



TILLAMOOK COUNTY BOARD OF COMMISSIONERS NOTICE OF MEETING AGENDAS

BOARD OF COMMISSIONERS

David Yamamoto, Chair
dyamamoto@co.tillamook.or.us

Erin D. Skaar, Vice-Chair
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Mary Faith Bell, Commissioner
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CONTACT

Tillamook County Courthouse
201 Laurel Avenue
Tillamook, Oregon 97141
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COMMUNITY UPDATE MEETING

Tuesday, July 12, 2022 at 8:00 a.m.

Teleconference and KTIL-FM at 95.9

BOARD MEETING

Wednesday, July 13, 2022 at 9:00 a.m.

Nehalem Room

County Courthouse, Teleconference, and Live Video at tctvonline.com

AGENDAS

COMMUNITY UPDATE – 2022-07-12 COMMUNITY UPDATE AUDIO.MP4

CALL TO ORDER: Tuesday, July 12, 2022 8:00 a.m.

1. 00:34 Welcome and Board of Commissioners' Roll Call
2. 00:50 Adventist Health Tillamook
3. 03:23 Coastal Caucus
4. 18:55 Tillamook County Community Health Center
5. 25:14 Nehalem Bay Health Center & Pharmacy
6. 26:39 Sheriff's Office
7. 31:39 Emergency Management
8. 33:36 Board of Commissioners
9. Cities
 - 54:47 Manzanita
 - 57:27 Nehalem
 - 58:54 Garibaldi

ADJOURN – 9:01 a.m.

MEETING – 2022-07-13 BOCC MEETING AUDIO.MP4

CALL TO ORDER: Wednesday, July 13, 2022 9:02 a.m.

1. 02:05 Welcome & Request to Sign Guest List
2. 02:10 Pledge of Allegiance
3. 02:34 Public Comment: Public Comments Received Via Email Entered into the Permanent Meeting Record.
4. 02:40 Non-Agenda Items
UNSCHEDULED: Discussion and Consideration of a Personal Services Agreement number 22/23-002 with Ready Northwest LLC Public Health Emergency Preparedness (PHEP) Coordination and Support Services/Marlene Putman, Director, Health and Human Services.

A motion was made by Commissioner Bell and seconded by Vice-Chair Skaar. The motion passed with three aye votes. The Board signed the agreement.

07:30 **UNSCHEDULED:** Discussion Concerning Local Implementation of Ballot Measure 109 (2020) – Oregon Psilocybin Services/Commissioner David Yamamoto; William Sargent, County Counsel

13:07 Clinic Setting and Treatment Uses/Commissioner Mary Faith Bell

21:33 Timeline for Ordinance/Tassi O’Neil, Clerk

24:20 Moratorium Proposal/Commissioner Mary Faith Bell

No motion was made by the Commissioners.

LEGISLATIVE – ADMINISTRATIVE

5. 28:19 Discussion and Consideration of Change Order #1 to Contract for Goods with Heartwood Biomass for the Firewood Project/Melissa Rondeau, Office Manager, Parks Department.

A motion was made by Commissioner Bell and seconded by Vice-Chair Skaar. The motion passed with three aye votes. The Board signed the contract.

6. 30:22 Discussion and Consideration of a Contract for Services with Tillamook Family Counseling Center, Inc. for the Fulfillment of Health Systems Division/Oregon Health Authority 2022 Intergovernmental Agreement for the Financing of Community Mental Health, Substance Use Disorders, and Problem Gambling Services/William Sargent, County Counsel

A motion was made by Commissioner Bell and seconded by Vice-Chair Skaar. The motion passed with three aye votes. The Board signed the contract.

7. 33:19 Discussion and Consideration of a Title III Grant Agreement with the Oregon Department of Forestry for the Tillamook County Yard Debris Program/Rachel Hagerty, Chief of Staff

A motion was made by Commissioner Bell and seconded by Vice-Chair Skaar. The motion passed with three aye votes. The Board signed the agreement.

8. 35:07 Discussion and Consideration of Grant Agreement #2021-P7 with the Pacific City–Nestucca Valley Chamber of Commerce for Transient Lodging Tax (TLT) Tourism-Related Promotions/Rachel Hagerty, Chief of Staff

A motion was made by Commissioner Bell and seconded by Vice-Chair Skaar. The motion passed with three aye votes. The Board signed the agreement.

Chair Yamamoto recessed the meeting at 9:45 a.m.

Chair Yamamoto reconvened the meeting at 10:00 a.m. - 2022-07-13 BOCC MEETING AUDIO – PART II.MP4

10:00 a.m.

9. 00:20 **Second Public Hearing:** Concerning Amendment #1 to Ordinance #61 Prohibiting Possession of Alcoholic Beverages Within the Sandlake Recreational Area/William Sargent, County Counsel
- 00:39 Ordinance Amendment and Changes/William Sargent, County Counsel
- 01:34 Opened Public Hearing
- 01:59 Closed Public Hearing – No Testimony.
10. 02:45 Consideration of Amendment #1 to Ordinance #61 Prohibiting Possession of Alcoholic Beverages Within the Sandlake Recreational Area/William Sargent, County Counsel

A motion was made by Commissioner Bell and seconded by Vice-Chair Skaar. The motion passed with three aye votes. The Board signed the Ordinance Amendment.

Chair Yamamoto recessed the meeting at 10:05 a.m. to go into executive session pursuant to ORS 192.660(2)(e) and ORS 192.660(2)(h).

Chair Yamamoto reconvened the meeting at 11:03 a.m. - 2022-07-13 BOCC MEETING AUDIO – PART III.MP4

11. ----- Board Concerns – Non-Agenda Items: There were none.
12. 09:44 Board Announcements

AGENDA ITEM TAKEN OUT OF ORDER

ADJOURN – 11:03 a.m.

JOIN THE BOARD OF COMMISSIONERS' MEETINGS

The board is committed to community participation and provides opportunity for public attendance during meetings via in-person and teleconference.

- **Community Update Meetings: Tuesdays at 8:00 a.m.**
 - Teleconference: Dial 971-254-3149, Conference ID: 736 023 979#
 - Radio: KTIL-FM at 95.9

- **Board Meetings: Wednesdays at 9:00 a.m.**
 - County Courthouse: Nehalem Room, 201 Laurel Avenue, Tillamook
 - Teleconference: Dial 971-254-3149, Conference ID: 736 023 979#
 - Live Video: tctvonline.com

MEETING INFORMATION AND RULES

- Matters for discussion and consideration by the board shall be placed on an agenda prepared by the staff and approved by the board chair. Any commissioner may request items on the agenda.
- Public hearings are formal proceedings publicized through a special public notice issued to media and others. Public hearings held by the board are to provide the board an opportunity to hear from the public about a specific topic. Public hearings are therefore different regarding audience participation at board meetings.
- Commissioners shall be addressed by their title followed by their last name.
- Commissioners shall obtain approval from the chair before speaking or asking questions of staff, presenters, and public. As a courtesy, the chair shall allow an opportunity, by the commissioner who has the floor, to ask immediate follow-up questions.
- A majority of the board shall constitute a quorum and be necessary for the transaction of business.
- All board meeting notices are publicized in accordance with public meeting laws.
- All board meetings shall commence with the Pledge of Allegiance.
- The chair will utilize the gavel as needed to maintain order, commence and adjourn meetings, and signal approval of motions.
- The board reserves the right to recess to executive session as may be required at any time during these meetings, pursuant to ORS 192.660(1).
- The courthouse is accessible to persons with disabilities. If special accommodations are needed for persons with hearing visual, or manual impairments who wish to participate in the meeting, contact (503) 842-3403 at least 24 hours prior to the meeting so that the appropriate communications assistance can be arranged.

PUBLIC COMMENT

- Providing public comment is an opportunity for constituents to be heard and express their views to the board.
- The board allows public comment at board meetings during the public comment period designated on the agenda.
- Comments are limited to one per person and per agenda item.
- Comments must be related to the agenda item(s) previously registered to comment on.
- The allotted time for public comments is two minutes per person; this time may not be allotted to another speaker. The chair may, at their sole discretion, further limit or expand the amount of time.
- The public comment opportunity is not a discussion, debate, or dialogue between the speaker and the board, which may or may not respond.
- Members of the public do not have the right to disrupt the meeting; the board may prohibit demonstrations such as booing, hissing, or clapping.
- Remarks containing hate speech, profanity, obscenity, name calling or personal attacks, defamation to a person, people, or organization, or other remarks the board deems inappropriate will not be allowed.
- Failure to follow all rules and procedures may result in not being able to provide public comment and/or being removed from the meeting.

In-Person Procedures

- Sign in before the meeting begins and indicate your desire to provide public comment and which agenda item you would like to comment on. When your name is announced, please come forward to the table placed in front of the dais and for the record, first identify yourself, area of residence, and organization represented, if any.

Virtual Procedures

- Register by sending an email to publiccomments@co.tillamook.or.us by 12:00 p.m. on the Tuesday prior to the board meeting. The email must contain all of the following information:
 - Full name, area of residence, and phone number.
 - Agenda item(s), you wish to comment on.
- Once registered, and before the start of the meeting, board staff will email a Microsoft Teams meeting link.
- When logged in to the meeting you must remain muted with your camera off until your name is called, then you unmute and turn on your camera.
- The chair may require those providing virtual comment to turn on their camera while providing comment or testimony.

Written Procedures

- Written comments may be mailed to 201 Laurel Avenue, Tillamook, Oregon 97141 or emailed to: publiccomments@co.tillamook.or.us.
- Written comments received by 12:00 p.m. on the Tuesday prior to the board meeting will be distributed to the board and posted online. All written comments submitted become part of the permanent public meeting record.

AGENDAS

COMMUNITY UPDATE

CALL TO ORDER: Tuesday, July 12, 2022 8:00 a.m.

1. Welcome and Board of Commissioners' Roll Call
2. Adventist Health Tillamook
3. Coastal Caucus
4. Tillamook County Community Health Center
5. Nehalem Bay Health Center & Pharmacy
6. Tillamook Family Counseling Center
7. Sheriff's Office
8. Emergency Management
9. Board of Commissioners
10. Cities
 - a. Manzanita
 - b. Nehalem
 - c. Wheeler
 - d. Rockaway Beach
 - e. Garibaldi
 - f. Bay City
 - g. Tillamook
 - h. South County

ADJOURN

MEETING

CALL TO ORDER: Wednesday, July 13, 2022 9:00 a.m.

