction of ORS 475A.210 to 475A.722. ORS 475A.210 to 475A.722 may not be construed:

- (1) To require a government medical assistance program or private health insurer to reimburse a person for costs associated with the use of psilocybin products;
- (2) To amend or affect state or federal law pertaining to employment matters;
- (3) To amend or affect state or federal law pertaining to landlord-tenant matters;
- (4) To prohibit a recipient of a federal grant or an applicant for a federal grant from prohibiting the manufacture, delivery, possession or use of psilocybin products to the extent necessary to satisfy federal requirements for the grant;
- (5) To prohibit a party to a federal contract or a person applying to be a party to a federal contract from prohibiting the manufacture, delivery, possession or use of psilocybin products to the extent necessary to comply with the terms and conditions of the contract or to satisfy federal requirements for the contract;
- (6) To require a person to violate a federal law;
- (7) To exempt a person from a federal law or obstruct the enforcement of a federal law; or
- (8) To amend or affect state law, to the extent that a person does not manufacture, deliver, or possess psilocybin products in accordance with the provisions of ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722. [2021 c.1 §4]

Note: As originally enacted by the people, the headline to ORS 475A.215 read “Construction.” The headline was changed by editorial action.

475A.220 Definitions for ORS 475A.210 to 475A.722. As used in ORS 475A.210 to 475A.722:

- (1) “Administration session” means a session held at a psilocybin service center at which a client purchases, consumes, and experiences the effects of a psilocybin product under the supervision of a psilocybin service facilitator.
- (2) “Client” means an individual that is provided psilocybin services in this state.
- (3) “Integration session” means a meeting between a client and a psilocybin service facilitator that may occur after the client completes an administration session.
- (4) “Legal entity” means a corporation, limited liability company, limited partnership, or other legal entity that is registered with the office of the Secretary of State or with a comparable office of another jurisdiction.
- (5) “Licensee” means a person that holds a license issued under ORS 475A.290, 475A.305, 475A.325 or 475A.594.
- (6) “Licensee representative” means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that the person acts in a representative capacity.

(7) “Manufacture” means the manufacture, planting, cultivation, growing, harvesting, production, preparation, propagation, 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, and includes any packaging or repackaging of the psilocybin product or labeling or relabeling of its container.

(8)(a) “Premises” includes the following areas of a location licensed under ORS 475A.210 to 475A.722:

(A) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms;

(B) All areas outside a building that the Oregon Health Authority has specifically licensed for the manufacturing of psilocybin products or the operation of a psilocybin service center; and

(C) For a location that the authority has specifically licensed for the operation of a psilocybin service center outside a building, that portion of the location used to operate the psilocybin service center and provide psilocybin services to clients.

(b) “Premises” does not include a primary residence.

(9) “Preparation session” means a meeting between a client and a psilocybin service facilitator that must occur before the client participates in an administration session.

(10) “Psilocybin” means psilocybin or psilocin.

(11) “Psilocybin product manufacturer” means a person that manufactures psilocybin products in this state.

(12)(a) “Psilocybin products” means:

(A) Psilocybin-producing fungi; and

(B) Mixtures or substances containing a detectable amount of psilocybin.

(b) “Psilocybin products” does not include psilocybin services.

(13) “Psilocybin service center” means an establishment:

(a) At which administration sessions are held; and

(b) At which other psilocybin services may be provided.

(14) “Psilocybin service center operator” means a person that operates a psilocybin service center in this state.

(15) “Psilocybin service facilitator” means an individual that facilitates the provision of psilocybin services in this state.

(16) “Psilocybin services” means services provided to a client before, during, and after the client’s consumption of a psilocybin product, including:

(a) A preparation session;

(b) An administration session; and

(c) An integration session.

(17) “Two-year program development period” means the period beginning on January 1, 2021 and ending no later than December 31, 2022. [2021 c.1 §5]

Note: As originally enacted by the people, the leadline to ORS 475A.220 read “Definitions.” The leadline was changed by editorial action.

(Oregon Psilocybin Advisory Board)

475A.225 Members of Oregon Psilocybin Advisory Board; terms; meetings; compensation; rules. (1)(a) The Oregon Psilocybin Advisory Board is established within the

Oregon Health Authority for the purpose of advising and making recommendations to the authority. The Oregon Psilocybin Advisory Board shall consist of:

- (A) Fourteen to sixteen members appointed by the Governor as specified in paragraph (b) of this subsection;
 - (B) The Public Health Director or the Public Health Director's designee;
 - (C) If the Public Health Director is not the State Health Officer, the State Health Officer or a physician licensed under ORS chapter 677 acting as the State Health Officer's designee;
 - (D) If the Public Health Director is the State Health Officer, a representative from the Oregon Health Authority who is familiar with public health programs and public health activities in this state; and
 - (E) A designee of the Oregon Health Policy Board.
- (b) The Governor shall appoint the following individuals to the board:
- (A) Any four of the following:
 - (i) A state employee who has technical expertise in the field of public health;
 - (ii) A local health officer, as defined in ORS 431.003;
 - (iii) An individual who is a member of, or who represents, a federally recognized Indian tribe in this state;
 - (iv) An individual who is a member of, or who represents, the Addictions and Mental Health Planning and Advisory Council within the authority;
 - (v) An individual who is a member of, or who represents, the Health Equity Policy Committee within the authority;
 - (vi) An individual who is a member of, or who represents, the Palliative Care and Quality of Life Interdisciplinary Advisory Council within the authority; and
 - (vii) An individual who represents individuals who provide public health services directly to the public;
 - (B) A psychologist licensed under ORS chapter 675 who has professional experience engaging in the diagnosis or treatment of a mental, emotional, or behavioral condition;
 - (C) A physician licensed under ORS chapter 677 who holds a degree of Doctor of Medicine;
 - (D) A naturopathic physician licensed under ORS chapter 685;
 - (E) An expert in the field of public health who has a background in academia;
 - (F) Any three of the following:
 - (i) A person who has professional experience conducting scientific research regarding the use of psychedelic compounds in clinical therapy;
 - (ii) A person who has experience in the field of mycology;
 - (iii) A person who has experience in the field of ethnobotany;
 - (iv) A person who has experience in the field of psychopharmacology; and
 - (v) A person who has experience in the field of psilocybin harm reduction;
 - (G) A person representing the Oregon Liquor and Cannabis Commission who has experience working with the system developed and maintained by the commission under ORS 475C.177 for tracking the transfer of marijuana items;
 - (H) A person representing the Oregon Department of Justice; and
 - (I) The following:
 - (i) During the two-year program development period:
 - (I) One of the chief petitioners of chapter 1, Oregon Laws 2021; and
 - (II) One or two at-large members; and
 - (ii) After the two-year program development period, one, two, or three at-large members.

(2)(a) The term of office for a board member appointed under this section is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(b) Members of the board described in subsection (1)(a)(B) to (E) of this section are nonvoting ex officio members of the board.

(3) A majority of the voting members of the board constitutes a quorum for the transaction of business.

(4) Official action by the board requires the approval of a majority of the voting members of the board.

(5) The board shall elect one of its voting members to serve as chairperson.

(6) During the two-year program development period, the board shall meet at least once every two calendar months at a time and place determined by the chairperson or a majority of the voting members of the board. After the two-year program development period, the board shall meet at least once every calendar quarter at a time and place determined by the chairperson or a majority of the voting members of the board. The board also may meet at other times and places specified by the call of the chairperson or of a majority of the voting members of the board.

(7) The board may adopt rules necessary for the operation of the board.

(8) The board may establish committees and subcommittees necessary for the operation of the board.

(9) Members of the board are entitled to compensation and expenses as provided in ORS 292.495. [2021 c.1 §6]

Note: As originally enacted by the people, the headline to ORS 475A.225 read “Members; terms; meetings; compensation.” The headline was changed by editorial action.

Note: Legislative Counsel has substituted “chapter 1, Oregon Laws 2021,” for the words “this 2020 Act” in section 6, chapter 1, Oregon Laws 2021, compiled as 475A.225. Specific ORS references have not been substituted, pursuant to 173.160. The sections for which substitution otherwise would be made may be determined by referring to the 2021 Comparative Section Table located in Volume 22 of ORS.

475A.230 Duties of Oregon Psilocybin Advisory Board. The Oregon Psilocybin Advisory Board shall:

(1) Provide advice to the Oregon Health Authority with respect to the administration of ORS 475A.210 to 475A.722;

(2) Make recommendations to the authority on available medical, psychological, and scientific studies, research, and other information relating to the safety and efficacy of psilocybin in treating mental health conditions, including but not limited to addiction, depression, anxiety disorders, and end-of-life psychological distress;

(3) Make recommendations to the authority on the requirements, specifications and guidelines for providing psilocybin services to a client, including:

(a) The requirements, specifications and guidelines for holding and verifying the completion of a preparation session, an administration session, and an integration session; and

(b) The contents of the client information form that a client must complete and sign before the client participates in an administration session, giving particular consideration to:

(A) The information that should be solicited from the client to determine whether the client should participate in the administration session, including information that may identify risk factors and contraindications;

(B) The information that should be solicited from the client to assist the psilocybin service center operator and the psilocybin service facilitator in meeting any public health and safety standards and industry best practices during the administration session; and

(C) The health and safety warnings and other disclosures that should be made to the client before the client participates in the administration session.

(4) Make recommendations to the authority on public health and safety standards and industry best practices for each type of licensee under ORS 475A.210 to 475A.722;

(5) Make recommendations to the authority on the formulation of a code of professional conduct for psilocybin service facilitators, giving particular consideration to a code of ethics;

(6) Make recommendations to the authority on the education and training that psilocybin service facilitators must complete:

(a) Giving particular consideration to:

(A) Facilitation skills that are affirming, non-judgmental, and non-directive;

(B) Support skills for clients during an administration session, including specialized skills for:

(i) Client safety; and

(ii) Clients who may have a mental health condition;

(C) The environment in which psilocybin services should occur; and

(D) Social and cultural considerations; and

(b) Including whether such education and training should be available through online resources;

(7) Make recommendations to the authority on the examinations that psilocybin service facilitators must pass;

(8) Make recommendations to the authority on public health and safety standards and industry best practices for holding and completing an administration session, including:

(a) Whether group administration sessions should be available;

(b) Whether clients should be able to access common or outside areas on the premises of the psilocybin service center at which the administration session is held;

(c) The circumstances under which an administration session is considered complete; and

(d) The transportation needs of the client after the completion of the administration session;

(9) Develop a long-term strategic plan for ensuring that psilocybin services will become and remain a safe, accessible and affordable therapeutic option for all persons 21 years of age and older in this state for whom psilocybin may be appropriate;

(10) Monitor and study federal laws, regulations and policies regarding psilocybin; and

(11) Attempt to meet with the United States Attorney's Office for the District of Oregon to discuss chapter 1, Oregon Laws 2021, and potential federal enforcement policies regarding psilocybin in Oregon after the expiration of the two-year program development period. [2021 c.1 §7]

Note: Legislative Counsel has substituted “chapter 1, Oregon Laws 2021,” for the words “this 2020 Act” in section 7, chapter 1, Oregon Laws 2021, compiled as 475A.230. Specific ORS references have not been substituted, pursuant to 173.160. The sections for which substitution otherwise would be made may be determined by referring to the 2021 Comparative Section Table located in Volume 22 of ORS.

(Powers and Duties of Oregon Health Authority)

475A.235 General powers and duties; rules. (1) The Oregon Health Authority has the duties, functions and powers specified in ORS 475A.210 to 475A.722 and the powers necessary or proper to enable the authority to carry out the authority's duties, functions and powers under ORS 475A.210 to 475A.722. The jurisdiction, supervision, duties, functions and powers of the authority extend to any person that produces, processes, transports, delivers, sells or purchases a psilocybin product in this state or that provides a psilocybin service in this state. The authority may sue and be sued.

(2) The duties, functions and powers of the authority specified in ORS 475A.210 to 475A.722 include the following:

(a) To examine, publish, and distribute to the public available medical, psychological, and scientific studies, research, and other information relating to the safety and efficacy of psilocybin in treating mental health conditions, including but not limited to addiction, depression, anxiety disorders, and end-of-life psychological distress.

(b) After the two-year program development period:

(A) To regulate the manufacturing, transportation, delivery, sale and purchase of psilocybin products and the provision of psilocybin services in this state in accordance with the provisions of ORS 475A.210 to 475A.722;

(B) To issue, renew, suspend, revoke or refuse to issue or renew licenses for the manufacturing or sale of psilocybin products, the provision of psilocybin services, or other licenses related to the consumption of psilocybin products, and to permit, in the authority's discretion, the transfer of a license between persons; and

(C) To regulate the use of psilocybin products and psilocybin services for other purposes as deemed necessary or appropriate by the authority.

(c) To adopt, amend or repeal rules as necessary to carry out the intent and provisions of ORS 475A.210 to 475A.722, including rules that the authority considers necessary to protect the public health and safety.

