

City of Brookings

WORKSHOP Agenda

CITY COUNCIL/ PLANNING COMMISSION

Monday June 20, 2022, 5:00pm

City Hall EOC, 888 Elk Drive, Brookings, OR 97415

A. Call to Order

B. Roll Call

C. Topics

- 1.** Potential Ordinance Changes related to Marijuana Businesses [Pg. 1]
 - a. Summary of potential ordinance changes [Pg. 2]
 - b. City of Gold Beach – Excerpt of Ordinance [Pg. 3]
 - c. City of Port Orford – Excerpt of Ordinance Pg. 4]
 - d. City of Bandon – Excerpt of Ordinance [Pg. 5]
 - e. City of Coos Bay – Excerpt of Ordinance [Pg. 7]
 - f. City of North Bend – Excerpt of Ordinance [Pg. 9]
 - g. City of Reedsport – Excerpt of Ordinance [Pg. 11]
 - h. City of Florence – Resolution and Regulations [Pg. 13]
 - i. City of Roseburg – Excerpt of Ordinance [Pg. 17]
 - j. City of Happy Valley – Regulations [Pg. 24]

D. Council Member Requests for Workshop Topics

E. Adjournment

All public City meetings are held in accessible locations. Auxiliary aids will be provided upon request with at least 72 hours advance notification. Please contact 469-1102 if you have any questions regarding this notice.

CITY OF BROOKINGS

COUNCIL WORKSHOP REPORT

Meeting Date: June 20, 2022

Originating Dept: Finance & Admin

Signature (submitted by)


City Manager Approval

Subject:

Potential ordinance changes related to marijuana businesses

Background/Discussion:

Councilor Schreiber requested at the May 2, 2022 Council Workshop that an agenda item be put on the next council meeting to discuss a moratorium on new marijuana businesses in the City of Brookings, while information is gathered and reviewed regarding potential zoning restrictions or conditions. At the May 9, 2022 Council meeting, the City Council voted to bring this topic to a joint Planning Commission/Council Workshop, to move forward with potential ordinance amendments.

ORS 475C.449 provides that Cities and Counties may regulate marijuana facilities by imposing reasonable restrictions on the hours of operation, location, and manner of operation of recreational marijuana producers, processors, wholesalers, and retailers. In my research, it was common that other cities have adopted local regulations to do just this.

I have attached a summary of restrictions that I believe the City of Brookings might be interested in including in the Land Development Code ordinance. I have also attached ordinances and resolutions from other Oregon cities, primarily along the Oregon coast, to give you examples of regulations already in place in other jurisdictions.

Attachments:

- a. Summary of potential ordinance changes
- b. City of Gold Beach – Excerpt of Ordinance
- c. City of Port Orford – Excerpt of Ordinance
- d. City of Bandon – Excerpt of Ordinance
- e. City of Coos Bay – Excerpt of Ordinance
- f. City of North Bend – Excerpt of Ordinance
- g. City of Reedsport – Excerpt of Ordinance
- h. City of Florence – Resolution and Regulations
- i. City of Roseburg - Excerpt of Ordinance
- j. City of Happy Valley - Regulations

Summary of Potential Ordinance Changes

Marijuana Businesses

- a. The medical marijuana facility and recreational marijuana facility shall not be allowed within 1000 feet of any school, public or private (currently the only restriction in State Law for recreational marijuana facilities).
- b. The facility shall not be permitted within 1000 feet of another marijuana facility, medical or recreational.
- c. No facility shall be located within 1000 feet of a library.
- d. No facility shall be located within 1000 feet of a daycare facility.
- e. No facility shall be located within 1000 feet of city parks.
- f. No facility shall front a residential zone.
- g. No facility shall be located in a C-3 zone, within 250 feet of a residence.
- h. Drive-up or walk-up window use or similar exchange of goods through a portal to the exterior of the retail establishment is prohibited.
- i. The facility must be located entirely within a permanent building and may not be located in a trailer, cargo container, motor, or recreational vehicle.
- j. Outdoor storage of merchandise, raw materials, or other material associated with the facility is prohibited.
- k. No marijuana or paraphernalia shall be displayed or kept in a dispensary so as to be visible from the outside of the licensed premises, including views through doorways, windows, and other openings.
- l. The facility must utilize an air filtration and ventilation system that, to the greatest extent feasible, confines all marijuana-related odors within the facility rather than allowing such odors to escape outside. Sufficient measures and means of preventing odors, debris, fluids, and other substances from exiting the dispensary must be in effect at all times.
- m. No sandwich board signs for Marijuana businesses on the Right-Of-Way (ROW).
- n. Manufacturing of oil-based products or distilling of oil shall only be permitted within an Industrial zone. Review and inspection of the facility and proposed uses by the Fire Department shall be required prior to the commencement of business.
- o. No minors shall be allowed in the marijuana facility.
- p. Hours of operation are limited from 7:00 am to 10:00 pm, seven days a week.

