



# CITY OF MILWAUKIE

## Milwaukie Code Psilocybin Code Amendments

**April 2023**

**Primary Land Use File #ZA-2023-003**

Amendments to the following code sections are proposed to regulate psilocybin-related business as defined in ORS 475A.

Please contact Vera Koliass, Senior Planner with the City of Milwaukie Planning Department, at 503-786-7653 or [koliassv@milwaukieoregon.gov](mailto:koliassv@milwaukieoregon.gov) with questions or comments about the proposed code amendments and/or the code adoption process.

### Municipal Code - Title 19 Zoning Ordinance

- Chapter 19.200 - DEFINITIONS AND MEASUREMENTS
- Chapter 19.300 - BASE ZONES
  - Section 19.312 North Milwaukie Innovation Area
- Chapter 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS
  - Section 19.507 Home Occupations
  - Section 19.509 Marijuana Businesses

## Reader Guide

### **Commentary**

A commentary section precedes each section of code amendments. The commentary provides a non-technical summary of the proposed amendments and highlights proposed policy changes. The commentary section is labeled as commentary and presented in Comic Sans font (the same font of this sentence).

### **Amendments**

Unless otherwise noted in the document, underlined text is proposed text, and ~~strike through~~ text is existing code language proposed for deletion. Standards shown in [brackets] are those that still require Planning Commission discussion and direction.

### **Context/Surrounding Code**

The chapter, section, and subsection for the proposed code amendments are listed for reference in this document. Line breaks, like the one below, between subsequent amendments indicate that there is intervening text within the section or subsection that is not included in this document.

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Please be advised that this document shows only sections of code for which amendments are proposed, along with limited surrounding sections for context. It does not include all sections of the Milwaukee Municipal Code.

## COMMENTARY

Ballot Measure 109, known as the Oregon Psilocybin Service Act (codified at [Oregon Revised Statute \(ORS\) Chapter 475A](#)), allows for the manufacture, delivery, and administration of psilocybin at licensed facilities. The ballot measure did not allow for the recreational or personal use of psilocybin as we have seen with marijuana. All types of psilocybin facilities are licensed and regulated by the state.

There are four types of licenses that can be issued under the new program:

- **Service Center:** A location where clients will be administered psilocybin under supervision of a licensed facilitator.
- **Service Facilitator:** A person that administers psilocybin services.
- **Product Manufacturer:** A location where one or more psilocybin products will be manufactured that could include fungi cultivation, psilocybin extraction, and edible psilocybin production.
- **Testing Facility:** A facility to undertake testing of psilocybin products.

Restrictions under state law include:

- Psilocybin will not be available to buy in stores or to take home.
- Psilocybin can only be administered in licensed settings under supervision of licensed service facilitators.
- Service centers are prohibited within residential zones of an incorporated city or within 1,000 feet of a school.
- Manufacturing of psilocybin products is prohibited outdoors (no locational restrictions).

To address the issue of psilocybin manufacturing facilities being in residential zones as home occupations, the proposed code amendments would prohibit any psilocybin-related business as home occupations in the same way that the existing code prohibits marijuana-related businesses as home occupations.

Additionally, in the NMIA, the zoning code permits marijuana production facilities (grow operations) as conditional uses and includes additional locational requirements and limitations specific to the NMIA. The proposed code includes the same requirements for psilocybin grow facilities (cultivation only).

**Underline/Strikeout Amendments**

**Title 19 Zoning Ordinance**

**CHAPTER 19.200 DEFINITIONS**

“Psilocybin-related business” means a state-licensed psilocybin facility as defined in ORS 475A, including, but not limited to: psilocybin product manufacturing facilities, psilocybin service centers, and psilocybin testing facilities.

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**CHAPTER 19.300 BASE ZONES**

**19.309 MANUFACTURING ZONE M**

**19.309.2 Permitted Uses**

I. Marijuana and psilocybin production and cultivation facilities are subject to the regulations in Subsection 19.509.

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**19.310 BUSINESS INDUSTRIAL ZONE BI**

**19.310.4 Limited Uses**

C. Marijuana and psilocybin production and cultivation facilities are subject to the regulations in Subsection 19.509.

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**19.312 NORTH MILWAUKIE INNOVATION AREA**

**Table 19.312.2**

**Uses Allowed in the North Milwaukie Innovation Area**

	<b>Uses and Use Categories</b>	<b>NME</b>	<b>MUTSA</b>	<b>Standards/Additional Provisions</b>
<b>Marijuana and Psilocybin Businesses</b>				

3.	Marijuana production subject to the conditional use process and the standards of Subsections 19.509.2 and 19.509.3.	CU	CU	<p><b>Subsection 19.509.2</b> Security and Odor Control for Certain Marijuana Businesses</p> <p><b>Subsection 19.509.3</b> Marijuana Production Limitations</p> <p><b>Section 19.905</b> Conditional Uses</p>
4.	<u>Psilocybin cultivation only as defined in ORS 475A, including planting, growing, harvesting, and propagation.</u>	<u>CU</u>	<u>CU</u>	<p><b>Subsection 19.509.4</b> <u>Psilocybin Cultivation Limitations</u></p> <p><b>Section 19.905</b> <u>Conditional Uses</u></p>

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**CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS**

**19.507 HOME OCCUPATION STANDARDS**

**19.507.2 Prohibitions and Use Restrictions**

F. Except as set forth in Section 19.509, all marijuana-related businesses (production, processing, testing, warehousing, and sales) are prohibited as home occupations. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards of Subsection 19.509.2.

G. All psilocybin-related businesses as defined in ORS 475A are prohibited as home occupations.

**19.509 MARIJUANA AND PSILOCYBIN BUSINESS STANDARDS**

The intent of these regulations is to ensure that potential impacts from marijuana and psilocybin businesses are managed and mitigated.

**19.509.3 Marijuana Production Limitations**

The following limitations apply to marijuana production in the M-Manufacturing, NME-North Milwaukie Employment, and MUTSA-Tacoma Station Area Mixed Use zones:

## **Proposed Code Amendment with Commentary**

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A. Within a building utilized for production, multiple producers may operate but no single producer shall operate in a manner where the mature marijuana plant grow canopy associated with that producer's operation exceeds 10,000 sq ft.

B. A marijuana producer shall not be located in a building that is within 1,500 ft of another building that is utilized for marijuana production. (Ord. 2168 § 2, 2019; Ord. 2163 § 2, 2018; Ord. 2134 § 2, 2016)

### **19.509.4 Psilocybin Cultivation Limitations**

The following limitations apply to psilocybin cultivation in the NME-North Milwaukie Employment and MUTSA-Tacoma Station Area Mixed Use zones:

A. Within a building utilized for cultivation, growing, planting, harvesting, and/or propagation, multiple growers may operate but no single grower shall operate in a manner where the mature psilocybin plant grow canopy associated with that producer's operation exceeds 10,000 sq ft.

B. A psilocybin grower shall not be located in a building that is within 1,500 ft of another building that is utilized for psilocybin cultivation.