(d) To exercise all powers incidental, convenient or necessary to enable the authority to administer or carry out the provisions of ORS 475A.210 to 475A.722 or any other law of this state that charges the authority with a duty, function or power related to psilocybin products and psilocybin services. Powers described in this paragraph include, but are not limited to:

(A) Issuing subpoenas;

(B) Compelling the attendance of witnesses;

(C) Administering oaths;

(D) Certifying official acts;

(E) Taking depositions as provided by law;

(F) Compelling the production of books, payrolls, accounts, papers, records, documents and testimony; and

(G) Establishing fees in addition to the application, licensing and renewal fees described in ORS 475A.290, 475A.305, 475A.325 and 475A.594, provided that any fee established by the authority is reasonably calculated not to exceed the cost of the activity for which the fee is charged.

(e) To adopt rules prohibiting advertising psilocybin products to the public.

(f) To adopt rules regulating and prohibiting advertising psilocybin services in a manner:

(A) That is appealing to minors;

(B) That promotes excessive use;

- (C) That promotes illegal activity;
 - (D) That violates the code of professional conduct for psilocybin service facilitators formulated by the authority; or
 - (E) That otherwise presents a significant risk to public health and safety.
- (3) The authority may not require that a psilocybin product be manufactured by means of chemical synthesis.
- (4) The authority may not require a client to be diagnosed with or have any particular medical condition as a condition to being provided psilocybin services.
- (5) Fees collected pursuant to subsection (2)(d)(G) of this section shall be deposited in the Psilocybin Control and Regulation Fund established under ORS 475A.492. [2021 c.1 §8]

475A.240 Authority to purchase, possess, seize, transfer to licensee or dispose of psilocybin products. Subject to any applicable provision of ORS chapter 183, the Oregon Health Authority may purchase, possess, seize, transfer to a licensee or dispose of psilocybin products as is necessary for the authority to ensure compliance with and enforce the provisions of ORS 475A.210 to 475A.722 and any rule adopted under ORS 475A.210 to 475A.722. [2021 c.1 §9]

475A.243 Powers related to decedents and insolvent or bankrupt persons. The Oregon Health Authority may, by rule or order, provide for the manner and conditions under which:

- (1) Psilocybin products left by a deceased, insolvent or bankrupt person or licensee, or subject to a security interest, may be foreclosed, sold under execution or otherwise disposed.
- (2) The business of a deceased, insolvent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy.
- (3) A secured party, as defined in ORS 79.0102, may continue to operate at a premises for which a license has been issued under ORS 475A.210 to 475A.722 for a reasonable period after default on the indebtedness by the debtor. [2021 c.1 §51]

(Application Process and Licenses)

475A.245 Application process for all licensees; rules. (1) Except as provided in subsection (2) of this section, an applicant for a license or renewal of a license issued under ORS 475A.210 to 475A.722 shall apply to the Oregon Health Authority in the form required by the authority by rule, showing the name and address of the applicant, location of the premises that is to be operated under the license and other pertinent information required by the authority. The authority may not issue or renew a license until the applicant has complied with the provisions of ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.

(2) The authority may reject any application that is not submitted in the form required by the authority by rule. The authority shall give applicants an opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS chapter 183.

(3) Except as provided in subsection (2) of this section, a revocation of, or a refusal to issue or renew, a license issued under ORS 475A.210 to 475A.722 is subject to the requirements for contested case proceedings under ORS chapter 183.

(4) An applicant for a facilitator license or renewal of a facilitator license issued under ORS 475A.325 need not show the location of any premises. [2021 c.1 §14]

475A.250 Grounds for refusing to issue license or issuing restricted license. (1) The Oregon Health Authority may not license an applicant under the provisions of ORS 475A.210 to 475A.722 if the applicant is under 21 years of age.

(2) The authority may refuse to issue a license or may issue a restricted license to an applicant under the provisions of ORS 475A.210 to 475A.722 if the authority makes a finding that the applicant:

(a) Has not completed any education or training required by the provisions of ORS 475A.210 to 475A.722 or rules adopted under ORS 475A.210 to 475A.722.

(b) Has not passed any examination required by the provisions of ORS 475A.210 to 475A.722 or rules adopted under ORS 475A.210 to 475A.722.

(c) Is in the habit of using alcoholic beverages, habit-forming drugs, or controlled substances to excess.

(d) Has made false statements to the authority.

(e) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

(f) Has been convicted of violating a federal law, state law or local ordinance if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license.

(g) Is not of good repute and moral character.

(h) Does not have a good record of compliance with ORS 475A.210 to 475A.722 or any rule adopted under ORS 475A.210 to 475A.722.

(i) Is not the legitimate owner of the premises proposed to be licensed, or has not disclosed that other persons have ownership interests in the premises proposed to be licensed.

(j) Has not demonstrated financial responsibility sufficient to adequately meet the requirements of the premises proposed to be licensed.

(k) Is unable to understand the laws of this state relating to psilocybin products, psilocybin services, or the rules adopted under ORS 475A.210 to 475A.722.

(3) Notwithstanding subsection (2)(f) of this section, in determining whether to issue a license or a restricted license to an applicant, the authority may not consider the prior conviction of the applicant or any owner, director, officer, manager, employee, agent or other representative of the applicant for:

(a) The manufacture of psilocybin or the manufacture of a marijuana item, as defined in ORS 475C.009, if:

(A) The date of the conviction is two or more years before the date of the application; and

(B) The person has not been convicted more than once for the manufacture of psilocybin or a marijuana item; or

(b) The possession of a controlled substance, as defined in ORS 475.005, or a marijuana item, as defined in ORS 475C.009, if:

(A) The date of the conviction is two or more years before the date of the application; or

(B) The person has not been convicted more than once for the possession of a controlled substance or a marijuana item. [2021 c.1 §15]

475A.255 Authority to require fingerprints of applicants and other individuals. For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Health Authority may require the fingerprints of any individual listed on an application submitted under ORS 475A.245. The powers conferred on the authority under this section include the power to require the fingerprints of:

(1) If the applicant is a limited partnership, each general partner of the limited partnership;

(2) If the applicant is a manager-managed limited liability company, each manager of the limited liability company;

(3) If the applicant is a member-managed limited liability company, each voting member of the limited liability company;

(4) If the applicant is a corporation, each director and officer of the corporation; and

(5) Any individual who holds a financial interest of 10 percent or more in the person applying for the license. [2021 c.1 §16]

475A.260 Properties of license. A license issued under ORS 475A.210 to 475A.722:

(1) Is a personal privilege.

(2) Is renewable in the manner provided in ORS 475A.245, except for a cause that would be grounds for refusal to issue the license under ORS 475A.250.

(3) Is revocable or suspendible as provided in ORS 475A.477.

(4) Except for a license issued to a psilocybin service facilitator under ORS 475A.325, is transferable from the premises for which the license was originally issued to another premises subject to the provisions of ORS 475A.210 to 475A.722, applicable rules adopted under ORS 475A.210 to 475A.722 and applicable local ordinances.

(5) If the license was issued to an individual, expires upon the death of the licensee, except as provided in ORS 475A.243.

(6) Does not constitute property.

(7) Is not alienable.

(8) Is not subject to attachment or execution.

(9) Does not descend by the laws of testate or intestate devolution. [2021 c.1 §17]

475A.265 Duties of Oregon Health Authority with respect to issuing licenses. (1) The Oregon Health Authority shall approve or deny an application to be licensed under ORS 475A.210 to 475A.722. Upon receiving an application under ORS 475A.245, the authority may not unreasonably delay processing, approving or denying the application or, if the application is approved, issuing the license.

(2) The licenses described in ORS 475A.210 to 475A.722 must be issued by the authority, subject to the provisions of ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.

(3) The authority may not license a premises that does not have defined boundaries. A premises does not need to be enclosed by a wall, fence or other structure, but the authority may require a premises to be enclosed as a condition of issuing or renewing a license. The authority may not license a mobile premises. [2021 c.1 §18]

475A.270 Duty to request land use compatibility statement. (1) Prior to receiving a license under ORS 475A.290 or 475A.305, an applicant shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The Oregon Health Authority may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.

(2) Except as provided in subsection (3) of this section, a city or county that receives a request for a land use compatibility statement under this section must act on that request within 21 days of:

(a) Receipt of the request, if the land use is allowable as an outright permitted use; or

(b) Final local permit approval, if the land use is allowable as a conditional use.

(3) A city or county that receives a request for a land use compatibility statement under this section is not required to act on that request during the period that the authority discontinues licensing those premises pursuant to ORS 475A.718 (4).

(4) A city or county action concerning a land use compatibility statement under this section is not a land use decision for purposes of ORS chapter 195, 196, 197, 215 or 227. [2021 c.1 §19]

(Licensees in General)

475A.275 Lawful manufacture, delivery and possession of psilocybin products.

Licensees and licensee representatives may manufacture, deliver and possess psilocybin products subject to the provisions of ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722. The manufacture, delivery or possession of psilocybin products by a licensee or a licensee representative in compliance with ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722 does not constitute a criminal or civil offense under the laws of this state. [2021 c.1 §20]

Note: As originally enacted by the people, the leadline to ORS 475A.275 read “Lawful manufacture, delivery, and possession of psilocybin products.” The leadline was changed by editorial action.

475A.280 Restriction on financial interests in multiple licensees. An individual may not have a financial interest in:

- (1) More than one psilocybin product manufacturer; or
- (2) More than five psilocybin service center operators. [2021 c.1 §21]

475A.285 Authority to hold multiple licenses. Subject to ORS 475A.280:

- (1) A person may hold multiple service center operator licenses under ORS 475A.305; and
- (2) A person may hold both a manufacturer license under ORS 475A.290 and a service center operator license under ORS 475A.305 at the same or different premises. [2021 c.1 §22]

(License to Manufacture Psilocybin Products)

475A.290 Manufacturer license; fees; rules. (1) The manufacture of psilocybin products is subject to regulation by the Oregon Health Authority.

(2) A psilocybin product manufacturer must have a manufacturer license issued by the authority for the premises at which the psilocybin products are manufactured. To hold a manufacturer license issued under this section, a psilocybin product manufacturer:

- (a) Must apply for a license in the manner described in ORS 475A.245;
- (b) Must provide proof that the applicant is 21 years of age or older;
- (c) Must, until January 1, 2025:

(A) If the direct owner of the business operating or to be operated under the license is a legal entity, provide proof that more than 50 percent of the shares, membership interests, partnership interests, or other ownership interests of the legal entity are held, directly or indirectly, by one or more individuals who have been residents of this state for two or more years;

(B) If the direct owner of the business operating or to be operated under the license is a partnership that is not a legal entity, provide proof that more than 50 percent of the partnership interests of the partnership are held, directly or indirectly, by one or more individuals who have been residents of this state for two or more years; and

(C) If the direct owner of the business operating or to be operated under the license is an individual, provide proof that the individual has been a resident of this state for two or more years; and

(d) Must meet the requirements of any rule adopted by the authority under subsections (3) and (4) of this section.

(3)(a) If the applicant is not the owner of the premises at which the psilocybin is to be manufactured, the applicant shall submit to the authority signed informed consent from the owner of the premises to manufacture psilocybin at the premises.

(b) The authority may adopt rules regarding the informed consent described in this subsection.

(4) The authority shall adopt rules that:

(a) Require a psilocybin product manufacturer to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for psilocybin product manufacturers; and

(c) Require psilocybin products manufactured by psilocybin product manufacturers to be tested in accordance with ORS 475A.590.

(5) Fees adopted under subsection (4)(b) of this section:

(a) May not exceed, together with other fees collected under ORS 475A.210 to 475A.722, the cost of administering ORS 475A.210 to 475A.722; and

(b) Shall be deposited in the Psilocybin Control and Regulation Fund established under ORS 475A.492. [2021 c.1 §23]

475A.295 Psilocybin product manufacturers; endorsements; rules. (1) The Oregon Health Authority shall adopt rules that designate different types of manufacturing activities. A psilocybin product manufacturer may only engage in a type of manufacturing activity if the psilocybin product manufacturer has received an endorsement from the authority for that type of manufacturing activity.

(2) An applicant must request an endorsement upon submission of an initial application but may also request an endorsement at any time following licensure.

(3) Only one application and license fee is required regardless of how many endorsements an applicant or licensee requests or at what time the request is made.

(4) A psilocybin product manufacturer licensee may hold multiple endorsements.

(5) The authority may deny a psilocybin product manufacturer's request for an endorsement or revoke an existing endorsement if the psilocybin product manufacturer cannot or does not meet the requirements for the endorsement that is requested. If the authority denies or revokes approval the psilocybin product manufacturer has a right to a hearing under the procedures of ORS chapter 183. [2021 c.1 §24]

Note: As originally enacted by the people, the headline to ORS 475A.295 read "Psilocybin product manufacturers; endorsements." The headline was changed by editorial action.

475A.300 Psilocybin product quantities; rules. The Oregon Health Authority shall adopt rules restricting the quantities of psilocybin products at premises for which a license has been

issued under ORS 475A.290. In adopting rules under this section, the authority shall take into consideration the demand for psilocybin services in this state, the number of psilocybin product manufacturers applying for a license under ORS 475A.290, the number of psilocybin product manufacturers that hold a license issued under ORS 475A.290 and whether the availability of psilocybin products in this state is commensurate with the demand for psilocybin services. [2021 c.1 §25]

(License to Operate Psilocybin Service Center)

475A.305 Psilocybin service center operator license; fees; rules. (1)(a) The operation of a psilocybin service center is subject to regulation by the Oregon Health Authority.

