



**CITY COUNCIL AGENDA**  
**December 12, 2016, 6:30PM**  
**Regular Meeting**

CITY COUNCIL CHAMBERS, CITY HALL  
 29592 ELLENSBURG AVE  
 GOLD BEACH OR 97444

Call to order:                    Time: \_\_\_\_\_

1.     **The pledge of allegiance**
2.     **Roll Call:**

	Present	Absent
Mayor Karl Popoff		
Council Position #1 Melinda McVey		
Council Position #2 Larry Brennan		
Council Position #3 Becky Campbell		
Council Position #4 Doug Brand		
STARTING VOTE		
<b>Council Position #5 Tamie Kaufman</b>		
<b>STARTING VOTE</b>		
City Administrator Jodi Fritts		
Student Liaison VACANT		

3.     **Special Orders of Business:**
  - a.     Mayors Proclamation on Ballot Measure 8-87  
           *(pursuant to City Code Section 1.210(7)(a))*
  - b.     **CURRENT COMMITTEE & COMMISSION VACANCIES**  
           BUDGET: Currently 2 positions of 5 vacant  
           PLANNING: Currently 2 positions of 5 vacant  
           URBAN RENEWAL ADVISORY: Currently 3 positions of 4 vacant
  
4.     **Consent Calendar:**  
       MINUTES – November 2016 regular meeting
  
5.     **Citizens Comments**  
       As presented to the Mayor at the beginning of the meeting
  
6.     **Public Hearing**
  - a.     Ordinance No. 662-amending Ordinance No. 659 tax collection procedures to allow for DOR collection
  
7.     **Citizen Requested Agenda Items**
  - a.     Request by Lea Sevey to address council about shelter home property

*The City of Gold Beach is dedicated to enhancing quality of life, while promoting health, safety, and welfare of our citizens, businesses, and visitors in the most fiscally responsible manner. In doing this, the City will respect the past, respond to current concerns, and plan for the future, while maintaining environmental sensitivity in our beach oriented community*

**8. Public Contracts and Purchasing**

NONE SCHEDULED

**9. Ordinances & Resolutions**

- a. 1<sup>st</sup> and 2<sup>nd</sup> Reading of Ordinance No. 662-amending tax collection procedures
- b. Resolution R1617-05-setting MJ tax rate
- c. Resolution R1617-06-IGA with DOR for MJ tax collection
- d. 2<sup>nd</sup> Reading of Ordinance No. 660-zoning ordinance amendments for tiny houses and ADUs
- e. 1<sup>st</sup> (and probably 2<sup>nd</sup>) Reading of Ordinance No. 661-zoning ordinance amendments for MJ dispensary provisions in Commercial and Industrial zones

**10. Miscellaneous Items (including policy discussions and determinations)**

- a. LOC Regional Meetings on Handy v. Lane County public meetings law decision

**11. City Administrator's Report**

To be presented at the meeting

**12. Mayor and Council Member Comments**

- a. Mayor Karl Popoff
- b. Councilors
  - 1) Melinda McVey
  - 2) Larry Brennan
  - 3) Becky Campbell
  - 4) Doug Brand
  - 5) Tamie Kaufman
- c. Student Liaison, Vacant

**13. Citizens Comments**

As permitted by the Mayor

**14. Executive Session**

**No executive session is scheduled**

The next regularly scheduled City Council meeting is **Monday, January 9, 2017, at 6:30PM** in the Council Chambers of City Hall, 29592 Ellensburg Avenue, Gold Beach, Oregon.

**15. Adjourn Time: \_\_\_\_\_**

*The City of Gold Beach is dedicated to enhancing quality of life, while promoting health, safety, and welfare of our citizens, businesses, and visitors in the most fiscally responsible manner. In doing this, the City will respect the past, respond to current concerns, and plan for the future, while maintaining environmental sensitivity in our beach oriented community*



# **SPECIAL ORDERS OF BUSINESS**



**SECTION 3.**

**Special Orders of Business**

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**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**

Agenda Item No. 3 a.  
Council Meeting Date: December 12, 2016

**TITLE: Mayor's Proclamation On Ballot Measure 8-87**

**SUMMARY AND BACKGROUND:**

The City Code requires that the Mayor make an official proclamation on the results of election ballot measures after receipt of the official canvass of votes. The notice is also published in the newspaper.

**REQUESTED ACTION:**

**Informational only, the Mayor will read the proclamation**



**MAYOR'S PROCLAMATION  
ON BALLOT MEASURE 8-87**

WHEREAS, Resolution R1617-02: a resolution of the City of Gold Beach to submit to the voters of the City a measure concerning the taxing of recreational marijuana sales within the City was passed by the Council on July 11<sup>th</sup>, 2016; and

WHEREAS, the sales tax proposal was placed on the November 8, 2016, General Election ballot as Measure 8-87; and

WHEREAS, Pursuant to City Code Section 1.210(7) (a) the Mayor shall issue a proclamation on the ballot measure results immediately upon completion of the canvass of voters following the election; and

WHEREAS, the November 8, 2016, election results for Measure 8-87 as certified to the City by the Curry County Elections Division were:

1166 total votes were cast regarding ballot measure 8-87  
853 voters were in favor of the measure (YES votes)  
313 voters were NOT in favor the measure (NO votes)

**Based on the official canvass of votes provided by the Curry County Elections Division (attached to this proclamation), I Karl Popoff, Mayor of the City of Gold Beach proclaim the following:**

**The voters of the City of Gold Beach APPROVED Ballot Measure 8-87: City tax on recreational marijuana retailers' sale of marijuana items**

The approved measure is effective the date of passage and shall begin to be collected by the State of Oregon, on behalf of the City, beginning January 2016.

DATED this 1<sup>st</sup> day of December, 2016

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Karl Popoff, Mayor

Read and signed at the December 12<sup>th</sup> City Council Meeting  
Newspaper publishing: December 7, 2016



Reneé Kolen  
Curry County Clerk

Recording Division  
Elections Division

29821 Ellensburg Avenue, 2<sup>nd</sup> Floor Courthouse  
Mail To: 94235 Moore Street, Suite 212  
Gold Beach, OR 97444  
(541) 247-3295  
(800) 243-7620  
(541)-247-9361 Fax  
[www.co.curry.or.us/Clerk](http://www.co.curry.or.us/Clerk)

RECEIVED

NOV 28 2016

CITY OF GOLD BEACH

Date: November 23, 2016  
To: City Election Authority  
From: Shelley Denney, Supervisor of Elections  
Subject: Election Abstract

Per ORS 254.545(3) enclosed is the Election Abstract for the November 8, 2016 General Election.

Should you have any questions please feel free to contact our office.

Sincerely,

A handwritten signature in black ink that reads "Shelley Denney".

Shelley Denney, C.R.A., C.E.A.  
Chief Deputy County Clerk

# City of Gold Beach — Official Curry County, Oregon — General Election — November 08, 2016

Total Number of Voters : 12,799 of 15,865 = 80.67%  
 Number of District Voters: 1,219 of 1,511 = 80.68%

Precincts Reporting 27 of 27 = 100.00%  
 District Precincts Reporting 2 of 2 = 100.00%

Party	Candidate	Absentee/NA	Ballots Cast	Total
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City of Gold Beach, Mayor, Vote For 1

John Ferguson	0	0.00%	470	45.06%
Karl Popoff	0	0.00%	562	53.88%
Write-Ins	0	0.00%	11	1.05%
<b>Cast Votes:</b>	0	0.00%	1,043	85.56%
<b>Over Votes:</b>	0	0.00%	1	0.08%
<b>Under Votes:</b>	0	0.00%	175	14.36%

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
2	2	100.00%	1,219	1,511	80.68%

**City of Gold Beach, Council Position #2, Vote For 1**

Larry Brennan

Write-Ins	0	0.00%	784	97.51%
<b>Cast Votes:</b>	0	0.00%	804	65.96%
<b>Over Votes:</b>	0	0.00%	0	0.00%
<b>Under Votes:</b>	0	0.00%	415	34.04%

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
2	2	100.00%	1,219	1,511	80.68%

**City of Gold Beach, Council Position #4, Vote For 1**

Doug Brand

Write-Ins	0	0.00%	753	97.29%
<b>Cast Votes:</b>	0	0.00%	774	63.49%
<b>Over Votes:</b>	0	0.00%	0	0.00%
<b>Under Votes:</b>	0	0.00%	445	36.51%

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
2	2	100.00%	1,219	1,511	80.68%

# City of Gold Beach — Official Curry County, Oregon — General Election — November 08, 2016

Total Number of Voters : 12,799 of 15,865 = 80.67%  
 Number of District Voters: 1,219 of 1,511 = 80.68%

Precincts Reporting 27 of 27 = 100.00%  
 District Precincts Reporting 2 of 2 = 100.00%

Party	Candidate	Absentee/NA	Ballots Cast	Total
YES		0	853	853
NO		0	313	313
		0	1,166	1,166

Measure 8-87 City tax on recreational marijuana retailers' sale of marijuana items, Vote For 1

Cast Votes:	0	0.00%	1,166	95.65%	1,166	95.65%
Over Votes:	0	0.00%	0	0.00%	0	0.00%
Under Votes:	0	0.00%	53	4.35%	53	4.35%

Counted	Precincts		Voters			
	Total	Percent	Ballots	Registered	Percent	
2	2	100.00%	1,219	1,511	80.68%	

I certify the votes recorded on this  
 abstract correctly summarize the tally of  
 votes cast for the

November 8, 2016 Election.  
 By: Shelley Darnrey  
 Chief Deputy County Clerk  
 Dated this 23rd day of NOVEMBER 2016





# **CONSENT CALENDAR**

**November 2016 transcribed  
minutes sent in separate packet**



# **PUBLIC HEARING**



**SECTION 6. Public Hearing  
SECTION 9. Ordinances & Resolutions**

**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**

Agenda Item No.

**6 a. and 9. a.**

Council Meeting Date: December 12, 2016

**TITLE: Public Hearing and 1<sup>st</sup> & 2<sup>nd</sup> Reading Ordinance 662, amending  
Ordinance 659 MJ tax collection procedures**

**SUMMARY AND BACKGROUND:**

This ordinance is a minor housekeeping ordinance prepared by Legal Counsel, Lauren Sommers. This will ensure our local ordinance is reflective of the procedures for collection by the Department of Revenue.

The ordinance authorizing the MJ tax, Ordinance 659, was approved by the voters on November 8<sup>th</sup>. Legal Counsel Sommers recommends adoption of this amending ordinance in one meeting tonight so that it will become effective in time for the state to begin collections in mid-January. There are two resolutions later in the agenda related to the actual tax rate, and the IGA to allow the state to collect on our behalf. Both of the ordinances and resolutions were prepared by legal counsel.

**To adopt in one meeting tonight:**

**MOTION #1 (suggested)**

**I make the motion that the Council adopts Ordinance 662 in one meeting tonight.**

**If the motion passes UNANIMOUSLY please use this language for Motion #2:**

**I make the motion that the Council adopts Ordinance 662 and approve the 1<sup>st</sup> and 2<sup>nd</sup> readings of the ordinance by title only.**

Following the vote, the CA will make the 1<sup>st</sup> and possibly 2<sup>nd</sup> readings by title only into record.

