



CITY COUNCIL AGENDA
November 9, 2015, 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		
STARTING VOTE		
Council Position #3 Becky Campbell		
Council Position #4 Doug Brand		
Council Position #5 Tamie Kaufman		
City Administrator Jodi Fritts		
Student Liaison VACANT		

3. Special Orders of Business:
None Scheduled

4. Consent Calendar:
None Scheduled

5. Citizens Comments
As presented to the Mayor at the beginning of the meeting

6. Public Hearing
None Scheduled

7. Citizen Requested Agenda Items
a. Request by Border Coast Regional Airport Authority for letter of support for *ConnectOregon* VI grant application

8. Public Contracts and Purchasing
None Scheduled

9. Ordinances & Resolutions
None Scheduled

10. Miscellaneous Items (including policy discussions and determinations)

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

- a. Marijuana Tax info from other cities
- 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**
The Council will meet in executive session immediately following Mayor & Council Members Comments and the final Citizens Comments sections of the agenda.
The Council will meet in executive session pursuant to:
- ORS 192.660(2)(i): To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.***
- The next scheduled meeting of the Gold Beach City Council is **Monday, December 14, 2015, at 6:30PM** in the Council Chambers of City Hall, 29592 Ellensburg Avenue, Gold Beach, Oregon.
- 15. Adjourn Time: _____**

The location of the hearing/meeting is accessible to the disabled. Advance notice is requested if special accommodations are needed. Call 541-247-7029 so that appropriate assistance can be provided. The City of Gold Beach is an affirmative action EEOE and complies with section 504 of the rehab act of 1973. Complaints of discrimination should be sent to: USDA, Attention Director, Office of Civil Rights, Washington, D.C. 20250-9419

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CITIZEN REQUESTED AGENDA ITEMS

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 7. a.
Council Hearing Date: November 9, 2015

TITLE: Border Coast Regional Airport Authority request for grant application support

SUMMARY AND BACKGROUND:

Susan Daughtery, Program Manager, for the BCR Airport Authority sent a letter requesting Council support for their grant application to ODOT for a *ConnectOregon* VI grant. I have attached the support letter request, a Triplicate article from last year about the airport's plans, and an excerpt of *ConnectOregon* VI FAQs.

REQUESTED ACTION:

Decision whether to offer a letter of support for the application, and direct staff how to proceed.

BORDER COAST REGIONAL AIRPORT AUTHORITY



150 Dale Rupert Road
Crescent City, CA 95531

Telephone: (707)464-7288
Fax: (707) 464-1023
www.flycrescentcity.com

RECEIVED
OCT 22 2015
CITY OF GOLD BEACH

October 15, 2015

Greetings,

We are currently preparing an application for the *ConnectOregon VI* grant offering. We are seeking funding to assist in the costs of the terminal replacement project at Del Norte County Regional Airport. We would very much appreciate your written support for this application.

This transportation project will provide jobs during construction as well as providing the airport with a new, attractive and efficient terminal. We are confident this project will benefit both the business and recreational traveler and prove to be an asset to the Wild Rivers Coast.

We requested and received numerous letters of support for this same project in 2009 and 2011. Unfortunately, the terminal project had to be put on hiatus while we completed the mandated Runway Safety Area (RSA) project. We did receive Connect Oregon V funding for the RSA project, for which we are very thankful.

Now that we have completed the RSA project, we are ready to get back to building a new terminal to serve the community. We are preparing the *ConnectOregon VI* grant application requesting 5% matching funds for construction. The remaining 95% of eligible costs will be covered by grants from the Federal Aviation Administration.

This grant application submission is due in mid-November. We would like to receive your letter in time to accompany the submission. Please address your letters to:

City of Brookings
898 Elk Drive
Brookings, OR 97415

To expedite our receipt of the letter, you can forward a copy to the following email: sdaugherty@co.del-norte.ca.us. Please also mail the original letter in the enclosed envelope to the BCRAA office.

We greatly appreciate your support of this project and your continued support of the airport. We are very pleased with the performance of PenAir, our new air carrier, and hope you have the chance to experience a PenAir flight to Portland soon.

If you have any questions, do not hesitate to give me a call at (707)464-7288.

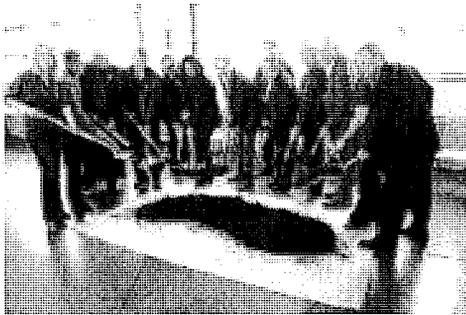
Yours truly,

A handwritten signature in cursive script that reads "Susan Daugherty". The signature is written in black ink and is positioned above the printed name and title.

Susan Daugherty
Program Manager

Airport project breaks ground

By Adam Spencer, The Triplicate November 10, 2014 02:56 pm



Past and present airport authority board members and others involved ceremoniously break ground Thursday on a new runway improvement project for Del Norte County's airport. Del Norte Triplicate / Adam Spencer

Ceremonial dirt was turned at the Del Norte County Regional Airport Thursday to celebrate not just the real ground-breaking that will begin on the airport's runway improvement project next week but also the many behind-the-scenes tasks completed over the past several years to create a shovel-ready project.

"This is the first turning of the shovel for a physical project, but this project has been going on for a long time," said David Finigan, chairman of the Border Coast Regional Airport Authority, which manages Del Norte's airport. "All along the line we've heard from various stages, consistently, year after year, that 'You can't do it.' Well, I'm here to show you today that we can."

Finigan, who represents Del Norte County on the Airport Board as a county supervisor, noted how the multi-agency airport authority was created specifically for the political clout needed to develop projects like runway improvement and the building of a new terminal.

Elk Valley Rancheria, one of the charter members of the airport authority, presented the airport with a \$100,000 check on Thursday to finance airport projects.

"Instead of doing the commitment for \$20,000 a year for five years, Elk Valley just stood up and said, 'We're just going to put \$100,000 on the table' and shocked the hell out of all of us — now that's a commitment," Finigan said after the ceremony. "This will go in the bank for matching funds for some of these other federal grants that are coming down."

Dale Miller, chairman of the Elk Valley Rancheria, said that tribal officials use the airport frequently to attend necessary meetings in Sacramento and Washington, D.C., and it's a benefit to the whole community.

"Hopefully, it's going to help with our economy down the road, which we're a part of, and I think it's a really important thing for all of us," Miller said.

Airport program manager Susan Daugherty said that the agency does not yet have all of the matching funds needed for grants that have been tentatively awarded.

The Runway Safety Area project breaks ground next week and will improve shoulders and buffer zones, bringing the airport up to minimum standards that the Federal Aviation Administration has said all U.S. commercial airports must meet by December 2015 or risk losing their operating permits.

The federal government is funding 95 percent of the \$16 million RSA project, but the rest must come from local matching funds, including from member agencies of the airport authority, like the City of Brookings.

A \$400,000 grant to Brookings from the Oregon Department of Transportation's ConnectOregon 5 program will be used for the project. This was not an easy sell at first to Oregon bureaucrats, considering the airport's location in California, according to Brookings City Manager Gary Milliman.

"We've finally been successful at getting acceptance among Oregon's decision-makers at several levels that this airport truly serves an Oregon population as well as a California population," Milliman said, adding that a prevalence of Oregon license plates in the Del Norte airport's parking lot on any given day is proof. "For Brookings, this is as much our airport as it is Crescent City's airport."

Mark Usselman, area manager for ODOT, said that his agency has recognized the importance of Del Norte's airport for some time, but it was always difficult finding a way to help fund it.

"But through ConnectOregon 5 we were able to prioritize this project, and it was in the top 20 for projects across the state in Oregon, so it was funded," Usselman said.