(b) A psilocybin service center is not a health care facility subject to ORS chapter 441.

(2) A psilocybin service center operator must have a service center operator license issued by the authority for the premises at which psilocybin services are provided. To hold a service center operator license under this section, a psilocybin service center operator:

(a) Must apply for a license in the manner described in ORS 475A.245;

(b) Must provide proof that the applicant is 21 years of age or older;

(c) Must, until January 1, 2025:

(A) If the direct owner of the business operating or to be operated under the license is a legal entity, provide proof that more than 50 percent of the shares, membership interests, partnership interests, or other ownership interests of the legal entity are held, directly or indirectly, by one or more individuals who have been residents of this state for two or more years;

(B) If the direct owner of the business operating or to be operated under the license is a partnership that is not a legal entity, provide proof that more than 50 percent of the partnership interests of the partnership are held, directly or indirectly, by one or more individuals who have been residents of this state for two or more years; and

(C) If the direct owner of the business operating or to be operated under the license is an individual, provide proof that the individual has been a resident of this state for two or more years;

(d) Must ensure that the psilocybin service center is located in an area that is not:

(A) Within the limits of an incorporated city or town; and

(B) Zoned exclusively for residential use;

(e) Except as provided in ORS 475A.310, must ensure that the psilocybin service center is not located within 1,000 feet of:

(A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and

(f) Must meet the requirements of any rule adopted by the authority under subsection (3) of this section.

(3) The authority shall adopt rules that:

(a) Require a psilocybin service center operator to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for psilocybin service center operators;

(c) Require psilocybin products sold by a psilocybin service center operator to be tested in accordance with ORS 475A.590; and

(d) Require a psilocybin service center operator to meet any public health and safety standards and industry best practices established by the authority by rule.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed, together with other fees collected under ORS 475A.210 to 475A.722, the cost of administering ORS 475A.210 to 475A.722; and

(b) Shall be deposited in the Psilocybin Control and Regulation Fund established under ORS 475A.492. [2021 c.1 §26]

Note: As originally enacted by the people, the leadline to ORS 475A.305 read “Service center operator license; fees; rules.” The leadline was changed by editorial action.

475A.310 Proximity of psilocybin service center to school. Notwithstanding ORS 475A.305 (2)(e), a psilocybin service center may be located within 1,000 feet of a school if:

(1) The psilocybin service center is not located within 500 feet of:

(a) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(b) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and

(2) The Oregon Health Authority determines that there is a physical or geographic barrier capable of preventing children from traversing to the premises of the psilocybin service center. [2021 c.1 §27]

475A.315 Establishment of school after issuance of license. If a school described in ORS 475A.305 (2)(e) that has not previously been attended by children is established within 1,000 feet of a premises for which a license has been issued under ORS 475A.305, the psilocybin service center operator located at that premises may remain at that location unless the Oregon Health Authority revokes the license of the psilocybin service center operator under ORS 475A.477. [2021 c.1 §28]

475A.320 Requirement to verify person’s age; rules. The Oregon Health Authority may adopt rules establishing the circumstances under which the authority may require a psilocybin service center operator that holds a license issued under ORS 475A.305 to use an age verification scanner or any other equipment used to verify a person’s age for the purpose of ensuring that the psilocybin service center operator does not sell psilocybin products to a person under 21 years of age. Information obtained under this section may not be retained after verifying a person’s age and may not be used for any purpose other than verifying a person’s age. [2021 c.1 §29]

(License to Facilitate Psilocybin Services)

475A.325 Psilocybin service facilitator license; fees; rules. (1) The facilitation of psilocybin services is subject to regulation by the Oregon Health Authority.

(2) A psilocybin service facilitator must have a facilitator license issued by the authority. To hold a facilitator license issued under this section, a psilocybin service facilitator:

(a) Must apply for a license in the manner described in ORS 475A.245;

(b) Must provide proof that the applicant is 21 years of age or older;

(c) Must, until January 1, 2025, provide proof that the applicant has been a resident of this state for two or more years;

- (d) Must have a high school diploma or equivalent education;
 - (e) Must submit evidence of completion of education and training prescribed and approved by the authority;
 - (f) Must have passed an examination approved, administered or recognized by the authority; and
 - (g) Must meet the requirements of any rule adopted by the authority under subsection (4) of this section.
- (3) The authority may not require a psilocybin service facilitator to have a degree from a university, college, post-secondary institution, or other institution of higher education.
- (4) The authority shall adopt rules that:
- (a) Require a psilocybin service facilitator to annually renew a license issued under this section;
 - (b) Establish application, licensure and renewal of licensure fees for psilocybin service facilitators; and
 - (c) Require a psilocybin service facilitator to meet any public health and safety standards and industry best practices established by the authority by rule.
- (5) Fees adopted under subsection (4)(b) of this section:
- (a) May not exceed, together with other fees collected under ORS 475A.210 to 475A.722, the cost of administering ORS 475A.210 to 475A.722; and
 - (b) Shall be deposited in the Psilocybin Control and Regulation Fund established under ORS 475A.492.
- (6) A psilocybin service facilitator may be, but need not be, an employee, manager, director, officer, partner, member, shareholder, or direct or indirect owner of one or more psilocybin service center operators.
- (7) A license issued to a psilocybin service facilitator under this section is not limited to any one or more premises. [2021 c.1 §30]

Note: As originally enacted by the people, the leadline to ORS 475A.325 read “Facilitator license; fees; rules.” The leadline was changed by editorial action.

475A.330 Examination. The Oregon Health Authority shall offer an examination for applicants for licenses to facilitate psilocybin services at least twice a year. An applicant who fails any part of the examination may retake the failed section in accordance with rules adopted by the authority. [2021 c.1 §31]

Note: As originally enacted by the people, the leadline to ORS 475A.330 read “Examinations; rules.” The leadline was changed by editorial action.

475A.335 Requirement to verify person’s age; rules. The Oregon Health Authority may adopt rules establishing the circumstances under which the authority may require a psilocybin service facilitator that holds a license issued under ORS 475A.325 to use an age verification scanner or any other equipment used to verify a person’s age for the purpose of ensuring that the psilocybin service facilitator does not provide psilocybin services to a person under 21 years of age. Information obtained under this section may not be retained after verifying a person’s age and may not be used for any purpose other than verifying a person’s age. [2021 c.1 §32]

(Psilocybin Services)

475A.340 Psilocybin services; rules. The Oregon Health Authority shall adopt by rule the requirements, specifications and guidelines for:

- (1) Providing psilocybin services to a client;
- (2) Holding and verifying the completion of a preparation session;
- (3) Having a client complete, sign, and deliver a client information form to a psilocybin service center operator and a psilocybin service facilitator;
- (4) Holding and verifying the completion of an administration session; and
- (5) Holding and verifying the completion of an integration session. [2021 c.1 §33]

Note: As originally enacted by the people, the leadline to ORS 475A.340 read “Psilocybin services.” The leadline was changed by editorial action.

475A.345 Preparation session. (1) Before a client participates in an administration session, the client must attend a preparation session with a psilocybin service facilitator.

(2) A preparation session may be, but need not be, held at a psilocybin service center.

(3) If a preparation session is completed in accordance with all applicable requirements, specifications and guidelines, as determined by the Oregon Health Authority, the psilocybin service facilitator must certify, in a form and manner prescribed by the authority, that the client completed the preparation session. [2021 c.1 §34]

475A.350 Client information form. (1) Before a client participates in an administration session:

(a) The client must complete and sign a client information form, in a form and manner prescribed by the Oregon Health Authority; and

(b) A copy of the completed and signed client information form must be delivered to:

(A) The psilocybin service center operator that operates the psilocybin service center at which the administration session is to be held; and

(B) The psilocybin service facilitator that will supervise the administration session.

(2) The client information form:

(a) Will solicit from the client such information as may be necessary:

(A) To enable a psilocybin service center operator and a psilocybin service facilitator to determine whether the client should participate in an administration session, including information that may identify risk factors and contraindications; and

(B) If so, to assist the psilocybin service center operator and the psilocybin service facilitator in meeting any public health and safety standards and industry best practices during the administration session; and

(b) Will contain such health and safety warnings and other disclosures to the client as the authority may prescribe. [2021 c.1 §35]

475A.355 Administration session. (1) After a client completes a preparation session and completes and signs a client information form, the client may participate in an administration session.

(2) An administration session must be held at a psilocybin service center.

(3) If an administration session is completed in accordance with all applicable requirements, specifications and guidelines, as determined by the Oregon Health Authority, the psilocybin service facilitator must certify, in a form and manner prescribed by the authority, that the client completed the administration session. [2021 c.1 §36]

475A.360 Integration session. (1) After a client completes an administration session, the psilocybin service facilitator who supervised the administration session must offer the client an opportunity to participate in an integration session. The client may, but need not, participate in an integration session.

(2) An integration session may be, but need not be, held at a psilocybin service center.

(3) If an integration session is completed in accordance with all applicable requirements, specifications and guidelines, as determined by the Oregon Health Authority, the psilocybin service facilitator must certify, in a form and manner prescribed by the authority, that the client completed the integration session. [2021 c.1 §37]

475A.365 Use of client information form in prosecution; reliance on client information form; exception from liability. (1) If a client information form is offered as evidence in any administrative or criminal prosecution of a licensee or licensee representative for sale or service of a psilocybin product to a client, the licensee or licensee representative is not guilty of any offense prohibiting a person from selling or serving a psilocybin product to a client unless it is demonstrated that a reasonable person would have determined that the responses provided by the client on the client information form were incorrect or altered.

(2) A licensee or licensee representative shall be entitled to rely upon all statements, declarations, and representations made by a client in a client information form unless it is demonstrated that:

(a) A reasonable person would have determined that one or more of the statements, declarations, and representations made by the client in the client information form were incorrect or altered; or

(b) The licensee or licensee representative violated a provision of ORS 475A.210 to 475A.722 or a rule adopted under ORS 475A.210 to 475A.722 relative to the client information form.

(3) Except as provided in subsection (2) of this section, no licensee or licensee representative shall incur legal liability by virtue of any untrue statements, declarations, or representations so relied upon in good faith by the licensee or licensee representative. [2021 c.1 §38]

Note: As originally enacted by the people, the leadline to ORS 475A.365 read “Protections on reliance on client information form.” The leadline was changed by editorial action.

475A.370 Right to terminate or refuse to provide services; exception. (1) Subject to other applicable law, a licensee or licensee representative may refuse to provide psilocybin services to a potential client for any or no reason.

(2)(a) Except as provided in paragraph (b) of this subsection, and subject to other applicable law, a licensee or licensee representative may cease providing psilocybin services to a client for any or no reason.

(b) A psilocybin service center operator and a psilocybin service facilitator may not cease providing psilocybin services to a client during an administration session after the client has consumed a psilocybin product, except as authorized by the Oregon Health Authority by rule, or as necessary in an emergency. [2021 c.1 §39]

Note: As originally enacted by the people, the headline to ORS 475A.370 read “Protections on refusal to provide psilocybin services to a client.” The headline was changed by editorial action.

(Powers and Duties of Oregon Health Authority with Respect to Licensees)

475A.375 Powers and duties relating to psilocybin service facilitators. The Oregon Health Authority shall:

(1) Determine the qualifications, training, education and fitness of applicants for licenses to facilitate psilocybin services, giving particular consideration to:

- (a) Facilitation skills that are affirming, non-judgmental, and non-directive;
- (b) Support skills for clients during an administration session, including specialized skills

for:

- (A) Client safety; and
- (B) Clients who may have a mental health condition;
- (c) The environment in which psilocybin services should occur; and
- (d) Social and cultural considerations.

(2) Formulate a code of professional conduct for psilocybin service facilitators, giving particular consideration to a code of ethics;

(3) Establish standards of practice and professional responsibility for individuals licensed by the authority to facilitate psilocybin services;

(4) Select licensing examinations for licenses to facilitate psilocybin services;

(5) Provide for waivers of examinations as appropriate; and

(6) Appoint representatives to conduct or supervise examinations of applicants for licenses to facilitate psilocybin services. [2021 c.1 §40]

475A.380 Minimum standards of education and training for psilocybin service facilitators; rules. (1) The Oregon Health Authority shall adopt by rule minimum standards of education and training requirements for psilocybin service facilitators.

(2) The authority shall approve courses for psilocybin service facilitators. To obtain approval of a course, the provider of a course must submit an outline of instruction to the office and the Department of Education. The outline must include the approved courses, total hours of instruction, hours of lectures in theory and the hours of instruction in application of practical skills. [2021 c.1 §41]

475A.385 Authority to inspect books and premises; notice. (1) The Oregon Health Authority may, after 72 hours’ notice, make an examination of the books of a licensee for the purpose of determining compliance with ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.

(2) The authority may at any time make an examination of a premises for which a license has been issued under ORS 475A.210 to 475A.722 for the purpose of determining compliance with ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.