Note: Facility = marijuana facility = medical and/or recreational marijuana facility

- i) The proposed use must not entail substantial structural or capital improvements, permanent buildings, or non-temporary water and sewer connections;
- ii) The proposed use must not require any major alteration of the site that would affect drainage or reduce the usable area or volume of the site, such as extensive site grading/excavation or elevation from fill; and
- iii) For restoration or mitigation sites, the proposed use must not require site changes that would prevent the expeditious conversion to the site to estuarine habitat.

10. Medical or Recreational Marijuana Uses (*Amended Ordinance 661 & 665, May 2018*)

- a) The facility shall not be permitted within 1000' of a school as defined in the state medical and recreational marijuana regulations. Additionally, the facility shall not be permitted within 1000' of another property with a licensed medical or recreational marijuana facility.
- b) The facility shall be registered and licensed through the State of Oregon and shall comply with all state regulations regarding medical or recreational marijuana facilities, depending on its type of state registration. This includes, but is not limited to: siting standards, proximity to schools or other marijuana or OLCC regulated facilities, hours of operation, security measures, etc.
- c) The facility must be located entirely within a permanent building and may not be located in a trailer, cargo container, motor or recreational vehicle.
- d) Outside storage of merchandise, raw materials, or other materials associated with the facility is prohibited.
- e) Drive-up or walk-up window use or similar exchange of goods through a portal to the exterior of the retail establishment is prohibited.
- f) The facility shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the facility's exterior refuse containers. Burning of remnants or by-products is prohibited within the City limits.
- g) Production of oil-based products or distilling of oil shall only be permitted within the Industrial (5-I) zone. Review and inspection of the facility and proposed uses by the Fire Chief shall be required prior to the commencement of business.

5.04.080 Procedure for obtaining license.

All licenses shall be issued by the City Recorder of the City of Port Orford. (Ord. 2000-05 § 5, 2000)

5.04.090 Prohibitions.

It is unlawful for any person to wilfully make any false or misleading statement to the City Recorder for the purpose of determining the amount of any license fee herein provided to be paid by any such person, or to fail or refuse to comply with any of the provisions of this chapter to be complied with or observed by such person, or to fail or refuse to pay before the same shall be delinquent any license fee or penalty hereby required to be paid by any such person. (Ord. 282 § 6(a), 1978)

5.04.095 Medical and recreational marijuana.

A. Business License. A City business license is required for a medical marijuana sales facility as well as recreational marijuana retail sales. Processors, wholesalers, labs and research facilities are not allowed within the City limits. The business license fee will be adopted by resolution.

B. Location.

1. The medical marijuana facility and recreational marijuana retail sales facility shall comply with all applicable Oregon laws, including, but not limited to, the following:
 - a. No medical marijuana facility or recreational marijuana retail sales facility shall be allowed within a buffer area of 1,000 feet from any school.
 - b. No medical marijuana facility or recreational marijuana retail sales facility shall be allowed within 1,000 feet of another marijuana facility, medical or recreational.
2. The medical marijuana facility and recreational marijuana retail sales facility shall only be allowed within the Commercial (4C), Industrial (5-I) and Battle Rock Mixed Use (10-MU) zones adjacent to or fronting on Highway 101.
3. No medical marijuana facility or recreational marijuana retail sales facility shall be located within 1,000 feet of an existing licensed childcare facility, Buffington Park or playgrounds.
4. No drive through marijuana facility, medical or recreational, shall be allowed.
5. Nothing in this section shall be construed to disallow personal marijuana grows, strictly for the personal use of the inhabitant of the property on which the grow is located and such shall be subject to all applicable State laws.