John Driscoll, district representative for U.S. Congressman Jared Huffman, came to the ground-breaking ceremony to express the congressman's thanks and congratulations for the progress of the project, which had difficult environmental mitigation components unlike other airports' Runway Safety Area improvements.

"In many places (runway improvement work) was really simple, but here on the beautiful North Coast it was anything but easy. Through hard work, difficult negotiations and careful planning the project will be able to fulfill its obligation to make up for the loss of wetlands that will result around the airport," Driscoll said. "Much of that will be made up by protecting and enhancing

wetlands in the Pacific Shores subdivision and in Bay Meadows. In other words, the community and the environment end up with something better than what they have."

Phase 1 construction

The work that will be completed over the next three months includes constructing a new electrical vault building that will provide electricity to new runway lights that will be installed, creating new signage and aviation markings for the runways, and other utility work associated with the electrical infrastructure, according to Jimmy Paulding, project manager with the project's general contractor, Vanir Construction.

Most of the major earth-moving components of the RSA project cannot be completed until the California Coastal Commission approves a permit application that outlines how new wetlands will be created within the Lake Earl and Tolowa Dunes area to make up for wetlands disturbed by the runway project.

Finalizing those plans has been a tricky task since it involves purchasing half-acre lots from willing sellers in the Pacific Shores subdivision and removing county roads no longer needed to service those private lots.

Despite the 60-year-old subdivision's history of not being developable, willing sellers did not come flocking to the \$5,000-per-lot offer made by the airport authority.

The uncertainty of Pacific Shores has made the creation of an environmental mitigation plan a dynamic process.

"It's been kind of a moving target as the lots from willing sellers in Pacific Shores have trickled in over time," said Melissa Kraemer, supervising planner for the North Coast District of the Coastal Commission.

Because of the lack of willing sellers, the Coastal Commission allowed the airport authority to purchase the 75-acre, undeveloped Bay Meadows subdivision for wetland mitigation, despite the Coastal Commission's stated desire to use Pacific Shores sites.

Kraemer said it is expected that the airport authority's application will be approved during the January 2015 Coastal Commission meeting, just as the phase 1 work is being completed.

Ultimate goal

Several years ago a meeting was held in the airport hangars adjacent to the airport authority's office to talk about building a new terminal for the Del Norte County Regional Airport, Finigan recalled on Friday.

U.S. Congressmen Mike Thompson and Peter DeFazio were both present to support the initiative.

"That was when we solidified that, when it comes to the economics of transportation, that border between Del Norte and Curry County doesn't exist," Finigan said.

Any support for a new terminal diminished with the terrorist attacks on 9/11. The federal government prioritized beefing up security fences and a new security screening building (a double-wide trailer) before talk of a new terminal could move forward, Finigan said.

As time passed, more environmental restrictions surfaced, with the California Coastal Commission calling for the use of the contentious Pacific Shores area for mitigation and asking for subterranean tunnels to allow frogs to pass under the roadway leading to the airport, Finigan said.

But the airport authority persevered, and the environmental work that will be completed for the RSA project will also cover a new terminal building if funding is found.

"We adapted a philosophy that it's imperative that we get this done, so we're going to find a way to work with environmental and permitting agencies," Finigan said. He predicts that the momentum from the RSA project will feed right into the almost shovel-ready new terminal building project.

During Thursday's ceremony, the airport authority's new director, Matthew Leitner, thanked all of the people involved, including his predecessor, James Bernard, who many say was crucial for pushing these projects through.

"Without their ingenuity, tenacity and resourcefulness, this project would've never made it from inception to initiation," Leitner said.

Reach Adam Spencer at aspencer@triplicate.com.



Connect Oregon VI

Frequently Asked Questions

October 5, 2015

For more information about *ConnectOregon* visit:
<http://www.oregon.gov/ODOT/TD/TP/pages/connector.aspx>

1. General Information

a. What is *ConnectOregon*?

ConnectOregon is a lottery bond based grant initiative to invest in air, rail, marine, transit, and bicycle and pedestrian infrastructure to ensure Oregon's transportation system is strong, diverse, and efficient. Public, private, and non-profit entities are able to apply for grants of up to 70% of project costs.

b. What is new for *ConnectOregon VI*?

There are a few changes for *ConnectOregon VI*:

- *ConnectOregon VI* has \$45 million available for distribution.
- Name of fund used for the program has been changes from Multimodal Transportation Fund to *ConnectOregon*
- Applicant match is now 30%.
- A definition has been added to define "bicycle". See Section 3 below.
- Loans are no longer a funding option.
- A definition of "transportation project" has been directly added to the legislation. See Section 3 Terms below.
- A selection consideration pertaining to project life expectancy has been added. See Section 3 Terms below.
- Persons representing entities with projects for consideration will no longer be permitted to serve on the *ConnectOregon* Final Review Committee
- Columbia County has been moved from *ConnectOregon* Region 1 to Region 2.
- Applicants will now simply state how much funding they will provide for the total project. Overmatch is no longer used.

There are six considerations used when selecting *ConnectOregon VI* projects. Below are the six. Considerations a, b, and c are "strategic" and will receive twice the scoring value as considerations d, e, and f. The OTC will select projects with this in mind.

- (a) Whether a proposed transportation project reduces transportation costs for Oregon businesses or improves access to jobs and sources of labor;**
- (b) Whether a proposed transportation project results in an economic benefit to this state;**
- (c) Whether a proposed transportation project is a critical link connecting elements of Oregon's transportation system that will measurably improve utilization and efficiency of the system;**

Oregon Department of Transportation**10/05/15**

- (d) How much of the cost of a proposed transportation project can be borne by the applicant and from any source other than the Multimodal Transportation Fund; and
- (e) Whether a proposed transportation project is ready for construction.
- (f) Whether a proposed transportation project has a useful life expectancy that offers maximum benefit to the state.

Consideration (f) regarding life expectancy of a project has been added for *ConnectOregon VI*

- Applicants will be required to submit the following forms. Failure to submit these items will result in disqualification.
 - Tax Declaration Form
 - Department of Revenue Tax Certification
 - Racial and Ethnic Impact Statement
 - Railroad Certification (if Applicable)
- Administrative rules specific to *ConnectOregon VI* have been updated and will become final in December 2015 after OTC final adoption. Visit <http://www.oregon.gov/ODOT/TD/TP/pages/connector.aspx> to view the most recent administrative rules.

2. Communications and Outreach

a. How can I get information on *ConnectOregon* and stay up to date on the program?

The *ConnectOregon* website, <http://www.oregon.gov/ODOT/TD/TP/pages/connector.aspx>, will contain up-to-date information about the program. Also an electronic newsletter will provide interested groups and individuals with the latest news. Sign up for the electronic newsletter on the *ConnectOregon* web site.

3. Key Terms

Bicycle ORS 367.080(1)(a)

Bicycle means a vehicle that:

- (1) Is designed to be operated on the ground on wheels;
- (2) Has a seat or saddle for use of the rider;
- (3) Is designed to travel with not more than three wheels in contact with the ground;
- (4) Is propelled exclusively by human power; and
- (5) Has every wheel more than 14 inches in diameter or two tandem wheels either of which is more than 14 inches in diameter.



MISC. ITEMS

**INCLUDING POLICY DISCUSSIONS &
DETERMINATIONS**

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **10. a.**
Council Hearing Date: November 9, 2015

TITLE: Discuss Recreational Marijuana Tax

SUMMARY AND BACKGROUND:

Attached are Marijuana Tax ordinances from the cities of: Ashland, Brookings, Happy Valley, and Portland for Council review. Also, correspondence from Councilor Campbell regarding a discussion she had with a marijuana vendor in Brookings.

REQUESTED ACTION:

Direct staff on how to proceed—draft a Marijuana Tax ordinance for council adoption or not.

Jodi Fritts

From: Becky Campbell [REDACTED]
Sent: Wednesday, October 21, 2015 1:51 PM
To: Jodi Fritts
Subject: Marijuana

Administrator Fritts,

I spoke to O'Donnell Doyle, the owner of South Coast Dispensary today. He has a store in Brookings. His business is professionally run with a good selection of products. I wanted his opinion on the three percent city tax the council is contemplating.

