

ORDINANCE NO. 18-_____

ORDINANCE AMENDING KLAMATH FALLS CODE SECTIONS 7.202, 7.205, 7.210, 7.225, 7.227 AND 7.235 REGARDING RECREATIONAL MARIJUANA TAXES ON SALES AND ADDING SECTIONS 7.236 AND 7.240 THROUGH 7.244 ESTABLISHING AN ALTERNATIVE METHOD OF COLLECTING THE SALES TAX AND CREATING AN ADVISORY COMMITTEE CONCERNING THE REGULATION OF THE MARIJUANA INDUSTRY

WHEREAS, a majority of the citizens of the City voted in favor of Measure 18-112 which repeals the City's prohibition on the sale of recreational marijuana and established a 3% tax on the sale of recreational marijuana as well as creating an advisory committee to regulate the marijuana industry;

WHEREAS, the City previously adopted interim regulations necessary to regulate the location of medical and recreational marijuana facilities until such time as an advisory committee can recommend permanent regulations;

WHEREAS, the City desires to establish a method by which to collect the tax on the sale of recreational marijuana;

WHEREAS, the City desires to establish an advisory committee to provide recommendations to the City Council regarding policies and regulations concerning the marijuana industry; and

NOW THEREFORE THE CITY OF KLAMATH FALLS HEREBY ORDAINS AS FOLLOWS:

Section 1

Sections 7.202, 7.205, 7.210, 7.225, 7.227 and 7.235 of the Klamath Falls City Code shall be amended to read:

7.202 DEFINITIONS

When not clearly indicated by context, the following words and phrases as used in Sections 7.200 to 7.250 (Marijuana Tax) shall have the following meanings:

Director. The Support Services Director or the Director's designee.

Sale. 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.

Seller. 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. 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 Sections 7.200 to 7.250 (Marijuana Tax).

Taxpayer. 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 Sections 7.200 to 7.250 (Marijuana Tax).

7.205 LEVY OF TAX

- (1) A three percent (3%) tax shall be imposed on marijuana retail sales in the City.
- (2) Every seller exercising the taxable privilege of selling marijuana and marijuana-infused products shall pay the tax based upon the total sale amount of recreational marijuana and marijuana-infused products.

7.210 SELLER RESPONSIBLE FOR PAYMENT OF TAX

- (1) 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 marijuana taxation and the amount of tax collected. 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 the payment of the tax. A return shall not be considered filed until it is actually received by the Director.
- (2) At the time the return is filed, the full amount of the tax collected shall be remitted to the Director.
- (3) 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. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by sellers pursuant to Sections 7.200 to 7.250 (Marijuana Tax) 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.
- (4) Every seller required to remit the tax imposed in Sections 7.200 to 7.250 (Marijuana Tax) shall be entitled to retain two percent (2%) of all taxes due to defray the costs of bookkeeping and remittance.
- (5) 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 years all such books, invoices and other records. The Director shall have the right to inspect all such records at all reasonable times.

7.225 VIOLATION INFRACTIONS

- (1) Any person who is subject to Sections 7.200 to 7.250 (Marijuana Tax) shall not:
 - (a) Fail or refuse to comply as required;
 - (b) Fail or refuse to furnish any return required to be made;
 - (c) Fail or refuse to permit inspection of records;
 - (d) Fail or refuse to furnish a supplemental return or other data required by the Director;

- (e) Render a false or fraudulent return or claim; or
- (f) Fail, refuse or neglect to remit the tax to the City by the due date.
- (2) Violation of Section 7.225(1)(a)(b)(c)(d) and (f) shall be punished by a fine not more than \$1,000.
- (3) Violation of Section 7.225(1)(e) shall be punished by a fine of not more than \$10,000, or by imprisonment for a period not to exceed 6 months, or by both such fine and imprisonment.
- (4) Violation of Section 7.225(1) shall result in the forfeiture of the fee set out in Section 7.210(4).
- (5) 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 Sections 7.200 to 7.250 (Marijuana Tax) prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.