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**ORDINANCE NO. 662**  
**AN ORDINANCE AMENDING ORDINANCE NO. 659**

**WHEREAS**, Section 4 of the Gold Beach Charter of 1986 provides:

The City has all powers that the constitutions, statutes, and common law of the United States and of this state expressly or impliedly grant or allow municipalities, as fully as though this charter specifically enumerated each of those powers; and

**WHEREAS**, ORS 475B.345 allows the City of Gold Beach to impose a local tax of up to 3% on retail sales of recreational marijuana items within the City if the local tax is approved by the voters of the City at general election; and

**WHEREAS**, the Gold Beach City Council referred Ordinance No. 659, an ordinance imposing a local tax on retail sales of recreational marijuana items within the City, to the voters of Gold Beach at the November, 2016 general election; and

**WHEREAS**, on November 8, 2016, the voters of the City of Gold Beach approved Ordinance No. 659; and

**WHEREAS**, on December 12, 2016, the Gold Beach City Council adopted a resolution setting the rate of the local marijuana tax at 3%; and

**WHEREAS**, the Gold Beach City Council wants to ensure both that the City can administer its local marijuana tax if need be, but that the City also has the flexibility to contract with another agency or entity to administer the tax;

**NOW THEREFORE, THE CITY OF GOLD BEACH ORDAINS AS FOLLOWS:**

**SECTION 1.** Ordinance No. 659 is amended as follows:

Notwithstanding any provision of Ordinance No. 659, the City may enter into an intergovernmental agreement authorized by ORS 190.010, ORS 190.110, or ORS 305.620 for collection of the tax imposed by section 2 of Ordinance No. 659. The City Council shall authorize by resolution any intergovernmental agreement entered into pursuant to this ordinance, after making a finding that any collection, enforcement, appeal, or refund procedures authorized by the intergovernmental agreement are comparable to, or provide greater protections to marijuana retailers and to the public, than the procedures set out in sections 4 through 7 of Ordinance No. 659. If an intergovernmental agreement entered into pursuant to this ordinance is approved by Council resolution, the tax collection and enforcement procedures authorized by the intergovernmental agreement shall govern

collection of the tax imposed by section 2 of Ordinance No. 659 as provided in the intergovernmental agreement.

**SECTION 2. SEVERABILITY.** Any provision of this Ordinance which proves to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision of this Ordinance, and the remaining provisions of this Ordinance shall remain in full force and effect.

**SECTION 3. CODIFICATION.** The City Recorder is hereby authorized and directed to codify Section 1 of this ordinance in an appropriate Title of the Gold Beach Municipal Code and to change the word "Ordinance" to "Chapter" as appropriate when codified.

**SECTION 4. EFFECTIVE DATE.** This ordinance shall take effect on the 30<sup>th</sup> day after its adoption by the Gold Beach City Council.

**Passed and Adopted** by the City Council of the City of Gold Beach, Oregon, State of Oregon, on this 12<sup>th</sup> day of December, 2016

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Karl Popoff, Mayor

ATTEST:

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Jodi Fritts, City Administrator

<b>1<sup>st</sup> &amp; 2<sup>nd</sup> READING</b>	<b>December 12, 2016</b>
<b>AYES</b>	<b>NAYS</b>

**RESOLUTION R1617-02**

**A RESOLUTION CALLING AN ELECTION ON NOVEMBER 8, 2016, TO REFER TO THE VOTERS OF THE CITY OF GOLD BEACH, OREGON, A TAX ON RETAIL SALES OF RECREATIONAL MARIJUANA IN THE CITY OF GOLD BEACH AND ADOPTING A BALLOT TITLE AND EXPLANATORY STATEMENT**

**WHEREAS**, Section 4 of the Gold Beach Charter of 1986 provides:

The City has all powers that the constitutions, statutes, and common law of the United States and of this state expressly or impliedly grant or allow municipalities, as fully as though this charter specifically enumerated each of those powers; and

**WHEREAS**, ORS 475B.345 allows the City of Gold Beach to impose a city tax of up to 3% on retail sales of recreational marijuana items within the City if the city tax is approved by the voters of the City at general election; and

**WHEREAS**, the Gold Beach City Council desires to impose a tax on the sale of recreational marijuana items by marijuana retailers in the City;

**NOW, THEREFORE, THE CITY OF GOLD BEACH RESOLVES AS FOLLOWS:**

**Section 1.** A city election is called for the purpose of submitting to the qualified electors of the City of Gold Beach an ordinance imposing up to a three percent (3%) tax on sales of marijuana items by licensed recreational marijuana retailers within the City of Gold Beach, a copy of which is attached to this Resolution as Exhibit A and incorporated into this Resolution by reference.

**Section 2.** The ballot title for this measure shall be as follows:

**CAPTION:** City tax on recreational marijuana retailers' sale of marijuana items

**QUESTION:** Shall Gold Beach impose a tax on sales of marijuana items by recreational marijuana retailers in the city?

**SUMMARY:** If adopted by the voters, this measure would impose a city tax on sales of marijuana items (including marijuana, marijuana products and marijuana extracts) by recreational marijuana retailers licensed by the Oregon Liquor Control Commission and located within the City of Gold Beach. The City Council would have the authority to set the

amount of the tax, but under no circumstances would the tax exceed three percent of the retail sales price of a marijuana item. The tax would be collected from consumers by recreational marijuana retailers at the point of sale. Recreational marijuana retailers would remit the tax to the City. The city tax would be imposed in addition to any state taxes on the sale of marijuana items. The city tax would not be imposed on medical marijuana sales.

**Section 3.** The City Council orders this City election to be held in the City of Gold Beach, Oregon, concurrently with the general election, on the 8<sup>th</sup> day of November, 2016, in accordance with the provisions of Chapter 254 of the Oregon Revised Statutes. The ballots shall be counted and tabulated and the results certified as provided by law.

**Section 4.** The election shall be conducted by Curry County. The County Clerk for Curry County is hereby instructed to prepare ballots and to take other actions necessary to conduct the election.

**Section 5.** If a majority of the legal voters of the City voting on this measure approve this measure, the ordinance attached as Exhibit A to this Resolution shall take effect on January 1, 2017.

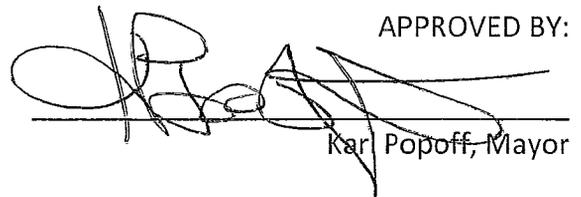
**Section 6.** The explanatory statement for this measure attached as Exhibit B to this Resolution is hereby approved by the Council.

**Section 7.** This Resolution, including the proposed ballot title and explanatory statement, shall be delivered to the City Recorder on the date of its adoption.

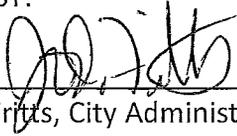
**Section 8.** The City Recorder shall give notice of this measure as required by law and take such other actions and otherwise proceed with the election as provided by law and so as to carry out the purposes of this Resolution.

**Section 9.** This Resolution shall become effective immediately upon its adoption.

**PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON, and EFFECTIVE THIS 11<sup>th</sup> DAY OF JULY, 2016.**

APPROVED BY:  
  
Karl Popoff, Mayor

ATTEST:

A handwritten signature in black ink, appearing to read "Jodi Fritts", is written over a horizontal line.

Jodi Fritts, City Administrator/City Recorder

**ORDINANCE NO. 659**

**IMPOSING A TAX ON RETAIL SALES OF RECREATIONAL MARIJUANA WITHIN  
THE CITY OF GOLD BEACH**

**WHEREAS**, Section 4 of the Gold Beach Charter of 1986 provides:

The City has all powers that the constitutions, statutes, and common law of the United States and of this state expressly or impliedly grant or allow municipalities, as fully as though this charter specifically enumerated each of those powers; and

**WHEREAS**, ORS 475B.345 allows the City of Gold Beach to impose a local tax of up to 3% on retail sales of recreational marijuana items within the City if the local tax is approved by the voters of the City at a general election; and

**WHEREAS**, the City of Gold Beach desires to impose a tax on the sale of recreational marijuana items by marijuana retailers in the City;

**NOW THEREFORE, THE CITY OF GOLD BEACH ORDAINS AS FOLLOWS:**

**SECTION 1. DEFINITIONS.**

The following words and phrases as used in this Ordinance shall have the following meanings:

- A. "City" means the City of Gold Beach.
- B. "Tax Administrator" means the City Administrator of the City of Gold Beach, the City Administrator's designee, and/or another individual or entity designated by the City to collect the tax on behalf of the City.
- C. "Consumer" means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.
- D. "Marijuana item" means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts as defined in ORS 475B.015.

- E. "Marijuana retailer" means a person licensed under ORS 475B.110 who sells marijuana items to a consumer in the State of Oregon.
- F. "Person" means individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.
- G. "Retail sale price" means the total consideration paid to a marijuana retailer for a marijuana item by or on behalf of a consumer, excluding any tax.

**SECTION 2. TAX IMPOSED.**

The City of Gold Beach hereby imposes a tax on each marijuana item sold to a consumer within the City of Gold Beach by a marijuana retailer. The Gold Beach City Council shall set the tax rate by resolution; however, the tax rate adopted by the City Council shall not exceed three percent (3%) of the retail sale price for each marijuana item sold. The tax constitutes a debt owed by the consumer to the City and shall be extinguished only by payment to the marijuana retailer or to the City.

**SECTION 3. COLLECTION.**

The consumer shall pay the tax to the marijuana retailer at the time of the purchase or sale of the marijuana item. Every marijuana retailer shall collect the tax from the consumer at the time of the sale of a marijuana item. The tax collected by the marijuana retailer shall be held in trust by the marijuana retailer for payment to the City. The marijuana retailer shall remit the tax to the Tax Administrator. The Tax Administrator is authorized to exercise all supervisory and administrative powers with regard to the administration, collection and enforcement of the tax authorized by this Ordinance.

**SECTION 4. ACCOUNTING AND RECORDS.**

- A. Every marijuana retailer must keep and preserve, in a generally accepted accounting format used for reporting revenue and taxes due on business activity, detailed records of all sales made and all taxes collected. Every marijuana retailer must keep and preserve such records for a period of six (6) years. The Tax Administrator shall have the right to inspect all such records at reasonable times.
- B. For purposes of determining the accuracy of any tax return or for the purpose of an estimate of taxes due, the Tax Administrator may examine any books, papers, records, or memoranda bearing upon the marijuana retailer's tax returns, including

copies of the marijuana retailer's state and federal income tax returns and copies of the marijuana retailer's state marijuana tax returns. All books, invoices and other records shall be made available within the City for examination by the Tax Administrator during regular business hours.