C. Operations.

1. Hours and times of operation shall be limited to 8:00 a.m. through 8:00 p.m., seven days per week.
2. No minors under the age of 18 years shall be allowed on the premises.
3. Any owners, operators, employees, or volunteers working on the premises must pass a criminal background check through the Port Orford Police Department, as required by law. (Ord. 2018-01 § 1, 2018)

5.04.100 Penalty for delinquent payment.

In the event any person required to obtain a license shall fail or neglect to obtain the same before it shall become delinquent, the City Recorder shall collect upon the payment therefor and in addition thereto a penalty of 10% of the fee thereof for each calendar month or fraction thereof the same shall be delinquent. (Ord. 282 § 6(b), 1978)

- J. Sales, service or repair of machinery, trailers, mobile home, farm equipment, marine equipment;
- K. Building materials sales or services;
- L. Hotel or motel;
- M. Plumbing, electrical, paint or carpentry storage, sales or contracting;
- N. Indoor recreational establishments;
- O. Medical, dental or related office;
- P. Medical, dental or related clinic;
- Q. Public utilities, including service structures.

17.44.30 Conditional uses.

In the C-2 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 16.12 and the provisions of this title:

- A. Drive-up uses, in accordance with Section 16.12;
- B. Museums, tourist information centers, parks and recreational facilities;
- C. Food or dairy products processing;
- D. Single-family, two-family, or multiple housing, including mobile or manufactured home;
- E. Recreational vehicle park, overnight trailer parking;
- F. Public utility or services building;
- G. Residential care home or facility;
- H. Governmental buildings or uses;
- I. Churches;
- J. Any fuel dispensing or fuel storage facilities.
- K. Medical / Recreational Marijuana Facilities, subject to the following requirements:
 1. Must acquire a conditional use permit and provide proof of State licensing. Permit must have a description of location, nature of the operation, accounting and inventory control system used, and names and addresses of individuals with financial interest in the dispensary.
 2. Must meet all City land-use, building, and fire laws.
 3. May not produce any extracts, oils, resins, or other derivatives on-site. Marijuana and marijuana-infused products cannot be used on-site.
 4. Must utilize air filtration and ventilation systems to confine objectionable odors.
 5. Anyone convicted of the manufacture or delivery of a controlled substance once or more in the previous 5 years or twice in a lifetime cannot be an operator or employee or have a financial interest in the dispensary.

6. Minimum parking space requirements will be one space per six hundred (600) square feet of floor area plus one space per two employees.
7. Hours of Operation any eight hours between the hours of 8 A.M. and 8 P.M.
8. No display promoting or showing any product that can be seen by the public or adjacent public right of way.
9. Adhering to all requirements of Bandon Code.
10. The business must be located in a permanent building and may not locate in a trailer, cargo container or motor vehicle.
11. Outdoor marijuana production, cultivation, and storage of merchandise, raw materials, or other material associated with the business are prohibited.
12. As with any state law governing the location of medical/recreational marijuana facilities in regard to school property no recreational or medical marijuana facility may be located within 1500 linear feet of any boundary line of the following described property:

28-14-30AB, Tax Lot(s):	2300
28-14-30AC, Tax Lot(s):	11800
28-15-25DA, Tax Lot(s):	5800 and 6000
28-15-25DB, Tax Lot(s):	93000
28-15-25DC, Tax Lot(s):	9100
28-15-25DD, Tax Lot(s):	300, 600, 1500, 3200, 3300, 4001, 4100, 4600, 4801, and 6300.
13. In addition, no medical/recreational marijuana facility may be located within 1500 linear feet of any boundary line of 28-14-30CA, Tax Lot(s) 6500, which currently operates as a Head Start facility.

17.44.040 Limitations on uses.

In the C-2 zone, the following conditions and limitations shall apply:

- A. The dedication of additional street width may be required when an officially adopted street plan or the nature of the proposed development indicates the need for additional width.
- B. The use shall not be objectionable because of odor, dust, smoke, fumes, noise, glare or the effects of vehicular traffic.
- C. Limitations on use may be waived as a conditional use, subject to the provisions of Chapter 16.12.