He told me that not having a three percent city tax on sales would be an incentive, to draw like businesses to GB.

The most important incentive in his eyes was the city of GB pro-pot? For example, Brookings provided a map of where dispensaries could be located. Getting a business license 'was a breeze' for him. He wanted to know if GB was pro-pot. Did GB have a map of possible locations where a dispensary could be located?

I told Mr. Doyle that my personal opinion was that the city of GB was not yet, 'pro-pot.' That I was not in the majority in my pro-pot stance on this issue with in the council.

I wanted to keep you and the rest of the council aware of my discussion with Mr Doyle. Please forward this to the rest of the group.

It is my opinion that if we were to designate locations with in the city that a dispensary could operate, it would shorten the time table in getting a business that provides this service in town.

Becky Campbell
City Councilor
Position three



BROOKINGS MARIJUANA TAX

CITY OF BROOKINGS

Chapter 3.20 TAX ON SALE OF MARIJUANA AND MARIJUANA-INFUSED PRODUCTS

Sections:

3.20.010 Purpose.

3.20.020 Definitions.

3.20.030 Levy of tax.

3.20.040 Deductions.

3.20.050 Seller responsible for payment of tax.

3.20.060 Penalties and interest.

3.20.070 Failure to report and remit tax – Determination of tax by director.

3.20.080 Appeal.

3.20.090 Refunds.

3.20.100 Actions to collect.

3.20.110 Violations.

3.20.120 General penalty.

3.20.130 Confidentiality.

3.20.140 Audit of books, records or persons.

3.20.150 Forms and regulations.

3.20.010 Purpose.

For the purposes of this chapter, every person who sells marijuana, medical marijuana or marijuana-infused products in the city of Brookings is exercising a taxable privilege. The purpose of this chapter is to impose a tax upon the retail sale of marijuana, medical marijuana, and marijuana-infused products. [Ord. 14-O-739 § 2.]

3.20.020 Definitions.

When not clearly otherwise indicated by the context, the following words and phrases as used in this chapter shall have the following meanings:

A. "Director" means the finance and human resource services director for the city of Brookings or his/her designee.

B. "Gross taxable sales" means the total amount received in money, credits, property or other consideration from the sale of marijuana, medical marijuana and marijuana-infused products that is subject to the tax imposed by this chapter.

C. "Marijuana" means all parts of the plant of the genus Cannabis as defined under ORS 475.005(16).

D. "Oregon Medical Marijuana Program" means the office within the Oregon Health Authority that administers the provisions of ORS 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.

E. "Person" means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the state of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.

F. "Purchase or sale" means the retail acquisition or furnishing for consideration of marijuana by any person within the city and does not include the acquisition or furnishing of marijuana by a grower or processor to a seller.

G. "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.

H. "Retail sale" means the transfer of goods or services in exchange for any valuable consideration and does not include the transfer or exchange of goods or services between a grower or processor and a seller.

I. "Seller" means any person who is required to be licensed or has been licensed by the state of Oregon to provide marijuana, medical marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration.

J. "Tax" means either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under this chapter.

K. "Taxpayer" means any person obligated to account to the director for taxes collected, or to be collected, or from whom a tax is due, under the terms of this chapter. [Ord. 14-O-739 § 2.]

3.20.030 Levy of tax.

A. There is hereby levied and shall be paid a tax by every seller exercising the taxable privilege of selling marijuana as defined herein.

B. The amount of tax levied shall be established by city council resolution, at amounts not to exceed five percent for medical marijuana, and 15 percent for recreational marijuana. [Ord. 14-O-739 § 2.]

3.20.040 Deductions.

The following deductions shall be allowed against sales received by the seller providing marijuana:

A. Refunds of sales actually returned to any purchaser;

B. Any adjustments in sales which amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana and does not include any adjustments for other services furnished by a seller. [Ord. 14-O-739 § 2.]

3.20.050 Seller responsible for payment of tax.

The seller is responsible for reporting and paying all taxes due as follows:

A. Every seller shall file a return on forms provided by the city.

B. The due date for filing a return with the city is the fifteenth day of each month for the preceding month. A return shall not be considered filed until it is actually received by the director.

C. Returns and the full amount of tax collected shall be remitted to the director by the due date and shall specify the total sales subject to this chapter, the amount of tax collected under this chapter, and other relevant information as specified on the form.

D. A payment is delinquent on the last day of the month in which the payment is due.

E. Payments received by the director for application against existing liabilities will be credited toward the period designated by the taxpayer under conditions that are not prejudicial to the interest of the city. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.

F. Nondesignated payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted.

G. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the director, in his/her sole discretion, determines that an alternative order of payment application would be in the best interest of the city in a particular tax or factual situation, the director may order such a change.

H. The director may establish shorter reporting periods for any seller if the director deems it necessary in order to ensure collection of the tax. The director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period.

I. Returns and payments are due immediately upon cessation of business for any reason.

J. All taxes collected by sellers pursuant to this chapter shall be held in trust for the account of the city until payment is made to the director. A separate trust bank account is not required in order to comply with this provision.

K. Every seller must keep and preserve for a period of three years, in an accounting format established by the director, records of all sales made by the dispensary, to include books, accounts, invoices and other such records as may be required by the director. Seller shall make all such records available to the director for inspection at all reasonable times. [Ord. 14-O-739 § 2.]

3.20.060 Penalties and interest.

A. Original Delinquency. Any seller who fails to remit any portion of any tax imposed by this chapter prior to delinquency shall pay, in addition to the amount of the tax, a penalty of 10 percent of the amount of the tax.

B. Continued Delinquency. On or before a period of 30 days following the date on which the remittance first became delinquent, any seller who fails to remit any delinquent remittance shall pay a second delinquency penalty of 15 percent of the amount of the tax in addition to the amount of the tax and the penalty first imposed.

C. Fraud. If the director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of 25 percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (A) and (B) of this section.

D. Interest. Any seller who fails to remit any tax imposed by this chapter shall pay, in addition to any penalties imposed, interest at the rate of one percent per month, or fraction thereof, on the amount of tax owed, exclusive of penalties and without proration for portions of a month, from the date on which the remittance first became delinquent until paid.

E. Penalties Merged with Tax. Every penalty imposed, and such interest as accrues under the provisions of this section, shall become a part of the tax required to be paid.

F. Petition for Waiver. Any seller who fails to remit any portion of any tax imposed by this chapter prior to delinquency shall pay the penalties as provided herein; however, the seller may petition the Brookings city council for waiver and refund of the penalty or any portion thereof and the Brookings city council may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof. [Ord. 14-O-739 § 2.]

3.20.070 Failure to report and remit tax – Determination of tax by director.

If any seller should fail to make, within the time provided in this chapter, any report of the tax required by this chapter, the director shall proceed in such manner as deemed best to obtain facts and information on which to base the estimate of tax due. The director shall, upon determining the estimate of tax due from the seller, assess said tax against the seller to include any interest and penalties provided for under this chapter. When such determination is made, the director shall give notice of the amount so assessed by having it served personally, or by depositing it in the United States mail, postage prepaid, and addressed to the seller so assessed at the last known place of address. Such seller may make an appeal of such determination as provided in BMC 3.20.080. If no appeal is filed, the director's determination is final and the amount thereby is immediately due and payable. [Ord. 14-O-739 § 2.]

3.20.080 Appeal.

A. Any person aggrieved by the decision of the director may make written request for an informal hearing with the city manager in the following manner:

1. Written notice shall be provided to the city manager any time within 15 days of the date upon which the director provided written notice of determination to the aggrieved person.
2. The city manager shall, upon receipt of the written request for hearing, schedule an informal hearing to be held at City Hall within 15 days of receipt of the request, at which hearing the person aggrieved shall be given the opportunity to present evidence to support his/her position.
3. The city manager shall take evidence from the director as to the reasonableness, fairness, and validity of the determination, and shall render his decision within 24 hours after closing the hearing and shall notify the complainant of his decision.