**SECTION 5. PENALTIES AND INTEREST**

A. Any marijuana retailer who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Ordinance prior to delinquency shall pay a penalty of ten percent of the amount of the tax due in addition to the amount of the tax.

B. Any marijuana retailer who has not been granted an extension of time for remittance of tax due, and who fails to pay any delinquent remittance on or before a period of thirty days following the date on which the remittance first becomes delinquent shall pay a second delinquency penalty of fifteen percent of the amount of the tax due plus the amount of the tax and the ten percent penalty first imposed.

C. If the Tax Administrator determines that the nonpayment of any remittance due under this Ordinance is due to fraud or intent to evade the provisions of this Ordinance, a penalty of twenty-five percent of the amount of the tax shall be added the amount of the remittance due, in addition to the penalties stated in subsections A and B of this section.

D. In addition to the penalties imposed, any marijuana retailer who fails to remit any tax imposed by this Ordinance shall pay interest at the rate of one-half of one percent per month or fraction thereof, without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first becomes delinquent, until paid.

E. Every penalty imposed and any interest that accrues under the provisions of this Ordinance shall be merged with, and become a part of, the tax required to be paid.

**SECTION 6. APPEAL**

A. Any person aggrieved by any decision of the Tax Administrator may appeal to the City Administrator by filing a notice of appeal with the Tax Administrator within ten days of the date the notice of the decision is served or mailed. The Tax Administrator shall fix a time and place for hearing the appeal and shall give the appellant ten days' written notice of the time and place of the hearing.

- B. Any person aggrieved by any decision of the City Administrator under subsection A of this Section may appeal to the Council by filing a notice of appeal with the Tax Administrator within ten days of the date the City Administrator's decision is served or mailed. The Tax Administrator shall transmit the notice, together with the file of the appealed matter, to the Council, who shall fix a time and place for hearing the appeal. The Council shall give the appellant not less than ten days written notice of the time and place of hearing the appeal.

**SECTION 7. REFUND**

Whenever the amount of any tax imposed under this Ordinance has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within three years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the Tax Administrator approves the claim, the excess amount collected or paid may be refunded to, or may be credited on any amounts then due and payable from, the marijuana retailer from whom it was collected or by whom it was paid, and the balance may be refunded to the marijuana retailer or the marijuana retailer's administrators, executors or assignees.

**SECTION 8. SEVERABILITY.** Any provision of this Ordinance which proves to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision of this Ordinance, and the remaining provisions of this Ordinance shall remain in full force and effect.

**SECTION 9. CODIFICATION.** If this Ordinance becomes effective as provided by Section 10 below, the City Recorder is hereby authorized and directed to codify Sections 1 through 8 of this ordinance in an appropriate Title of the Gold Beach Municipal Code and to change the word "Ordinance" to "Chapter" as appropriate when codified.

**SECTION 10. EFFECTIVE DATE.** If approved by a majority of the voters of the City of Gold Beach at the statewide general election held on Tuesday, November 8, 2016, this ordinance shall take effect on January 1, 2017.

**Explanatory Statement**

If this measure is approved by the voters of the City of Gold Beach, the City will impose a tax on sales of marijuana items (including marijuana flowers, marijuana concentrates, marijuana edibles and marijuana extracts) by recreational marijuana retailers licensed by the Oregon Liquor Control Commission (OLCC) and located within the City of Gold Beach. The City Council would have the authority to set the amount of the city tax, but the city tax could not exceed three percent of the retail sales price of a marijuana item.

The city tax would be collected from consumers by the recreational marijuana retailer at the point of sale. The recreational marijuana retailer would then remit the tax to the City.

The City would be able to use the revenues generated by this tax for any city purpose.

If approved, this city tax would be imposed in addition to any state marijuana taxes. This city tax would not be imposed on medical marijuana sales.



# **ORDINANCES & RESOLUTIONS**



## SECTION 9

### Ordinances & Resolutions

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## GOLD BEACH CITY COUNCIL AGENDA REPORT

Agenda Item No. 9. b. c.

Council Meeting Date: December 12, 2016

**TITLE: Resolutions R1617-05 to set city MJ tax and R1617-06 IGA with  
Department of Revenue for tax collection**

#### **SUMMARY AND BACKGROUND:**

In July the Council passed Resolution R1617-02 which sent the MJ tax issue, as Ordinance 659, to the voters in November. The tax measure passed. These two resolutions are to set the tax rate at 3% (this is the highest it can be, you can propose for it be lower though) and adopt an IGA for the Department of Revenue tax collection. Both resolutions were prepared by our legal counsel.

#### **PREVIOUS AGENDA REPORT ON THIS ITEM**

*July 2016 Agenda Report*

Per state law if we wish to tax recreational marijuana retail sales up to 3% the voters must pass an ordinance this November. As part of this report is the resolution, ordinance, and ballot title that our legal counsel has prepared for us.

#### **NEEDED ACTION & SUGGESTED MOTION**

***PUBLIC HEARING PORTION OF MEETING:*** Take testimony, if any, from audience and discuss. Resolution will be adopted later in the meeting.

***ORDINANCE & RESOLUTION PORTION OF THE MEETING:*** A motion to adopt Resolution R1617-02 (this is a long motion...)

I make the motion that the Council adopts Resolution R1617-02, a resolution calling an election on November 8, 2016, to refer to the voters of the City of Gold Beach a tax on retail sales of recreational marijuana in the City and adopting a ballot title and explanatory statement

**RESOLUTION R1617-05**

**A RESOLUTION ESTABLISHING THE RATE OF A TAX ON THE SALE OF MARIJUANA ITEMS BY MARIJUANA RETAILERS IN THE CITY OF GOLD BEACH**

**WHEREAS**, ORS 475B.345 allows the City of Gold Beach to impose a local tax of up to 3% on retail sales of recreational marijuana items within the City if the local tax is approved by the voters of the City at general election; and

**WHEREAS**, the Gold Beach City Council referred Ordinance No. 659, an ordinance imposing a local tax on sales of marijuana items by recreational marijuana retailers within the City, to the voters of Gold Beach at the November, 2016 general election; and

**WHEREAS**, on November 8, 2016, the voters of the City of Gold Beach approved Ordinance No. 659; and

**WHEREAS**, Section 2 of Ordinance No. 659 provides that the Gold Beach City Council will, by resolution, establish a tax rate of up to 3% on the sale of marijuana items by recreational marijuana retailers in the City of Gold Beach;

**NOW THEREFORE, THE CITY OF GOLD BEACH RESOLVES AS FOLLOWS:**

**SECTION 1.** Pursuant section 2 of Ordinance No. 659, the City Council of the City of Gold Beach hereby establishes a tax rate of **three percent (3%)** of the retail sale price for each marijuana item sold by a marijuana retailer to a consumer within the City of Gold Beach.

**SECTION 2. EFFECTIVE DATE.** This resolution shall take effect on January 1, 2017.

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, and STATE OF OREGON THIS 12<sup>th</sup> DAY OF DECEMBER, 2016.

APPROVED BY:

\_\_\_\_\_  
Karl Popoff, Mayor

ATTEST:

\_\_\_\_\_  
Jodi Fritts, City Administrator/Recorder

## RESOLUTION R1617-06

### **A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF GOLD BEACH AND THE OREGON DEPARTMENT OF REVENUE FOR COLLECTION OF A CITY TAX ON THE SALE OF MARIJUANA ITEMS BY MARIJUANA RETAILERS IN THE CITY OF GOLD BEACH**

**WHEREAS**, ORS 475B.345 allows the City of Gold Beach to impose a local tax of up to 3% on retail sales of recreational marijuana items within the City if the local tax is approved by the voters of the City at general election; and

**WHEREAS**, the Gold Beach City Council referred Ordinance No. 659, an ordinance imposing a local tax on sales of marijuana items by recreational marijuana retailers within the City, to the voters of Gold Beach at the November 2016 general election; and

**WHEREAS**, on November 8, 2016, the voters of the City of Gold Beach approved Ordinance No. 659; and

**WHEREAS**, Section 2 of Ordinance No. 659 provides that the Gold Beach City Council will, by resolution, establish a tax rate of up to 3% on the sale of marijuana items by recreational marijuana retailers in the City of Gold Beach; and

**WHEREAS**, on December 12, 2016, the Gold Beach City Council adopted resolution R1617-05, a resolution setting the rate of the local marijuana tax at 3%; and

**WHEREAS**, on December 12, 2016, the Gold Beach City Council adopted Ordinance No. 662, which provides that the City Council must make certain findings before approving an intergovernmental agreement for the collection of the tax imposed by the City pursuant to ORS 475B.345; and

**WHEREAS**, ORS 305.620 allows the Oregon Department of Revenue to collect taxes imposed by the City pursuant to ORS 475B.345; and

**WHEREAS**, it is administratively efficient for the Department of Revenue to collect the tax imposed by the City pursuant to ORS 475B.345;

### **NOW THEREFORE, THE CITY OF GOLD BEACH RESOLVES AS FOLLOWS:**

**SECTION 1.** The City Council hereby finds that the collection, enforcement, appeal, and refund procedures authorized by the Marijuana Tax Collection Agreement attached to this Resolution as Exhibit A are comparable to, or provide greater protections to marijuana retailers and to the public, than the procedures set out in sections 4 through 7 of Ordinance No. 659.

**SECTION 2.** The City Administrator is authorized and directed to sign the Marijuana Tax Collection Agreement attached to this Resolution as Exhibit A.

**SECTION 3. EFFECTIVE DATE.** This resolution shall take effect on the same date as Ordinance No. 662.

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON THIS 12<sup>th</sup> DAY OF DECEMBER, 2016.

APPROVED BY:

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Karl Popoff, Mayor

ATTEST:

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Jodi Fritts, City Administrator/Recorder

## MARIJUANA TAX COLLECTION AGREEMENT

This Marijuana Tax Collection Agreement (“Agreement”) is entered into between the State of Oregon, acting by and through its Department of Revenue (the “Department”) and the City of Gold Beach (“City”), under the authority of ORS 305.620.

In consideration of the conditions and promises hereinafter contained, it is mutually agreed by the parties that the Department shall supervise and administer, according to the terms and conditions set forth in this Agreement, the Local Tax on sales of marijuana items by Marijuana Retailers authorized under ORS 475B.345 and approved by the voters of City.

**(1) Definitions.** As used in this Agreement the following terms have the meanings ascribed to them:

(a) “Confidential Information” means the information on Local Tax returns administered pursuant to ORS 305.620, any information in the reports required under Sections 8 and 9 of this Agreement from which information about a particular Local Taxpayer is discernable from the report due to a small number of Local Taxpayers in City or similar factors, and any other information exchanged between the Department and City related to this Agreement, that is confidential under ORS 314.835.

(b) “Fees” means collectively the Administrative Services Fee, the Business Fee and the Core Systems Replacement Fee described in Section 5 of this Agreement.

(c) “Local Government” means a city or county that has entered into a form of this agreement with the Department under the authority of ORS 305.620 for the Department to collect Local Taxes authorized under ORS 475B.345.