(3) The authority may not require the books of a licensee to be maintained on a premises of the licensee. [2021 c.1 §42]

475A.390 Authority to require segregation of premises. If a licensee holds more than one license issued under ORS 475A.210 to 475A.722 for the same premises, the Oregon Health Authority may require the premises to be segregated into separate areas for conducting

the activities permitted under each license as is necessary to protect the public health and safety. [2021 c.1 §43]

475A.395 Authority to require general liability insurance. As is necessary to protect the public health and safety, the Oregon Health Authority may require a licensee to maintain general liability insurance in an amount that the authority determines is reasonably affordable and available for the purpose of protecting the licensee against damages resulting from a cause of action related to activities undertaken pursuant to the license held by the licensee. [2021 c.1 §44]

475A.400 Use of tracking system for psilocybin products; distribution of moneys. (1) The Oregon Health Authority shall:

(a) Develop and maintain a system for tracking the transfer of psilocybin products between premises for which licenses have been issued under ORS 475A.210 to 475A.722; or

(b) Enter into an agreement with the Oregon Liquor and Cannabis Commission under which the commission shall permit the authority to use the system developed and maintained under ORS 475C.177 to track the transfer of psilocybin products between premises for which licenses have been issued under ORS 475A.210 to 475A.722.

(2) The purposes of the system include, but are not limited to:

(a) Preventing the diversion of psilocybin products to other states;

(b) Preventing persons from substituting or tampering with psilocybin products;

(c) Ensuring an accurate accounting of the production, processing and sale of psilocybin products;

(d) Ensuring that laboratory testing results are accurately reported; and

(e) Ensuring compliance with ORS 475A.210 to 475A.722, rules adopted under ORS 475A.210 to 475A.722 and any other law of this state that charges the authority or commission with a duty, function or power related to psilocybin.

(3) The system must be capable of tracking, at a minimum:

(a) The manufacturing of psilocybin products;

(b) The sale of psilocybin products by a psilocybin service center operator to a client;

(c) The sale and purchase of psilocybin products between licensees, as permitted by ORS 475A.210 to 475A.722;

(d) The transfer of psilocybin products between premises for which licenses have been issued under ORS 475A.210 to 475A.722; and

(e) Any other information that the authority determines is reasonably necessary to accomplish the duties, functions and powers of the authority under ORS 475A.210 to 475A.722.

(4) Notwithstanding ORS 475A.710, before making any other distribution from the Oregon Psilocybin Account established under ORS 475A.710, the Department of Revenue shall first distribute moneys quarterly from the account to the commission for deposit in the Marijuana Control and Regulation Fund established under ORS 475C.297 for purposes of paying any costs incurred by the commission under subsection (1)(b) of this section. For purposes of estimating the amount of moneys necessary to pay any costs incurred under this section, the commission shall establish a formulary based on expected costs for each licensee that is tracked under this section. The commission shall provide to the Department of Revenue and the Legislative Fiscal Officer before each quarter the estimated amount of moneys necessary to pay costs expected to be incurred under this section and the formulary. [2021 c.1 §45]

Note: As originally enacted by the people, the headline to ORS 475A.400 read “Use of Oregon Liquor Control Commission tracking system for psilocybin products; exemptions; rules.” The headline was changed by editorial action.

475A.405 Authority to prevent diversion of psilocybin products. Except as otherwise provided by law, the Oregon Health Authority has any power, and may perform any function, necessary for the authority to prevent the diversion of psilocybin products from licensees to a source that is not operating legally under the laws of this state. [2021 c.1 §46]

475A.410 Authority to discipline for unregulated commerce. In addition to any other disciplinary action available to the Oregon Health Authority under ORS 475A.210 to 475A.722, the authority may immediately restrict, suspend or refuse to renew a license issued under ORS 475A.210 to 475A.722 if circumstances create probable cause for the authority to conclude that a licensee has purchased or received a psilocybin product from an unlicensed source or that a licensee has sold, stored or transferred a psilocybin product in a manner that is not permitted by the licensee’s license. [2021 c.1 §47]

475A.415 Authority to require financial disclosure from licensee. (1) The Oregon Health Authority may require a licensee or applicant for a license under ORS 475A.210 to 475A.722 to submit, in a form and manner prescribed by the authority, to the authority a sworn statement showing:

- (a) The name and address of each person that has a financial interest in the business operating or to be operated under the license; and
- (b) The nature and extent of the financial interest of each person that has a financial interest in the business operating or to be operated under the license.

(2) The authority may refuse to issue, or may suspend, revoke or refuse to renew, a license issued under ORS 475A.210 to 475A.722 if the authority determines that a person that has a financial interest in the business operating or to be operated under the license committed or failed to commit an act that would constitute grounds for the authority to refuse to issue, or to suspend, revoke or refuse to renew, the license if the person were the licensee or applicant for the license. [2021 c.1 §48]

475A.420 Authority to investigate, discipline licensees. (1) Notwithstanding the lapse, suspension or revocation of a license issued under ORS 475A.210 to 475A.722, the Oregon Health Authority may:

- (a) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the license; or
- (b) Revise or render void an order suspending or revoking the license.

(2) In cases involving the proposed denial of a license issued under ORS 475A.210 to 475A.722, the applicant for licensure may not withdraw the applicant’s application. [2021 c.1 §49]

475A.425 Authority to investigate, discipline permit holder. (1) Notwithstanding the lapse, suspension or revocation of a permit issued under ORS 475A.483, the Oregon Health Authority may:

- (a) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the permit; or

- (b) Revise or render void an order suspending or revoking the permit.
- (2) In cases involving the proposed denial of a permit issued under ORS 475A.483, the applicant may not withdraw the applicant's application. [2021 c.1 §50]

(Conduct of Licensees)

475A.430 Prohibition against manufacturing psilocybin products outdoors. A psilocybin product manufacturer that holds a license under ORS 475A.290 may not manufacture psilocybin products outdoors. [2021 c.1 §52]

475A.435 Restrictions on delivery or receipt; waiver by authority. (1) A psilocybin product manufacturer that holds a license under ORS 475A.290:

(a) May deliver psilocybin products only to or on a premises for which a license has been issued under ORS 475A.290 or 475A.305; and

(b) May receive psilocybin products only from a psilocybin product manufacturer that holds a license under ORS 475A.290.

(2) A psilocybin service center operator that holds a license under ORS 475A.305:

(a) May deliver psilocybin products only to or on a premises for which a license has been issued under ORS 475A.305; and

(b) May receive psilocybin products only from a psilocybin product manufacturer that holds a license under ORS 475A.290 or a psilocybin service center operator that holds a license under ORS 475A.305.

(3) The sale of psilocybin products to a client by a psilocybin service center operator that holds a license issued under ORS 475A.305 must be restricted to the premises for which the license has been issued.

(4) The Oregon Health Authority may by order waive the requirements of subsections (1) and (2) of this section to ensure compliance with ORS 475A.210 to 475A.722 or a rule adopted under ORS 475A.210 to 475A.722. An order issued under this subsection does not constitute a waiver of any other requirement of ORS 475A.210 to 475A.722 or any other rule adopted under ORS 475A.210 to 475A.722. [2021 c.1 §53]

475A.440 Prohibition against selling or delivering psilocybin products to persons under 21 years of age. A licensee or licensee representative may not sell or deliver a psilocybin product to a person under 21 years of age. [2021 c.1 §54]

475A.445 Identification requirement; rules. (1) Subject to subsection (2) of this section, a licensee or licensee representative, before selling or providing a psilocybin product to another person, must require the person to produce one of the following pieces of identification:

(a) The person's passport.

(b) The person's driver license, issued by the State of Oregon or another state of the United States.

(c) An identification card issued under ORS 807.400.

(d) A United States military identification card.

(e) An identification card issued by a federally recognized Indian tribe.

(f) Any other identification card issued by a state or territory of the United States that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.

(2) The Oregon Health Authority may adopt rules exempting a licensee or licensee representative from this section.

(3) A client may not be required to procure for the purpose of acquiring or purchasing a psilocybin product a piece of identification other than a piece of identification described in subsection (1) of this section. [2021 c.1 §55]

475A.450 Confidentiality of client communications, information; exceptions. A psilocybin service center operator, a psilocybin service facilitator, or any employee of a psilocybin service center operator or psilocybin service facilitator may not disclose any information that may be used to identify a client, or any communication made by a client during the course of providing psilocybin services or selling psilocybin products to the client, except:

(1) When the client or a person authorized to act on behalf of the client gives consent to the disclosure;

(2) When the client initiates legal action or makes a complaint against the psilocybin service center operator, the psilocybin service facilitator, or the employee;

(3) When the communication reveals the intent to commit a crime harmful to the client or others;

(4) When the communication reveals that a minor may have been a victim of a crime or physical, sexual or emotional abuse or neglect; or

(5) When responding to an inquiry by the Oregon Health Authority made during the course of an investigation into the conduct of the psilocybin service center operator, the psilocybin service facilitator, or the employee under ORS 475A.210 to 475A.722. [2021 c.1 §56]

Note: As originally enacted by the people, the headline to ORS 475A.450 read “Confidentiality of information and communications by clients; exceptions.” The headline was changed by editorial action.

475A.455 Prohibition against psilocybin service facilitator consuming psilocybin product. A psilocybin service facilitator may not consume a psilocybin product during an administration session that the psilocybin service facilitator is supervising. [2021 c.1 §58]

Note: As originally enacted by the people, the headline to ORS 475A.455 read “Prohibition against psilocybin service facilitator consuming a psilocybin product during an administration session.” The headline was changed by editorial action.

475A.460 Prohibition against employing persons under 21 years of age. (1) A licensee may not employ a person under 21 years of age at a premises for which a license has been issued under ORS 475A.210 to 475A.722.

(2) During an inspection of a premises for which a license has been issued under ORS 475A.210 to 475A.722, the Oregon Health Authority may require proof that a person performing work at the premises is 21 years of age or older. If the person does not provide the authority with acceptable proof of age upon request, the authority may require the person to immediately cease any activity and leave the premises until the authority receives acceptable proof of age. This subsection does not apply to a person temporarily at the premises to make a service, maintenance or repair call or for other purposes independent of the premises operations.

(3) If a person performing work has not provided proof of age requested by the authority under subsection (2) of this section, the authority may request that the licensee provide proof that the person is 21 years of age or older. Failure of the licensee to respond to a request made under this subsection by providing acceptable proof of age for a person is prima facie evidence that the licensee has allowed the person to perform work at the premises for which a license has been issued under ORS 475A.210 to 475A.722 in violation of the minimum age requirement. [2021 c.1 §59]

475A.465 Prohibition against obfuscating mark or label or using mark or label to deceive. (1) A licensee may not use or allow the use of a mark or label on the container of a psilocybin product that is kept for sale if the mark or label does not precisely and clearly indicate the nature of the container's contents or if the mark or label in any way might deceive a person about the nature, composition, quantity, age or quality of the container's contents.

(2) The Oregon Health Authority may prohibit a licensee from selling any psilocybin product that in the authority's judgment is deceptively labeled or contains injurious or adulterated ingredients. [2021 c.1 §60]

475A.468 Requirement that psilocybin products comply with minimum standards. (1) A psilocybin product may not be sold or offered for sale within this state unless the psilocybin product complies with the minimum standards prescribed by the statutory laws of this state.

(2) The Oregon Health Authority may prohibit the sale of a psilocybin product by a psilocybin service center operator for a reasonable period of time for the purpose of determining whether the psilocybin product complies with the minimum standards prescribed by the statutory laws of this state. [2021 c.1 §61]

475A.471 Other prohibitions. (1) A person may not make false representations or statements to the Oregon Health Authority in order to induce or prevent action by the authority.

(2) A licensee may not maintain a noisy, lewd, disorderly or insanitary establishment or supply impure or otherwise deleterious psilocybin products.

(3) A licensee may not misrepresent to a person or to the public any psilocybin products. [2021 c.1 §62]

475A.474 Purpose of license issued under ORS 475A.210 to 475A.722. A license issued under ORS 475A.210 to 475A.722 serves the purpose of exempting the person that holds the license from the criminal laws of this state for possession, delivery or manufacture of psilocybin products, provided that the person complies with all state laws and rules applicable to licensees. [2021 c.1 §63]

(Disciplining Licensees)

475A.477 Grounds for revocation, suspension or restriction of license. The Oregon Health Authority may revoke, suspend or restrict a license issued under ORS 475A.210 to 475A.722 or require a licensee or licensee representative to undergo training if the authority finds or has reasonable ground to believe any of the following to be true:

(1) That the licensee or licensee representative:

(a) Has violated a provision of ORS 475A.210 to 475A.722 or a rule adopted under ORS 475A.210 to 475A.722, including any code of professional conduct or code of ethics.

(b) Has made any false representation or statement to the authority in order to induce or prevent action by the authority.

(c) Is insolvent or incompetent or physically unable to carry on the management of the establishment of the licensee.

(d) Is in the habit of using alcoholic liquor, habit-forming drugs, marijuana, psilocybin products or controlled substances to excess.

(e) Has misrepresented to a person or the public any psilocybin products sold by the licensee or licensee representative.

(f) Since the issuance of the license, has been convicted of a felony, of violating any of the psilocybin products laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance committed on the premises for which the license has been issued.