B. Any person aggrieved by the decision of the city manager may appeal to the city council by filing notice of appeal with the city recorder in the following manner:

1. The aggrieved shall provide written notice to the city recorder within 20 days of the serving or the mailing of the notice of the decision given by the city manager.

2. The city council shall give the appellant not less than 20 days' written notice of the time and place of hearing of said appeal.

3. Action by the city council on appeals shall be final, and shall be decided by a majority of the members of the city council present at the meeting where such appeal is considered. [Ord. 14-O-739 § 2.]

3.20.090 Refunds.

Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the city under this chapter, it may be refunded based upon the following provisions:

A. A written claim, stating under penalty of perjury the specific grounds upon which the claim is founded, must be filed with the director within one year of the date of payment. The claim shall be made on forms furnished by the director.

B. The director shall have 20 calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the claim's validity. Notice of the director's determination shall be provided to claimant in writing. Such notice shall be mailed to the address provided by claimant on the claim form.

C. In the event a claim is determined by the director to be valid, a seller may, in a manner prescribed by the director, collect the amount of such claim as a refund or as credit against taxes collected. The seller shall notify the director of claimant's choice no later than 15 days following the date the director mailed the determination. In the event the claimant has not notified the director of claimant's choice within the 15-day period and the seller is still in business, a credit will be granted against the tax liability for the next reporting period. If the seller is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.

D. No refund shall be paid under the provisions of this section unless the claimant has established the right by written records showing entitlement to such refund and the director has acknowledged the validity of such claim. [Ord. 14-O-739 § 2.]

3.20.100 Actions to collect.

Any tax required to be paid by any seller under the provisions of this chapter shall be deemed a debt owed by the seller to the city. Any such tax collected by a seller which has not been paid to the city shall be deemed a debt owed by the seller to the city.

Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city of Brookings for the recovery of such amount. In lieu of filing an action for the recovery, the city may, when taxes due are more than 30 days delinquent, submit any outstanding tax to a collection agency. In the event the city turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fee, so long as the fee does not exceed the limits as set by state statute and the city complies with the provisions set forth in ORS 697.105. [Ord. 14-O-739 § 2.]

3.20.110 Violations.

It is unlawful for any seller or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other pertinent information required by the director, or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report with intent to defeat or evade the determination of any amount due as required by this chapter. [Ord. 14-O-739 § 2.]

3.20.120 General penalty.

Violations will be fined as provided under Chapter 1.05 BMC, General Penalty. [Ord. 14-O-739 § 2.]

3.20.130 Confidentiality.

Except as otherwise required by law, it shall be unlawful for the city, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the city under the terms of this chapter. Nothing in this section shall prohibit:

- A. The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or
- B. The disclosure of general statistics in a form which would not reveal an individual seller's financial information; or
- C. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the director or an appeal from the director for amount due the city under this chapter; or
- D. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or
- E. The disclosure of records related to the failure of a seller to report and remit the tax when the report or tax is in arrears for over six months or the tax exceeds \$5,000. The city council expressly finds and

determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5). [Ord. 14-O-739 § 2.]

3.20.140 Audit of books, records or persons.

The city, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the city for that purpose any books, papers, records, or memoranda, including copies of seller's state and federal income tax returns, bearing upon the matter of the seller's tax return. All books, invoices, accounts and other records shall be made available within the city limits and be open at any time during regular business hours for examination by the director or an authorized agent of the director. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the director may immediately seek a subpoena from the Brookings municipal court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts and records for examination. [Ord. 14-O-739 § 2.]

3.20.150 Forms and regulations.

The director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said marijuana tax and in particular and without limiting the general language of this chapter, to provide for:

- A. A form of report on sales and purchases to be supplied to all vendors; and
- B. The records which sellers providing marijuana and marijuana-infused products are to keep concerning the tax imposed by this chapter. [Ord. 14-O-739 § 2.]



ASHLAND MARIJUANA TAX

ORDINANCE NO. 3103

AN ORDINANCE ESTABLISHING A TAX ON THE
SALE OF MARIJUANA AND MARIJUANA-INFUSED
PRODUCTS IN THE CITY OF ASHLAND

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are **~~bold lined through~~** and additions are **bold underlined**.

WHEREAS, Article 2, Section 1 of the Ashland City Charter provides:

Powers of the City. The City shall have all powers which the constitutions, statutes and common law of the United States and this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

WHEREAS, the City desires to tax the sale or transfer of marijuana and marijuana-infused products within the City.

THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:

SECTION 1. Title 4 Revenue and Finance of the Ashland Municipal Code hereby adds a new Chapter 4.38, establishing a tax on the sale of marijuana and marijuana-infused products, as follows:

SECTION 4.38.010 Purpose.

For the purposes of this Chapter, every person who sells marijuana, medical marijuana or marijuana-infused products in the City of Ashland is exercising a taxable privilege. The purpose of this Chapter is to impose a tax upon the retail sale of marijuana, medical marijuana, and marijuana-infused products.

SECTION 4.38.020 Definitions.

When not clearly otherwise indicated by the context, the following words and phrases as used in this chapter shall have the following meanings:

- A. "Director" means the Director of Finance for the City of Ashland or his/her designee.
- B. "Gross Taxable Sales" means the total amount received in money, credits, property or other consideration from sales of marijuana, medical marijuana and marijuana-infused products that is subject to the tax imposed by this chapter.
- C. "Marijuana" means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be

amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

- D. "Oregon Medical Marijuana Program" means the office within the Oregon Health Authority that administers the provisions of ORS 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.
- E. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.
- F. "Purchase or Sale" means the **retail** acquisition or furnishing for consideration by any person of marijuana within the City **and does not include the acquisition or furnishing of marijuana by a grower or processor to a seller.**
- G. "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.
- H. "Retail sale" means the transfer of goods or services in exchange for any valuable consideration **and does not include the transfer or exchange of goods or services between a grower or processor and a seller.**
- I. "Seller" means any person who is required to be licensed or has been licensed by the State of Oregon to provide marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration.
- J. "Tax" means either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under this chapter.
- K. "Taxpayer" means any person obligated to account to the Finance Director for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

SECTION 4.38.030 Levy of Tax.

- A. There is hereby levied and shall be paid a tax by every seller exercising the taxable privilege of selling marijuana and marijuana-infused products as defined in this chapter.
- B. The amount of tax levied **is shall be established by a City Council resolution.**

SECTION 4.38.040 Deductions.

The following deductions shall be allowed against sales received by the seller providing marijuana:

- A. Refunds of sales actually returned to any purchaser;
- B. Any adjustments in sales which amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana or marijuana-infused products and does not include any adjustments for other services furnished by a seller.

SECTION 4.38.050 Seller Responsible For Payment Of Tax.

- A. Every seller shall, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Director, on forms provided by the City, specifying the total sales subject to this chapter and the amount of tax collected under this chapter. The seller may request or the Director may establish shorter reporting periods for any seller if the seller or Director deems it necessary in order to insure collection of the tax and the Director may require further information in the return relevant to payment of the tax. A return shall not be considered filed until it is actually received by the Director.
- B. At the time the return is filed, the full amount of the tax collected shall be remitted to the Director. Payments received by the Director for application against existing liabilities will be credited toward the period designated by the taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.
- C. Non-designated payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Director may order such a change. The Director may establish shorter reporting periods for any seller if the Director deems it necessary in order to insure collection of the tax. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by sellers pursuant to this chapter shall be held in trust for the account of the City until payment is made to the Director. A separate trust bank account is not required in order to comply with this provision.
- D. Every seller required to remit the tax imposed in this chapter shall be entitled to retain five percent (5%) of all taxes due to defray the costs of bookkeeping and remittance.
- E. Every seller must keep and preserve in an accounting format established by the Director records of all sales made by the dispensary and such other books or accounts as may be required by the Director. Every seller must keep and preserve for a period of three (3) years all such books, invoices and other records. The Director shall have the right to inspect all such records at all reasonable times.