1. Welcome & Request to Sign Guest List
2. Pledge of Allegiance
3. Public Comment
4. Non-Agenda Items

LEGISLATIVE – ADMINISTRATIVE

5. Discussion and Consideration of Change Order #1 to Contract for Goods with Heartwood Biomass for the Firewood Project/Melissa Rondeau, Office Manager, Parks Department.
6. Discussion and Consideration of a Contract for Services with Tillamook Family Counseling Center, Inc. for the Fulfillment of Health Systems Division/Oregon Health Authority 2022 Intergovernmental Agreement for the Financing of Community Mental Health, Substance Use Disorders, and Problem Gambling Services/William Sargent, County Counsel
7. Discussion and Consideration of a Title III Grant Agreement with the Oregon Department of Forestry for the Tillamook County Yard Debris Program/Rachel Hagerty, Chief of Staff
8. Discussion and Consideration of Grant Agreement #2019-P7 with the Pacific City–Nestucca Valley Chamber of Commerce for Transient Lodging Tax (TLT) Tourism-Related Promotions/Rachel Hagerty, Chief of Staff

10:00 a.m.

9. **Second Public Hearing:** Concerning Amendment #1 to Ordinance #61 Prohibiting Possession of Alcoholic Beverages Within the Sandlake Recreational Area/William Sargent, County Counsel
10. Consideration of Amendment #1 to Ordinance #61 Prohibiting Possession of Alcoholic Beverages Within the Sandlake Recreational Area/William Sargent, County Counsel
11. Board Concerns – Non-Agenda Items
12. Board Announcements

ADJOURN

OTHER MEETINGS AND ANNOUNCEMENTS

The Board of Commissioners will attend public hearings on **Wednesday, July 13, 2022** at **1:00 p.m.**, and **Thursday, July 28, 2022** at **2:00 p.m.** to consider the petition for the incorporation of the Unincorporated Community of Oceanside and the creation of the City of Oceanside: #851-22-000224-PLNG. Petition includes a new tax rate for properties within the proposed city limits of the City of Oceanside at 80 cents (\$ 0.80) per one-

thousand dollars (\$1,000). Properties proposed to be included in the city limits for the City of Oceanside include all properties currently within the Oceanside Unincorporated Community Boundary. The hearings will be held at the ATV Conference Room, Tillamook County Sheriff's Correctional Facility, 5995 Long Prairie Road, Tillamook, Oregon. The teleconference number is **1-971-254-3149, Conference ID: 887 242 77#**.

The Commissioners will hold an executive session on **Thursday, July 14** at **11:00 a.m.** pursuant to ORS 192.660(2)(i) to conduct a performance evaluation. The executive session will be held in the Nehalem Room, in the Tillamook County Courthouse, 201 Laurel Avenue, Tillamook, Oregon. The executive session is not open to the public.

There is **NO** Commissioners' Board meeting or Board Briefing scheduled for **Wednesday, July 20, 2022**.

TILLAMOOK COUNTY BOARD OF COMMISSIONERS' MEETING

WEDNESDAY, July 13, 2022

PUBLIC COMMENT SIGN-IN SHEET

PLEASE PRINT

NAME	AREA OF RESIDENCE	NAME OF ORGANIZATION (IF ANY)	AGENDA ITEM
no sign-ins			



WORK SESSION

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Session Date: July 12, 2022 **Length of Time Requested:** 30
Department(s): County Counsel, Health and Human Services, Land Use & Transportation
Presented by: Tom Carr, County Counsel
Stephen Roberts, Director of Land Use & Transportation
Mjere Simantel, Interim Director of Health & Human Services

Title of Topic: **Ballot Measure 109 - Supervised Use of Psilocybin - Local Options**

ATTACHMENTS:

Memo to Board re Local Implementation of Ballot Measure 109
M109-BCC-Presentation
Ordinance 888 - Filed
Resolution and Order

PURPOSE & DESIRED OUTCOME:

- Review Ballot Measure 109 relating to psilocybin, now codified as ORS chapter 475A
- Review local options provided by Ballot Measure 109
- Review the current status of Ballot Measure 109 program implementation by the State
- Seek Board policy direction with regard to those local options

POLICY QUESTIONS FOR THE BOARD TO CONSIDER:

In light of the current status of Ballot Measure 109 program implementation by the State, how should staff proceed?

- Public hearings for a potential local ballot measure for referral to Washington County voters this November regarding whether to temporarily opt out of allowing psilocybin businesses?
- Other?

SUMMARY OF TOPIC:

The attached staff briefing memo dated June 29, 2022:

1. Provides an overview of the policy context for psilocybin services;
2. Introduces Measure 109 (M 109), which legalizes psilocybin and psilocybin businesses under state law;
3. Discusses M 109 requirements and rulemaking being undertaken by the Oregon Health Authority (OHA); and
4. Discusses local options for Board consideration, including a possible opt out ballot measure until state and local regulations for psilocybin services can be adopted.



WASHINGTON COUNTY

Inter-Department Correspondence

DATE: June 29, 2022

TO: Washington County Board of Commissioners

FROM: Tom Carr, County Counsel
Stephen Roberts, Director of Land Use & Transportation
Mjere Simantel, Interim Director of Health and Human Services

SUBJECT: Local Implementation of Ballot Measure 109 (2020) – Oregon Psilocybin Services

The purpose of this memo is to:

1. Provide an overview of the policy context for psilocybin services;
2. Introduce Measure 109 (M109), which will legalize licensed and regulated manufacturing, transportation, delivery, sale and purchase of psilocybin products and the provision of psilocybin services in Oregon;
3. Discuss M109 requirements and rulemaking being undertaken by the Oregon Health Authority (OHA); and
4. Discuss local options for Board consideration, including an opt out election until state and local regulations for psilocybin services can be adopted.

This memo does not promote or oppose the use of psilocybin¹.

I. OVERVIEW

A. *Psilocybin Services*

Oregon has the one of the highest prevalence of mental illness among adults in the nation. A key purpose of recent actions to legalize psilocybin services in Oregon is to expand therapeutic options for mental illness among adults, and to improve the physical, mental and social well-being of all Oregonians.

Psilocybin is a psychedelic substance used for medicinal and religious purposes throughout history. Preliminary evidence from small clinical studies indicates that psilocybin may be effective and safe for the treatment of some mental health conditions in controlled settings and among select participants. The U.S. Food and Drug Administration (FDA) has designated psilocybin as a Breakthrough Therapy to expedite further research since preliminary clinical evidence indicates that psilocybin may

¹ Since one of us is an active member of the Oregon State Bar (OSB), and the conduct permitted by M109 in relation to the manufacture, distribution, and possession of psilocybin is still a federal crime and OSB has not yet amended its disciplinary rules regarding advice that can be rendered by a lawyer in this space - as was done for cannabis, we cannot advise on this in any way.

demonstrate substantial improvement over available therapies for treatment-resistant depression. However, psilocybin is not FDA approved and is still considered an experimental drug for the treatment of mental health conditions.

Despite its potential benefits, the use, sale and possession of psilocybin products remains illegal in the U.S. and much of the world. While some U.S. cities recently decriminalized psilocybin, Oregon is the first state to legalize its use statewide and remains the only state to have done so.

B. Measure 109 (M109)

In November 2020, Oregon voters approved M109, the Oregon Psilocybin Services Act. Statewide, M109 passed 56% to 44%. In Washington County it passed 59% to 41% – a significantly wider margin.

The Measure is now codified in Oregon Revised Statutes (ORS) Chapter 475A. M109 was modeled on Oregon’s recreational marijuana laws². As a result, much of M109 may be familiar – but there are key differences. The following are some important points to note about M109 that may impact the local options the Board may wish to consider:

1. **Psychedelic:** “Psilocybin” includes “psilocin.” ORS 475A.220(10). When consumed, the human body metabolizes psilocybin into psilocin, the active psychedelic.
2. **Rules:** Prior to M109 taking effect, the Measure gave OHA two years to adopt necessary administrative rules. ORS 475A.200(8)(b). Acceptance of applications for various licenses under M109 begins Jan. 2, 2023. While the state is about a year and a half into the program development period, state rulemaking regarding psilocybin businesses has not begun.
3. **Advisory board:** The Measure also created the Psilocybin Advisory Board (PAB) to advise OHA. ORS 475A.225 *et seq.* PAB has been meeting regularly since March 2021.
4. **Federal implications:** Psilocybin is a Schedule 1 drug under the federal Controlled Substance Act and is therefore illegal to use, sell or purchase under federal law. As with Measure 91, M109 attempts to reduce conflict with federal law and tries to immunize state actors. ORS 475A.215; ORS 475A.558. However, unlike Measure 91, there is no policy memo³ or other indication from the U.S. Department of Justice (DOJ) regarding what the federal government may or may not prosecute under federal law. PAB has authority under M109 to ask for guidance from DOJ. ORS 475A.230(11). To our knowledge, PAB has not asked DOJ for a statement on whether the federal government may or may not prosecute.

² Codified in ORS Chapter 475C, which was in turn based on Ballot Measure 91 passed in 2014, which was based on the Oregon Liquor Control Act of 1933, as amended, codified in ORS Chapter 471.

³ Commonly known for a time as the “Cole Memo” regarding cannabis.

5. **Tracking:** Production and sale of psilocybin products will be tracked by the state to ensure no leakage from the system, using the existing tracking system operated by the Oregon Liquor and Cannabis Commission (OLCC). ORS 475A.400.
6. **Use:** Products will have to be purchased and consumed only at an OHA licensed Psilocybin Service Center (PSC), at which an OHA licensed Facilitator will supervise the experience and determine when it is complete. Psilocybin use is limited to adults 21 and older. There will be no retail sales of psilocybin products for use beyond the licensed premises where it is purchased. ORS 475A.498(1). ORS 475A.498(2). ORS 475A.495.
7. **Taxation:**
 - State: There is a 15% state tax on the sale of psilocybin products. ORS 475A.658 *et seq.*
 - Local: Unlike marijuana, local taxes on psilocybin products and services are prohibited. ORS 475A.534.
8. **Crime exemption:** M109 exempts conduct in full compliance with the Measure from state criminal liability. ORS 475A.622. State law does not exempt conduct from federal criminal law enforcement.
9. **Local preemption:** Local ordinances are preempted to the extent they are inconsistent with M109. ORS 475A.524.
10. **Local licenses:** Local licensing of psilocybin related sales and/or services is prohibited. ORS 475A.527.
11. **Hotline:** M109 requires a hotline to verify an OHA license (see below). ORS 475A.582.
12. **License types and requirements:**
 - Psilocybin Service Facilitator (*personal*). ORS 475A.325 *et seq.*
 - Not considered a medical professional.
 - 21 years of age or older. ORS 475A.325(1)(b).
 - Oregon resident for two or more years. ORS 475A.325(1)(c).
 - High school diploma or equivalent. ORS 475A.325(1)(d).
 - Complete OHA certified training program. ORS 475A.325(1)(e).
 - Pass OHA approved exam. ORS 475A.325(1)(f)/ORS 475A.330.
 - Psilocybin Manufacturer (*premises*). ORS 475A.290 *et seq.*
 - Various endorsements for manufacturing psilocybin products. ORS 475A.295. Like cannabis, various endorsements will be available to supplement a basic manufacturer license to allow for things like secondary processing and ultimate product manufacture and packaging. These endorsements are important to ensuring public health and safety.