17.44.050 Signs.

See Chapter 17.90 Signs

17.44.060 Lot size.

In the C-2 zone, lot size shall have no requirements.

17.335.080 Indoor marijuana-related businesses. SHARE

Marijuana-related businesses may be operated indoors only and shall meet all of the following requirements:

(1) Location. The business must be located in a permanent building and may not be located in a trailer, cargo container, motor vehicle, recreational vehicle, manufactured home or greenhouse, nor within 1,000 feet of another **marijuana**-related business of the same type.

(2) Outdoor Storage. Outdoor storage for merchandise or any material associated with a **marijuana** business is prohibited.

(3) Site Plan Review Consistency. Modifications to the subject site or exterior of a building housing the business must be consistent with Chapter [17.130](#) CBDC, Procedures.

(4) Design criteria for processing and production facilities are subject to the following site and building design criteria:

(a) Security bars or grates on windows and doors are prohibited.

(b) Building frontage on Highway 101/Bayshore Drive shall include exemplary design and is subject to review by the design assistance team.

(5) Disposal. The business must provide for secure disposal of **marijuana** remnants or by-products; such remnants or by-products shall not be placed within the business's exterior refuse containers.

(6) Light and Glare. For production of **marijuana**, shield lighting systems and window coverings are required to confine light and glare from the interior of the structure.

(7) Building Code. Any structure, accessory structure, electrical service, plumbing, or mechanical equipment (e.g., lighting, fans, heating and cooling systems) associated with a business shall satisfy the building code requirements and obtain all required building permits prior to installation.

(8) Property Owner Claim Waiver Requirement. The property owner of a structure in which an indoor **marijuana** business is to be located shall record a declaration which waives any claim or right to hold the city liable for damages they or a tenant may suffer from state or federal enforcement actions for activities the city permits as a result of its approval of the proposed use or development once such approval is

granted. Furthermore, the owner and tenant agree not to unreasonably disobey the city's order to halt or suspend business if state or federal authorities order or otherwise subject the city to enforcement to comply with laws in contradiction to the continued operations of the business as permitted in Table 17.235.020 – I-C Uses.

(9) A **marijuana**-related business must obtain an approved license or registration from the state of Oregon and meet all applicable Oregon Revised Statutes and Oregon Administrative Rules.

(10) **Marijuana** Production. **Marijuana** production shall be limited to 5,000 square feet of gross leasable floor area per lot.

(11) Drive-Up Use. A **marijuana** retail sales outlet shall not include a drive-up facility or use. [Ord. 547 § 8, 2021; Ord. 513 § 7 (Exh. 2), 2019].

5.30.060 Permit conditions.

Any medical marijuana dispensary must comply with the following requirements, in addition to any other state or local requirements:

- (1) The dispensary must have a current city business occupancy permit.
- (2) The dispensary must meet applicable land use, building and fire codes.
- (3) The dispensary must not manufacture or produce any extracts, oils, resins or similar derivatives of marijuana on site and must not use open flames in the preparation of any products.
- (4) Marijuana and tobacco products must not be smoked, ingested or otherwise consumed on the premises of the dispensary.
- (5) Operating hours for retail sales to medical marijuana qualifying patients must be no earlier than 9:00 a.m. or later than 8:00 p.m. on the same day.
- (6) The dispensary must utilize an air filtration and ventilation system which, to the greatest extent feasible, confines all objectionable odors associated with the dispensary to the premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
- (7) The dispensary must not be co-located on the same property or within the same building with any marijuana social club or smoking club.
- (8) No minors are allowed on the premises.
- (9) A person who has been convicted in any state for the manufacture or delivery of a controlled substance listed in CFR Schedule I or Schedule II once or more in the previous five years or twice or more in the person's lifetime may not be an operator or employee of a dispensary proposed or operating in the city or have a financial interest in a dispensary in the city.
- (10) The dispensary must have an accounting system specifically designed for enterprises reliant on transactions conducted primarily in cash and sufficient to maintain detailed, auditable financial records. If the administrator finds the books and records of the operator are deficient in any way or if the operator's accounting system is not auditable, the operator must modify the dispensary's accounting system to meet the requirements of the administrator.
- (11) Every dispensary must keep and preserve, in an accounting format established by the administrator, records of all sales made by the dispensary and such other books or accounts as may be required by the administrator. Each dispensary operator must keep and preserve for a period of at least three years records containing at least the following information:
 - (a) True names and addresses and any aliases of any operator of the dispensary, as that term is defined in NBCC 5.30.020(12); true names and addresses and any aliases of persons that have, or have had within the preceding year, a financial interest in the dispensary; and