(2) That there is any other reason that, in the opinion of the authority, based on public convenience or necessity, warrants revoking, suspending or restricting the license. [2021 c.1 §64]

(Employees and Other Workers)

475A.480 Permit required to perform work for or on behalf of licensee. (1) An individual who performs work for or on behalf of a licensee must have a valid permit issued by the Oregon Health Authority under ORS 475A.483 if the individual participates in:

(a) The provision of psilocybin services at the premises for which the license has been issued;

(b) The possession, manufacturing, securing or selling of psilocybin products at the premises for which the license has been issued;

(c) The recording of the possession, manufacturing, securing or selling of psilocybin products at the premises for which the license has been issued; or

(d) The verification of any document described in ORS 475A.445.

(2) A licensee must verify that an individual has a valid permit issued under ORS 475A.483 before allowing the individual to perform any work described in subsection (1) of this section at the premises for which the license has been issued. [2021 c.1 §65]

Note: As originally enacted by the people, the leadline to ORS 475A.480 read “Permit required to perform work for or on behalf of a licensee.” The leadline was changed by editorial action.

475A.483 Issuing, renewing permits; fees; rules. (1) The Oregon Health Authority shall issue permits to qualified applicants to perform work described in ORS 475A.480. The authority shall adopt rules establishing:

(a) The qualifications for performing work described in ORS 475A.480;

(b) The term of a permit issued under this section;

(c) Procedures for applying for and renewing a permit issued under this section; and

(d) Reasonable application, issuance and renewal fees for a permit issued under this section.

(2)(a) The authority may require an individual applying for a permit under this section to successfully complete a course, made available by or through the authority, through which the individual receives training on:

(A) Checking identification;

(B) Detecting intoxication;

- (C) Handling psilocybin products;
 - (D) If applicable, the manufacturing of psilocybin products;
 - (E) The content of ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722; or
 - (F) Any matter deemed necessary by the authority to protect the public health and safety.
- (b) The authority or other provider of a course may charge a reasonable fee for the course.
 - (c) The authority may not require an individual to successfully complete a course more than once, except that:
 - (A) As part of a final order suspending a permit issued under this section, the authority may require a permit holder to successfully complete the course as a condition of lifting the suspension; and
 - (B) As part of a final order revoking a permit issued under this section, the authority shall require an individual to successfully complete the course prior to applying for a new permit.
 - (3) The authority shall conduct a criminal records check under ORS 181A.195 on an individual applying for a permit under this section.
 - (4) Subject to the applicable provisions of ORS chapter 183, the authority may suspend, revoke or refuse to issue or renew a permit if the individual who is applying for or who holds the permit:
 - (a) Is convicted of a felony or is convicted of an offense under ORS 475A.210 to 475A.722, except that the authority may not consider a conviction for an offense under ORS 475A.210 to 475A.722 if the date of the conviction is two or more years before the date of the application or renewal;
 - (b) Violates any provision of ORS 475A.210 to 475A.722 or any rule adopted under ORS 475A.210 to 475A.722; or
 - (c) Makes a false statement to the authority.
 - (5) A permit issued under this section is a personal privilege and permits work described under ORS 475A.480 only for the individual who holds the permit. [2021 c.1 §66]

475A.486 Authority to require fingerprints of individuals listed on application. For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Health Authority may require the fingerprints of any individual listed on an application submitted under ORS 475A.483. [2021 c.1 §67]

475A.489 Whistleblower protection for employees. (1) It is an unlawful employment practice for a licensee to discharge, demote, suspend or in any manner discriminate or retaliate against an employee of the licensee with regard to promotion, compensation or other terms, conditions or privileges of employment on the basis that the employee has in good faith reported information to the Oregon Health Authority that the employee believes is evidence of a violation of ORS 475A.210 to 475A.722 or a rule adopted under ORS 475A.210 to 475A.722.

(2) This section is subject to enforcement under ORS chapter 659A. [2021 c.1 §68]

(Psilocybin Control and Regulation Fund)

475A.492 Psilocybin Control and Regulation Fund. The Psilocybin Control and Regulation Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Psilocybin Control and Regulation Fund shall be credited to the

fund. Moneys in the fund are continuously appropriated to the Oregon Health Authority to administer and enforce ORS 475A.210 to 475A.722. [2021 c.1 §69]

(Prohibited Conduct)

475A.495 Prohibition against person under 21 years of age entering premises; penalty. (1) Except as authorized by the Oregon Health Authority by rule, or as necessary in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a premises that is posted or otherwise identified as being prohibited to the use of persons under 21 years of age.

(2) A person who violates subsection (1) of this section commits a Class B violation.

(3) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the authority or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of psilocybin products to persons who are under 21 years of age.

(4) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of psilocybin products to persons who are under 21 years of age.

(5)(a) A person under 21 years of age is not in violation of, and is immune from prosecution under, this section if:

(A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance because that person consumed a psilocybin product and the evidence of the violation was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(B) The person was in need of medical assistance because the person consumed a psilocybin product and the evidence of the violation was obtained as a result of the person's having sought or obtained the medical assistance.

(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section. [2021 c.1 §70]

475A.498 Use of psilocybin product allowed only at service center and only under facilitator supervision. A client may purchase, possess, and consume a psilocybin product:

(1) Only at a psilocybin service center; and

(2) Only under the supervision of a psilocybin service facilitator. [2021 c.1 §57]

Note: As originally enacted by the people, the leadline to ORS 475A.498 read "Prohibition against purchasing, possessing, and consuming a psilocybin product outside a psilocybin service center." The leadline was changed by editorial action.

475A.501 Prohibition against producing identification that falsely indicates age; protections for reliance on identification. (1) A person may not produce any piece of identification that falsely indicates the person's age.

(2) Violation of this section is a Class A misdemeanor.

(3) If a piece of identification is offered as evidence in any administrative or criminal prosecution of a licensee or licensee representative for sale or service of a psilocybin product

to a person under 21 years of age, the licensee or licensee representative is not guilty of any offense prohibiting a person from selling or serving a psilocybin product to a person under 21 years of age unless it is demonstrated that a reasonable person would have determined that the identification exhibited by the person under 21 years of age was altered, or that the identification exhibited by the person under 21 years of age did not accurately describe the person to whom the psilocybin product was sold or served. [2021 c.1 §71]

Note: As originally enacted by the people, the leadline to ORS 475A.501 read “Prohibition against producing identification that falsely indicates age; protections on reliance on identification.” The leadline was changed by editorial action.

475A.504 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. [2021 c.1 §72]

475A.507 Prohibition against giving psilocybin product as prize; penalty. (1) A psilocybin product may not be given as a prize, premium or consideration for a lottery, contest, game of chance, game of skill or competition of any kind.

(2) Violation of this section is a Class A violation. [2021 c.1 §73]

(Civil Enforcement of ORS 475A.210 to 475A.722)

475A.510 Authority to issue subpoenas. For purposes of ORS 475A.210 to 475A.722, the provisions of ORS 183.440 apply to subpoenas issued by the Oregon Health Authority and to subpoenas issued by an authorized agent of the authority. [2021 c.1 §74]

475A.513 Civil penalty for violating ORS 475A.210 to 475A.722. In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of ORS 475A.210 to 475A.722 or a rule adopted under ORS 475A.210 to 475A.722 a civil penalty that does not exceed \$5,000 for each violation. The authority shall impose civil penalties under this section in the manner provided by ORS 183.745. Moneys collected under this section shall be deposited in the Psilocybin Control and Regulation Fund established under ORS 475A.492. [2021 c.1 §75]

(Criminal Enforcement of ORS 475A.210 to 475A.722)

475A.516 Authority of law enforcement to enforce ORS 475A.210 to 475A.722. The law enforcement officers of this state may enforce ORS 475A.210 to 475A.722 and assist the Oregon Health Authority in detecting violations of ORS 475A.210 to 475A.722 and apprehending offenders. A law enforcement officer who has notice, knowledge or reasonable ground of suspicion of a violation of ORS 475A.210 to 475A.722 shall immediately notify the district attorney who has jurisdiction over the violation and furnish the district attorney who has jurisdiction over the violation with names and addresses of any witnesses to the violation or other information related to the violation. [2021 c.1 §76]

475A.519 Duty to notify Oregon Health Authority of conviction of licensee. The county courts, district attorneys and municipal authorities, immediately upon the conviction of

a licensee of a violation of ORS 475A.210 to 475A.722, or of a violation of any other law of this state or ordinance of a city or county located in this state an element of which is the possession, delivery or manufacture of a psilocybin product, shall notify the Oregon Health Authority of the conviction. [2021 c.1 §77]

475A.521 Penalty for violation of rule adopted under ORS 475A.235. Subject to ORS 153.022, violation of a rule adopted under ORS 475A.235 (2)(c) is a Class C violation. [2021 c.1 §78]

Note: As originally enacted by the people, the leadline to ORS 475A.521 read “Penalty for violating sections 3 to 129 of this 2020 Act.” The leadline was changed by editorial action.

(Regulation by Cities and Counties of Psilocybin Products)

475A.524 Preemption of municipal charter amendments and local ordinances. The provisions of ORS 475A.210 to 475A.722 are designed to operate uniformly throughout the state and are paramount and superior to and fully replace and supersede any municipal charter amendment or local ordinance inconsistent with the provisions of ORS 475A.210 to 475A.722. Amendments and ordinances that are inconsistent with the provisions of ORS 475A.210 to 475A.722 are repealed. [2021 c.1 §79]

475A.527 No local licenses. The authority to require a license for the manufacturing or sale of psilocybin products in this state, or for the provision of psilocybin services in this state, is vested solely in the Legislative Assembly. [2021 c.1 §80]

475A.530 Local time, place and manner regulations. (1) For purposes of this section, “reasonable regulations” includes:

- (a) Reasonable conditions on the manner in which a psilocybin product manufacturer that holds a license issued under ORS 475A.290 may manufacture psilocybin products;
- (b) Reasonable conditions on the manner in which a psilocybin service center operator that holds a license issued under ORS 475A.305 may provide psilocybin services;
- (c) Reasonable limitations on the hours during which a premises for which a license has been issued under ORS 475A.210 to 475A.722 may operate;
- (d) Reasonable requirements related to the public’s access to a premises for which a license has been issued under ORS 475A.210 to 475A.722; and
- (e) Reasonable limitations on where a premises for which a license may be issued under ORS 475A.210 to 475A.722 may be located.

(2) Notwithstanding ORS 30.935, 215.253 (1) or 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under ORS 475A.210 to 475A.722 if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under ORS 475A.305 from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under ORS 475A.305. [2021 c.1 §81]

475A.534 Local tax or fee; referral to electors for approval. (1)(a) The authority to impose a tax or fee on the manufacturing or sale of psilocybin products in this state, or on the

provision of psilocybin services in this state, is vested solely in the Legislative Assembly.

(b) A county, city or other municipal corporation or district may not adopt or enact ordinances imposing a tax or fee on the manufacturing or sale of psilocybin products in this state or on the provision of psilocybin services in this state. [2021 c.1 §82]

475A.538 Repeal of city, county ordinance that prohibits certain establishments. (1)

The governing body of a city or county may repeal an ordinance that prohibits the establishment of any one or more of the following in the area subject to the jurisdiction of the city or in the unincorporated area subject to the jurisdiction of the county:

- (a) Psilocybin product manufacturers that hold a license issued under ORS 475A.290;
- (b) Psilocybin service center operators that hold a license issued under ORS 475A.305; or
- (c) Any combination of the entities described in this subsection.

(2) If the governing body of a city or county repeals an ordinance under this section, the governing body must provide the text of the ordinance to the Oregon Health Authority, in a form and manner prescribed by the authority, if the ordinance concerns a premises for which a license has been issued under ORS 475A.210 to 475A.722. [2021 c.1 §83]

(Powers and Duties of State Agencies and Officers and Governor)

475A.542 Duty of Oregon Liquor and Cannabis Commission to assist. The Oregon Liquor and Cannabis Commission shall assist and cooperate with the Oregon Health Authority and the State Department of Agriculture to the extent necessary for the authority and the department to carry out the duties of the authority and the department under ORS 475A.210 to 475A.722. [2021 c.1 §84]

475A.546 Duty of State Department of Agriculture to assist. The State Department of Agriculture shall assist and cooperate with the Oregon Health Authority to the extent necessary for the authority to carry out the duties of the authority under ORS 475A.210 to 475A.722. [2021 c.1 §85]

475A.550 Authority of State Department of Agriculture. The State Department of Agriculture may possess, test and dispose of psilocybin products. [2021 c.1 §86]

475A.554 Prohibition against refusing to perform duties on basis that certain conduct is prohibited by federal law. (1) The Oregon Health Authority, the State Department of Agriculture and the Oregon Liquor and Cannabis Commission may not refuse to perform any duty under ORS 475A.210 to 475A.722 on the basis that manufacturing, distributing, dispensing, possessing or using psilocybin products is prohibited by federal law.

(2) The authority may not revoke or refuse to issue or renew a license or permit under ORS 475A.210 to 475A.722 on the basis that manufacturing, distributing, dispensing, possessing or using psilocybin products is prohibited by federal law. [2021 c.1 §87]

475A.558 Immunity for state agencies, officers and employees in performance of duties. A person may not sue the Oregon Health Authority, the State Department of Agriculture or the Oregon Liquor and Cannabis Commission or a member of the commission, or any employee of the authority, department or commission, for performing or omitting to perform any duty, function or power of the authority, department or commission set forth in ORS 475A.210 to 475A.722 or in any other law of this state requiring the authority,

department or commission to perform a duty, function or power related to psilocybin products. [2021 c.1 §88]

475A.562 Authority to purchase, possess, seize or dispose of psilocybin products.