- Must not be in a primary residence. ORS 475A.220(8)(b).
- No outdoor manufacturing or processing of psilocybin products. ORS 475A.430.
- OHA to establish other requirements by rule. ORS 475A.290(2)(d).
- OHA to establish inventory limits. ORS 475A.300.
- Must obtain a Land Use Compatibility Statement (LUCS) from local government. ORS 475A.270.

Psilocybin Service Center (PSC) (premises). ORS 475A.305 *et seq.*

- An establishment where Psilocybin administration sessions are held and other psilocybin services may be provided. ORS 475A.220(13)(a). ORS 475A.220(13)(b).
- Subject to OHA regulation. ORS 475A.305(1)(a)/475A.340.
- Not a health care facility subject to licensure under ORS chapter 441. ORS 475.305(1)(b).
- Must not be:
 - In a primary residence. ORS 475A.220(8)(b).
 - In city⁴ area zoned exclusively for residential use. ORS 475A.305(2)(d).
 - Within 1,000 feet of an elementary/secondary school. ORS 475A.305(2)(e).
 - Reduction to 500 feet if a physical/geographic barrier exists. ORS 475A.310.
 - Exception for schools located after PSC license is issued. ORS 475A.315.
 - Must obtain a LUCS from local government. ORS 475A.270.

Psilocybin Testing Laboratory (premises). ORS 475A.590 *et seq.*

- Must be accredited by the authority. ORS 475A.594, 475A.606, and 438.605 to 438.620.
- OHA establishes other requirements by rule. ORS 475A.594.

13. Psilocybin manufacturing:

- Psilocybin-producing fungi is considered a crop.
- Exceptions:
 - No new dwellings in conjunction with the new farm use. ORS 475A.570(2)(a).
 - No farm stands. ORS 475A.570(2)(b).
 - No related commercial activities under ORS 215.213(2)(c) or 215.283(2)(a). ORS 475A.570(2)(c).
- A PSC may be located on a premises in conjunction with a psilocybin crop. ORS 475A.570(3).
- County may allow the manufacture of psilocybin as a farm use on land designated farm or forest use in the same way it is allowed for designated resource land. ORS 475A.570(4).

⁴ ORS Chapter 475A does not prohibit PSCs in areas within the limits of an *unincorporated county* that is designated exclusively for residential use.

14. Local regulations:

- Local time, place and manner regulations are allowed for both PSCs and Manufacturers. ORS 475A.530. Must not require more than 1,000 feet of separation between PSCs. ORS 475A.530(2).

15. Local opt out:

- Unlike marijuana, all cities and counties in Oregon are subject to (opted *in* to) M109 unless their voters opt *out* to all or portions of M109 in a statewide general election. ORS 475A.718.
- Repeal of an opt out ordinance does not require an election. ORS 475A.538.

C. Rulemaking

M109 defers many issues to OHA rulemaking, similar to how Measure 91 deferred many issues to OLCC rulemaking. Among the issues most critical to local governments are rules:

- Relating to the use of psilocybin at a PSC by a client, including issues like whether group sessions will be allowed, whether clients may be outdoors in controlled, on-premises areas while under the influence, when a session is deemed complete and whether there are any transportation requirements post-session.
- Regulating the time, place and manner of PSC operations.
- Regulating the time, place and manner of Manufacturer operations, including various endorsements.

To date, OHA has only adopted rules relating to testing and training, since these are functionally prerequisites to the adoption of other rules necessary to enable the licensing of Facilitators and Testing Labs.

OHA does not anticipate beginning rulemaking relating to psilocybin businesses until September of this year. It is likely those rules will be in place only shortly before M109 goes into effect Jan. 2, 2023, and applicants for psilocybin services begin to apply for various licenses.

II. ANALYSIS

The Board has several options to consider for how to respond to the passage of M109 and upcoming implementation. These include:

A. *Establishment of Local Land Use Regulations*

Depending on what is allowed or disallowed by OHA, the Board may want to consider adopting local regulations for the purpose of ensuring the appropriate siting of various psilocybin businesses and/or time, place, and manner regulations to supplement the OHA rules regulating the operation of psilocybin businesses. PSCs, for example, might look like a destination resort, a clinic, something else or all of the above. Since state rules

regulating psilocybin businesses will not be in place until just before the state begins accepting applications, it is difficult to determine how these new businesses will fit – or not – within current local land use regulations, and what gaps might remain in the OHA rules that should be addressed by local time, place, and manner regulations.

In the absence of local land use regulations specific to this use, the County would have to determine if there is a similar use already allowed by code. If so, the use would be allowed in the same districts and under the same standards as that similar use. In the absence of new land use regulations specific to psilocybin uses, the County would be required to determine that the uses are similar to another use(s) already allowed by the CDC...., new land use regulations specific to psilocybin businesses may need to be established. The County has not yet made this determination, and it is uncertain whether psilocybin businesses, especially PSCs, are like another existing land use. For this reason, it may be appropriate to develop land use regulations specific to psilocybin uses, similar to what was done by the County for marijuana uses. Psilocybin related work is not in the FY 2021-22 Long Range Planning Work Program and was not anticipated when the last Work Program was developed.

B. Consideration of an Opt Out Election

As noted earlier, state statute allows local jurisdictions to determine whether to refer a ballot measure to their voters to opt out of psilocybin Manufacturers and PSCs. We anticipate that some Oregon cities and counties may consider this option. Any such opt out by Washington County voters would only impact the unincorporated area of the county, as each city in the County can make the decision for itself.

Permanent Opt Out: The Board may put forward a ballot measure to permanently opt out of psilocybin services. Given the level of voter support in Washington County for M109, a complete opt out is not recommended.

Temporary Opt Out: We also anticipate that some Oregon cities and counties may consider asking the voters for a temporary opt out because of the delay of OHA rules and the resulting regulatory uncertainty. We are aware of at least one large city in Washington County, namely Beaverton, that is considering a ballot measure to opt out of M109, possibly with a two-year sunset clause or promise to repeal the opt out (which can be done at any time) once state rulemaking is complete and local regulations can be developed and adopted.

Since local land use regulations will not be in place before the new requirements go into effect and state rulemaking is not expected to be completed until just before that date, County staff believes there is some merit to considering a temporary opt out. This would allow time for rulemaking and local regulations to be developed, like the process the County undertook for marijuana regulations.

Timeline: Should the Board wish to consider referring a temporary or permanent opt out to voters, the following dates are significant:

- July 19, 2022: - Introduction and First Reading of Ordinance 888
- July 26, 2022: - Second Reading and Public Hearing on Ordinance 888
- August 2, 2022: - Public Hearing on any engrossed ordinance, if needed
- Possible enactment of Ordinance 888
- Possible adoption of Resolution and Order placing
Ordinance 888 on the November 8, 2022, ballot
- November 8, 2022: - Qualifying general election - and the last statewide
general election before the state psilocybin services
program goes into effect



Measure 109

Supervised Use of Psilocybin

Local Implementation

| July 12, 2022

Rob Bovett
Senior Assistant County Counsel
Washington County

www.co.washington.or.us



Disclaimer

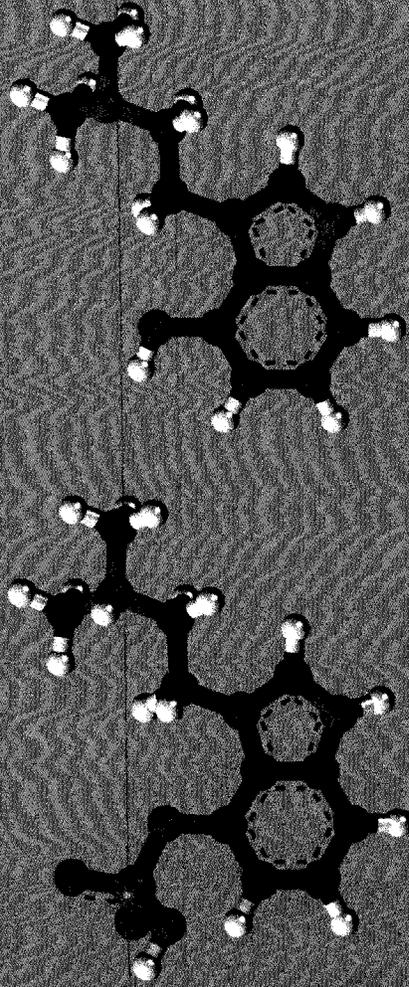
- We're not here to promote or oppose the use of psilocybin or psilocin
 - Indeed, since the conduct permitted by Measure 109 in relation to the manufacture, distribution, and possession of psilocybin and psilocin is still a federal crime, and the Oregon State Bar has not yet amended their disciplinary rules regarding advice that can be rendered by a lawyer - as was done for cannabis - we can't really advise on that anyway
- The purpose of this presentation is merely to review the core provisions of Ballot Measure 109 that impact and relate to options for Washington County

→ Ballot Measure 109

- Approved by Oregon Voters on November 3, 2020 - 56% to 44%
 - Authorizes OHA to create a program to license the manufacture of psilocybin products for supervised use by persons 21 and older in licensed psilocybin service centers
 - Now codified in ORS Chapter 475A.
- Crafting of the measure based on Oregon recreational marijuana laws
 - ORS Chapter 475C, which was based on Measure 91, which was based on the Liquor Control Act of 1933, as amended, ORS Chapter 471.
 - As a result, many things will seem familiar
 - But there are some important differences