7.227 CONFIDENTIALITY

Except as otherwise required by law, it shall be unlawful for the City, an 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 Sections 7.200 to 7.250 (Marijuana Tax). Nothing in this section shall prohibit:

- (1) The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or
- (2) The disclosure of general statistics in a form which would not reveal an individual seller's financial information; or
- (3) Presentation of evidence to the court, or other tribunal having jurisdiction in prosecution of any criminal or civil claim by the Director or an appeal from the Director for amount due the City under Sections 7.200 to 7.250 (Marijuana Tax); or
- (4) The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or
- (5) The disclosure of records related to a business' failure to report and remit the tax with the report or tax that is in arrears for over 6 months or the tax exceeds \$5,000. The City Council expressly finds and determines that the public interest in disclosure of such records outweighs the interest in confidentiality under ORS 192.345(5).

7.235 FORMS AND REGULATIONS

The Director is authorized to prescribe forms and promulgate rules and regulations to administer Sections 7.200 to 7.250 (Marijuana Tax).

Section 2

Section 7.236 shall be added to the Klamath Falls City Code:

7.236 Alternative Collection Method; Penalties and Enforcement; Conflict of Laws

- (1) Pursuant to ORS 305.620, the Director may enter into an intergovernmental agreement with the Oregon Department of Revenue to collect the 3 percent tax imposed under section 7.205. The terms and conditions of the IGA shall apply in lieu of this Ordinance.

(2) If the Director enters into an intergovernmental agreement pursuant to this section, the provisions of ORS 475B.710, ORS 475B.715, and ORS 475B.755 shall apply to every marijuana retailer subject to this Ordinance.

(3) In the event of any conflict between the provisions of this Ordinance and the provisions of the intergovernmental agreement, the provisions of the intergovernmental agreement shall apply.

Section 3

Sections 2.470- 2.474 shall be added to the Klamath Falls City Code:

Marijuana Advisory Committee

2.470 Composition

There is hereby created a Marijuana Advisory Committee.

(1) The Committee shall advise and make recommendations to the City Council regarding state policies and regulations concerning the marijuana industry and impacts to the community.

(2) The Mayor, with the concurrence of the City Council, shall appoint seven (7) individuals to the Committee, with a minimum of four (4) being citizens of Klamath Falls. A majority of members shall be Oregon license holders, license applicants, or individuals otherwise knowledgeable of the marijuana industry. One member shall be chosen from the Planning Commission.

2.471 Terms; Vacancies

The members shall serve for a term of four (4) years; except in the case of vacancy, the Mayor shall fill the vacancy by appointment, with the concurrence of the City Council, for the remainder of the unexpired portion of the term. Any members who accumulate more than two(2) absences from Committee meetings within a one year period may be removed from the Committee on notice given to the Mayor. In the event of the incapacitation of any member during the course of his/her term, the Mayor may replace that member by appointment with the concurrence of the City Council. For the initial appointment, four (4) members will be appointed for the full four (4) year term and three (3) members for partial two (2) year terms.

2.472 Officers

At the first meeting of the Committee, the members of the Committee shall elect a Chair and Vice-Chair. Such officers shall serve for one year. The Chair shall preside over the meetings. In the absence of the Chair, the Vice-Chair shall assume those duties.

2.473 Quorum

Four (4) members of the Committee shall constitute a quorum.

2.474 Meetings

The Committee shall meet as needed, but at a minimum once per quarter. The Council shall provide a suitable place for the Committee's meetings.

Passed by the Council of the City of Klamath Falls, Oregon, the ____ day of _____, 2018.

Presented to the Mayor, approved and signed this ____ day of _____, 2018.

Mayor

ATTEST:

City Recorder

STATE OF OREGON }
COUNTY OF KLAMATH }ss.
CITY OF KLAMATH FALLS }

I, _____, Recorder for the City of Klamath Falls, Oregon, do hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Council of the City of Klamath Falls, Oregon at the meeting on the ____ day of _____, 2018 and therefore approved and signed by the Mayor and attested by the City Recorder.

City Recorder

Ordinance No. 18-_____