Subject to any applicable provision of ORS chapter 131A or 183, any state officer, board, commission, corporation, institution, department or other state body, and any local officer, board, commission, institution, department or other local government body, that is authorized by the statutory laws of this state to perform a duty, function or power with respect to a psilocybin product, may purchase, possess, seize or dispose of the psilocybin product as the state officer, board, commission, corporation, institution, department or other state body, or the local officer, board, commission, institution, department or other local government body, considers necessary to ensure compliance with and enforce the applicable statutory law or any rule adopted under the applicable statutory law. [2021 c.1 §89]

475A.566 Authority of Governor to suspend license or permit without notice. In case of invasion, disaster, insurrection or riot, or imminent danger of invasion, disaster, insurrection or riot, the Governor may, for the duration of the invasion, disaster, insurrection or riot, or imminent danger, immediately and without notice suspend, in the area involved, any license or permit issued under ORS 475A.210 to 475A.722. [2021 c.1 §90]

(Other Provisions)

475A.570 Psilocybin-producing fungi as crop; exceptions to permitted uses. (1)

Psilocybin-producing fungi is:

- (a) A crop for the purposes of “farm use” as defined in ORS 215.203;
 - (b) A crop for purposes of a “farm” and “farming practice,” both as defined in ORS 30.930;
 - (c) A product of farm use as described in ORS 308A.062; and
 - (d) The product of an agricultural activity for purposes of ORS 568.909.
- (2) Notwithstanding ORS chapters 195, 196, 197, 215 and 227, the following are not permitted uses on land designated for exclusive farm use:
- (a) A new dwelling used in conjunction with a psilocybin-producing fungi crop;
 - (b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a psilocybin-producing fungi crop; and
 - (c) Subject to subsection (3) of this section, a commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a psilocybin-producing fungi crop.
- (3) The operation of a psilocybin service center may be carried on in conjunction with a psilocybin-producing fungi crop.
- (4) A county may allow the manufacture of psilocybin products as a farm use on land zoned for farm or forest use in the same manner as the manufacture of psilocybin products is allowed in exclusive farm use zones under this section and ORS 215.213, 215.283 and 475C.053.
- (5) This section applies to psilocybin product manufacturers that hold a license under ORS 475A.290. [2021 c.1 §91]

475A.574 Regulation of psilocybin products as food or other commodity subject to regulation by State Department of Agriculture. (1) Notwithstanding the authority granted

to the State Department of Agriculture under ORS chapters 571, 618 and 633 and ORS 632.275 to 632.290, 632.450 to 632.490, 632.516 to 632.625, 632.705 to 632.815, 632.835 to 632.850 and 632.900 to 632.985, the department may not exercise authority over psilocybin products or a licensee, except that ORS 618.121 to 618.161, 618.991, 618.995, 633.311 to 633.479, 633.992 and 633.994 apply to psilocybin products or to a licensee.

(2) In exercising its authority under ORS chapter 616, the department may not:

(a) Establish standards for psilocybin products as a food additive, as defined in ORS 616.205;

(b) Consider psilocybin products to be an adulterant, unless the concentration of a psilocybin product exceeds acceptable levels established by the Oregon Health Authority by rule; or

(c) Apply ORS 616.256, 616.265, 616.270 or 616.275 to psilocybin products or enforce ORS 616.256, 616.265, 616.270 or 616.275 with respect to psilocybin products. [2021 c.1 §92]

475A.578 Enforceability of contracts. A contract is not unenforceable on the basis that manufacturing, distributing, dispensing, possessing or using psilocybin products is prohibited by federal law. [2021 c.1 §93]

475A.582 Oregon Health Authority hotline for verification of license. The Oregon Health Authority shall maintain a telephone hotline for the following persons to inquire if an address is the location of a premises for which a license has been issued under ORS 475A.210 to 475A.722 or is the location of a premises for which an application for licensure has been submitted under ORS 475A.245:

(1) A person designated by a city or a county;

(2) A person designated by the Water Resources Department; and

(3) A person designated by the watermaster of any water district. [2021 c.1 §94]

475A.586 Certain information related to licensure exempt from disclosure. (1) Subject to subsection (2) of this section, information is exempt from public disclosure under ORS 192.311 to 192.478 if the information is:

(a) Personally identifiable information, as defined in ORS 432.005;

(b) The address of a premises for which a license has been issued or for which an applicant has proposed licensure under ORS 475A.290, 475A.305 or 475A.594;

(c) Related to the security plan or the operational plan for a premises for which a license has been issued or for which an applicant has proposed licensure under ORS 475A.290, 475A.305 or 475A.594; or

(d) Related to any record that the Oregon Health Authority determines contains proprietary information of a licensee.

(2) The exemption from public disclosure as provided by this section does not apply to:

(a) The name of an individual listed on an application, if the individual is a direct owner of the business operating or to be operated under the license; or

(b) A request for information if the request is made by a law enforcement agency.

(3) For purposes of subsection (2)(a) of this section, an individual is not a direct owner of the business operating or to be operated under the license if:

(a) The direct owner of the business operating or to be operated under the license is a legal entity; and

(b) The individual is merely a general partner, limited partner, member, shareholder, or other direct or indirect owner of the legal entity. [2021 c.1 §95]

TESTING OF PSILOCYBIN PRODUCTS

475A.590 Testing standards and processes; rules. (1) As is necessary to protect the public health and safety, and in consultation with the Oregon Liquor and Cannabis Commission and the State Department of Agriculture, the Oregon Health Authority shall adopt rules:

(a) Establishing standards for testing psilocybin products.

(b) Identifying appropriate tests for psilocybin products, depending on the type of psilocybin product and the manner in which the psilocybin product was manufactured, that are necessary to protect the public health and safety, which may include, but not be limited to, tests for:

- (A) Microbiological contaminants;
- (B) Pesticides;
- (C) Other contaminants;
- (D) Solvents or residual solvents; and
- (E) Psilocybin concentration.

(c) Establishing procedures for determining batch sizes and for sampling psilocybin products.

(d) Establishing different minimum standards for different varieties of psilocybin products.

(2) In addition to the testing requirements established under subsection (1) of this section, the authority may require psilocybin products to be tested in accordance with any applicable law of this state, or any applicable rule adopted under a law of this state, related to the production and processing of food products or commodities.

(3) In adopting rules under ORS 475A.210 to 475A.722, the authority may require a psilocybin product manufacturer that holds a license under ORS 475A.290 to test psilocybin products before selling or transferring the psilocybin products.

(4) The authority may conduct random testing of psilocybin products for the purpose of determining whether a licensee subject to testing under subsection (3) of this section is in compliance with this section.

(5) In adopting rules to implement this section, the authority may not require a psilocybin product to undergo the same test more than once unless the psilocybin product is processed into a different type of psilocybin product or the condition of the psilocybin product has fundamentally changed.

(6) The testing of psilocybin products as required by this section must be conducted by a laboratory licensed by the authority under ORS 475A.594 and accredited by the authority under ORS 475A.606.

(7) In adopting rules under subsection (1) of this section, the authority:

(a) Shall consider the cost of a potential testing procedure and how that cost will affect the cost to the ultimate client; and

(b) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety. [2021 c.1 §96]

475A.594 Laboratory licensure; qualifications; fees; rules. (1) A laboratory that conducts testing of psilocybin products as required by ORS 475A.590 must have a license to operate at the premises at which the psilocybin products are tested.

(2) For purposes of this section, the Oregon Health Authority shall adopt rules establishing:

(a) Qualifications to be licensed under this section, including that an applicant for licensure under this section must be accredited by the authority as described in ORS 475A.606;

(b) Processes for applying for and renewing a license under this section;

(c) Fees for applying for, receiving and renewing a license under this section; and

(d) Procedures for:

(A) Tracking psilocybin products to be tested;

(B) Documenting and reporting test results; and

(C) Disposing of samples of psilocybin products that have been tested.

(3) A license issued under this section must be renewed annually.

(4) The authority may inspect premises licensed under this section to ensure compliance with ORS 475A.590 to 475A.622 and rules adopted under ORS 475A.590 to 475A.622.

(5) Subject to the applicable provisions of ORS chapter 183, the authority may refuse to issue or renew, or may suspend or revoke, a license issued under this section for violation of a provision of ORS 475A.210 to 475A.722 or a rule adopted under a provision of ORS 475A.210 to 475A.722.

(6) Fees adopted under subsection (2)(c) of this section must be reasonably calculated to pay the expenses incurred by the authority under ORS 475A.210 to 475A.722.

(7) Fee moneys collected under this section shall be deposited in the Psilocybin Control and Regulation Fund established under ORS 475A.492 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under ORS 475A.210 to 475A.722. [2021 c.1 §97]

475A.598 Authority to require fingerprints of applicants and other individuals. For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Health Authority may require the fingerprints of any individual listed on an application submitted under ORS 475A.594. The powers conferred on the authority under this section include the power to require the fingerprints of:

(1) If the applicant is a limited partnership, each general partner of the limited partnership;

(2) If the applicant is a manager-managed limited liability company, each manager of the limited liability company;

(3) If the applicant is a member-managed limited liability company, each voting member of the limited liability company;

(4) If the applicant is a corporation, each director and officer of the corporation; and

(5) Any individual who holds a financial interest of 10 percent or more in the person applying for the license. [2021 c.1 §98]

475A.602 Statement of applicant for license under ORS 475A.594. (1) The Oregon Health Authority may require a licensee or applicant for a license under ORS 475A.594 to submit, in a form and manner prescribed by the authority, to the authority a sworn statement showing:

(a) The name and address of each person that has a financial interest in the business operating or to be operated under the license; and

(b) The nature and extent of the financial interest of each person that has a financial interest in the business operating or to be operated under the license.

(2) The authority may refuse to issue, or may suspend, revoke or refuse to renew, a license issued under ORS 475A.594 if the authority determines that a person that has a financial

interest in the business operating or to be operated under the license committed or failed to commit an act that would constitute grounds for the authority to refuse to issue, or to suspend, revoke or refuse to renew, the license if the person were the licensee or applicant for the license. [2021 c.1 §99]

475A.606 Laboratory accreditation; qualifications; fees. (1) A laboratory that conducts testing of psilocybin products as required by ORS 475A.590 must be accredited under ORS 438.605 to 438.620 and meet other qualifications as established by the Oregon Health Authority under this section.

(2) In addition to other qualifications required pursuant to ORS 438.605 to 438.620, the authority shall require an applicant for accreditation under ORS 438.605 to 438.620 for purposes related to the testing of psilocybin products to:

- (a) Complete an application;
- (b) Undergo an onsite inspection; and
- (c) Meet other applicable requirements, specifications and guidelines for testing psilocybin products, as determined to be appropriate by the authority by rule.

(3) The authority may inspect premises licensed under ORS 475A.594 to ensure compliance with ORS 475A.590 to 475A.622 and rules adopted under ORS 475A.590 to 475A.622.

(4) Subject to the applicable provisions of ORS chapter 183, the authority may refuse to issue or renew, or may suspend or revoke, a laboratory's accreditation granted under this section and ORS 438.605 to 438.620 for violation of a provision of ORS 475A.210 to 475A.722 or a rule adopted under a provision of ORS 475A.210 to 475A.722.

(5) In establishing fees under ORS 438.620 for laboratories that test psilocybin products, the authority shall establish fees that are reasonably calculated to pay the expenses incurred by the authority under this section and ORS 438.605 to 438.620 in accrediting laboratories that test psilocybin products. [2021 c.1 §100]

Note: As originally enacted by the people, the headline to ORS 475A.606 read "Laboratory accreditation; qualifications; fees; rules." The headline was changed by editorial action.

475A.610 Authority of Oregon Health Authority to discipline licensees of authority. Subject to the applicable provisions of ORS chapter 183, if an applicant or licensee violates a provision of ORS 475A.590 to 475A.622 or a rule adopted under a provision of ORS 475A.590 to 475A.622, the Oregon Health Authority may refuse to issue or renew, or may suspend or revoke, a license issued under ORS 475A.290, 475A.305, 475A.325 or 475A.594. [2021 c.1 §101]

475A.614 Authority of Oregon Health Authority over certain persons, license actions. (1) Notwithstanding the lapse, suspension or revocation of a license issued under ORS 475A.594, the Oregon Health Authority may:

- (a) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the license; or
- (b) Revise or render void an order suspending or revoking the license.