SECTION 4.38.060 Penalties And Interest.

- A. Any seller who fails to remit any portion of any tax imposed by this chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax, in addition to the amount of the tax.
- B. Any seller who fails to remit any delinquent remittance on or before a period of 60 days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax and the penalty first imposed.

- C. If the Director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subparagraphs A and B of this section.
- D. In addition to the penalties imposed, any seller who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent (1%) per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- E. Every penalty imposed, and such interest as accrues under the provisions of this section, shall become a part of the tax required to be paid.
- F. Notwithstanding subsection 4.34.020.C, all sums collected pursuant to the penalty provisions in paragraphs A and C of this section shall be distributed to the City of Ashland Central Service Fund to offset the costs of auditing and enforcement of this tax.
- G. Waiver of Penalties. Penalties and interest for certain late tax payments may be waived pursuant to AMC 2.28.045D.

SECTION 4.38.070 Failure To Report and Remit Tax –Determination of Tax by Director.

If any seller should fail to make, within the time provided in this chapter, any report of the tax required by this chapter, the Director shall proceed in such manner as deemed best to obtain facts and information on which to base the estimate of tax due. As soon as the Director shall procure such facts and information as is able to be obtained, upon which to base the assessment of any tax imposed by this chapter and payable by any seller, the Director shall proceed to determine and assess against such seller the tax, interest and penalties provided for by this chapter. In case such determination is made, the Director shall give a notice of the amount so assessed by having it served personally or by depositing it in the United States mail, postage prepaid, addressed to the seller so assessed at the last known place of address. Such seller may make an appeal of such determination as provided in section 4.34.080. If no appeal is filed, the Director's determination is final and the amount thereby is immediately due and payable.

SECTION 4.38.080 Appeal.

Any seller aggrieved by any decision of the Director with respect to the amount of such tax, interest and penalties, if any, may appeal pursuant to the Administrative Appeals Process in AMC 2.30.020, except that the appeal shall be filed within 30 days of the serving or mailing of the determination of tax due. The hearings officer shall hear and consider any records and evidence presented bearing upon the Director's determination of amount due, and make findings affirming, reversing or modifying the determination. The findings of the hearings officer shall be final and conclusive, and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

SECTION 4.38.090. Refunds.

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the City under this chapter, it may be refunded as provided in subparagraph B of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is

filed with the Director within one year of the date of payment. The claim shall be on forms furnished by the Director.

- B. The Director shall have 20 calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The Director shall notify the claimant in writing of the Director's determination. Such notice shall be mailed to the address provided by claimant on the claim form. In the event a claim is determined by the Director to be a valid claim, in a manner prescribed by the Director a seller may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received. The seller shall notify Director of claimant's choice no later than 15 days following the date Director mailed the determination. In the event claimant has not notified the Director of claimant's choice within the 15 day period and the seller is still in business, a credit will be granted against the tax liability for the next reporting period. If the seller is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.
- C. No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the Director acknowledged the validity of the claim.

SECTION 4.38.100 Actions to Collect.

Any tax required to be paid by any seller under the provisions of this chapter shall be deemed a debt owed by the seller to the City. Any such tax collected by a seller which has not been paid to the City shall be deemed a debt owed by the seller to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of Ashland for the recovery of such amount. In lieu of filing an action for the recovery, the City of Ashland, when taxes due are more than 30 days delinquent, can submit any outstanding tax to a collection agency. So long as the City of Ashland has complied with the provisions set forth in ORS 697.105, in the event the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of fifty dollars (\$50.00) or fifty percent (50%) of the outstanding tax, penalties and interest owing.

SECTION 4.38.110 Violation Infractions.

- A. All violations of this chapter are punishable as set forth in AMC 1.08.020. It is a violation of this chapter for any seller or other person to:
- 1) Fail or refuse to comply as required herein;
 - 2) Fail or refuse to furnish any return required to be made;
 - 3) Fail or refuse to permit inspection of records;
 - 4) Fail or refuse to furnish a supplemental return or other data required by the Director;
 - 5) Render a false or fraudulent return or claim; or
 - 6) Fail, refuse or neglect to remit the tax to the city by the due date.
- B. Violation of subsections 1, 2, 3, 4 and 6 shall be considered a Class I violation. Filing a false or fraudulent return shall be considered a Class C misdemeanor, subject to AMC 1.08. The remedies provided by this section are not exclusive and shall not prevent the City from exercising any other remedy available under the law, nor shall the provisions

of this ordinance prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.

SECTION 4.38.120 Confidentiality.

Except as otherwise required by law, it shall be unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of this chapter. Nothing in this section shall prohibit:

- A. The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or
- B. The disclosure of general statistics in a form which would not reveal an individual seller's financial information; or
- C. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Director or an appeal from the Director for amount due the City under this chapter; or
- D. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or
- E. The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or the tax exceeds five thousand dollars (\$5,000). The City Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

SECTION 4.38.130 Audit of Books, Records or Persons.

The City, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of seller's state and federal income tax return, bearing upon the matter of the seller's tax return. All books, invoices, accounts and other records shall be made available within the City limits and be open at any time during regular business hours for examination by the Director or an authorized agent of the Director. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Director may immediately seek a subpoena from the Ashland Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts and records for examination.

SECTION 4.38.140 Forms And Regulations.

A. The Director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said medical marijuana tax and in particular and without limiting the general language of this chapter, to provide for:

- 1) A form of report on sales and purchases to be supplied to all vendors;
- 2) The records which sellers providing marijuana and marijuana-infused products are to keep concerning the tax imposed by this chapter.

SECTION 2. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 3. Savings. Notwithstanding any amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

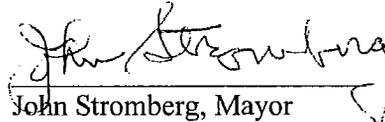
SECTION 4. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 2-4) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the 1 day of July, 2014, and duly PASSED and ADOPTED this 5 day of August, 2014.



Barbara M. Christensen, City Recorder

SIGNED and APPROVED this 7 day of August, 2014.



John Stromberg, Mayor

Reviewed as to form:



David H. Lohman, City Attorney



HAPPY VALLEY MARIJUANA TAX

**CITY OF HAPPY VALLEY, OREGON
ORDINANCE NO. 456**

**AN ORDINANCE ESTABLISHING A TAX ON THE SALE OF MARIJUANA AND
MARIJUANA-INFUSED PRODUCTS IN THE
CITY OF HAPPY VALLEY AND ADDING A NEW CHAPTER 3.25**

WHEREAS, the City of Happy Valley is an Oregon home-rule municipal corporation with a City Charter that grants it all the powers and authority that the constitution, statutes and common law of the United States and this State expressly or impliedly grant or allow as though each such powers were specifically enumerated; and

WHEREAS, that authority and power includes the authority to impose a tax on the sale of marijuana and marijuana-infused products sold within the City; and

WHEREAS, the City desires to tax the sale or transfer of marijuana and marijuana-infused products within the City.

NOW, THEREFORE, THE CITY OF HAPPY VALLEY ORDAINS AS FOLLOWS:

Section 1. The City establishes a new Title 3 Chapter 3.25 – Marijuana Tax – to read as follows:

SECTION 3.25.010 Purpose.

For the purposes of this chapter, every person who sells marijuana, medical marijuana or marijuana-infused products in the City of Happy Valley is exercising a taxable privilege. The purpose of this chapter is to impose a tax upon the retail sale of marijuana, medical marijuana, and marijuana-infused products.

SECTION 3.25.020 Definitions.

When not clearly otherwise indicated by the context, the following words and phrases as used in this chapter have the following meanings:

“Gross Taxable Sales” means the total amount received in money, credits, property or other consideration from sales of marijuana, medical marijuana and marijuana-infused products that is subject to the tax imposed by this chapter.