(d) “Local Tax” or “Local Taxes” means the Marijuana Tax imposed by City, together with any additional interest or penalties provided for by statute or the Department’s rules; it does not include any additional penalties or fees that City may assess against its Local Taxpayers.

(e) “Local Taxpayer” means a licensed Marijuana Retailer located in the taxing jurisdiction of City.

(f) “Marijuana Retailer” has the meaning given in ORS 475B.015.

(g) “Marijuana Tax” means the tax imposed on sales of marijuana items by Marijuana Retailers pursuant to ORS 475B.345.

(h) “Marijuana Taxpayer” means a licensed Marijuana Retailer that is subject to the Marijuana Tax imposed by a Local Government.

(i) “Ordinance” means the ordinance adopted by the governing body of City and approved by the voters of City on 11/8/2016, a copy of which is attached hereto as Exhibit B and by this reference incorporated herein.

**(2) General Administration.** The Department shall be responsible for all aspects of Local Tax administration, including, but not limited to, adopting administrative rules; auditing returns; assessing deficiencies and collecting the Local Tax and penalties and interest under applicable statutes, including but not limited to ORS 305.265, ORS 305.220, and ORS 314.400; making refunds; holding conferences with Local Taxpayers; handling appeals to the Oregon Tax Court; issuing warrants for the collection of unpaid taxes; determining the minimum amount of Local Tax economically collectible; and taking any other action necessary to administer and collect the Local Taxes. The Department has adopted rules addressing the requirements for paying taxes with currency and other matters related to the taxation of marijuana under ORS chapter 475B. City understands and agrees that such rules will be applied to Local Taxpayers.

**(3) Level of Service.** In performing its duties, the Department may in its sole discretion determine what action shall be taken to enforce provisions of the law and to collect the Local Tax. In exercising its discretion, the Department shall provide a level of services that are comparable to the level of services it provides in the administration of the State of Oregon marijuana tax laws and the collection of such taxes owed to the State of Oregon. If the Department deems it necessary to vary substantially from this standard, the Department shall first notify City of the need and obtain City's consent. The Department shall provide all forms necessary for implementation of the Local Tax, including forms for Marijuana Tax returns, exemptions and refunds.

**(4) Transfer of Taxes to City.** Beginning at the end of the first full quarter after execution of this Agreement, the Department shall remit to City the amount of Local Taxes collected in the preceding quarter less amounts withheld to pay the Department's Fees and other costs as described in this Agreement within 60 days of the return due date for the quarter. The Department shall notify City if, because of inability to move funds electronically or otherwise through the banking system, a force majeure event described in Section 26 of this Agreement or other exigent circumstance, the Department is unable to transfer the Local Tax collected to City as provided in this Section. In that event, the Department shall provide an estimate, if possible, of when it expects to be able to transfer the Local Taxes collected to City. The Department may enter into an agreement with another state government agency to fulfill the requirements of this Section 4, provided that said government agency can comply with the requirements of this section.

**(5) Costs.** In order to recover its costs to collect and transfer the Local Tax as provided in this Agreement the Department shall be paid the following three fees:

(a) "Administrative Services Fee": Pays for the establishment and maintenance of financial systems needed to administer and distribute Local Taxes. The fee shall be calculated annually as a percentage of the equivalent of 60 hours of work conducted for the Department of Revenue by the Department of Administrative Services, divided among the Local Governments in proportion to the number of Marijuana Taxpayers in each Local Government.

(b) “Business Fee”: Pays for the Local Tax administration activities set forth in this Agreement. The fee shall be calculated as a percentage of the Department’s Business Division annual expenses for the administration of all marijuana taxes, with the total fee increasing in direct proportion to the number of Local Taxpayers. The total amount per Local Taxpayer billed to City under the Business Fee shall not exceed 0.05 percent of the Department’s Business Division expenses for the administration of all marijuana taxes;

(c) “Core Systems Replacement fee”: Charged only one time after execution of this Agreement and calculated as a flat fee per Local Taxpayer. The total Core Systems Replacement Fee shall not exceed two hundred dollars (\$200.00) per Local Taxpayer in the first full quarter following execution of this Agreement.

FOR EXAMPLE, in a hypothetical with the following assumptions:

250 Marijuana Taxpayers

50 Local Taxpayers in the City of Mainville

2 Local Taxpayers in the City of Middletown

Business Division’s Marijuana Expenses: \$500,000 per year

Hourly DAS rate: \$99/hour

The fees would be calculated as follows:

Administrative Services Fee =  $(\$99/\text{hour} * 60 \text{ hours}) / 250 \text{ Marijuana Taxpayer} =$   
\$23.76 per Local Taxpayer per year

Business Fee =  $\$500,000 \text{ in marijuana expenses per year} * 0.05\% =$  \$250 per  
Local Taxpayer per year

Core Systems Replacement Fee = \$200 per Local Taxpayer, one time

City of Mainville, year 1:  $(\$23.76 \text{ Administrative Services Fee} + \$250 \text{ Business Fee} +$   
 $\$200 \text{ Core Systems Replacement Fee}) * 50 \text{ Local Taxpayers} =$  \$23,688 in costs

City of Mainville, subsequent years:  $(\$23.76 \text{ Administrative Services Fee} + \$250$   
 $\text{Business Fee}) * 50 \text{ Local Taxpayers} =$  \$13,688 in costs

City of Middletown, year 1:  $(\$23.76 \text{ Administrative Services Fee} + \$250 \text{ Business Fee} +$   
 $\$200 \text{ Core Systems Replacement Fee}) * 2 \text{ Local Taxpayers} =$  \$947.52 in costs

City of Middletown, subsequent years:  $(\$23.76 \text{ Administrative Services Fee} +$   
 $\$250 \text{ Business Fee}) * 2 \text{ Local Taxpayers} =$  \$547.52 in costs

(e) In addition to the Fees described above, the Department may withhold or invoice City for the Department’s costs to administer extraordinary services not described in this Agreement

related to the Local Tax; such extraordinary costs may include, without limitation, requests for audits from City that exceed the scope of the Department's normal audit procedures, requests for research or advice from the Department or the Oregon Department of Justice attorneys, or specially appointed counsel, regarding the Local Tax.

(f) If the Department determines that its costs cannot be covered by the maximum fees outlined in this Section 5, the Department will notify City of the amount by which the Department has determined the Fees must increase. If the Department and City do not agree upon a Fee increase and related amendment to this Agreement, then this Agreement may be terminated by either party in accordance with Section 16 of this Agreement.

(g) The Department shall not collect more in fees than its costs to administer the Local Tax, per ORS 305.620(5). It is using the above formula in the interests of producing its best estimate of costs.

**(6) Withholding for Fees and Rebate.** The Department shall withhold from the Local Taxes collected and each transfer to City an amount equal to four percent (4%) of the Local Taxes collected. In the first quarter of each calendar year the Department will reconcile the amounts withheld in the previous year with the total fees assessed, and provide such reconciliation in the Department's annual report described in Section 9 of this Agreement. If the amount withheld in a calendar year exceeds the amount of the Department's Fees, the Department will rebate the balance of the Local Taxes withheld to City by the end of the first quarter following the year of withholding. If the amount withheld does not cover the Department's Fees for the preceding year, the amount of the shortfall will be withheld from subsequent transfers of Local Taxes collected until the Department's Fees are fully paid, or in its discretion the Department may invoice City for the unpaid amount of the Department's Fees.

**(7) Recovery of Overpayments.** If the amount of Local Taxes paid to City under this Agreement, exceed the amount to which City is entitled, the Department may, after notifying City in writing, withhold from later payments due City under this Agreement, such amounts, over such periods of time, as are necessary to recover the amount of the overpayment.

**(8) Department Quarterly Reports.** Beginning with the first full calendar quarter after the execution of this Agreement and continuing each calendar quarter thereafter, within sixty (60) days after the due date for quarterly Local Tax returns, the Department shall provide City with a report indicating the amount of Local Taxes collected, any extraordinary costs assessed, the amount withheld under Section 6 of this Agreement and the cumulative amount of delinquent Local Taxes for each Marijuana Retailer in City's jurisdiction. The information in this report must be treated as potentially revealing Confidential Information, and shall be protected as described in Section 15. City should make all efforts to prevent Confidential Information from being released. The Department and City shall disclose any non-confidential information in a report when required to do so by law, including the Oregon Public Records Law, ORS 192.410 to 192.505.

**(9) Department Annual Reports.** In the first calendar quarter of each year, the Department shall make a written annual report of the preceding calendar year to City showing the total amount of Local Taxes collected, refunds paid, the expenses of administering and collecting the Local Tax, and other pertinent information. The report shall show the total amount withheld by the Department under Section 6 of this Agreement, and shall show the Department's expenses by its Fee categories. In such report, the Department shall also make recommendations concerning changes in Local Tax Ordinances, procedures, policies, Local Tax administration and related matters, as the Department deems necessary and appropriate. The information in this report must be treated as potentially Confidential Information, and shall be protected as described in Section 15. City should make all efforts to prevent Confidential Information from being released. The Department and City shall disclose any non-confidential information in the report when required to do so by law, including the Oregon Public Records Law, ORS 192.410 to 192.505.

**(10) City Reports.** Within sixty (60) days of the effective date of this Agreement, City shall provide the Department with a list of Local Taxpayers in its jurisdiction and a list of zip code areas that are within its jurisdiction for purposes of imposing the Local Tax. City shall provide an updated list of Local Taxpayers to the Department each calendar quarter thereafter. City shall review all reports and reconciliations provided by the Department and promptly notify the Department of any perceived errors or omission in such reports.

**(11) Records Maintenance and Access.** Each party shall maintain its records relevant to this Agreement, the Local Taxes and Local Taxpayers for the period of time specified and in the manner required under the document retention and archiving requirements applicable to it that are established under ORS 192.005 to 192.170. Upon written request, each party may examine the records of the other party at a time and location that is convenient and without extra cost to the holder to the records; provided, however, any requests for records made in connection with litigation or other efforts to collect the Local Tax shall be immediately provided in the time and manner requested.

**(12) Ordinance and Notification of Changes.** Contemporaneous with the execution of this Agreement, City shall provide a copy of the Ordinance to Department for incorporation into this Agreement as Exhibit B. In order to insure consistency in administration of the Local Tax, each party shall notify the other of any change in the Ordinance and any state or local regulations or rulings interpreting the Local Tax or the Ordinance, any changes in rates or changes in the City's boundary at least ninety (90) days prior to the effective change, unless it is not legally possible to provide ninety (90) days' notice or both parties mutually agree to effect such changes in less than ninety (90) days. Each party shall notify the other of any change in administration of the Local Tax under this Agreement. The parties shall cooperate in amending the Ordinance or in seeking amendments to ORS 475B.345 or ORS 305.620 which they deem necessary.