(b) The administrator may require additional information as he or she deems necessary.

(12) Dispensaries shall not be engaged in the production, manufacture, distribution or sale of recreational marijuana or recreational marijuana related products. Nor shall dispensaries be co-located or share the same physical facilities with recreational marijuana business.

(a) Each dispensary must display its current permit inside the dispensary in a prominent place easily visible to persons conducting business in the dispensary.

(b) Sales or any other transfers of marijuana products on the dispensary premises must occur inside the dispensary building and must be conducted only between the dispensary and medical marijuana qualifying patients. (Ord. 2000 § 1, 2016)

5.30.070 Examination of books, records and premises.

(1) To determine compliance with the requirements of this chapter; NBCC Title [18](#), Zoning; and any local tax measures, the administrator may examine or cause to be examined by an agent or representative designated by the administrator, at any reasonable time, the premises of the dispensary, including wastewater from the dispensary, and any and all dispensary financial, operational and facility information, including books, papers, payroll reports and state and federal income tax returns. Every permittee is directed and required to furnish to the administrator the means, facilities and opportunity for making such examinations and investigations.

(2) As part of investigation of a crime which law enforcement officials reasonably suspect has taken place on the premises, North Bend police shall be allowed to view surveillance videotapes at any reasonable time. (Ord. 2000 § 1, 2016)

(Ord. No. 2015-1139, § 2, 1-5-2015)

Editor's note— Ord. No. 2015-1139, § 2, adopted January 5, 2015, repealed and replaced § 10.76.030 in its entirety. Former § 10.76.030 pertained to home occupation and was derived from Ord. No. 2003-1038 (part).

10.76.035 Marijuana dispensaries.

- A. **Purpose.** The purpose of this section is to minimize any adverse public safety and public health impacts that may result from allowing marijuana dispensaries in the city, by adopting particular time, place and manner requirements and a separate permitting process for both medical and recreational dispensaries.

This section does not apply to marijuana facilities, as defined in Chapter 10.64.

- B. **Minimum Standards.** All marijuana dispensaries shall possess the required state and local licenses, including a current City of Reedsport Dispensary Operators license. In addition to obtaining the appropriate licenses and permits, the person responsible for a dispensary shall ensure that the following standards are also being met:

1. **Medical Marijuana Dispensary.** Medical marijuana dispensaries shall not be located:

- a. Within one thousand (1,000) feet of a property comprising a school (including nursery school) that is primarily attended by minors, as defined by the Oregon Health Authority;
- b. Within one thousand (1,000) feet of another property containing a medical marijuana dispensary in possession of a City of Reedsport Dispensary Operator license:

[c.] [Reserved.]

♦ For the purpose of this section "within one thousand (1,000) feet" means a straight line measurement in a radius extending for one thousand (1,000) feet or less in every direction from any point on the boundary line of the real property comprising an existing school;

- d. Within two hundred (200) feet of a city park; and

♦ For the purpose of this section "within two hundred (200) feet" means a straight line measurement in a radius extending for two hundred (200) feet or less in every direction from any point on the boundary line of the real property of Barron, Centennial, Champion, Henderson and Lion Parks;

- e. Within twenty-five (25) feet of the public library property and shall not have a storefront or public access facing the public library;

2. **Recreational Marijuana Dispensary.** Recreational marijuana dispensaries shall not be located:

- a. Within one thousand (1,000) feet of a property comprising a school (including nursery school) that is primarily attended by minors, as defined by the Oregon Liquor Control Commission;
- b. For the purpose of this section "within one thousand (1,000) feet" means a straight line measurement in a radius extending for one thousand (1,000) feet or less in every direction from any point on the boundary line of the real property comprising an existing school;
- c. Within two hundred (200) feet of a city park; and

♦ For the purpose of this section "within two hundred (200) feet" means a straight line measurement in a radius extending for two hundred (200) feet or less in every direction from any point on the boundary line of the real property of Barron, Centennial, Champion, Henderson and Lion Parks;

- d. At the same site as a medical marijuana dispensary in possession of a City of Reedsport Dispensary Operator license;

Title 10 LAND USAGE

- e. Within twenty-five (25) feet of the public library property and shall not have a storefront or public access facing the public library;
 - 3. No dispensary shall front a Residential zone;
 - 4. Primary entrances shall not be located facing an alleyway;
 - 5. Primary entrances must be located on street-facing facades and clearly visible from a street;
 - 6. No marijuana or paraphernalia shall be displayed or kept in a dispensary so as to be visible from the outside of the licensed premises, including views through doorways, windows, and other openings;
 - 7. The exterior appearance of the structure shall be consistent with the appearance of existing commercial structures in the immediate neighborhood, so as not to cause blight;
 - 8. Parking lots, primary entrances, and exterior walkways shall be sufficiently illuminated to provide after-dark visibility to employees and patrons;
 - 9. Drive-through marijuana dispensaries are prohibited;
 - 10. A marijuana dispensary must operate from a permanent structure and may not be mobile in nature (i.e., operated from a motor vehicle, cargo container, trailer, RV, tent, or similar type of structure or vehicle);
 - 11. Marijuana and tobacco products must not be inhaled (smoked or vaporized), ingested (orally, sublingually or rectally), topically applied or otherwise consumed, in any manner that creates any pharmaceutical effect or chemical includes on a person while on the premises of the dispensary;
 - 12. Sufficient measures and means of preventing odors, debris, fluids and other substances from exiting the dispensary must be in effect at all times;
 - 13. The dispensary must utilize an air filtration and ventilation system which to the greatest extent feasible confines all objectionable odors associated with the dispensary to the premises for the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected;
 - 14. The business shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the facility's exterior refuse containers;
 - 15. Outdoor storage of merchandise, raw materials or other material associated with the dispensary is prohibited; and
 - 16. Hours of operation for a marijuana dispensary are limited to Monday through Saturday from 9:00 a.m. to 7:00 p.m. and on Sunday from 9:00 a.m. to 5:00 p.m.
- C. Signage. All marijuana dispensaries shall meet the sign standards as prescribed in Section 10.76.040 and the sign standards contained herein:
- 1. The proposed development shall display no signage or advertisement that is visible outside of the store, which contains any of the following:
 - a. Photos or illustrations of any parts of the marijuana plant; or
 - b. Photos or illustrations of minors in the same frame as any words, logos, or photos intended to mean or replace the word marijuana.

(Ord. No. 2015-1143, § 2, 5-4-2015; Ord. No. 2016-1150, § 2, 1-4-2016; Ord. No. 2017-1161, § 2, 4-3-2017)

Editor's note— Ord. No. 2016-1150, § 2, adopted January 4, 2016, amended § 10.76.035, to read as set out herein. Previously § 10.76.035 was titled "Medical marijuana dispensaries."

**CITY OF FLORENCE
RESOLUTION NO. 1, SERIES 2015**

**A Resolution Implementing Business License and Criminal Background Check
fees for Medical Marijuana Facilities, and Revoking Resolution No. 10,
Series 2014.**

RECITALS:

1. The City of Florence has made modifications to the Florence City Code Title 3, Chapter 1: Business Licenses, in order to implement business license regulations for medical marijuana facilities.
2. The City of Florence wishes to establish fees for medical marijuana facilities and criminal background checks for parties handling useable marijuana at a medical marijuana facility.
3. City Code requires fees for business licenses to be set by Council Resolution.
4. Resolution No. 10, Series 2014 established fees for business licenses.