“Manager” means the City Manager of the City of Happy Valley.

“Marijuana” means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted

there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

“Oregon Medical Marijuana Program” means the office within the Oregon Health Authority that administers the provisions of ORS 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.

“Person” means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.

“Purchase or Sale” means the retail acquisition or furnishing for consideration by any person of marijuana within the City and does not include the acquisition or furnishing of marijuana by a grower or processor to a seller.

“Registry identification cardholder” means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.

“Retail sale” means the transfer of goods or services in exchange for any valuable consideration and does not include the transfer or exchange of goods or services between a grower or processor and a seller.

“Seller” means any person who is required to be licensed or has been licensed by the State of Oregon to provide marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration.

“Tax” means either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under this chapter.

“Taxpayer” means any person obligated to account to the City Manager for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

SECTION 3.25.030 Levy of Tax.

- A. Every seller exercising the taxable privilege of selling marijuana and marijuana-infused products as defined in this chapter is subject to and must pay a tax for exercising that privilege. This tax is in addition to any other taxes or fees required by the City.
- B. The amount of tax levied is as follows:
 1. Zero percent of the gross sale amount paid to the seller of marijuana and marijuana infused products by a person who is a registry identification cardholder.
 2. Ten percent of the gross sale amount paid to the seller of marijuana and marijuana infused products by persons who are purchasing marijuana and marijuana-infused products but are not doing so under the provisions of the Oregon Medical Marijuana Program.

SECTION 3.25.040 Deductions.

The following deductions are allowed against sales received by the seller providing marijuana:

- A. Refunds of sales actually returned to any purchaser;
- B. Any adjustments in sales that amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana or marijuana-infused products and does not include any adjustments for other services furnished by a seller.

SECTION 3.25.050 Seller Responsible For Payment Of Tax.

- A. Every seller must, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Manager, on forms provided by the City, specifying the total sales subject to this chapter and the amount of tax collected under this chapter. The seller may request or the Manager may establish shorter reporting periods for any seller if the seller or Manager deems it necessary in order to ensure collection of the tax. The Manager may require further information in the return relevant to payment of the tax. A return is not considered filed until it is actually received by the Manager.
- B. At the time the return is filed, the seller must remit to the Manager the full amount of the tax collected. Payments received by the Manager for application against existing liabilities will be credited toward the period designated by the taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.
- C. The City will apply non-designated payments in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax.
- D. If the Manager, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Manager may order such a change. The Manager may establish shorter reporting periods for any seller if the Manager deems it necessary in order to ensure collection of the tax. The Manager also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest will be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. Sellers must hold in trust all taxes collected pursuant to this chapter for the City's account until the seller makes payment to the Manager. A separate trust bank account is not required in order to comply with this provision.
- E. Every seller required to remit the tax imposed by this chapter is entitled to retain five percent of all taxes due to the City to defray the costs of bookkeeping and remittance.
- F. Every seller must keep and preserve in an accounting format established by the Manager records of all sales made by the seller and such other books or accounts as the Manager may require. Every seller must keep and preserve for a period of three

years all such books, invoices and other records. The Manager has the right to inspect all such records at all reasonable times.

SECTION 3.25.060 Penalties and Interest.

- A. Any seller who fails to remit any portion of any tax imposed by this chapter within the time required must pay a penalty of 10 percent of the amount of the tax, in addition to the amount of the tax.
- B. If any seller fails to remit any delinquent remittance on or before a period of 60 days following the date on which the remittance first became delinquent, the seller must pay a second delinquency penalty of 10 percent of the amount of the tax in addition to the amount of the tax and the penalty first imposed.
- C. If the Manager determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of 25 percent of the amount of the tax will be added thereto in addition to the penalties stated in subparagraphs A and B of this section.
- D. In addition to the penalties imposed, any seller who fails to remit any tax imposed by this chapter must pay interest at the rate one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- E. Every penalty imposed, and any interest as accrues under the provisions of this section, becomes a part of the tax required to be paid.
- F. All sums collected pursuant to the penalty provisions in paragraphs A through C of this section will be distributed to the City's General Fund.
- G. Waiver of Penalties. Penalties for late tax payments may be waived or reduced if approved by City Council pursuant to City Council policy. Nothing in this subsection requires the City to reduce or waive penalties.

SECTION 3.25.070 Failure To Report and Remit Tax – Determination of Tax by Manager.

- A. If any seller fails to make any report of the tax required by this chapter within the time provided in this chapter, the Manager will proceed to obtain facts and information on which to base the estimate of tax due. As soon as the Manager procures such facts and information upon which to base the assessment of any tax imposed by this chapter and payable by any seller, the Manager will determine and assess against such seller the tax, interest and penalties provided for by this chapter.
- B. If the Manager makes a determination as outlined in subsection A, the Manager must give notice to the seller of the amount assessed. The notice must be personally served on the seller or deposited in the United States mail, postage prepaid, addressed to the seller at the last known place of address.
- C. The seller may appeal the determination as provided in section 3.25.080. If no appeal is timely filed, the Manager's determination is final and the amount assessed is immediately due and payable.

SECTION 3.25.080 Appeal.

- A. Any seller aggrieved by any decision of the Manager with respect to the amount of the tax owed along with interest and penalties, if any, may appeal the decision to the City Council.
- B. The seller must file the written notice of appeal within 10 days of the City's serving or mailing of the determination of tax due.
- C. The Council's decision is final subject only to judicial review pursuant to ORS 34.010 et seq.
- D. The City will serve the findings upon the appellant in the same manner as that used to give notice for a tax determination in HVMC 3.25.070. Any amount found to be due is immediately due and payable upon the service of notice.

SECTION 3.25.090. Refunds.

- A. The City may refund to the seller any tax, interest or penalty amount under any of the following circumstances:
 - 1. the seller has overpaid the correct amount of tax, interest or penalty; or
 - 2. the seller has paid more than once for the correct amount owed; or
 - 3. the City has erroneously collected or received any tax, interest or penalties.
- B. The City may not issue a refund under this subsection unless the seller provides to the Manager a written claim under penalty of perjury stating the specific grounds upon which the claim is founded and on forms furnished by the Manager. The seller must file the claim within one year from the date of the alleged incorrect payment to be eligible for a refund.
- C. The Manager has 20 calendar days from the date of the claim's receipt to review the claim and make a written determination as to its validity. After making the determination, the Manager will notify the claimant in writing of the determination by mailing notice to the claimant at the address provided on the claim form.
- D. If the Manager determines the claim is valid, the claimant may either claim a refund or take as credit against taxes collected and remitted the amount that was overpaid, paid more than once, or erroneously received or collected by the City. The claimant must notify the Manager of the claimant's choice no later than 15 days following the date the Manager mailed the determination and the claimant must do so in a manner prescribed by the Manager.
- E. If the claimant does not notify the Manager of claimant's choice within the 15-day period and the claimant is still in business, the City will grant a credit against the tax liability for the next reporting period. If the claimant is no longer in business, the City will mail a refund check to claimant at the address provided in the claim form.
- F. The City will not pay a refund unless the claimant establishes by written records the right to a refund and the Manager acknowledges the claim's validity.

SECTION 3.25.100 Actions to Collect.

Any tax required to be paid by any seller under the provisions of this chapter is a debt owed by the seller to the City. Any tax collected by a seller that has not been paid to the City is a debt owed by the seller to the City. Any person owing money to the City under the provisions of this chapter is liable to an action brought in the name of the City of Happy

Valley for the recovery of the amount owing. In lieu of filing an action for the recovery, the City, when taxes due are more than 30 days delinquent, may submit any outstanding tax to a collection agency. So long as the City has complied with the provisions set forth in ORS 697.105, if the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of \$50.00 or 50 percent of the outstanding tax, penalties and interest owing.

SECTION 3.25.110 Violation Infractions.