**(13) Information.** The parties will cooperate in the exchange of information and making public announcements to facilitate effective administration of the Local Tax and maintain consistency in public announcements and information. Policy announcements, announcement of

changes in the Ordinance, and all correspondence relating to public relations will be handled by City. The Department shall promptly notify City of any matter arising in the administration of the Marijuana Tax that would require any legislative change or affect City's policy, including any policy that relates to the amount of Local Tax collected. Nothing in this section shall prohibit the Department from conducting its own outreach activities to increase awareness and knowledge of local tax obligations.

**(14) Limits and Conditions.** To the extent limited by applicable provisions of Article XI of the Oregon Constitution or other governing law, and within the limits of the Oregon Tort Claims Act applicable respectively to the Department and City, each party shall indemnify the other for damage to life or property arising from their respective duties and obligations under this Agreement, provided neither party shall be required to indemnify the other for any such liability arising out of a party's own negligent or wrongful acts.

**(15) Confidentiality.**

(a) Confidential Information may be disclosed only to City as principal, by the Department as its agency, for purposes of carrying out the administration of the Local Tax imposed by City. Requests for Confidential Information shall be made by City by giving not less than ten (10) days' notice to the Department, stating the information desired, the purposes of the request, and the use to be made of such information. If the compilation of information is not feasible, the Department shall so advise City.

(b) ORS 314.840(3) requires that employees and representatives of City who receive Confidential Information must be advised in writing of the provisions of ORS 314.835 and 314.991(3), relating to the penalties for unlawful disclosure. Prior to being given access to Confidential Information, all City employees involved in the performance of this Agreement must review the DOR Secrecy Clause and sign the DOR Secrecy Laws Certificate (substantially in the form of Exhibit A, attached hereto and by this reference incorporated herein) certifying the employee understands the confidentiality laws and the penalties for violating them. Annually thereafter, (on or before a date specified by the Department), such City employees must review and sign the latest versions of the Secrecy Clause and the Secrecy Laws Certificate. All signed Secrecy Laws Certificates must be immediately emailed to both the designated Department Authorized Representative (indicated below) and the Department's Disclosure Office ([disclosure.office@oregon.gov](mailto:disclosure.office@oregon.gov)). When the employee terminates employment with City, City will forward the certificate to the Department's Disclosure Officer indicating the employee is no longer employed by City. A listing of every person authorized to request and receive Confidential Information identified in this Agreement will be sent to the following designated representative:

John Galvin, Marijuana Tax Program Manager, [marijuanatax.DOR@oregon.gov](mailto:marijuanatax.DOR@oregon.gov)

(c) Upon request and pursuant to the instructions of DOR, City shall return or destroy all copies of Confidential Information provided by DOR to City, and City shall certify in writing the return or destruction of all such Confidential Information.

(d) The administrative rules implementing ORS 314.835 and ORS 314.840 as amended from time to time during the term of this Agreement, shall apply to this Agreement.

**(16) Term.** The term of this Agreement shall be from the date it is executed by all parties and until it is terminated by operation of law or by either party at its discretion upon at least ninety (90) days prior written notice. Prior to the termination date specified in written notice provided under this section or Section 17 below, City and the Department will continue to perform their respective duties and obligations of under this Agreement. After the termination date, the Department will cease all collection and other activities under this Agreement, unless prior to the termination date the Department and City agree in writing that the Department may continue actions that are pending before the Oregon Tax Court or the Oregon Supreme Court, or are being collected after judgment or stipulation. In addition, after the termination date the Department will continue to remit to City any Local Taxes received by the Department, after deduction of the Department's actual costs, until all matters pending on the date of termination have been resolved or collected. The Department will administer the Local Tax for City for each calendar quarter commencing after this Agreement is executed; provided, however, if this Agreement is fully executed on or before the 15<sup>th</sup> day of the calendar quarter, the Department will administer the Local Tax for the quarter in which this Agreement is executed.

**(17) Default and Remedies.** A party shall be in default under this Agreement if it fails to perform any of its duties and obligations under this Agreement, and fails to cure such nonperformance within ninety (90) days after the other party provides written notice specifying the nature of the nonperformance. If the nonperforming party does not cure its nonperformance, or provide a satisfactory explanation to the other party of its performance under this Agreement, the other party may terminate this Agreement immediately or at a later date specified in written notice provided to the nonperforming party. In addition to termination of this Agreement, in the event of default by a nonperforming party, the other party may pursue any remedies available in law or equity, including an action for specific performance.

**(18) Notices.** All notices, documents, and information shall be sent as follows:

City of Gold Beach  
29592 Ellensburg Ave  
Gold Beach, OR 97444

Oregon Department of Revenue  
Marijuana Tax Program  
PO Box 14630  
Salem, OR 97309

**(19) Amendments.** The provisions of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.

**(20) Successors and Assigns.** This Agreement shall be binding and inure to the benefit of the parties, their assigns, and successors.

**(21) Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**(22) Representations.** Each party represents to the other that the making and performance of this Agreement: (a) have been duly authorized by its governing body or official, (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board or other administrative agency or any provision of any applicable local charter or other organizational document, and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which the party is bound.

**(23) Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between the Department and City regarding the enforcement or interpretation of this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. The parties understand and agree that any action brought to determine the amount of Local Tax owed by a Local Taxpayer, whether brought solely by the Department or in conjunction with City shall be brought solely in the Oregon Tax Court.

**(24) Nonappropriation.** The obligation of each party to perform its duties under this Agreement is conditioned upon the party receiving funding, appropriations, limitation, allotment, or other expenditure authority sufficient to allow the party, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, sections 7 or 10 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of each party.

**(25) Survival.** All rights and obligations of the parties under this Agreement will cease upon termination of the Agreement, other than the rights and obligations arising under Sections 14, 16 and 17, and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accruing to a party prior to termination.

**(26) Force Majeure.** Neither party is responsible for any failure to perform or any delay in performance of an obligation under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligation under this Agreement.

**(27) Counterparts.** This Agreement may be executed in counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed constitutes an original.

**(28) Merger.** This Agreement and any exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements or presentations, oral or written, not specified herein regarding this Agreement.

Each party represents that this Agreement, when fully executed and delivered will constitute a legal, valid and binding obligation of the party in accordance with its terms, and that the person signing below is the authorized representative of the party with full power and authority to bind his/her principal to this Agreement.

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**Oregon Department of Revenue**

Name/Title:

Signature:

Date signed:

**City:**

Name/Title:

Signature:

Date signed:

**EXHIBIT A**

**DOR**

**SECURITY CLAUSE**

**and**

**SECURITY LAWS CERTIFICATE**

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## SECRECY CLAUSE

Taxpayer information is confidential and protected by Oregon law. Only authorized persons may have access to taxpayer information, or to secure buildings where taxpayer information is handled. Oregon law requires that you sign a Secrecy Certificate before being allowed access to this confidential information or secure areas. By signing the certificate, you certify that you understand the confidentiality laws and the penalties for violating them.

This applies to everyone with access to taxpayer information, including:

- Department of Revenue employees
- Employees of other government agencies
- Vendors and contractors
- Business partners

### Penalties for unauthorized disclosure of state tax information

- **Income tax**\*—Class C felony; up to \$125,000 fine; up to five years imprisonment; dismissal from state employment; no public office for five years. [ORS 314.991(2)]
- **Inheritance tax**—Class C felony; up to \$125,000 fine; up to five years imprisonment; dismissal from state employment; no public office for five years. [ORS 118.990(3)]
- **Industrial property tax**—Up to \$10,000 fine; up to one year imprisonment. [ORS 308.990(5)]
- **Timber tax**—Up to \$5,000 fine; dismissal from state employment. (ORS 321.686)
- **Employment Department**—May result in dismissal from state employment, or other discipline. [ORS 657.665(6)]

\* *These provisions also apply to transient lodging tax (ORS 320.330), cigarette tax (ORS 323.403), tobacco products tax (ORS 323.595), emergency communications tax (ORS 403.230), oil and gas production tax (ORS 324.170), hazardous substances tax (ORS 453.410), and petroleum products tax (ORS 465.124).*

### Penalties for unauthorized disclosure of federal tax information

- **IRC Sect. 7213**—Felony; up to \$5,000 fine; imprisonment of up to five years; cost of prosecution, damages\*\*.
- **IRC Sect. 7213A**—Up to \$1,000 fine; imprisonment of up to one year; cost of prosecution, damages\*\*.

\*\* *Damages may include \$1,000 per act, actual damages, punitive damages, cost of legal action, attorney fees. See Section 7431.*

**Instructions**

Please read the following laws. They explain the types of information that are confidential. If you have questions during your employment or performance of duties, ask your supervisor or a Disclosure officer before accessing or disclosing information.

After reading this information, fill out the last page and return it to the Department of Revenue. Keep the other pages for your records.

- Transient lodging tax                   ORS 320.330
- Cigarette tax                            ORS 323.403
- Tobacco products tax                ORS 323.595
- Emergency communications tax    ORS 403.230
- Oil and gas production tax         ORS 324.170
- Hazardous substances tax         ORS 453.410
- Petroleum products tax             ORS 465.124

**Oregon Income Tax Laws**

**ORS 314.835**

(1) Except as otherwise specifically provided in rules adopted under ORS 305.193 or in other law, it shall be unlawful for the Department of Revenue or any officer or employee of the department to divulge or make known in any manner the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return required in the administration of ORS 310.630 to 310.706, required in the administration of any local tax pursuant to ORS 305.620, or required under a law imposing a tax upon or measured by net income. It shall be unlawful for any person or entity to whom information is disclosed or given by the department pursuant to ORS 314.840 (2) or any other provision of state law to divulge or use such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena or judicial order shall be issued compelling the department or any of its officers or employees, or any person who has acquired information pursuant to ORS 314.840 (2) or any other provision of state law to divulge or make known the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return except where the taxpayer's liability for income tax is to be adjudicated by the court from which such process issues.

(2) As used in this section:

(a) "Officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or any former officer, employee or person, or an authorized representative of such former officer, employee or person.

(b) "Particulars" includes, but is not limited to, a taxpayer's name, address, telephone number, Social Security number, employer identification number or other taxpayer identification number and the amount of refund claimed by or granted to a taxpayer.

**ORS 314.991**

(2) Violation of ORS 314.835 is a Class C felony. If the offender is an officer or employee of the state the offender shall be dismissed from office and shall be incapable of holding any public office in this state for a period of five years thereafter.

**Applicability to other tax programs**

The above provisions of ORS 314, concerning the confidentiality of returns and penalties, also apply to:

150-809-033 (Rev. 2-11)

**Oregon Inheritance Tax Laws**

**ORS 118.525**

(1) It shall be unlawful for the Department of Revenue or any of its officers or employees to divulge or make known in any manner any particulars disclosed in any return or supporting data required under this chapter. Except for executors or beneficiaries and their authorized representatives, it shall be unlawful for any person or entity who has acquired information pursuant to subsections (3) and (4) of this section to divulge or make known such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena or judicial order shall be issued compelling the department, or its officers or employees, or persons described in subsections (3) and (4) of this section, to divulge or make known any particulars disclosed in any such return or supporting data except where the liability for inheritance taxes is to be adjudicated by the Oregon Tax Court. Nothing in this section shall prohibit the publication of statistics so classified as to prevent the identification of particulars in any return or supporting data covered by this section.