Based on these findings,

THE CITY COUNCIL OF THE CITY OF FLORENCE RESOLVES AS FOLLOWS:

1. The City of Florence approves the business license fees as set forth in Exhibit A.
2. This Resolution takes effect in coordination with the effective date of Ordinance No. 1, Series 2015 and Ordinance No. 2, Series 2015. (March 17, 2015)

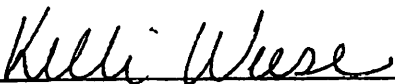
ADOPTION:

This Resolution is passed and adopted on the 17th day of February, 2015.



Joe Henry, Mayor

Attest:



Kelli Weese, City Recorder

**Exhibit A
RESOLUTION NO. 1, SERIES 2015**

City of Florence Business License Fees

<u>Business License Application Fee</u> <i>(A business license application fee shall be charged for all applications received for all business license classification types)</i>	The business license application fee shall be \$10.
<u>Classification 1:</u> Businesses, non-profit organizations, trades, occupations, and professions dealing in retail sale or trade of merchandise and/or services at a permanent location.	The annual license fee shall be \$80 per year. The temporary license fee shall be \$40 for up to six months.
<u>Classification 2:</u> Occupations, tradesman or contractors dealing in contractual services or installation of merchandise or materials at, in or on properties not the principal location, or base of operation, or the contractor or installer	The annual license fee shall be \$80 per year. The temporary license fee shall be \$40 for up to six months.
<u>Classification 3:</u> Home Occupations as defined in Title 10, Chapter 1	The annual license fee shall be \$45 per year. The temporary license fee shall be \$25 for up to six months.
<u>Classification 4:</u> Merchant Police, Security Services, and Solicitors	The annual license fee shall be \$80 per year. The temporary license fee shall be \$40 for up to six months.
<u>Classification 5:</u> Peddlers and Transient Merchants	The temporary license fee shall be \$40 for up to six months.
<u>Classification 6:</u> Rhododendron Festival Peddlers and Transient Merchants	The temporary license fee shall be \$20 for the Rhododendron Festival Period as defined in FCC 3-1-8-6.
<u>Classification 7:</u> Master Vendors and Vendors	The master vendor fee shall be set to \$0. The vendor fee shall be set to \$20.
<u>Classification 8:</u> Used Merchandise Dealer	The annual license fee shall be \$80 per year The temporary license fee shall be \$40 for up to six months.
<u>Classification 9:</u> Medical Marijuana Facility	The annual license fee shall be \$150 per year Medical Marijuana Facilities shall not qualify for temporary status per FCC 3-1-8-9-A-8. The criminal history check fee shall be \$50 per person. Such fee shall not be subject to application fee.
<u>Business License Renewals</u>	
<u>Payments Made on or Before December 31st:</u> Business Licenses that are renewed before they expire shall be allotted an 'on-time payment credit' of \$10 to be allocated toward the next calendar year's business license payment. Businesses that do not renew their business license the following year will forfeit their business license credit. No credit payment checks will be issued by the City.	
<u>Payments Made After January 20th:</u> Business Licenses that are renewed after January 20 th shall pay a delinquency charge of fifty (50) percent of the business license fees due per FCC 3-1-6-F.	

Marijuana Business Regulations

On December 14, 2015, the Florence Planning Commission and City Council set city regulations on where and how producing (growing), processing (manufacture), testing, wholesaling, and retail sales of medical and recreational marijuana can happen.

Details about which zoning districts these activities are permitted can be found in the attached table below "Where Can Someone...". After viewing this table visit the City of Florence Zoning Map to see where these zones are located. Policies related to operations can be found in Chapter 4 of Title 10 of City on pages 7-8.

Included in these policies are buffers between retail sales of recreational and medical marijuana stores and day cares, parks, residential zones and certain schools listed under ORS 339.020 & 030 (1) (a). Maps of these buffers can be found below in the attachment "Buffer Map w/ Property Availability". Please note the buffers are for informational purposes only and demonstrate available properties outside of City-regulated buffers, but does not account for possible differences on-site which may rule out that property's use for a retail or medical marijuana business. Please contact the Florence Planning Department for questions regarding specific sites.

The Oregon Liquor Control Commission website is a valuable source of information providing an interactive map of retailers and labs, licensing application and forms, laws and rules, worker permit information, and a Frequently Asked Questions Page.