- A. In addition to the penalties provided in section 3.25.060, a violation of this chapter is punishable as set forth in HVMC Chapter 1.12. It is a violation of this chapter for any seller or other person to:
 - 1. Fail or refuse to comply as required herein;
 - 2. Fail or refuse to furnish any return required to be made;
 - 3. Fail or refuse to permit inspection of records;
 - 4. Fail or refuse to furnish a supplemental return or other data required by the Manager;
 - 5. Render a false or fraudulent return or claim; or
 - 6. Fail, refuse or neglect to remit the tax to the city by the due date.
- B. The remedies provided by this section are not exclusive and do not prevent the City from exercising any other remedy available under the law.
- C. The remedies provided by this section do not prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.

SECTION 3.25.120 Confidentiality.

Except as otherwise required by law, it is unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of this chapter. Nothing in this section prohibits any of the following:

- A. The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or
- B. The disclosure of general statistics in a form which would not reveal an individual seller's financial information; or
- C. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Manager or an appeal from the Manager for amount due the City under this chapter; or
- D. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or
- E. The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or when the tax exceeds \$5,000. The City Council expressly finds that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

SECTION 3.25.130 Audit of Books, Records or Persons.

The City may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of seller's state and federal income tax return, bearing upon the matter of the seller's tax return for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due. All books, invoices, accounts and other records must be made available within the City limits and be open at any time during regular business hours for examination by the Manager or an authorized agent of the Manager. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Manager may immediately seek a subpoena from the Happy Valley Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts and records for examination.

SECTION 3.25.140 Forms And Regulations.

A. The Manager is authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of the marijuana tax and to provide for:

1. A form of report on sales and purchases to be supplied to all vendors;
2. The records that sellers providing marijuana and marijuana-infused products must keep concerning the tax imposed by this chapter.

Section 2. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause does not affect the validity of the remaining sections, subsections, paragraphs and clauses.

Section 3. Savings. Notwithstanding any amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, remain valid and in full force and effect for purposes of all cases filed or commenced during the times this ordinance or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

Section 4. This ordinance shall be effective from and after 30 days following its adoption by the Council.



PORTLAND MARIJUANA TAX

Portland

186857

ORDINANCE NO.

Establish a tax on the sale, transfer, mixing, handling or serving of recreational marijuana and recreational marijuana-infused products in the City (Ordinance; add Code Chapter 6.07)

The City of Portland Ordains:

Section 1. Council finds:

1. The City has incurred and will continue to incur substantial costs related to the legalization of medical marijuana and likely incur additional ongoing expenses if and when recreational marijuana becomes legalized in Oregon.
2. The City is an Oregon home-rule municipal corporation having the authority under the terms of its Charter to exercise all powers and authority that the constitutions, statutes, and common law of the United States and of the State of Oregon expressly or impliedly grant or allow as fully as though each such power were specifically enumerated therein.
3. The City desires to tax the sale, transfer, mixing, handling or serving of recreational marijuana and marijuana-infused products within the City. The tax is imposed to raise general revenues and to offset increased costs to the City of police enforcement and other City services.
4. The City's estimated costs to administer this new tax will be significantly less than the tax proceeds expected from this new tax. The Revenue Division of the Bureau of Revenue and Financial Services estimates that this new tax will raise \$1.7 million to \$4 million in annual general fund revenues. The Revenue Division also estimates that to collect the tax, ongoing costs will be \$280,000 and one-time costs will be \$150,000.

NOW, THEREFORE, the Council directs:

a. A new chapter, 6.07 Marijuana and Marijuana-Infused Products Tax, establishing a tax on the sale, transfer, mixing, handling or serving of recreational marijuana and recreational marijuana-infused products is hereby added to Title 6 "Special Taxes" of the Portland City Code as follows:

6.07.010 Purpose

For the purposes of PCC 6.07, every person who sells, transfers, mixes, handles or serves recreational marijuana, or recreational marijuana-infused products in the City is exercising a taxable privilege. The purpose of PCC 6.07 is to impose a tax upon the sale, transfer, mixing, handling or serving of recreational marijuana and recreational marijuana-infused products.

6.07.020 Definitions

When not clearly otherwise indicated by the context, the following words and phrases as used in PCC 6.07 have the following meanings:

- A. "Director" means the director of the Revenue Division of the Bureau of Revenue and Financial Services or his/her designee.
- B. "Gross Taxable Sales" means the total amount received in money, credits, property or other consideration from sale, transfer, mixing, handling or serving of recreational marijuana and recreational marijuana-infused products that is subject to the tax imposed by PCC 6.07.
- C. "Marijuana" means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- D. "Oregon Medical Marijuana Program" means the office within the Oregon Health Authority that administers the provisions of ORS 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.
- E. "Person" means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the state and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.
- F. "Purchase or Sale" means the retail acquisition or furnishing for consideration by any person of marijuana within the City and does not include the acquisition or furnishing of marijuana by a grower or processor to a Seller.
- G. "Retail Sale" means the transfer of goods or services in exchange for any valuable consideration and does not include the transfer or exchange of goods or services between a grower or processor and a Seller.
- H. "Seller" means any person who is required to be licensed or has been licensed by the state to provide, mix, handle, or serve marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration.
- I. "Tax" means either the tax payable by the Seller or the aggregate amount of taxes due from a Seller during the period for which the Seller is required to report collections under PCC 6.07.
- J. "Taxpayer" means any person obligated to account to the Director for taxes collected or to be collected, or from whom a tax is due, under the terms of PCC 6.07.

6.07.030 Levy of tax

A. Every Seller exercising the taxable privilege of selling, mixing, handling or serving recreational marijuana and recreational marijuana-infused products as defined in PCC 6.07 is subject to and must pay a tax for exercising that privilege.

B. The amount of tax levied is as follows:

Ten percent (10%) of the gross sale amount paid to the Seller of recreational marijuana and recreational marijuana-infused products by persons who are purchasing recreational marijuana and recreational marijuana-infused products. This tax would not apply to sales made under the provisions of the Oregon Medical Marijuana Program.

6.07.040 Deductions

The following deductions are allowed against sales received by the Seller providing marijuana:

- A. Refunds of sales actually returned to any purchaser;
- B. Any adjustments in sales that amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana or marijuana-infused products and does not include any adjustments for other services furnished by a Seller.

6.07.050 Seller responsible for payment of tax

- A. Every Seller must, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Director, on forms provided by the Revenue Division, specifying the total sales subject to PCC 6.07 and the amount of tax collected under PCC 6.07. The Seller may request, or the Director may establish, shorter reporting periods for any Seller if the Seller or Director deems it necessary in order to ensure collection of the tax. The Director may require further information in the return relevant to the payment of the tax. A return is not considered filed until it is actually received by the director.
- B. At the time the return is filed, the Seller must remit to the Director the full amount of the tax collected. Payments received by the Director for application against existing liabilities will be credited toward the period designated by the Taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.
- C. The City will apply non-designated payments in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax.
- D. If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Director may order such a change. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest will be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. Sellers must hold in trust all taxes collected pursuant to PCC 6.07 on the City's behalf until the Seller makes payment to the Director. A separate trust bank account is not required in order to comply with this provision, unless the Director determines one necessary to ensure collection of the tax.
- E. Every Seller must keep and preserve in an accounting format established by the Director records of all sales made by the Seller and such other books or accounts as the Director may require. Every Seller must keep and preserve for a period of three years after the tax was due or paid, whichever is later, all such books, invoices and

other records. The Director has the right to inspect all such records at all reasonable times.