(2) As used in this section:

(a) "Officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or former officer, employee or person, or an authorized representative of such former officer, employee or person.

(b) "Particulars" includes, but is not limited to, a taxpayer's name, address, telephone number, Social Security number and the amount of refund claimed by or granted to a taxpayer.

**ORS 118.990**

(3) Violation of ORS 118.525 is a Class C felony. If the offender is an officer or employee of the state the offender shall be dismissed from office and shall be incapable of holding any public office in this state for a period of five years thereafter.

**Oregon Property Tax Laws**

**ORS 308.290**

(11)(a) All returns filed under the provisions of this section and ORS 308.525 and 308.810 are confidential records of the Department of Revenue or the county assessor's office in which the returns are filed or of the office to which the returns are forwarded under paragraph (b) of this subsection.



**SECTION 9.**

**Ordinances & Resolutions**

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**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**

Agenda Item No. **9. d.**

Council Meeting Date: December 12, 2016

**TITLE: 2nd and Final Reading Ordinance 660, amending zoning ordinance providing provisions for “tiny houses” and accessory dwelling units (ADUs)**

**SUMMARY AND BACKGROUND:**

The 1<sup>st</sup> reading of this amendment to the zoning ordinance occurred last month.

**NEEDED ACTION:**

**A motion to approve the 2<sup>nd</sup> reading by title only**

**SUGGESTED MOTION: I make the motion that the Council approve the 2<sup>nd</sup> reading of Ordinance 660, an ordinance amending Ordinance 634, the Gold Beach Zoning Ordinance providing provisions for accessory dwelling units and “tiny houses” by title only.**



**SECTION 9.  
Ordinances & Resolutions**

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**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**

Agenda Item No. 9. e.  
Council Meeting Date: December 12, 2016

**TITLE: First Reading Ordinance 661, amending zoning ordinance providing provisions for regulating recreational and medical marijuana facilities**

**SUMMARY AND BACKGROUND:**

**DECEMBER AGENDA REPORT:**

Pursuant to a referral from the Council, the planning commission worked on these amendments earlier in the year. There have been several hearings on the proposed changes and the official public hearing was held at the November meeting. Changes were proposed at the November meeting that I wanted to ensure I had incorporated correctly prior to the first reading of the ordinance.

We had some discussion in November about what the various regulated MJ activities are and what the operators can do. We received an updated edition of the Local Government Regulation of Marijuana in Oregon manual from LOC this week which I will send in a separate packet to you. I have included an excerpt of the manual that describes each of state regulated MJ activities. We also talked about producing a “can be located here” map for prospective business owners. The county approved the GIS agreement with Lane County earlier this month. The new system will be online and ready to use mid-January. As soon as that new system is online I will have the map prepared for use at the front counter. We will also post it on the website.

At the November meeting, Councilor Kaufman had said that due to the several prior discussions on the topic, and if the changes were correctly incorporated, the Council could entertain the notion of adopting the ordinance in one meeting. All the members of the council present tonight must agree to adopt the ordinance in one meeting otherwise it will require two meetings. Either action will require two motions respectively.

**To adopt in one meeting tonight:**

**MOTION #1 (suggested)**



**SECTION 9.**

**Ordinances & Resolutions**

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**I make the motion that the Council adopts Ordinance 661 in one meeting tonight.**

If the motion passes UNANIMOUSLY please use this language for Motion #2:

**I make the motion that the Council adopts Ordinance 661 and approve the 1<sup>st</sup> and 2<sup>nd</sup> readings of the ordinance by title only.**

If the motion to adopt in one meeting passes by a majority of council members present, but not unanimously, please use this language for Motion #2:

**I make the motion that the Council adopts Ordinance 661 and approve the 1<sup>st</sup> reading by title only.**

The second reading will then occur at the January meeting.

Following either Motion #2 option, the CA will make the 1<sup>st</sup> and possibly 2<sup>nd</sup> reading of the ordinance into the record.

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**PRIOR AGENDA REPORTS ON THIS TOPIC**

**From the November 14, 2016 Council meeting agenda report:**

Public Hearing was earlier on the agenda. If the proposed ordinance is acceptable we can do the first reading this evening. If the motion is made and approved, I will make the first reading by title only into the record.

## Local Government Options for Regulation of Marijuana

Any city wanting to regulate or prohibit marijuana activities should work closely with its legal counsel to survey existing state law, administrative rules, and local code; develop a means to implement and enforce any new ordinances; and then craft the necessary amendments to the city's code to accomplish the council's intent.

As set out in ORS 475B.340, ORS 475B.500, and under their home rule authority, cities have a number of options for regulating marijuana activities. Whether to regulate is a local choice. What follows is an overview of the options available to cities. However, before embarking on any form of regulation, cities should begin by examining the 10 types of marijuana activities authorized by state statute and the restrictions state law (including administrative regulations adopted by the OLCC [found in OAR chapter 845, division 25] and the OHA [found in OAR chapter 333, division 8]) places on each type of activity to determine whether a gap exists between what state law allows and what the community desires to further restrict.

### State Restrictions on the Location of Medical and Recreational Marijuana Activities

Before regulating or prohibiting state-registered or licensed marijuana activities, cities should examine the restrictions in state law. It is important to know about any state restrictions that create a regulatory “floor.” In other words, although the courts generally have upheld a city's authority to impose more stringent restrictions than those described in state law, a city likely cannot impose restrictions that are more lenient than those described in state law. So for example, when state law requires a 1,000-foot buffer between medical marijuana dispensaries, a city could not allow dispensaries to locate within 500 feet of each other. Moreover, some cities may determine that state regulation of marijuana activities is sufficient and that local regulation is therefore unnecessary.

For those cities interested in prohibiting any of the marijuana activities listed above, it is important to examine the state restrictions, particularly in smaller communities. Those restrictions effectively may preclude a person from becoming registered with or licensed by the state to engage in marijuana activities.

### *Medical Grow Sites and Recreational Producers*

ORS 475B does not restrict where medical marijuana grow sites or recreational marijuana producers can locate. In fact, in 2016, the Legislature clarified that both medical and recreational marijuana are farm crops, allowing marijuana to be grown on land zoned for exclusive farm use. Nonetheless, such grows are still subject to local time place and manner restrictions.

However, the OLCC has adopted some restrictions on where recreational marijuana facilities generally can locate, and where recreational marijuana producers in particular can locate. (OAR

845-025-1115). All recreational marijuana facilities (including grows) are prohibited from locating:

- On federal property;
- At the same physical location or address as a medical marijuana facility that has maintained its medical registration with the OHA; or
- At the same physical location or address as a liquor licensee.

(OAR 845-025-1230) Recreational marijuana growers are additionally prohibited from locating on public land or on the same tax lot or parcel as another licensed grower under common ownership. (OAR 845-025-1115)

In addition to location restrictions, state law and rule places limitations on the number of plants that a medical marijuana grower can grow in residential zones on the size of recreational marijuana grow canopies. Generally, a medical marijuana grow site may have up to 12 mature plants if it is located in a residential zone, and up to 48 mature plants if it is located in any other zone. However, there are exceptions for certain grow sites that were in existence and had registered with the state by January 1, 2015. For those grow sites, the number of plants is limited to the number of plants that were at the grow site as of December 31, 2015, as long as that number does not exceed 24 mature plants per grow site in a residential zone and 96 mature plants per grow site in all other zones. A grower loses the right to claim those exceptions, however, if the grower’s registration is currently suspended or revoked.

Those medical limits, however do not apply to grow sites that are converting to recreational grows under the provisions of SB 4014 and are reapplying through the OLCC to become a recreational and medical grow site.



### *Medical Processing Sites and Recreational Processors*

Processors that produce medical marijuana extracts may not be located in an area zoned for residential use. The OHA has defined “zoned for residential use” to mean “the only primary use allowed outright in the designated zone is residential.” (OAR 333-008-0010(64)).

Processors that make recreational marijuana extracts may not be located in an area zoned *exclusively* for residential use, and they are also subject to the general location restrictions in the OLCC rules outlined above.



### *Medical Marijuana Dispensaries*

Under state law, medical marijuana dispensaries may not locate in residential zones, may not be located at the same address as a grow site, and may not be located within 1,000 feet of another dispensary.

In addition, dispensaries may not locate within 1,000 feet of a public elementary or secondary school for which attendance is compulsory under ORS 339.020, or a private or parochial

elementary or secondary school, teaching children as described in ORS 339.030(1)(a).<sup>8</sup> As a practical matter, that means that dispensaries cannot locate within 1,000 feet of most public and private elementary, middle and high schools. However, if a school is established within 1,000 feet of an existing dispensary, the dispensary may remain where it is unless the OHA revokes its registration. In addition, under the 2016 legislation, a city can allow a dispensary within 500 feet of a school under limited circumstances. (SB 1511, § 29).



### *Wholesalers and Recreational Retailers*

Wholesale and retail licensees may not locate in an area that is zoned exclusively for residential use and are subject to the same general OLCC restrictions on location noted in the prior section. The same requirements that apply to medical marijuana dispensaries regarding their proximity to schools apply to retail licensees. As a practical matter, a retail licensee may not locate within 1,000 feet of most public and private elementary, middle and high schools. However, if a school is established within 1,000 feet of an existing retail licensee, the licensee may remain where it is unless the OLCC revokes its license. In addition, under the 2016 legislation, a city can allow a dispensary within 500 feet of a school under limited circumstances. (SB 1511).

State law does not impose a 1,000-foot buffer between retailers as it does for medical marijuana dispensaries. In fact, as discussed further under local government options, under state law, a city cannot prohibit a retailer from being located within a distance greater than 1,000 feet from another retailer. In other words, the maximum buffer that a city can impose between retailers is 1,000 feet.

### *Compatibility with Local Requirements - Land Use Compatibility Statement (LUCS)*

In addition to express restrictions on the location of certain marijuana facilities, state law also requires certain marijuana facilities to obtain a land use compatibility statement (LUCS) from the local government before the state will issue a license. In particular, recreational producers, processors, wholesalers, and retailers must request a land use compatibility statement from a local government before the OLCC issues a license. A LUCS describes whether the proposed use is allowable in the zone requested, and must be issued within 21 days of:

<sup>8</sup> ORS 339.020 provides, “Except as provided in ORS 339.030:

- (1) Every person having control of a child between the ages of 7 and 18 years who has not completed the 12th grade is required to send the child to, and maintain the child in, regular attendance at a public full-time school during the entire school term.
- (2) If a person has control of a child five or six years of age and has enrolled the child in a public school, the person is required to send the child to, and maintain the child in, regular attendance at the public school while the child is enrolled in the public school.”

ORS 339.030(1)(a) provides, “In the following cases, children may not be required to attend public full-time schools: (a) Children being taught in a private or parochial school in the courses of study usually taught in grades 1 through 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools in the 1994-1995 school year.”