(2) In cases involving the proposed denial of a license issued under ORS 475A.210 to 475A.722, the applicant for licensure may not withdraw the applicant's application. [2021 c.1 §102]

475A.618 Civil penalty for violating ORS 475A.590 to 475A.622. (1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of ORS 475A.590 to 475A.622, or a rule adopted under a provision of ORS 475A.590 to 475A.622, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) Moneys collected under this section shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under ORS 475A.210 to 475A.722. [2021 c.1 §103]

475A.622 Exemption from criminal liability. A person who holds a license under ORS 475A.594, and an employee of or other person who performs work for a person who holds a license under ORS 475A.594, are exempt from the criminal laws of this state for possession, delivery or manufacture of psilocybin, aiding and abetting another in the possession, delivery or manufacture of psilocybin, or any other criminal offense in which possession, delivery or manufacture of psilocybin is an element, while performing activities related to testing as described in ORS 475A.590 to 475A.622. [2021 c.1 §104]

PACKAGING, LABELING AND CONCENTRATION OF PSILOCYBIN PRODUCTS

475A.626 Labeling requirements; rules. (1) As is necessary to protect the public health and safety, and in consultation with the State Department of Agriculture and the Oregon Liquor and Cannabis Commission, the Oregon Health Authority shall adopt rules establishing standards for the labeling of psilocybin products, including but not limited to:

(a) Ensuring that psilocybin products have labeling that communicates:

(A) Health and safety warnings;

(B) If applicable, activation time;

(C) Potency;

(D) If applicable, serving size and the number of servings included in a psilocybin product;

(E) Content of the psilocybin product; and

(b) Labeling that is in accordance with applicable state food labeling requirements for the same type of food product or potable liquid when the food product or potable liquid does not contain psilocybin.

(2) In adopting rules under ORS 475A.210 to 475A.722, the authority shall require all psilocybin products sold or transferred by a psilocybin service center that holds a license issued under ORS 475A.305 to be labeled in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(3) In adopting rules under subsection (1) of this section, the authority:

(a) May establish different labeling standards for different varieties and types of psilocybin products;

(b) Shall consider the cost of a potential requirement and how that cost will affect the cost to the ultimate client; and

(c) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety. [2021 c.1 §105]

Note: As originally enacted by the people, the division heading before ORS 475A.626 read “Packaging, Labeling and Dosage of Psilocybin Products.” The division heading was changed by editorial action.

475A.630 Authority to require preapproval of labels; fees. (1) The Oregon Health Authority may by rule require a licensee to submit a label intended for use on a psilocybin product for preapproval by the authority before the licensee may sell or transfer a psilocybin product bearing the label. The authority shall determine whether a label submitted under this section complies with ORS 475A.626 and any rule adopted under ORS 475A.626.

(2) The authority may impose a fee for submitting a label for preapproval under this section that is reasonably calculated to not exceed the cost of administering this section. [2021 c.1 §106]

Note: As originally enacted by the people, the leadline to ORS 475A.630 read “Authority to require preapproval of labels.” The leadline was changed by editorial action.

475A.634 Packaging requirements; rules. (1) As is necessary to protect the public health and safety, and in consultation with the State Department of Agriculture and the Oregon Liquor and Cannabis Commission, the Oregon Health Authority shall adopt rules establishing standards for the packaging of psilocybin products, including but not limited to ensuring that psilocybin products are not marketed in a manner that:

- (a) Is untruthful or misleading; or
- (b) Otherwise creates a significant risk of harm to public health and safety.

(2) In adopting rules under ORS 475A.210 to 475A.722, the authority shall require all psilocybin products sold or transferred by a psilocybin service center that holds a license issued under ORS 475A.305 to be packaged in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(3) In adopting rules under subsection (1) of this section, the authority:

- (a) May establish different packaging standards for different varieties and types of psilocybin products;
- (b) May consider the effect on the environment of requiring certain packaging;
- (c) Shall consider the cost of a potential requirement and how that cost will affect the cost to the ultimate client; and
- (d) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety. [2021 c.1 §107]

475A.638 Authority to require preapproval of packaging; fees. (1) The Oregon Health Authority may by rule require a licensee to submit packaging intended for a psilocybin product for preapproval by the authority before the licensee may sell or transfer a psilocybin product packaged in the packaging. The authority shall determine whether packaging submitted under this section complies with ORS 475A.634 and any rule adopted under ORS 475A.634.

(2) The authority may impose a fee for submitting packaging for preapproval under this section that is reasonably calculated to not exceed the cost of administering this section. [2021 c.1 §108]

Note: As originally enacted by the people, the leadline to ORS 475A.638 read “Authority to require preapproval of packaging.” The leadline was changed by editorial action.

475A.642 Concentration and servings limits; rules. (1) The Oregon Health Authority shall adopt rules establishing:

(a) The maximum concentration of psilocybin that is permitted in a single serving of a psilocybin product; and

(b) The number of servings that are permitted in a psilocybin product package.

(2) In adopting rules under ORS 475A.210 to 475A.722, the authority shall require all psilocybin products sold or transferred by a psilocybin service center that holds a license under ORS 475A.305 to meet the concentration standards and packaging standards adopted by rule pursuant to this section. [2021 c.1 §109]

Note: As originally enacted by the people, the headline to ORS 475A.642 read “Dosage requirements; rules.” The headline was changed by editorial action.

475A.646 Authority of Oregon Health Authority to inspect. To ensure compliance with ORS 475A.626 to 475A.654 and any rule adopted under ORS 475A.626 to 475A.654, the Oregon Health Authority may inspect the premises of a person that holds a license under ORS 475A.290 or 475A.305. [2021 c.1 §110]

475A.650 Authority of Oregon Health Authority to discipline licensees of authority. Subject to the applicable provisions of ORS chapter 183, if the applicant or licensee violates a provision of ORS 475A.626 to 475A.654 or a rule adopted under a provision of ORS 475A.626 to 475A.654, the Oregon Health Authority may refuse to issue or renew, or may suspend or revoke, a license issued under ORS 475A.290, 475A.305 or 475A.325. [2021 c.1 §111]

475A.654 Civil penalty for violating ORS 475A.626 to 475A.654. (1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of ORS 475A.626 to 475A.654, or a rule adopted under a provision of ORS 475A.626 to 475A.654, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) Moneys collected under this section shall be deposited in the Psilocybin Control and Regulation Fund established under ORS 475A.492 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under ORS 475A.210 to 475A.722. [2021 c.1 §112]

TAXATION OF PSILOCYBIN PRODUCTS

475A.658 Definitions for ORS 475A.658 to 475A.714. As used in ORS 475A.658 to 475A.714:

(1) “Retail sale” means any transfer, exchange, gift or barter of a psilocybin product by any person to a client.

(2) “Retail sales price” means the price paid for a psilocybin product, excluding tax, to a psilocybin service center operator by or on behalf of a client. [2021 c.1 §113]

475A.662 Imposition of tax on retail sale of psilocybin products. (1) A tax is hereby imposed upon the retail sale of psilocybin products in this state. The tax imposed by this section is a direct tax on the client, for which payment upon retail sale is required. The tax shall be collected at the point of sale of a psilocybin product by a psilocybin service center operator at the time at which the retail sale occurs.

(2) The tax imposed under this section shall be imposed at the rate of 15 percent of the retail sales price of psilocybin products.

(3) If the tax imposed under this section does not equal an amount calculable to a whole cent, the tax shall be equal to the next higher whole cent.

(4) Except as otherwise provided by the Department of Revenue by rule, the amount of the tax shall be separately stated on an invoice, receipt or other similar document that the psilocybin service center operator provides to the client at the time at which the retail sale occurs.

(5) A person may not knowingly sell, purchase, install, transfer or possess electronic devices or software programs for the purposes of:

(a) Hiding or removing records of retail sales of psilocybin products; or

(b) Falsifying records of retail sales of psilocybin products.

(6)(a) A psilocybin service center operator may not discount a psilocybin product or offer a psilocybin product for free if the retail sale of the psilocybin product is made in conjunction with the retail sale of any other item or service.

(b) Paragraph (a) of this subsection does not affect any provision of ORS 475A.210 to 475A.722 or any rule adopted by the Oregon Health Authority pursuant to ORS 475A.210 to 475A.722 that is related to the retail sale of psilocybin products.

(7) The authority shall regularly review the rate of tax under subsection (2) of this section and make recommendations to the Legislative Assembly regarding appropriate adjustments to the rate that will further the purposes of:

(a) Providing the authority with moneys sufficient to administer and enforce ORS 475A.210 to 475A.722; and

(b) Not providing the authority with moneys that exceed, together with fees collected under ORS 475A.210 to 475A.722, the cost of administering and enforcing ORS 475A.210 to 475A.722. [2021 c.1 §114]

475A.666 Collection of tax; refund; credit; penalties. (1) Except as otherwise provided in ORS 475A.658 to 475A.714, the tax imposed upon the client under ORS 475A.662 shall be collected at the point of sale and remitted by each psilocybin service center operator that engages in the retail sale of psilocybin products. The tax is considered a tax upon the psilocybin service center operator that is required to collect the tax, and the psilocybin service center operator is considered a taxpayer.

(2) The psilocybin service center operator shall file a return to the Department of Revenue on or before the last day of January, April, July and October of each year for the previous calendar quarter.

(3) The psilocybin service center operator shall pay the tax to the department in the form and manner prescribed by the department, but not later than with each quarterly return, without regard to an extension granted under subsection (5) of this section.

(4) Psilocybin service center operators shall file the returns required under this section regardless of whether any tax is owed.

(5) For good cause, the department may extend the time for filing a return under this section. The extension may be granted at any time if a written request is filed with the

department during or prior to the period for which the extension may be granted. The department may not grant an extension of more than 30 days.

(6) Interest shall be added at the rate established under ORS 305.220 from the time the return was originally required to be filed to the time of payment.

(7) If a psilocybin service center operator fails to file a return or pay the tax as required by this section, the department shall impose a penalty in the manner provided in ORS 314.400.

(8) Except as provided in subsections (9) and (10) of this section, the period prescribed for the department to allow or make a refund of any overpayment of tax paid under ORS 475A.658 to 475A.714 is as provided in ORS 314.415.

(9)(a) The department shall first apply any overpayment of tax by a psilocybin service center operator to any psilocybin tax that is owed by the psilocybin service center operator.

(b) If after any offset against any delinquent amount the overpayment of tax remains greater than \$1,000, the remaining refund shall be applied as a credit against the next subsequent calendar quarter as an estimated payment.

(10) The department may not make a refund of, or credit, any overpayment of tax under ORS 475A.658 to 475A.714 that was credited to the account of a psilocybin service center operator under subsection (9)(b) of this section if the return for that tax period is not filed within three years after the due date of that return. [2021 c.1 §115]

475A.670 Psilocybin revenue estimate. (1) Not later than 30 days before the beginning of each calendar quarter, the Oregon Department of Administrative Services shall forecast and prepare an estimate of the revenue that will be received during the remainder of the current biennium and subsequent three biennia pursuant to the tax imposed under ORS 475A.662. The estimate may be made on the basis of all pertinent information available to the Oregon Department of Administrative Services. Upon making the estimate, the Oregon Department of Administrative Services shall report the estimate to the Legislative Revenue Officer, the Legislative Fiscal Officer and the Department of Revenue.

(2) The Department of Revenue and the Oregon Health Authority shall provide the Oregon Department of Administrative Services with any information necessary for the Oregon Department of Administrative Services to perform its duties under this section. [2021 c.1 §116]

475A.674 Enforcement; liability; notice of liability; notices of determination and assessment. (1) Every person who collects any amount under ORS 475A.666 shall hold the same in trust for the State of Oregon and for the payment thereof to the Department of Revenue in the manner and at the time provided in ORS 475A.666.

(2) At any time a psilocybin service center operator fails to remit any amount collected, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued thereon. The warrant shall be issued, recorded and proceeded upon in the same manner and shall have the same force and effect as is prescribed with respect to warrants for the collection of delinquent income taxes.

(3)(a) In the case of a psilocybin service center operator that is assessed pursuant to the provisions of ORS 305.265 (12) and 314.407 (1), the department may issue a notice of liability to any officer, employee or member of the psilocybin service center operator within three years from the time of assessment. Within 30 days from the date the notice of liability is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or advise the department in writing of objections to the

liability and, if desired, request a conference. A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues considering the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of liability. Within 90 days from the date the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal to the tax court in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of liability within 30 days after the notice of liability was mailed, the notice of liability becomes final. In that event, the officer, employee or member may appeal the notice of liability to the tax court within 90 days after it became final in the manner provided for an appeal from a notice of assessment.

(4)(a) In the case of a failure to file a return on the due date, governed by the provisions of ORS 305.265 (10) and 314.400, the department, in addition to any action described in the provisions of ORS 305.265 (10) and 314.400, may send notices of determination and assessment to any officer, employee or member any time within three years after the assessment. The time of assessment against the officer, employee or member is 30 days after the date the notice of determination and assessment is mailed. Within 30 days from the date the notice of determination and assessment is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or advise the department in writing of objections to the assessment and, if desired, request a conference. A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues considering the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of determination and assessment. Within 90 days from the date the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of determination and assessment within 30 days after the notice of determination and assessment was mailed, the notice of determination and assessment becomes final. In that event, the officer, employee or member may appeal the notice of determination and assessment to the tax court within 90 days after it became final in the manner provided for an appeal from a notice of assessment.

(5)(a) More than one officer or employee of a corporation may be held jointly and severally liable for payment of taxes.

(b) Notwithstanding the confidentiality provisions of ORS 475A.706, if more than one officer or employee of a corporation may be held jointly and severally liable for payment of taxes, the department may require any or all of the officers, members or employees who may be held liable to appear before the department for a joint determination of liability. The department shall notify each officer, member or employee of the time and place set for the determination of liability.