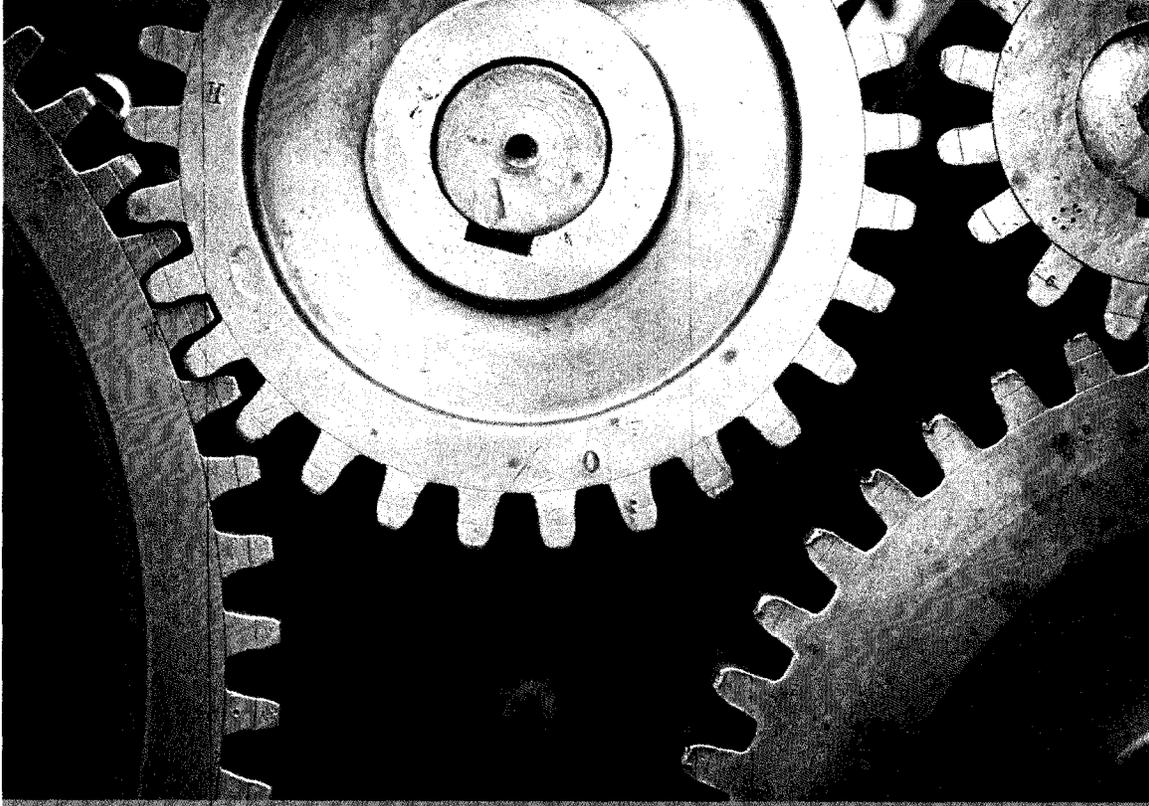
Measure 109 - Basics

- **Name**
 - "Oregon Psilocybin Services Act" - ORS 475A.210
- **Psilocybin**
 - Includes psilocin (the active psychedelic) - ORS 475A.220(10)



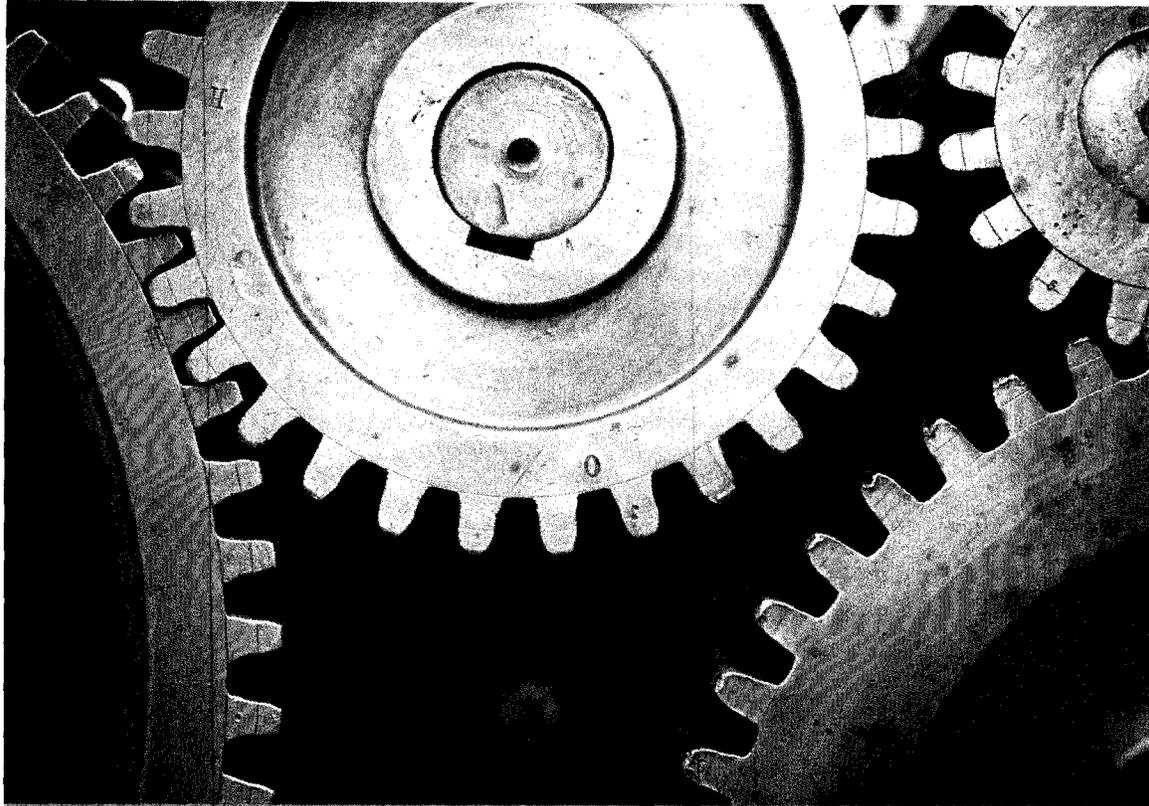
Measure 109 - Basics

- **Rules**
 - OHA given 2 years to adopt rules - ORS 475A.200(8)(b)
- **Board**
 - Psilocybin Advisory Board (PAB) - ORS 475A.225 *et seq*
- **Federal**
 - Attempt to reduce conflict with federal law - ORS 475A.215
 - Attempt to immunize state actors - ORS 475A.558
 - No 'Cole Memo' but PAB can ask - ORS 475A.230(11)
- **Tracking**
 - Can use OLCC CTS (METRC) if OHA desires - ORS 475A.400
- **Taxation**
 - 15% state tax on psilocybin products - ORS 475A.658 *et seq*
 - Local taxes prohibited - ORS 475A.534



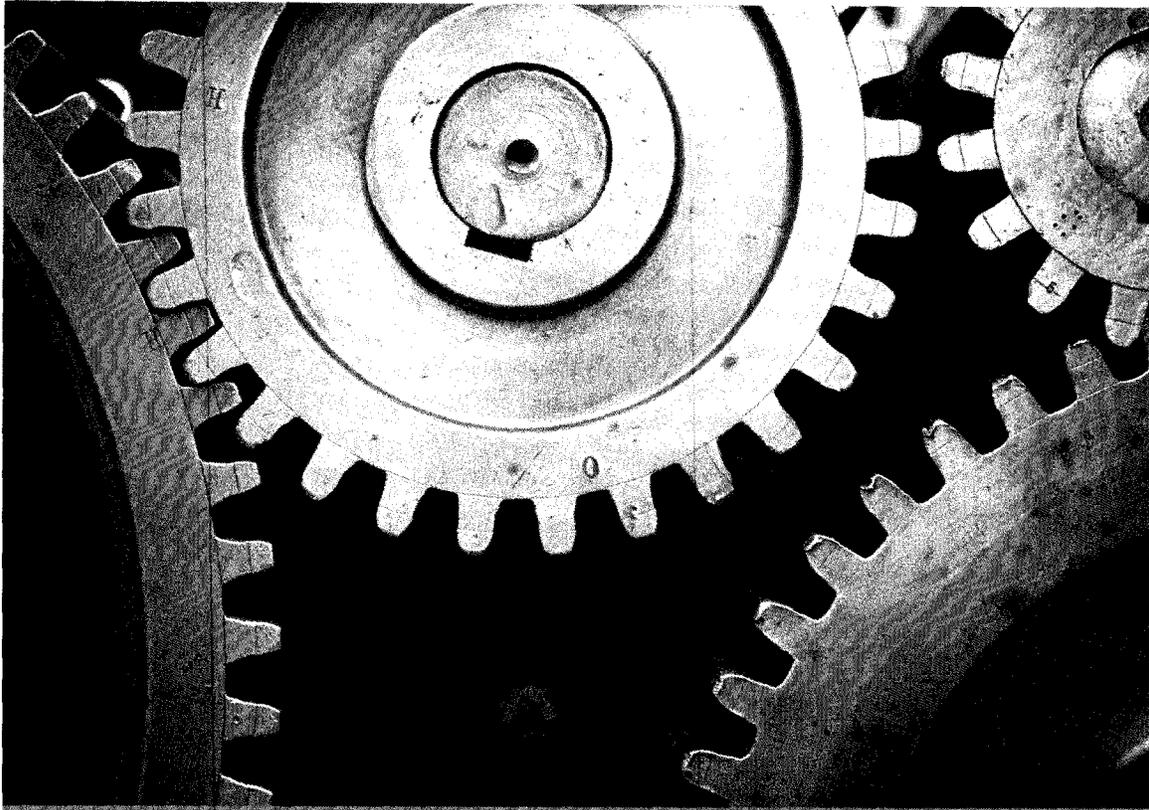
Measure 109 - Basics

- **Crimes**
 - Exemption from state criminal liability - ORS 475A.622
- **Preemption**
 - Inconsistency preemption of locals - ORS 475A.524
- **Licenses**
 - No local licensing - ORS 475A.527
- **Use**
 - Only at Psilocybin Service Center - ORS 475A.498(1)
 - Only under facilitator supervision - ORS 475A.498(2)
- **Verification**
 - Hotline for OHA licensee verification - ORS 475A.582