**ORDINANCE NO. 661**

**AN ORDINANCE AMENDING ORDINANCE 634, THE GOLD BEACH ZONING ORDINANCE,  
PROVIDING PROVISIONS FOR RECREATIONAL AND MEDICAL MARIJUANA DISPENSARIES  
WITHIN THE COMMERCIAL (4-C) AND INDUSTRIAL (5-I) ZONES**

**WHEREAS,** In 1998 the voters of the state of Oregon originally approved Measure 67 commonly known as the Oregon Medical Marijuana Act; and

**WHEREAS,** In 2014 the voters of the state of Oregon approved Measure 91 which provided for personal growing, possession, and use of limited amounts of non-medical recreational marijuana; and

**WHEREAS,** The state legislature made changes to both laws in 2015 and provided a framework for reasonable time, manner, and place restrictions by local jurisdictions on medical and recreational marijuana growers, processors, dispensaries and retailers; and

**WHEREAS,** The City Council, after several public hearings and workshops, has determined reasonable time, manner, and place restrictions shall be incorporated into the City Zoning Ordinance #634, specifically within the Commercial and Industrial zones.

**Section 1.** The following sections of the Gold Beach Zoning Ordinance are hereby amended:

Section 1.030 Definitions

Commercial Zone (4-C)

Section 2.330 Conditional Uses Permitted

Industrial Zone (5-I)

Section 2.430 Conditional Uses Permitted

ARTICLE III Supplementary Provisions

Section 3.050 Home Occupations

ARTICLE VI Conditional Uses

10. Medical or Recreational Marijuana Uses

**AMENDMENTS TO GBZO TO ALLOW FOR Medical and Recreational Marijuana Uses within  
the Commercial and Industrial Zones**

Regular type is existing language to remain unchanged

***Bold Italic is new language to be added or amended***

~~Strikethrough~~ is language to be removed

**Add to Section 1.030 Definitions:**

**Marijuana.** *the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.*

**Marijuana Facility.** *A Medical Marijuana Grow Site, a Medical Marijuana Processing Site, a Medical Marijuana Dispensary, a Recreational Marijuana Producer, a Recreational Marijuana Processor, a Recreational Marijuana Wholesaler or a Recreational Marijuana Retailer.*

**Medical Marijuana Dispensary.** *A medical marijuana dispensary registered with the Oregon Health Authority pursuant to ORS 475B.450.*

**Medical Marijuana Grow Site.** *A medical marijuana grow site registered with the Oregon Health Authority pursuant to ORS 475B.420.*

**Medical Marijuana Processing Site.** *A medical marijuana processing site registered with the Oregon Health Authority pursuant ORS 475B.435.*

**Recreational Marijuana Processor.** *A recreational marijuana processor licensed by the Oregon Liquor Control Commission pursuant to ORS 475B.090.*

**Recreational Marijuana Producer.** *A recreational marijuana producer licensed by the Oregon Liquor Control Commission pursuant to ORS 475B.070.*

**Recreational Marijuana Retailer.** *A recreational marijuana retailer licensed by the Oregon Liquor Control Commission pursuant to ORS 475B.110.*

**Recreational Marijuana Wholesaler.** *A recreational marijuana wholesaler licensed by the Oregon Liquor Control Commission pursuant to ORS 475B.100.*

Regular type is existing language to remain unchanged  
***Bold Italic is new language to be added or amended***  
~~Strikethrough~~ is language to be removed

Commercial Zone (4-C)

Section 2.310. Purpose of Classification.

The 4-C zone is designed to apply to areas where more complete commercial facilities are necessary for community convenience.

Section 2.320. Uses Permitted Outright.

The 4-C zone is designated to be applied to areas such as community shopping centers and business districts that cater to the needs of nearby residential areas.

1. Hotel, motel, vacation rental, or bed and breakfast inn.
2. Club or lodge hall.
3. Hospital, sanitarium, retirement home, medical or dental clinic.
4. Retail or service establishment.
5. Automobile service station.
6. Machinery, farm equipment, marine, or automotive sales, service, storage, or repair.
7. Building material storage yard.
8. Plumbing, electrical, or paint contractor's storage, repair or sales shop.
9. Wholesale trucking and storage establishment.
10. Park, playground, fire station, library or museum.
11. Office buildings.
12. Place of worship or school.
13. Recreational vehicle park.

14. Machine shop or cabinet shop.
15. Manufacturing, repairing, compounding, processing, storage, research, assembling, or fabricating activities except: tire retreading or vulcanizing shop, and manufacturing plants-- including lumber and plywood mills
16. Airport related buildings if located within the airport property. See airport overlay section
17. Dwelling unit(s) may be located in a building devoted primarily to a non-residential use.

PERMITTED USES WITHIN EXISTING SINGLE-FAMILY/MULTIFAMILY DWELLINGS:

18. Home Occupations subject to the general standards of Section 3.050.
19. A Residential Home as defined in ORS 197.660(2).
20. A Residential Facility as defined in ORS 197.660(1)
21. Registered or certified family child care home pursuant to ORS 657A.440.

Section 2.330. Conditional Uses Permitted.

In a 4-C zone, the following uses and their accessory uses are permitted when authorized in accordance with Section 6.010 through Section 6.050. All conditional uses must meet the general standards of Section 6.041. Numbers in parenthesis following a use indicate the specific standards described in Section 6.042 that must be met in addition to the general standards in order to approve that particular use.

1. Single family dwelling.
2. Multiple family dwelling.
3. Planned Unit Development on a lot of at least one (1) acre in area and in compliance with Article V.
4. Utility facility; including substation, pumping station or private generator. (1)
5. Communications transmitter, receiver, antenna or tower. (1)

5. Wind generator (1).
6. Mobile or portable office.
7. Trailer, camping or recreational vehicle temporarily used as a residence during construction of a permitted use or to temporarily provide watchman security for material that cannot be reasonably stored in an established commercial storage facility.
8. ***Medical Marijuana Dispensary (subject to the specific conditional use standards of Section 6.042 (10) )***
9. ***Recreational Marijuana Wholesaler or Retailer (subject to the specific conditional use standards of Section 6.042 (10) )***
10. ***Medical or Recreational Marijuana producer (grower) provided the entire growing operation and accessory uses are conducted within a legally constructed building. No outside growing or storage is permitted. (subject to the specific conditional use standards of Section 6.042 (10) )***

Section 2.340. Lot Size.

Except as provided in Sections 4.040 and 4.050 in a 4-C zone:

The minimum lot size shall be determined by the County Sanitarian as necessary for proper installation and operation of water supply and sewage disposal systems. If both a public water supply and a public sewage disposal system are available, there shall be no minimum lot area; however, the off-street parking ordinance must be conformed with.

Section 2.350. Height of Buildings.

Except as provided in Section 4.020 in a 4-C zone, no building shall exceed thirty-five (35) feet in height.

***END OF (4-C) COMMERCIAL ZONE AMENDMENTS***

Regular type is existing language to remain unchanged  
***Bold Italic is new language to be added or amended***  
~~Strikethrough~~ is language to be removed

#### Industrial Zone (5-I)

##### Section 2.410. Purpose of Classification.

The industrial zone is generally intended to provide for limited or light industrial uses. Conditional uses in this zone are designed for heavier industrial uses.

##### Section 2.420. Uses Permitted Outright.

In a 5-I zone, the following uses and their accessory uses are permitted outright:

1. Retail or service establishment.
2. Automobile service station.
3. Machinery, farm equipment, marine, or automotive sales, service, storage, or repair.
4. Building material storage yard.
5. Plumbing, electrical, or paint contractor's storage, repair or sales shop.
6. Tire retreading or vulcanizing shop.
7. Wholesale trucking and storage establishment.
8. Machine shop or cabinet shop.
9. Manufacturing, repairing, compounding, processing, storage, research, assembling or fabricating activities except those specifically listed in Section 2.430.
10. Utility facility, including substation or pumping station.
11. Communications transmitter, receiver, antenna or tower.

Section 2.430. Conditional Uses Permitted.

In a 5-I zone, the following uses and their accessory uses are permitted when authorized in accordance with Section 6.010 through Section 6.050. All conditional uses must meet the general standards of Section 6.041. Numbers in parenthesis following a use indicate the specific standards described in Section 6.042 that must be met in addition to the general standards in order to approve that particular use.

1. Manufacturing plant, including lumber and plywood mills.
2. Airport or heliport.
3. Place of worship or school.
4. Park, playground, fire station, library or museum.
5. Planned Unit Development on a lot of at least three (3) acres in area and in compliance with Article V.
6. Wind generators (1).
7. Recreational vehicle park or campground
8. Mobile or portable office.
9. ***Medical Marijuana Dispensary (subject to the specific conditional use standards of Section 6.042 (10) )***
10. ***Recreational Marijuana Wholesaler or Retailer (subject to the specific conditional use standards of Section 6.042 (10) )***
11. ***Medical or Recreational Marijuana producer (grower) provided the entire growing operation and accessory uses are conducted within a legally constructed building. No outside growing or storage is permitted. (subject to the specific conditional use standards of Section 6.042 (10) )***
12. ***Medical or Recreational Marijuana processor (distilling & extracts) provided the entire processing operation and accessory uses are conducted within a legally constructed building. No outside storage is permitted. (subject to the specific conditional use standards of Section 6.042 (10) )***

Section 2.440. Lot Size.

Except as provided in Sections 4.040 and 4.050 in a 5-I zone, the minimum lot size shall be determined by the County Sanitarian as necessary for proper installation and operation of water supply and sewage disposal systems. If both a public water supply and a public sewage disposal system are available, there shall be no minimum lot area; however, compliance with the off-street parking ordinance shall be required. must be conformed with.

Section 2.450. Height of Building.

Except as provided in Section 4.020 in a 5-I zone, no building shall exceed thirty-five (35) feet in height; however, buildings up to fifty (50) feet in height may be allowed as a conditional use.

*END OF (5-I) INDUSTRIAL ZONE AMENDMENTS*

Regular type is existing language to remain unchanged

***Bold Italic is new language to be added or amended***

~~Strikethrough~~ is language to be removed

Section 3.050. Home Occupations.

Definition: Home occupation means any business or professional activity engaged in for the production of income by a resident of a dwelling or dwelling unit as a subordinate use of the building and its premises, and in conformance with the standards listed below. Such term does not include the lease or rental of a dwelling unit or the rental of guest rooms on the same premises.