6.07.060 Penalties and interest

- A. Any Seller who fails to remit any portion of any tax imposed by PCC 6.07 within the time required must pay a penalty of 15 percent of the entire amount of the tax, in addition to the amount of the tax.
- B. If any Seller fails to remit any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent, the Seller must pay a second delinquency penalty of 15 percent of the entire amount of the tax in addition to the amount of the tax and the penalty first imposed.
- C. If the Director determines that the nonpayment of any remittance due under PCC 6.07 is due to fraud, a penalty of 25 percent of the entire amount of the tax will be added thereto in addition to the penalties stated in PCC 6.07.060A and PCC 6.07.060B.
- D. In addition to the penalties imposed, any Seller who fails to remit any tax imposed by PCC 6.07 must pay compound interest at the rate of one percent per month or fraction thereof on the amount of the tax, inclusive of penalties, from the date on which the remittance first became delinquent until paid.
- E. Every penalty imposed, and any interest that accrues under the provisions of PCC 6.07.060, becomes a part of the tax required to be paid.
- F. All sums collected, including penalty and interest, will be distributed to the City's general fund.
- G. Penalties for certain late tax payments may be waived or reduced pursuant to policies and processes adopted by the Director. However, the Director is not required to create a penalty waiver or reduction policy. If the Director does not create a policy for waivers or reductions, no waivers or reductions are allowed.

6.07.070 Failure to report and remit tax – determination of tax by director

- A. If any Seller fails to make any report of the tax required by PCC 6.07 within the time provided in PCC 6.07, the Director will proceed to obtain facts and information on which to base the estimate of tax due. As soon as the Director procures such facts and information upon which to base the assessment of any tax imposed by PCC 6.07 and payable by any Seller, the Director will determine and assess against such Seller the tax, interest and penalties provided for by PCC 6.07.
- B. If the Director makes a determination as outlined in PCC 6.07.070A, the Director must give notice to the Seller of the amount assessed. The notice must be personally served on the Seller or deposited in the United States mail, postage prepaid, addressed to the Seller at the last known place of address.
- C. The Seller may appeal the determination as provided in PCC 6.07.080. If no appeal is timely filed, the Director's determination is final and the amount assessed is immediately due and payable.

6.07.080 Appeal

- A. Any Seller aggrieved by any decision of the Director with respect to the amount of the tax owed along with interest and penalties, if any, may appeal the decision to the Business License Appeals Board as created under PCC 7.02.295.

B. The Seller must file the appeal within 30 days of the City's serving or mailing of the determination of tax due. The Seller must file using forms provided by the City.

C. Upon receipt of the appeal form, the City will schedule a hearing to occur within 90 calendar days. The City will give the Seller notice of the time and date for the hearing no less than seven days before the hearing date. At the hearing the Business License Appeals Board will hear and consider any records and evidence presented bearing upon the Director's determination of amount due and make findings affirming, reversing or modifying the determination. The Director and the appellant may both provide written and oral testimony during the hearing. The findings of the Business License Appeal Board are final and conclusive. The City will serve the findings upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due is immediately due and payable upon the service of notice.

6.07.090. Credits/Refunds

A. The City may credit to the Seller any tax, interest or penalty amount under any of the following circumstances:

1. The Seller has overpaid the correct amount of tax, interest or penalty; or
2. The Seller has paid more than once for the correct amount owed; or
3. The City has erroneously collected or received any tax, interest or penalties.

B. The City may not issue a credit under PCC 6.07.090 unless the Seller provides to the director a written claim under penalty of perjury stating the specific grounds upon which the claim is founded and on forms furnished by the director. The Seller must file the claim within one year from the date of the alleged incorrect payment to be eligible for a credit.

C. The Director has 30 calendar days from the date of the claim's receipt to review the claim and make a written determination as to its validity. After making the determination, the Director will notify the claimant in writing of the determination by mailing notice to the claimant at the address provided on the claim form.

D. If the Director determines the claim is valid, the claimant may take as credit against taxes collected and remitted the amount that was overpaid, paid more than once, or erroneously received or collected by the city.

E. In cases where there is no future filing to claim the credit or other circumstances where a credit amount should be refunded, the claimant may petition the director to have the credit amount refunded to the claimant.

F. The City will not pay a refund unless the claimant establishes by written records the right to a refund and the Director acknowledges the claim's validity.

G. The Director may, upon request of the claimant or the Revenue Division, extend the deadlines to file a refund/credit claim or review a refund/credit claim by up to 60 additional days for good cause.

6.07.100 Actions to collect

Any tax required to be paid by any Seller under the provisions of PCC 6.07 is a debt owed by the Seller to the city. Any tax collected by a Seller that has not been paid to the City is a debt owed by the Seller to the City. Any person owing money to the City under the provisions of PCC 6.07 is liable to an action brought in the name of the City of Portland for the recovery of the amount owing. In lieu of filing an action for the recovery,

the City, when taxes due are more than 30 days delinquent, may submit any outstanding tax to a collection agency. So long as the City has complied with the provisions set forth in ORS 697.105, if the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees.

6.07.110 Violation infractions

A. All violations of PCC 6.07 are also subject to civil penalties of up to \$2,000 per occurrence. It is a violation of PCC 6.07 for any Seller or other person to:

- 1) Fail or refuse to comply as required herein;
- 2) Fail or refuse to furnish any return required to be made;
- 3) Fail or refuse to permit inspection of records;
- 4) Fail or refuse to furnish a supplemental return or other data required by the director;
- 5) Render a false or fraudulent return or claim; or
- 6) Fail, refuse or neglect to remit the tax to the City by the due date.

B. The remedies provided by PCC 6.07 are not exclusive and do not prevent the City from exercising any other remedy available under the law.

C. The remedies provided by this section do not prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or city ordinance.

6.07.120 Confidentiality

Except as otherwise required by law, it is unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of PCC 6.07. Nothing in PCC 6.07.120 prohibits any of the following:

A. The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or

B. The disclosure of general statistics in a form which would not reveal an individual Seller's financial information; or

C. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Director or an appeal from the Director for amounts due the city under PCC 6.07; or

D. The disclosure of information to a collection agency in order to collect any delinquent tax amount; or

E. The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or when the tax exceeds \$5,000. The Council expressly finds that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

F. The Revenue Division may also disclose and give access to information described in PCC 6.07.120 to:

1. The City Attorney, his or her assistants and employees, or other legal representatives of the City, to the extent the Revenue Division deems disclosure or access necessary for the performance of the duties of advising or representing the Revenue Division, including but not limited to instituting legal actions on unpaid accounts.

2. Other employees, agents and officials of the City, to the extent the Revenue Division deems disclosure or access necessary for such employees, agents or officials to:

- a. Aid in any legal collection effort on unpaid accounts,
- b. Perform their duties under contracts or agreements between the Revenue Division and any other department, bureau, agency or subdivision of the City relating to the administration of PCC 6.07, or
- c. Aid in determining whether a Revenue Division account is in compliance with all city, state and federal laws or policies.

6.07.130 Audit of books, records or persons

The City may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of Seller's state and federal income tax return, bearing upon the matter of the Seller's tax return for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due. All books, invoices, accounts and other records must be made available within the city limits and be open at any time during regular business hours for examination by the director or an authorized agent of the director. If any Taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Director may immediately seek a subpoena from the court to require that the Taxpayer or a representative of the Taxpayer attend a hearing or produce any such books, accounts and records for examination.

6.07.140 Forms and regulations

A. The Director is authorized to prescribe forms and promulgate rules, policies and regulations to aid in the making of returns, the ascertainment, assessment and collection of the marijuana tax and to provide for:

1. A form of report on sales and purchases to be supplied to all Sellers;
2. The records that Sellers providing, mixing, serving, or handling marijuana and marijuana-infused products must keep concerning the tax imposed by PCC 6.07.

6.07.150 Invalidity

If any section, clause, phrase, sentence or part of this Chapter shall for any reason be adjudged unconstitutional, invalid or unenforceable, it shall only void that part, clause, phrase or section so declared and the remainder shall remain in full force and effect.

Passed by the Council: OCT 22 2014

Mayor Charlie Hales

Prepared by: Scott Karter

Date Prepared: 10/09/2014

LaVonne Griffin-Valade

Auditor of the City of Portland

By



Deputy