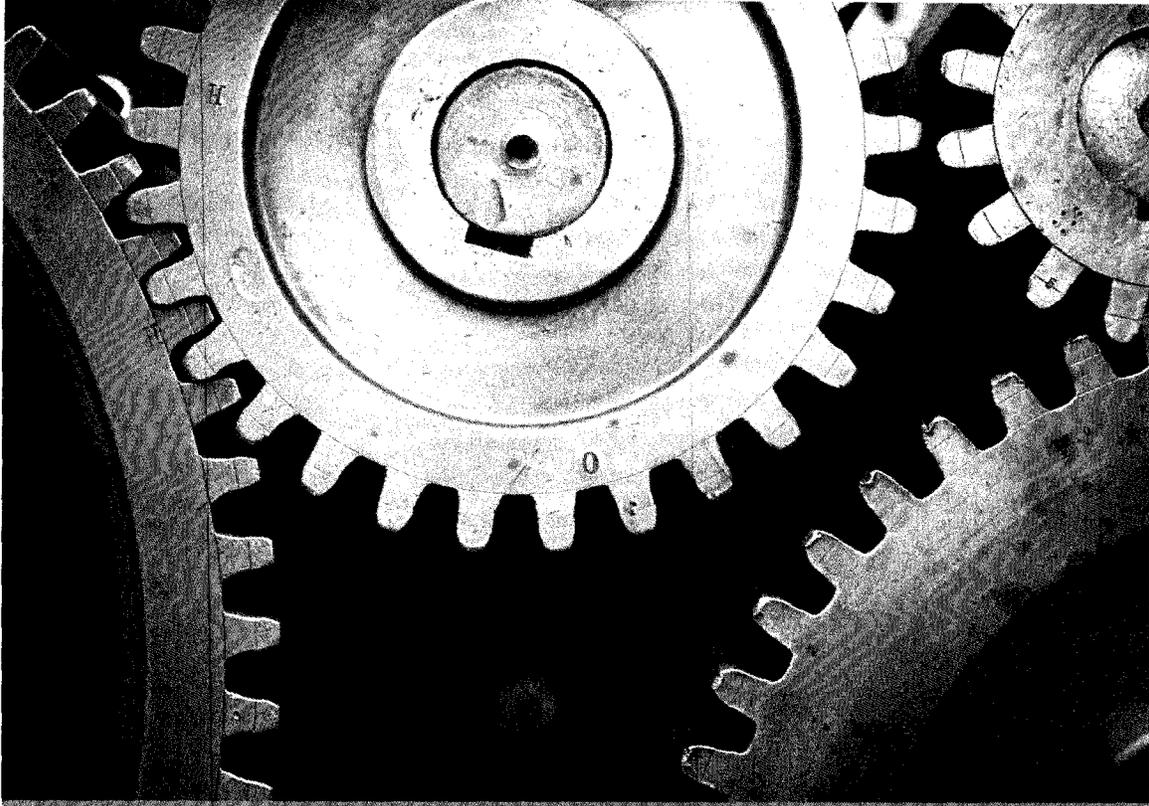
Measure 109 - Licenses

- **Licensees**
 - **1. Psilocybin Service Facilitator** - ORS 475A.325 *et seq*
 - 21 years of age or older - ORS 475A.325(1)(b)
 - Oregon resident for two or more years - ORS 475A.325(1)(c)
 - High school diploma or equivalent - ORS 475A.325(1)(d)
 - Complete OHA certified training program - ORS 475A.325(1)(e)
 - Pass OHA approved exam - ORS 475A.325(1)(f)/ORS 475A.330
 - **2. Psilocybin Manufacturer (premises)** - 475A.290 *et seq*
 - Various endorsements for manufacturing products - ORS 475A.295
 - Can't be in a primary residence - ORS 475A.220(8)(b)
 - No manufacturing products outdoors - ORS 475A.430
 - OHA establishes other requirements by rule - ORS 475A.290(2)(d)
 - OHA establishes inventory limits - ORS 475A.300
 - Must get a LUCS - ORS 475A.270



Measure 109 - PSCs

- Licensees
 - **3. Psilocybin Service Center (premises)** - ORS 475A.305 et seq
 - Establishment:
 - Where administration sessions are held - ORS 475A.220(13)(a)
 - Other psilocybin services may be provided - ORS 475A.220(13)(b)
 - Subject to OHA regulation - ORS 475A.305(1)(a)/475A.340
 - Not a health care facility under ORS chapter 441 - ORS 475.305(1)(b)
 - Can't be
 - In a primary residence - ORS 475A.220(8)(b)
 - In city area zoned exclusively for residential use - ORS 475A.305(2)(d)
 - Within 1,000 feet of elementary/secondary school - ORS 475A.305(2)(e)
 - Reduction to 500 feet if physical/geographic barrier - ORS 475A.310
 - Exception for later located school - ORS 475A.315
 - Must get a LUCS - ORS 475A.270





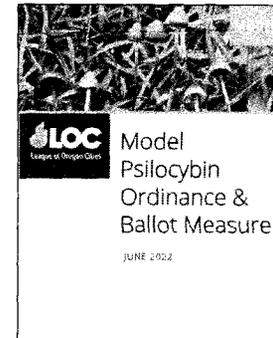
Local Options – Land Use / TPM / Opt Out

- **Manufacturers**
 - **Psilocybin-producing fungi as crop**
 - For purposes of “farm use” as defined in ORS 215.203 - ORS 475A.570(1)(a)
 - For purposes of a “farm” and “farming practice,” both as defined in ORS 30.930 - ORS 475A.570(1)(b)
 - A product of farm use as described in ORS 308A.062 - ORS 475A.570(1)(c)
 - The product of an agricultural activity for purposes of ORS 568.909 - ORS 475A.570(1)(c)
 - Exceptions
 - No new dwellings - ORS 475A.570(2)(a)
 - No farm stands - ORS 475A.570(2)(b)
 - No related commercial activities under ORS 215.213(2)(c) or 215.283(2)(a) - ORS 475A.570(2)(c)
 - Except that a PSC may be carried on in conjunction with a crop - ORS 475A.570(3)
 - **A county may allow the manufacture as farm use** - ORS 475A.570(4)



Local Options – Land Use and TPM

- **TPMs**
 - Allowed for both Manufacturers and PSCs - ORS 475A.530
 - But can't require more separation between PSCs than 1,000 feet - ORS 475A.530(2)
- **Direction Needed from the Board**
 - OHA given two years to develop rules regulating these two new types of businesses
 - But OHA will not begin that rulemaking until this September (month 21 of 24)
 - This leaves us little to no time to process land use code amendments and/or TPMs you might want to consider adopting in time for licensing by OHA in January
 - This may cause more cities and counties to submit opt out ballot measures to their citizens for November as a result – temporary or otherwise – LOC has generated forms, as was done for cannabis following the passage of Measure 91





Local Options – Opt Out

- **All cities and counties are opt in unless their voters opt out at a general election** - ORS 475A.718
 - November 8, 2022, is a qualifying general election - ORS 254.056
 - September 8, 2022, is the filing deadline for notice of measure election, ballot title, and any required explanatory statement - ORS 254.095; ORS 254.103; OAR 165-022-0010
- **Repeal of an opt out ordinance does not require an election** - ORS 475A.538

END NOTES

Some possible links to explore (not endorsed – just for review)

- [Ballot Measure 109 as codified in ORS Chapter 475A](#) (also in the handout)
- [Oregon Health Authority - Psilocybin Program](#)
- [List of some psilocybin resorts in other countries so you can see what those are about](#) (from an advocacy group)

Questions?

Comments?



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rob_bovett@co.washington.or.us

Office of County Counsel
www.co.washington.or.us

FILED

JUL 05 2022

**Washington County
County Clerk**

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

ORDINANCE 888

An Ordinance Declaring a Temporary Ban on
Certain Psilocybin Businesses and Declaring an
Emergency

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

WHEREAS, ORS 475A.235 provides that the Oregon Health Authority will regulate the manufacturing, transportation, delivery, sale and purchase of psilocybin products and the provision of psilocybin services in the state; and

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

WHEREAS, as of today, the Oregon Health Authority has not completed the rulemaking process for implementing the state's psilocybin regulatory program, and Washington County is uncertain how the manufacture, delivery and administration of psilocybin at licensed psilocybin facilities will operate within the county; and

WHEREAS, ORS 475A.718 provides that a county governing body may adopt an ordinance to be referred to the electors of the county prohibiting the establishment of state licensed psilocybin product manufacturers and/or psilocybin service centers in the area

1 subject to the jurisdiction of the county; and

2 WHEREAS, the Washington County Board of Commissioners believes that prohibiting
3 psilocybin product manufacturers and psilocybin service centers within the unincorporated
4 area of the county, in order to enable further time for the adoption of the state's psilocybin
5 licensing and regulatory program, and to allow the county to adopt reasonable time, place,
6 and manner regulations on the operation of psilocybin facilities, is in the best interest of the
7 health, safety and welfare of the citizens of Washington County; and

8 WHEREAS, the Board seeks to refer to the voters of Washington County the question
9 of whether to establish a two-year temporary ban on state-licensed psilocybin product
10 manufacturers and psilocybin service centers within unincorporated Washington County;
11 now therefore, The People of Washington County, Oregon, ordain:

12 **SECTION 1 – Temporary Ban**

13 The establishment of psilocybin product manufacturers licensed under ORS
14 275A.290 and psilocybin service centers licensed under ORS 475A.305 is prohibited in the
15 unincorporated area of Washington County.

16 **SECTION 2 – Referral to Voters**

17 This ordinance is referred to the electors of Washington County at the next
18 statewide general election on November 8, 2022.

19 **SECTION 3 - Effective Date**

20 Being necessary in order to protect the public health, safety and welfare of

1 Washington County residents, an emergency is declared, and this ordinance shall take effect
2 immediately upon enactment.

3 **SECTION 4.**

4 The Board finds and takes public notice that it is in receipt of all matters and
5 information necessary to consider this Ordinance in an adequate manner, and that this
6 Ordinance complies with the requirements set forth in the Washington County Charter and
7 the Washington County Code.

8 **SECTION 5.**

9 Nothing herein is intended, nor shall it be construed, as amending, replacing or
10 otherwise being in conflict with any other ordinances of Washington County unless
11 expressly so stated.

12 **SECTION 6.**

13 If any section, clause, phrase, or word of this Ordinance, including the exhibit, shall
14 for any reason be held invalid, unconstitutional, or unenforceable by a body of competent
15 jurisdiction, the remainder of this Ordinance or its application and all portions not so
16 stricken shall not be affected thereby and shall remain in full force and effect.

17 **SECTION 7.**

18 The Office of County Counsel is authorized to codify this Ordinance and to make any
19 technical changes, not affecting its substance, as are reasonably necessary to accomplish
20 codification.

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SECTION 8 - Sunset

This ordinance is repealed on December 31, 2024, unless sooner repealed in accordance with ORS 475A.538.

ENACTED this _____ day of _____, 2022, being the _____ reading and _____ public hearing before the Board of County Commissioners of Washington County, Oregon.

BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

CHAIR

RECORDING SECRETARY

READING

PUBLIC HEARING

First	_____	_____
Second	_____	_____
Third	_____	_____
Fourth	_____	_____

VOTE: Aye: _____ Nay: _____

Recording Secretary: _____ Date: _____

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS

2 FOR WASHINGTON COUNTY, OREGON

3 In the Matter of Referring to the Voters of) **RESOLUTION AND ORDER**
Washington County a Measure Proposing a)
4 Temporary Ban on Certain Psilocybin-Related) No. _____
Businesses and Adopting a Ballot Title)
5 and Explanatory Statement)

6 WHEREAS, Ballot Measure 109, known as the Oregon Psilocybin Services Act, which
7 passed in November 2020, requires the Oregon Health Authority (“OHA”) to begin accepting
8 applications for licenses to manufacture, deliver and administer psilocybin on January 2, 2023;
9 and

10 WHEREAS, Ballot Measure 109 also allows local governments to prohibit psilocybin-
11 related businesses by referring an ordinance to the voters at a statewide general election; and

12 WHEREAS, OHA has initiated its rulemaking process; however, the regulatory program will
13 not likely be complete by September 8, 2022, which is the deadline for local governments to refer
14 a measure for the November ballot; and

15 WHEREAS, following a public hearing on July 26, 2022, and further consideration on
16 August 2, 2022, the Washington County Board of Commissioners voted to enact and refer
17 Ordinance 888 to the voters of Washington County, which temporarily prohibits certain
18 psilocybin-related businesses in the unincorporated area of Washington County, in order to
19 enable the adoption of the state’s psilocybin regulatory program and allow the county to
20

1 consider possible code amendments and reasonable time, place and manner regulations; now,
2 therefore, it is hereby

3 **RESOLVED AND ORDERED** that:

4 **SECTION 1.** The Board of Commissioners of Washington County refers to the November
5 8, 2022, election a ballot measure proposing a two-year ban on certain psilocybin-related
6 businesses in the unincorporated area of Washington County.

7 **SECTION 2.** The Board adopts the following ballot title and explanatory statement for this
8 referral:

9 **CAPTION**

10 Temporary ban of certain psilocybin businesses in unincorporated Washington County

11 **QUESTION**

12 Shall psilocybin manufacturers and service centers be temporarily banned
13 in unincorporated Washington County for up to 2 years?

14 **SUMMARY**

15 Psilocybin is a psychedelic drug found in certain mushrooms. State law allows for the
16 licensed manufacturing and supervised use of psilocybin in licensed service centers. State law
17 provides that a city or county may adopt an ordinance to be referred to voters to prohibit the
18 establishment of licensed psilocybin product manufacturers and/or psilocybin service centers.

19 The Washington County Board of Commissioners adopted an ordinance to refer to the voters that
20 temporarily prohibits those psilocybin businesses in the unincorporated area of Washington

1 County, in order to enable the county to consider local regulations once the state's psilocybin
2 regulatory program has been fully established.

3 **EXPLANATORY STATEMENT**

4 Approval of this measure would temporarily ban the establishment of psilocybin product
5 manufacturers and psilocybin service centers within the unincorporated area of Washington
6 County until December 31, 2024. State law also allows the Washington County Board of
7 Commissioners to repeal the temporary ban at any time.

8 Oregon voters legalized the supervised use of psilocybin through Ballot Measure 109
9 (2020), which directs the Oregon Health Authority (OHA) to develop a psilocybin licensing and
10 regulatory program for the state by January 2, 2023. OHA's psilocybin regulatory program is in
11 development, and the county would like to consider local regulations for psilocybin-related
12 businesses once OHA's program is in place.

13 Ballot Measure 109 (2020) allows a local government to adopt an ordinance to be
14 referred to the voters that prohibits the establishment of certain psilocybin-related businesses.
15 The Washington County Board of Commissioners has adopted such an ordinance that temporarily
16 prohibits psilocybin manufacturers and service centers to enable the county to consider local
17 regulations once the state psilocybin program is fully in place. If approved, this measure would
18 prohibit psilocybin product manufacturers and psilocybin service centers within the
19 unincorporated area of Washington County until December 31, 2024, unless repealed by the
20 Board at an earlier date.

[Back To Blog](#)

Short-Term Vacation Rental Bans Gone Wrong

With the short-term rental market exploding in the last several years and showing no signs of abating, many local governments are facing the rapid expansion head on – by banning these rentals entirely. But is a ban on companies like Airbnb, Homeaway, VRBO and others enforceable or even desirable?

While your local government may feel that a full ban is the best tactic, keep in mind that a ban is hard to enforce, as it forces these rentals underground, and it may intensify the debate about homeowner rights, leading to civil strife in the community. Moreover, a ban on short-term vacation rental properties can deprive your community of possible benefits, such as an increase in tourism revenue, tax revenues, and spending from homeowners with greater income streams as a result of their rental income.

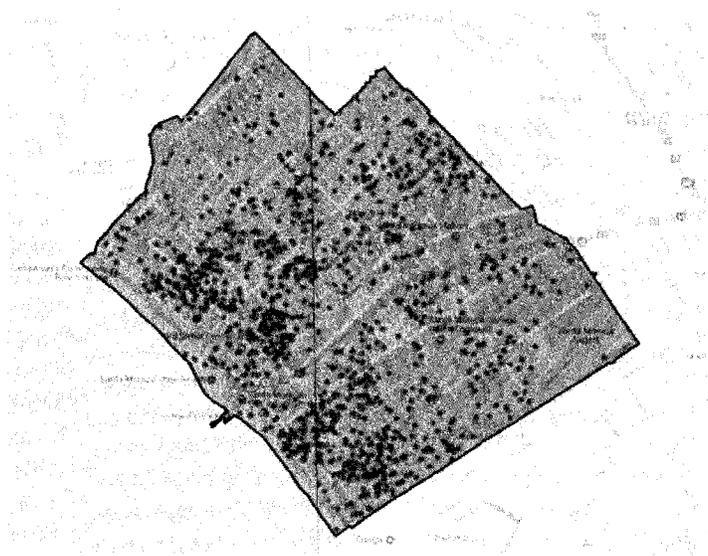
Another key consideration is the legality of a ban. Cities and local governments are charting new waters as they interact with companies like Airbnb and Flipkey; it's important to keep in mind that, without a strong legal foundation, a ban could be met with a lawsuit. In fact, here are many examples of short-term rental bans that resulted in legal action:

1. New York

New York City is Airbnb's biggest market in the US – so it came as an unexpected blow to the platform and its renters when New York's Governor, Andrew Cuomo, signed a law prohibiting "illegal" listings on the platform in October 2016. The move by Cuomo called back to a 2010 law prohibiting the rental of an entire apartment for less than 30 days (allowing landlords to keep rentals off the market and also circumvent hotel taxes and zoning changes), and fines could reach \$7,500 (after multiple warnings). **Airbnb filed a lawsuit in December of the same year**, contending that Cuomo's law violated the First Amendment and the Communications Decency Act. The city was able to settle with Airbnb when **the city agreed to prosecute the renters and not Airbnb itself for rentals that violated the new law**. Now, Airbnb hosts must make sure they are in **compliance with the law** before renting out their homes, by triple checking their lease agreements and zoning laws, collecting hotel taxes and ensuring that a host is present when the home is rented so as not to violate the **New York State Multiple Dwelling Law**. Of course, without access to an updated list of rentals and insight into the goings on at each renter, the city's enforcement of the law has been lacking. As a result there are currently more than 40,000 short-term rentals in New York and it can therefore be argued that the ban has been far from successful in achieving its goals.



California's coastline, with its sprawling beaches, is a big tourist draw — so it's no wonder that short-term vacation rentals would proliferate there. To address this, the City of Santa Monica **placed a ban on short-term vacation rentals in 2015**, after complaints from "irritated neighbors, affordable housing advocates and the hotel industry." Santa Monica's law featured stringent requirements for hosts and subjected online platforms to review before being allowed to post host information. Both hosts and the online rental websites were held liable and subject to both civil and criminal liability. Airbnb retaliated with a lawsuit, claiming that Santa Monica violated their First and Fourth Amendment rights. In 2017, Santa Monica **amended their law**, although it remains one of the strictest in the nation, and the **legal battles continue on**. As in New York it is also clear that the law isn't fully working as intended. In fact, a recent search of the City showed ~1,400 short-term rental listings across 22 different short-term rental platforms.



3. Anaheim

The rest of California is not without its short-term rental controversy and the City of Anaheim provides a prime example. Anaheim is home to Disneyland, making it an ideal location for short-term vacation rentals; however, with the explosive growth of this new market, existing homeowners raised concerns about the influx of tourists into residential neighborhoods. In 2014, the city adopted an ordinance requiring all short-term rental hosts get a permit and pay their taxes, but as the market continued to explode, the City changed policy and issued a moratorium on new permits. The 2016 moratorium and ban on new rentals gave existing short-term renters 18 months to phase out their businesses. The change in policy was immediately faced with **lawsuits from Airbnb, HomeAway and the Anaheim Rental Alliance**. Facing these costly lawsuits, the City changed direction again and **eased some of the restrictions** and sought a legal settlement. As part of the settlement the City also removed the language from its ordinance that holds the web platforms accountable for unlicensed rentals in the city.

Conclusion

These are just a few examples of city governments that have dealt with legal battles as a result of the short-term rental market's explosion online and subsequent bans; there are many other cities that have dealt with similar costly and high-profile lawsuits (like San Francisco). Rather than turning first to a full out bans, local governments should consider if it may make more sense to put in place compromise regulatory frameworks that allow short-term rentals that meet certain requirements while protecting the interests of the broader community. By doing so, communities can harvest the benefits of this new industry and avoid exposing themselves to expensive and time-consuming legal battles.



specific, practical policies to mitigate them.

With the advancements in big-data technology it is now possible to enforce such policies, and identify addresses of short-term rentals to bring them into compliance with local rules. Many innovative municipalities including Placer County, California; Durango, Colorado; Asheville, North Carolina; and Islamorada, Florida, already use such tools and have seen double-digit improvements in compliance and revenue. This allows these cities and counties to double down on enforcement to further ensure that short-term rental operators stay within the designated zones, pay their fair share of taxes, and are accountable and respectful of neighbors.

If you are looking to implement and enforce effective short-term vacation rental regulations in your community, Host Compliance offers a comprehensive suite of solutions used by over 80 local governments. You can learn about our short-term rental related consulting services, compliance monitoring and enforcement solutions and [request a complimentary short-term rentals assessment here](#).