(c) Each person notified of a joint determination under this subsection shall appear and present such information as is necessary to establish that person's liability or nonliability for payment of taxes to the department. If a person who was notified fails to appear, the department shall make its determination on the basis of all the information and evidence

presented. The department's determination is binding on all persons notified and required to appear under this subsection.

(d)(A) If an appeal is taken to the Oregon Tax Court pursuant to ORS 475A.706 by any person determined to be liable for unpaid taxes under this subsection, each person required to appear before the department under this subsection shall be impleaded by the plaintiff. The department may implead any officer, employee or member who may be held jointly and severally liable for the payment of taxes. Each person impleaded under this paragraph shall be made a party to the action before the tax court and shall make available to the tax court the information that was presented before the department, as well as other information that may be presented to the court.

(B) The court may determine that one or more persons impleaded under this paragraph are liable for unpaid taxes without regard to any earlier determination by the department that an impleaded person was not liable for unpaid taxes.

(C) If a person required to appear before the court under this subsection fails or refuses to appear or bring such information in part or in whole, or is outside the jurisdiction of the tax court, the court shall make its determination on the basis of all the evidence introduced. Notwithstanding ORS 475A.706, the evidence constitutes a public record and shall be available to the parties and the court. The determination of the tax court is binding on all persons made parties to the action under this subsection.

(e) This section may not be construed to preclude a determination by the department or the Oregon Tax Court that more than one officer, employee or member are jointly and severally liable for unpaid taxes. [2021 c.1 §117]

475A.678 Duty to keep receipts, invoices and other records. (1) A psilocybin service center operator shall keep receipts, invoices and other pertinent records related to retail sales of psilocybin products in the form required by the Department of Revenue. Each record shall be preserved for five years from the time to which the record relates, or for as long as the psilocybin service center operator retains the psilocybin products to which the record relates, whichever is later. During the retention period and at any time prior to the destruction of records, the department may give written notice to the psilocybin service center operator not to destroy records described in the notice without written permission of the department. Notwithstanding any other provision of law, the department shall preserve reports and returns filed with the department for at least five years.

(2) The department or its authorized representative, upon oral or written demand, may make examinations of the books, papers, records and equipment of persons making retail sales of psilocybin products and any other investigations as the department deems necessary to carry out the provisions of ORS 475A.658 to 475A.714. [2021 c.1 §118]

475A.682 Authority to require production of books, papers, accounts and other information. (1) The Department of Revenue has authority, by order or subpoena to be served with the same force and effect and in the same manner as a subpoena is served in a civil action in the circuit court, or the Oregon Tax Court, to require the production at any time and place the department designates of any books, papers, accounts or other information necessary to carry out ORS 475A.658 to 475A.714. The department may require the attendance of any person having knowledge in the premises, and may take testimony and require proof material for the information, with power to administer oaths to the person.

(2) If a person fails to comply with a subpoena or order of the department or to produce or permit the examination or inspection of any books, papers, records and equipment pertinent to

an investigation or inquiry under ORS 475A.658 to 475A.714, or to testify to any matter regarding which the person is lawfully interrogated, the department may apply to the Oregon Tax Court or to the circuit court of the county in which the person resides or where the person is for an order to the person to attend and testify, or otherwise to comply with the demand or request of the department. The department shall apply to the court by ex parte motion, upon which the court shall make an order requiring the person against whom the motion is directed to comply with the request or demand of the department within 10 days after the service of the order, or within the additional time granted by the court, or to justify the failure within that time. The order shall be served upon the person to whom it is directed in the manner required by this state for service of process, which service is required to confer jurisdiction upon the court. Failure to obey any order issued by the court under this section is contempt of court. The remedy provided by this section is in addition to other remedies, civil or criminal, existing under the tax laws or other laws of this state. [2021 c.1 §119]

475A.686 Disclosure of information. (1) Notwithstanding the confidentiality provisions of ORS 475A.706, the Department of Revenue may disclose information received under ORS 317.363 and 475A.658 to 475A.714 to the Oregon Health Authority to carry out the provisions of ORS 475A.210 to 475A.722.

(2) The authority may disclose information obtained pursuant to ORS 475A.210 to 475A.722 to the department for the purpose of carrying out the provisions of ORS 475A.210 to 475A.722. [2021 c.1 §120]

475A.690 Right to appeal determination of tax liability. Except as otherwise provided in ORS 475A.210 to 475A.722, a person aggrieved by an act or determination of the Department of Revenue or its authorized agent under ORS 317.363 and 475A.658 to 475A.714 may appeal, within 90 days after the act or determination, to the Oregon Tax Court in the manner provided in ORS 305.404 to 305.560. These appeal rights are the exclusive remedy available to determine the person's liability for the tax imposed under ORS 475A.658 to 475A.714. [2021 c.1 §121]

475A.694 Duty to return excess tax collected. (1)(a) When an amount represented by a psilocybin service center operator at retail to a client as constituting the tax imposed under ORS 475A.658 to 475A.714 is computed upon an amount that is not taxable or is in excess of the taxable amount and is actually paid by the client to the psilocybin service center operator, the excess tax paid shall be returned by the psilocybin service center operator to the client upon written notification by the Department of Revenue or the client.

(b) The written notification must contain information necessary to determine the validity of the client's claim.

(2) If the psilocybin service center operator does not return the excess tax within 60 days after mailing of the written notification required under subsection (1) of this section, the client may appeal to the department for a refund of the amount of the excess tax, in the manner and within the time allowed under rules adopted by the department.

(3) If excess tax is returned to the client by the department, the department may issue a notice of deficiency for the excess tax to the psilocybin service center operator in the manner provided under ORS 305.265. [2021 c.1 §122]

475A.698 Authority to retain portions of tax to pay expenses incurred. For the purpose of compensating psilocybin service center operators for expenses incurred in collecting the tax

imposed under ORS 475A.662, each psilocybin service center operator is permitted to deduct and retain two percent of the amount of taxes that are collected by the psilocybin service center operator from all retail sales of psilocybin products conducted by the psilocybin service center operator. [2021 c.1 §123]

475A.702 Duties and powers of Department of Revenue; rules; interagency cooperation. (1) The Department of Revenue shall administer and enforce ORS 475A.658 to 475A.714. The department is authorized to establish rules and procedures for the implementation and enforcement of ORS 475A.658 to 475A.714 that are consistent with ORS 475A.658 to 475A.714 and that the department considers necessary and appropriate to administer and enforce ORS 475A.658 to 475A.714.

(2) The Oregon Health Authority shall enter into an agreement with the department for the purpose of administering and enforcing those provisions of ORS 475A.658 to 475A.714, and rules or procedures established for the purpose of implementing and enforcing ORS 475A.658 to 475A.714, that the authority and the department determine are necessary for the effective and efficient administration, implementation and enforcement of ORS 475A.658 to 475A.714. [2021 c.1 §124]

475A.706 Applicability of tax laws to ORS 475A.658 to 475A.714. Except as otherwise provided in ORS 475A.658 to 475A.714 or where the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit and examination of returns, periods of limitation, determination of and notices of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, conferences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality of returns and the penalties relative thereto, and the procedures relating thereto, apply to the determinations of taxes, penalties and interest under ORS 475A.658 to 475A.714. [2021 c.1 §125]

475A.710 Oregon Psilocybin Account. (1) There is established the Oregon Psilocybin Account, separate and distinct from the General Fund.

(2) The account shall consist of moneys transferred to the account under ORS 475A.714.

(3)(a) The Department of Revenue shall certify quarterly the amount of moneys available in the Oregon Psilocybin Account.

(b) The department shall transfer quarterly the moneys in the Oregon Psilocybin Account to the Psilocybin Control and Regulation Fund. [2021 c.1 §126]

475A.714 Suspense account; payment of expenses; crediting balance to Oregon Psilocybin Account. (1) All moneys received by the Department of Revenue under ORS 475A.658 to 475A.714 shall be deposited in the State Treasury and credited to a suspense account established under ORS 293.445. The department may pay expenses for the administration and enforcement of ORS 475A.658 to 475A.714 out of moneys received from the tax imposed under ORS 475A.662. Amounts necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account.

(2) After the payment of administrative and enforcement expenses and refunds or credits arising from erroneous overpayments, the department shall credit the balance of the moneys received by the department under this section to the Oregon Psilocybin Account established under ORS 475A.710. [2021 c.1 §127]

AUTHORITY OF CITIES AND COUNTIES TO PROHIBIT ESTABLISHMENT OF PSILOCYBIN-RELATED BUSINESSES

475A.718 Adoption of ordinances; referral to electors for approval. (1) The governing body of a city or county may adopt ordinances to be referred to the electors of the city or county as described in subsection (2) of this section that prohibit or allow the establishment of any one or more of the following in the area subject to the jurisdiction of the city or in the unincorporated area subject to the jurisdiction of the county:

- (a) Psilocybin product manufacturers that hold a license issued under ORS 475A.290;
- (b) Psilocybin service center operators that hold a license issued under ORS 475A.305; or
- (c) Any combination of the entities described in this subsection.

(2) If the governing body of a city or county adopts an ordinance under this section, the governing body shall submit the measure of the ordinance to the electors of the city or county for approval at the next statewide general election.

(3) If the governing body of a city or county adopts an ordinance under this section, the governing body must provide the text of the ordinance to the Oregon Health Authority.

(4) Upon receiving notice of a prohibition under subsection (3) of this section, the authority shall discontinue licensing those premises to which the prohibition applies until the date of the next statewide general election.

(5) If an allowance is approved at the next statewide general election under subsection (2) of this section, the authority shall begin licensing the premises to which the allowance applies on the first business day of the January immediately following the date of the next statewide general election.

(6) Notwithstanding any other provisions of law, a city or county that adopts an ordinance under this section that prohibits the establishment of an entity described in subsection (1) of this section may not impose a tax or fee on the manufacturing or sale of psilocybin products. [2021 c.1 §128]

SEVERABILITY

475A.722 Severability. If any section, subsection, paragraph, phrase or word of ORS 475A.210 to 475A.722 is held to be unconstitutional, void or illegal, either on its face or as applied, that holding does not affect the applicability, constitutionality or legality of any other section, subsection, paragraph, phrase or word of ORS 475A.210 to 475A.722. To that end, the sections, subsections, paragraphs, phrases and words of ORS 475A.210 to 475A.722 are intended to be severable. It is hereby declared to be the intent of the people of this state in adopting ORS 475A.210 to 475A.722 that ORS 475A.210 to 475A.722 would have been adopted had such unconstitutional, void or illegal sections, subsections, paragraphs, phrases or words, if any, not been included in ORS 475A.210 to 475A.722. [2021 c.1 §129]

3. Comments Received

RECEIVED
SEP 28 2022

YAMHILL COUNTY
PLANNING DEPARTMENT

Lance Woods

From: FOOTE Hilary * DLCD <Hilary.FOOTE@dlcd.oregon.gov>
Sent: Wednesday, September 28, 2022 11:38 AM
To: Lance Woods
Subject: Yamhill County amendment 002-22 adding psilocybin service centers and manufacturing as conditional uses

Caution: This email originated outside of the Yamhill County email system

Good morning,

Thank you for the opportunity to comment on the proposed amendments to Yamhill County Zoning Ordinance (Local Docket #G-02-22). Our comments are specific to consideration of amendments to exclusive farm use zoning designations to include psilocybin service centers.

We would like to convey that, after consulting with Department of Justice counsel, DLCD does not support an interpretation of ORS 475A.570(3) as allowing for a use that would not otherwise be allowable in the underlying zone. The structure of the statute does not appear to support an argument that psilocybin service centers are a new, stand-alone use. ORS 215.203 clarifies that land within exclusive farm use zones shall be used exclusively for farm use except as provided in ORS 215.213, 215.283 or 215.284. We have shared our view on this with the Oregon Health Authority.

Within that interpretation, a service center might be allowed in exclusive farm use zones if it can qualify under any other provision in Chapter 215. It is possible, for example, that a county might review a service center as a home occupation pursuant to ORS 215.213(2)(n)/215.283(2)(i) or as a commercial activity in conjunction with farm use as described in ORS 215.213(2)(c) and 215.283(2)(a). Whether or not the provision of psilocybin services could be licensed in structures normally permitted in the zone in conformance with ORS 215.448, would be determined by OHA and may be discussed in their upcoming rulemakings.

DLCD is closely following the implementation of Measure 109 and is happy to further discuss our interpretation with Yamhill County staff.

Regards,



Hilary Foote

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From: DLCD Plan Amendments <plan.amendments@dlcd.oregon.gov>
Sent: Thursday, September 1, 2022 2:26 PM
To: AMENDMENTS Plan * DLCD <Plan.Amendments@dlcd.oregon.gov>; FOOTE Hilary * DLCD <Hilary.FOOTE@dlcd.oregon.gov>; JININGS Jon * DLCD <Jon.JININGS@dlcd.oregon.gov>; GROSULAK-MCCORD Karen * DLCD <Karen.GROSULAK-MCCORD@dlcd.oregon.gov>; MARVIN Sarah * DLCD <Sarah.MARVIN@dlcd.oregon.gov>
Subject: Journal Entry Added