***Marijuana Facility as defined in Section 1.030, and any accessory use to a marijuana facility, is expressly prohibited as a Home Occupation.***

**Section 6.042 Specific Conditional Use Standards**

**10. Medical or Recreational Marijuana Uses**

- a) The facility shall be registered and licensed through the State of Oregon and shall comply with all state regulations regarding medical or recreational marijuana facilities, depending on its type of state registration. This includes, but is not limited to: siting standards, proximity to schools or other marijuana or OLCC regulated facilities, hours of operation, security measures, etc.***
- b) The facility must be located entirely within a permanent building and may not be located in a trailer, cargo container, motor or recreational vehicle.***
- c) Outside storage of merchandise, raw materials, or other materials associated with the facility is prohibited.***
- d) Drive-up or walk-up window use or similar exchange of goods through a portal to the exterior of the retail establishment is prohibited.***
- e) The facility shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the facility's exterior refuse containers.***
- f) Production of oil based products or distilling of oil shall only be permitted within the Industrial (5-1) zone. Review and inspection of the facility and proposed uses by the Fire Chief shall be required prior to the commencement of business.***

END OF ALL PROPOSED AMENDMENTS

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Section 2. All other sections and provisions of Ordinances 634 are unaltered and remain in effect.

Section 3. General Savings Provision and Continuity of Existing Provisions.

This code shall not affect the rights and duties that matured, penalties that were incurred and proceedings that were begun before the effective date of this Code. The provisions of this Code that are the same in substance as code or ordinance provisions that are in effect immediately before this Code becomes effective shall be construed as restatements and continuations of the prior provisions.

**Passed and Adopted** by the City Council of the City of Gold Beach, Oregon, State of Oregon, on this 12<sup>th</sup> day of December, 2016.

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Karl Popoff, Mayor

ATTEST:

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Jodi Fritts, City Administrator

<b>1<sup>st</sup> &amp; 2<sup>nd</sup> READING</b>	<b>December 12, 2016</b>
<b>AYES</b>	<b>NAYS</b>



# **MISC. ITEMS**

**INCLUDING POLICY DISCUSSIONS &  
DETERMINATIONS**



**SECTION 10.**

**MISC ITEMS** (including policy discussions & determinations)

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**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**

Agenda Item No. **10 a.**

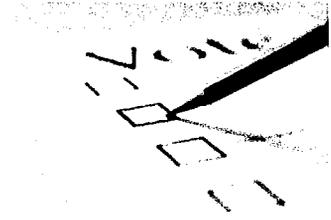
Council Meeting Date: December 12, 2016

**TITLE: January LOC Small Cities Meeting will cover public meetings law update**

**SUMMARY AND BACKGROUND:**

The Supreme Court recently reversed the Court of Appeals decision on Handy v. Lane County. The January LOC Small Cities Meeting will be a training session by LOC on the impacts of the decision for public meetings. The meeting is following the day long Elected Essentials Training and will start at 4:30 in Coquille. Info attached.

# REGIONAL MEETINGS 2017



One quarter each year, the League integrates its Regional Meetings with the Small Cities Network to provide an update on League happenings, an opportunity to network and a forum to discuss common issues and solutions.

Regional Meetings have been scheduled on the same dates as LOC's Elected Essentials trainings to minimize travel for members.

## DATES AND LOCATIONS

**January 26 - Coquille**  
Community Center  
115 North Birch St., Coquille, OR 97423

**Elected Essentials Training** (*open to elected officials only*): **8:30 a.m. - 4:15 p.m.**

**Regional Meeting** (*open to all city officials*): **4:30 p.m. - 6:30 p.m.**

## AGENDA

- 4:30 – 4:35 Welcome
- 4:35 – 4:45 LOC's a resource for that
- 4:45 – 5:15 Public Meetings: After the Handy Decision Now What?
- 5:15 – 5:45 What's Happening at the Legislature
- 5:45-6:20 Round Table  
Info share, 1 minute from each city represented – what's happening at your city?
- 6:20-6:30 Closing comments & thank you

## LOC Regional Meetings to Include Legislative Update and Training on Public Meetings Law

**B**eginning January 5, member cities are invited to join LOC President and Beaverton Mayor Denny Doyle, along with League staff, for the 2017 LOC Regional Meetings. Each meeting will include a training on public meeting law following the *Handy v. Lane County* decision and an overview of the [2017 legislative session](#). The Regional Meetings, which will also serve as first quarter Small Cities Network meetings, have been scheduled to follow the League's free [Elect-essentials](#) trainings.

For Regional Meeting dates and locations, click [here](#). Online registration is available [here](#) or by emailing LOC's John Schmidt at [jschmidt@orcities.org](mailto:jschmidt@orcities.org).

**Contact:** Susan Muir, Member Services Director – [smuir@orcities.org](mailto:smuir@orcities.org) or (503) 588-6550.

### Additional Budgeting Basics Workshop Set for February 6 in Sherwood

**W**hether you are an elected official or city staff, the League's "Budgeting Basics" workshop—scheduled for February 6 in Sherwood—is for you. Attendees will learn the fundamentals of Oregon budget law, the goals of a budget, do's and don'ts, and more. The course will include hands-on budget practice and a review of sample budgets and mandatory budget documents. This popular training is only offered during budget season, and was added after the December training in Salem quickly sold out.

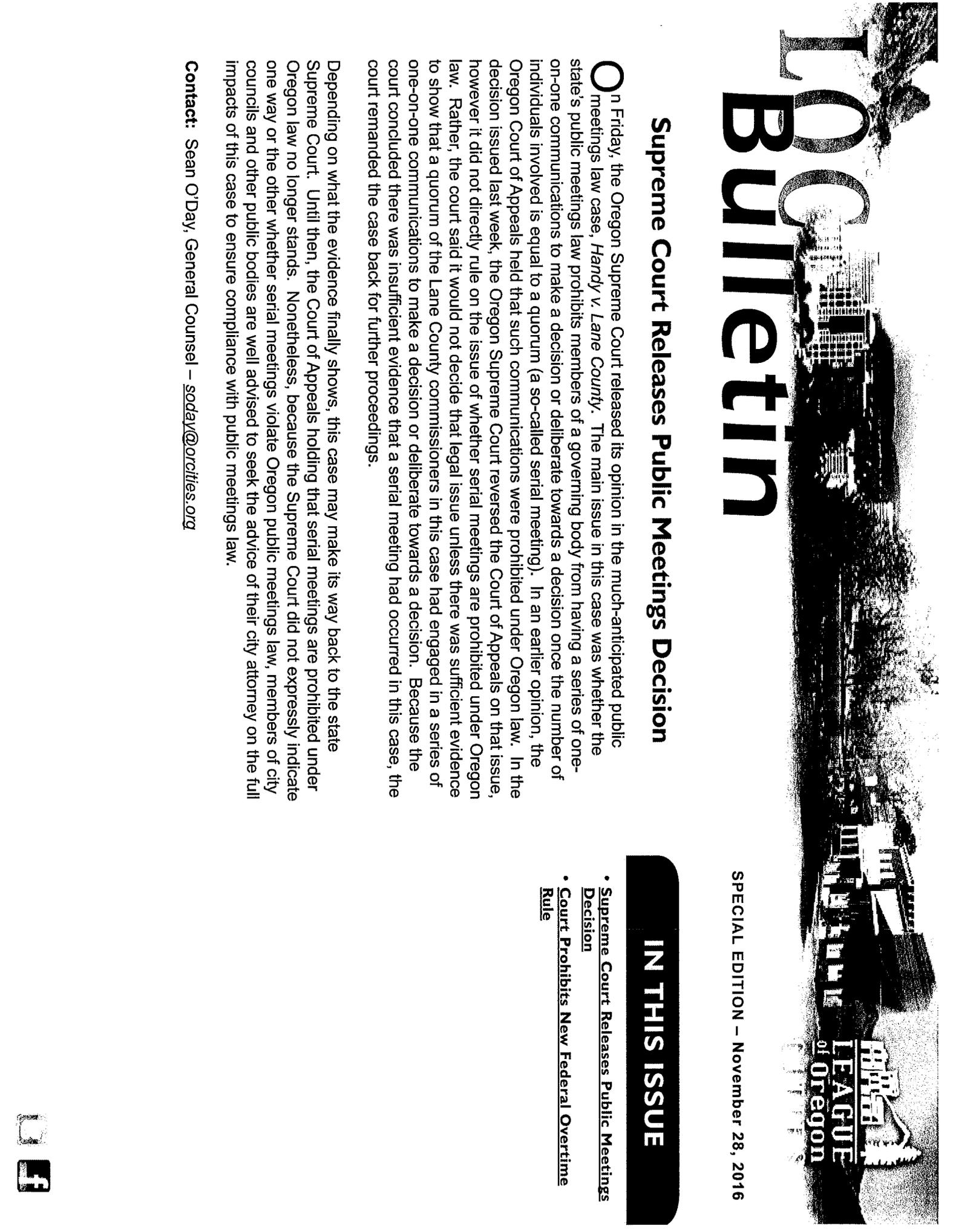
To guarantee a seat for the Sherwood training, members are advised to register early.

Cost is \$150 for LOC members who register before January 23. Registration is available at [www.orcities.org/training](http://www.orcities.org/training).

**Contact:** Lisa Trevino, Administrative Assistant – [ltrevino@orcities.org](mailto:ltrevino@orcities.org)

## IN THIS ISSUE

- [LOC Releases Fourth Edition of "Local Government Regulation of Marijuana in Oregon"](#)
- [Registration Now Open for Elected Essentials Training](#)
- [LOC Regional Meetings to Include Legislative Update and Training on Public Meetings Law](#)
- [Additional Budgeting Basics Workshop Set for February 6 in Sherwood](#)
- [Webinar Scheduled on Pilot Program to Expand UGBs for Affordable Housing](#)
- [FEMA Announces Notice of Funding Opportunity](#)



# IBOC Bulletin

THE  
LEAGUE  
of Oregon  
CITIES

SPECIAL EDITION – November 28, 2016

## Supreme Court Releases Public Meetings Decision

### IN THIS ISSUE

- [Supreme Court Releases Public Meetings Decision](#)
- [Court Prohibits New Federal Overtime Rule](#)

On Friday, the Oregon Supreme Court released its opinion in the much-anticipated public meetings law case, *Handy v. Lane County*. The main issue in this case was whether the state's public meetings law prohibits members of a governing body from having a series of one-on-one communications to make a decision or deliberate towards a decision once the number of individuals involved is equal to a quorum (a so-called serial meeting). In an earlier opinion, the Oregon Court of Appeals held that such communications were prohibited under Oregon law. In the decision issued last week, the Oregon Supreme Court reversed the Court of Appeals on that issue, however it did not directly rule on the issue of whether serial meetings are prohibited under Oregon law. Rather, the court said it would not decide that legal issue unless there was sufficient evidence to show that a quorum of the Lane County commissioners in this case had engaged in a series of one-on-one communications to make a decision or deliberate towards a decision. Because the court concluded there was insufficient evidence that a serial meeting had occurred in this case, the court remanded the case back for further proceedings.

Depending on what the evidence finally shows, this case may make its way back to the state Supreme Court. Until then, the Court of Appeals holding that serial meetings are prohibited under Oregon law no longer stands. Nonetheless, because the Supreme Court did not expressly indicate one way or the other whether serial meetings violate Oregon public meetings law, members of city councils and other public bodies are well advised to seek the advice of their city attorney on the full impacts of this case to ensure compliance with public meetings law.

**Contact:** Sean O'Day, General Counsel – [soday@orcities.org](mailto:soday@orcities.org)