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July 12, 2022 Public Input

Dear STR Committee and Tillamook County Officials,

I am a homeowner in Neskowin and participate in short term rentals. I listened in on the meeting today (July 12) and have a few comments to share. I do have experience both as an STR owner and also as a Community Development Director in a resort community trying to manage STRs. My thoughts include:

1. The surveys that were discussed are misleading. The questions asked are limited to potential issues that the respondents perceive relate to STR users. There is no corresponding survey related to problems created simply by families using their family home, friends of owners, etc... My limited problems with people in Neskowin (beach fires adjacent to our home, fireworks all night, etc...) have all been with people who are not STR users, they are families or guests or owners. The survey did not allow this option. In addition, it is my opinion that most of the time someone is having a problem with someone staying in Neskowin, they don't really know whether or not the problem causer is an STR user or otherwise visiting Neskowin. As worded, the surveys limit problems to only being created by STR users so it is natural to respond as if every problem is caused by an STR user, when we really have no data as to who causes the problems.
2. Neskowin and other similar communities in Oregon have a 100 year history of rentals. We talk about STR rentals since 2018 because Tillamook County has regulated them and collected taxes since then. Short term rentals are not going away and have been around for longer than most or perhaps all of us.
3. There was much discussion about needing to have a "community member" own the home, even a suggestion that a home must be "owner occupied" (full time? Part time? Family members? Friends?) for 2 years before STRs are allowed. Trying to enforce that would be ridiculously difficult. Plus, Neskowin has around 874 properties and anywhere from 79-110 full time residents (depending on which numbers you believe). Assuming a minimum average of 2 people per home, that means at most, 55 of the 874 homes in Neskowin are occupied by full time residents, or what I would call a community member. That is 6%. No matter what happens with STRs, that percentage is likely to go down, not up.
4. As stated above, for 4 years I was the Community Development Director for Summit County Utah, which includes the resort community of Park City. Much of the resort area is in unincorporated areas. Both Park City and Summit County have at times tried to eliminate STRs. It never worked, not even close. The time and effort to monitor who is in every home at all times is daunting and really impossible. Identifying the difference between STR renters, family members, friends, guests, clients, etc... is again basically impossible. While I was at Summit County I saw at least a dozen different ways people legally got around the rules. Both communities now allow STRs, regulate them, and collect taxes from them.

I believe the discussion during today's meeting started to run a little far from reality. Yes, some folks in Neskowin want it to be a simple little community of retirees. The reality is that with home prices these days, particularly those in resort communities, that ship has long since sailed. Neskowin is going to be what it always has been, a beautiful, charming vacation community, with limited full time residents.

I believe the question to ask yourselves is not whether or not you want STRs in communities like Neskowin. That is going to happen no matter what. The question is, does Tillamook County want to

regulate STRs and collect taxes from them. Tillamook County can either collect millions of dollars in STR fees and taxes, use some of that money to regulate and enforce rules relating to STRs and the rest of that money to help the broader community. OR, Tillamook County can collect no STR money and use general fund property tax money to create an extensive enforcement division, with code enforcement and legal staff, to try and stop STR rentals. This endeavor of trying to eliminate or severely restrict STRs is going to cost hundreds of thousands of dollars a year and is really going to accomplish very little. I have seen this first hand in Utah resort communities, talked extensively with leaders in other resort communities, and it is just a fact. You either manage and profit from STRs, or you give up the STR tax income, spend a disproportionate amount of general fund tax dollars trying to enforce rules and restrictions that are so severe they will be ignored, and if the experience of other communities means anything, you will generally fail at limiting STRs.

Understand that severely limiting STRs has the same impact as banning them. Short term rentals do not go away, they just go underground. Imagine trying to enforce how many days a year a home can be used for STRs? Who monitors this? How? Why would the owner not just entirely leave the STR program and watch one of the many Youtube videos which tell owners how to structure their transactions with renters so they are not considered STRs? Or rent 100 days through the STR program, the rest of the year through different legal means. Severely limiting number of guests? Which one of you is going to go everyday into every home being rented in Tillamook County and count the guests? Perhaps even determine who is actually sleeping there versus who is visiting?

Please consider this opinion. Your opportunity is to appropriately regulate STRs and enforce rules and solve problems related to STRs and frankly, to enforce similar rules and solve similar problems for all vacation and owner occupied homes. Eliminating or severely limiting STRs just means the budget to solve problems is severely limited, but it doesn't eliminate the problems. I believe Tillamook County should stay in the business of trying to solve the problems related to users of STRs and users of all vacation and primary homes. A loud party is a loud party and obnoxious whether it is family members staying at their home (or friends of the owners) or at an STR. Teenagers lighting off fireworks at 1 a.m. on the beach is a problem no matter who is doing it (that was my problem, solved by my threatening German Shepard and a shovel I took with me as I stormed onto the beach in my pajamas, where I did confirm they were part of a family that owns a nearby home).

I am a private property rights fan. I would love to tell you who can and cannot stay at your home. Your grandkids who light fireworks are definitely out, your daughter with the barking dog is not welcome, your tradition of making a fire on the beach blows terrible smoke into my home, your friends with the dog who runs wild on the beach are not allowed, your sister-in-law that talks loud as she walks is obnoxious and not allowed, your grandkids disturb my serenity on the beach, and you trying to feed the birds is part of what is attracting bears to my garbage! (maybe) Please don't invite uncle Larry back because he drives too fast, as does your teenage grandson. But, instead of me telling you WHO you can invite to use your home, I would rather have us agree on what behavior is appropriate for our guests, what behavior is not appropriate, and how we deal with an inappropriate guest. We are really on the same page here and that is where I believe the STR committee should focus.

As responsible owners, we do not rent our place for parties, weddings, or other large events and we communicate regularly with our neighbors. Yes, our garbage can was repeatedly destroyed by a bear this year and yes we have solved that. Our experience is that we rent out to families to celebrate Dad's

90th birthday, for a last weekend with a brother sick with cancer, for a book club, for wine connoisseurs, for families wanting to participate in the 4th of July celebration, and for winter storm watchers and families that just like walking the beach. That is Neskowin to me and it is the same Neskowin that has been around for 100 years.

Thank you for your time. Attached is a short article discussing other communities' efforts to control STRs and I believe it is informative.

David Allen

Debra Garland

From: Mark Everett <[REDACTED]>
Sent: Friday, July 8, 2022 8:12 PM
To: Public Comments
Subject: EXTERNAL: STRs in Neskowin

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hello,

I'm writing to provide some public testimony regarding the STR issue in Neskowin. We have been STR providers for many years, The Neskowin home is a second/vacation home for us that we also rent short term through AirBnb. Looking back at our records we rent around 50 nights/year. Although 100 nights during 2021, probably an anomaly due to the pandemic. We also use the home for ourselves and our other family members.

I would oppose some of the recommendations of the SON group and I also have some questions. I guess I'd ask that if STRs are a business doesn't that also mean that LTRs are a business as well? I have a question about the term "conditional use", what would that mean if STRs are designated in this way? To me it sounds as if this means the use could be amended at some point? I've seen a number that is around 16% STRs currently in Neskowin. I think the 15% maximum being recommended is too low but understand the concern and would hope a compromise at a bit higher percentage could be determined. I'm totally opposed to limiting the number off STRs per street or neighborhood. Limiting to 12 people or less per day per STR as well as vehicles is something I would support. I do not support limiting the number of days to 100 but understand that concern so hopefully a larger number of days could be agreed to in the end. I think if it's a 100 day limit, all STRs will be booked May to September and very few would be booked the remainder of the year. This would have a negative effect on businesses in Neskowin and surroundings areas as businesses would have to depend on full year residents and day trip visitors or folks like us coming to Neskowin for some period of time but not full time.

I am personally in favor of excluding commercial STR enterprises from putting down stakes in Neskowin by purchasing, building and increasing occupancies of STRs. STR owners have a duty to be good neighbors but also have a right to be able to do short term rental of their properties, within an agreed upon and reasonable structure that is good for the community.

Respectfully submitted
Mark Everett

Debra Garland

From: Dave <[REDACTED]>
Sent: Tuesday, July 12, 2022 3:38 PM
To: Public Comments
Cc: Sarah Absher
Subject: EXTERNAL: STR Public Input
Attachments: Public Input Letter July 12 2022.pdf; Short Term Rental Bans Gone Bad Article.pdf

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Dear STR Committee and Tillamook County Officials,

I am a homeowner in Neskowin and participate in short term rentals. I listened in on the meeting today (July 12) and have a few comments to share. I do have experience both as an STR owner and also as a Community Development Director in a resort community trying to manage STRs. My thoughts include:

1. The surveys that were discussed are misleading. The questions asked are limited to potential issues that the respondents perceive relate to STR users. There is no corresponding survey related to problems created simply by families using their family home, friends of owners, etc... My limited problems with people in Neskowin (beach fires adjacent to our home, fireworks all night, etc...) have all been with people who are not STR users, they are families or guests or owners. The survey did not allow this option. In addition, it is my opinion that most of the time someone is having a problem with someone staying in Neskowin, they don't really know whether or not the problem causer is an STR user or otherwise visiting Neskowin. As worded, the surveys limit problems to only being created by STR users so it is natural to respond as if every problem is caused by an STR user, when we really have no data as to who causes the problems.
2. Neskowin and other similar communities in Oregon have a 100 year history of rentals. We talk about STR rentals since 2018 because Tillamook County has regulated them and collected taxes since then. Short term rentals are not going away and have been around for longer than most or perhaps all of us.
3. There was much discussion about needing to have a "community member" own the home, even a suggestion that a home must be "owner occupied" (full time? Part time? Family members? Friends?) for 2 years before STRs are allowed. Trying to enforce that would be ridiculously difficult. Plus, Neskowin has around 874 properties and anywhere from 79-110 full time residents (depending on which numbers you believe). Assuming a minimum average of 2 people per home, that means at most, 55 of the 874 homes in Neskowin are occupied by full time residents, or what I would call a community member. That is 6%. No matter what happens with STRs, that percentage is likely to go down, not up.
4. As stated above, for 4 years I was the Community Development Director for Summit County Utah, which includes the resort community of Park City. Much of the resort area is in unincorporated areas. Both Park City and Summit County have at times tried to eliminate STRs. It never worked, not even close. The time and effort to monitor who is in every home at all times is daunting and really impossible. Identifying the difference between STR renters, family members, friends, guests, clients, etc... is again basically impossible. While I was at Summit County I saw at least a dozen different ways

people legally got around the rules. Both communities now allow STRs, regulate them, and collect taxes from them.

I believe the discussion during today's meeting ~~started to run a little far from reality.~~ Yes, some folks in Neskowin want it to be a simple little community of retirees. The reality is that with home prices these days, particularly those in resort communities, that ship has long since sailed. Neskowin is going to be what it always has been, a beautiful, charming vacation community, with limited full time residents.

I believe the question to ask yourselves is not whether or not you want STRs in communities like Neskowin. That is going to happen no matter what. The question is, does Tillamook County want to regulate STRs and collect taxes from them. Tillamook County can either collect millions of dollars in STR fees and taxes, use some of that money to regulate and enforce rules relating to STRs and the rest of that money to help the broader community. OR, Tillamook County can collect no STR money and use general fund property tax money to create an extensive enforcement division, with code enforcement and legal staff, to try and stop STR rentals. This endeavor of trying to eliminate or severely restrict STRs is going to cost hundreds of thousands of dollars a year and is really going to accomplish very little. I have seen this first hand in Utah resort communities, talked extensively with leaders in other resort communities, and it is just a fact. You either manage and profit from STRs, or you give up the STR tax income, spend a disproportionate amount of general fund tax dollars trying to enforce rules and restrictions that are so severe they will be ignored, and if the experience of other communities means anything, you will generally fail at limiting STRs.

Understand that severely limiting STRs has the same impact as banning them. Short term rentals do not go away, they just go underground. Imagine trying to enforce how many days a year a home can be used for STRs? Who monitors this? How? Why would the owner not just entirely leave the STR program and watch one of the many Youtube videos which tell owners how to structure their transactions with renters so they are not considered STRs? Or rent 100 days through the STR program, the rest of the year through different legal means. Severely limiting number of guests? Which one of you is going to go everyday into every home being rented in Tillamook County and count the guests? Perhaps even determine who is actually sleeping there versus who is visiting?

Please consider this opinion. Your opportunity is to appropriately regulate STRs and enforce rules and solve problems related to STRs and frankly, to enforce similar rules and solve similar problems for all vacation and owner occupied homes. Eliminating or severely limiting STRs just means the budget to solve problems is severely limited, but it doesn't eliminate the problems. I believe Tillamook County should stay in the business of trying to solve the problems related to users of STRs and users of all vacation and primary homes. A loud party is a loud party and obnoxious whether it is family members staying at their home (or friends of the owners) or at an STR. Teenagers lighting off fireworks at 1 a.m. on the beach is a problem no matter who is doing it (that was my problem, solved by my threatening German Shepard and a shovel I took with me as I stormed onto the beach in my pajamas, where I did confirm they were part of a family that owns a nearby home).

I am a private property rights fan. I would love to tell you who can and cannot stay at your home. Your grandkids who light fireworks are definitely out, your daughter with the barking dog is not welcome, your tradition of making a fire on the beach blows terrible smoke into my home, your friends with the dog who runs wild on the beach are not allowed, your sister-in-law that talks loud as she walks is obnoxious and not allowed, your grandkids disturb my serenity on the beach, and you trying to feed the birds is part of what is attracting bears to my garbage! (maybe) Please don't invite uncle Larry back because he drives too fast, as does your teenage grandson. But, instead of me telling you WHO you can invite to use your home, I would

rather have us agree on what behavior is appropriate for our guests, what behavior is not appropriate, and how we deal with an inappropriate guest. We are really on the same page here and that is where I believe the STR committee should focus.

As responsible owners, we do not rent our place for parties, weddings, or other large events and we communicate regularly with our neighbors. Yes, our garbage can was repeatedly destroyed by a bear this year and yes we have solved that. Our experience is that we rent out to families to celebrate Dad's 90th birthday, for a last weekend with a brother sick with cancer, for a book club, for wine connoisseurs, for families wanting to participate in the 4th of July celebration, and for winter storm watchers and families that just like walking the beach. That is Neskowin to me and it is the same Neskowin that has been around for 100 years.

Thank you for your time. Attached is a short article discussing other communities' efforts to control STRs and I believe it is informative.

David Allen

Debra Garland

From: Peter [REDACTED]
Sent: Tuesday, July 12, 2022 2:56 PM
To: Public Comments
Cc: Lori Bierma
Subject: EXTERNAL: Neskowin STR Rules Public Comment

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Tillamook County – Neskowin STR Input

We have owned a home in Neskowin for the past 18 years, this home is our considered our “beach house”. We purchased in Neskowin because of it small community feel, and limited public parking & access which limits the amount of day use. Over the past 17 years and many walks through town during different seasons, it is clear that Neskowin is predominantly a second home / beach house community with very few full time resident. This is supported by the census data recording 200 persons who consider Neskowin as their full time residence. This makes Neskowin pretty unique as far as coastal communities. It truly is a second home / beach house community with very few permanent residents. It seems pretty obvious, that the town is a vacation town and anyone who owns or buys a home in Neskowin should be or is aware of that.

For the past 13 years we have allowed our home to be rented, as a means to offset the high cost of taxes, and property maintenance. It was not our intention to rent the home when we bought it, but as our children got older, into sports and activities, we were limited on how much we could use it and decided to allow short term rentals. The property currently under management by Meredith Lodging who is doing an exceptional job ensuring the tenants are respectful and abide but our house rules and the local regulations. I believe this is the situation for many owners, there are cycles when the homes will be rented and cycles in life when they will not be rented. The idea of adding new layers of rules and restrictions to a “second home” personal asset under the guise of “STR” seems very overbearing especially when there seems to be little substantiate evidence that they are creating issues in the town.

We strongly oppose and disagree with identifying STR’s as a business or investment activity. There is simply no basis for this or data to support how many homes are operated as a business. This proposed action does provide any evidence on who it will benefit or what actual purpose it will serve. It is extremely broad and unsubstantiated without any cost benefit discussion and will effect many second home owners who happen to rent their homes to offset overhead and maintenance cost. There would need to be very specific conditions met for an STR to be considered a business or investment activity such as the sole purpose & intention of buying the property is for it to be an STR for profit. It seems extremely arbitrary to broad state that “all” STR’s are business’s. Some basis or parameters need to be set for this condition.

We strongly feel that the new proposed STR rules, limitations are currently unsubstantiated by any evidence, the concerns seem to be broad and general. Without having actual data and evidence of the true validated issues, making new rules and regulations could be completely off target and impose rules on others which have no real value. While other Coastal communities have imposed new rules based on their local needs, using them as templates or examples for Neskowin makes no sense unless you have the data to contrast the type of community.

We also strongly appose setting annual rental limitations this is completely arbitrary, the nights rented does not effect that disturbance level unless you consider any visitor a disturbance. This also consolidates more visit into the busiest time of the year so the STR owner could maximize revenue from the limited days allowed. Lastly beach rentals undulate due to weather and economics, we have had as low as 40 days rental per year and as high as 115 days per year, and

putting an annual cap would create an undue hardship on property owners use the funds for overhead and improvement costs

We suggest that any new rules for restrictions and STR be deferred for at least two years until there is substantiating evidence and data to support what it is these rules are intended to accomplish and who they will benefit.

This data should include

- How many STR's are currently in Neskowin
- How many permanent residents reside in Neskowin
- How many new or existing homes in Neskowin are bought for the sole purpose of being an STR
- How many STR complaints are generated in a year
- Are there specific STR homes / properties creating these complaints
- Are there non STR home also causing disruptions
- Are the complaints coming from specific communities / areas within Neskowin
- How many homes are under professional management
- Which companies are active in Neskowin
- Are the management companies enforcing the rules
- Are there more complaint from management companies or private rentals
- Inventory the sleeping capacity limit of all STR's in Neskowin
 - Is there a trend for more trouble with specific capacity homes or just high capacity homes
- Look at STR rentals of the past 10-15 years in Neskowin
 - What the cycles of renters – does this tie into “ COVID”, economic recessions, weather
 - What is a true and accurate estimate for STR or beach visits over the next 10-20 years
 - Does the population growth of Oregon correlate to the increased beach visits
- Look at data on STR's how many are added, how many are active and how many are pulled off over 5 years
- Look at the home inventory in Neskowin –
 - How many are long term family owned
 - How many sell frequently
 - What is the average ownership period in Neskowin
 - This will help determine what the potential is for “New STR’ s over time and provide a basis for rule making
- Establish a profitability model of owning an STR in Neskowin
 - This would help determine the actual investor market appetite for buying a home in Neskowin for the exclusive purpose of being and STR
 - Tier this estimate by home value to identify how many homes could actually produce a profit being an STR
- Review Neskowin real estate values over time
 - Beach property values undulate over time with economics
 - Are they a sound reliable investor opportunity

From our reading of the rules, its sounds like there may be some local issues that need to be addressed. To implement broad conditions and new rules on a community to solve local or specific isolated problems that may only relate to certain properties seems very premature. We highly recommend a 2 year moratorium on any STR changes until there is substantial data to support what the actual issues are instead of leaping forward new rules. Take the two year period to study and evaluate the severity and compile data to substantiate what new rules are needed and on which type of homes. In addition provide some clear information on what actual problem are being solved, and how new rules benefit the Neskowin community as a whole.

Best Regards

Peter & Lori Bierma
Home Owner Neskowin Oregon

Debra Garland

From: M BARNES-TERRERI [REDACTED]
Sent: Monday, July 11, 2022 3:17 PM
To: Public Comments
Subject: EXTERNAL: CONCERNS OVER RECOMMENDATIONS

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To Whom It May Concern,

I would like to express my concerns regarding a consideration to restrict the Neskowin Short Term Rental allowances to 100 days per year.

As a part time resident of Neskowin, I realize that the coastal areas have become more popular than ever, especially in view of the COVID-19 pandemic as more people are able to work from home, have restricted international travel in favor of local vacation destinations.

All recreational areas have experienced an increase in usage, and some visitors, with less than desirable attitudes, it would seem that many residents attribute any issue with visitors, to the Short Term Rental community, which is not always the case.

In Neskowin, the community has expressed belief that STR visitors are solely responsible for the: pot-holes and road disrepair, bear problems, garbage left at the state parking area, traffic congestion, excessive noise from social gatherings, etc.

The county benefits from the Transient Lodging Tax, Licensing Fee and increased economic benefits that these visitors bring. The Oregon Coast has been economically depressed for decades, and is dependent upon tourism to support many industries, including restaurants, factory outlet stores, golf courses, art museums, etc.

Additionally, many individuals who live at the coast, make earn their income but working at and for these businesses.

There have been numerous meetings in which residents describe the deteriorating quality of life, since Short Term Rentals have become more popular. However, there are mechanisms

being put in place to address these concerns, and further actions are being discussed about certain

property owners who seem to have invested in a number of larger homes, that appear to have become

destination "party rentals" within much of that area.

As a property owner, sharing my home with others, who are implored upon to be good citizens, and as far as I know, are being respectful and conscientious towards my neighbors,

and the area, allows me to pay the mortgage, maintain the home, and make improvements.

This home has been in our family for generations. The upkeep on a coastal home is arduous and

can be overwhelming. I request that you consider this restriction, which I believe would not only have negative consequences for property owners like me, but for the entire coastal community that depends on the revenue that tourism brings.

I respectfully thank you for your consideration.

Maria McGarry-Barnes

[REDACTED]

Neskowin, OR 97149

[REDACTED]

[REDACTED]