In July 2016 the Florence City Council passed Resolution 16, Series 2016, referring to the voters a local Florence tax on retail sales of recreational marijuana. On November 8, 2016, Florence voters passed Ballot Measure 20-251, establishing a 3% tax on recreational marijuana sales in the City of Florence by enacting Florence City Code Title 3, Chapter 11.

Revenue from recreational marijuana taxes is proposed to be distributed into the City of Florence General Fund.

This tax went into effect on January 1, 2017. Recreational marijuana retailers are required to collect a 3% local Florence retail sales tax from customers at the point of sale. This is in addition to the State's 17% tax on recreational marijuana sales.

Supporting Documents

 **Where can someone...? (204 KB)**

 **Buffer Map w/ Property Availability (4 MB)**

 **Ordinance No. 12, Series 2015 - Approved (9 MB)**

 **Marijuana and Building Codes (11 MB)**

Web Links

Dec. 14th Planning Commission/City Council Meeting

Florence Zoning Code

FCC 10-4-12-I - Marijuana Use Regulations

FCC 3-11 Retail Tax on Marijuana Items

Resolution 16, Series 2016 - Local Marijuana Tax on Retail Sales Ballot Title

Planning

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Chapter 9.15 - REGULATIONS RELATING TO RECREATIONAL MARIJUANA DISPENSARIES AND OTHER COMMERCIAL MARIJUANA ACTIVITIES

Footnotes:

— (2) —

Editor's note— Ord. No. 3451, § 1, adopted Oct. 13, 2015, repealed Ch. 9.15, which pertained to Marijuana Tax and derived from Ord. No. 3438, § 1, adopted Oct. 27, 2014. Subsequently, Ord. No. 3457, § 1, adopted Feb. 8, 2016, enacted new provisions to read as herein set out.

9.15.005 - Definitions.

As used in this Chapter, unless the context in which used clearly requires a different meaning, the following words and phrases shall mean:

"CFR Schedule I or Schedule II" means the controlled substances designated in the Code of Federal Regulations Title 21, Chapter II, Part 1308.

"Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.

"Consumer" means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.

"Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae, but does not include industrial hemp as defined in ORS 571.300.

"Marijuana Items" means marijuana, cannabinoid products, concentrates and extracts.

"Marijuana Processor" means a person who processes, compounds or converts marijuana into useable products, including edibles, skin and hair products, concentrates or extracts within the City of Roseburg or in the State of Oregon.

"Marijuana Producer" means a person who grows and produces marijuana within the City of Roseburg or in the State of Oregon.

"Marijuana Retailer" means a person who sells marijuana items to a consumer within the City of Roseburg or in the State of Oregon.

"Marijuana Wholesaler" means a person who purchases marijuana items within the City of Roseburg or the State of Oregon for the purpose of reselling such items to a person other than a consumer.

"Medical Marijuana Dispensary" means a facility or operation licensed by the Oregon Health Authority and designed, intended or used for the purposes of delivering, dispensing or transferring marijuana to Oregon Medical Marijuana Registry Identification Card holders pursuant to ORS 475.300—475.346; and operating under a

license obtained pursuant to Chapter 9.14 of the Roseburg Municipal Code.

"Oregon Liquor Control Commission", "OLCC", or "Commission" means the division of the state that administers the provisions of OAR 845-025-100-8580 and enforces all policies and procedures pertaining thereto as set forth therein.

"Other Commercial Marijuana Activities" means any marijuana related commercial activities that are not subject to the license requirements of this Chapter, or Chapter 9.14 of the Roseburg Municipal Code.

"Recreational Marijuana Dispensary" means any facility or operation designed, intended or used for purposes of functioning as a marijuana retailer. Recreational Marijuana Dispensary does not include a Medical Marijuana Dispensary.

(Ord. No. 3457, § 1, 2-8-2016)

9.15.010 - Purpose.

The purpose of this Chapter is to ensure that recreational marijuana dispensaries operated within the City limits of Roseburg are in full compliance with the requirements of the Oregon Liquor Control Commission as set forth in OAR 845-025-1000-8590, as well as, the City's land use and development regulations, building and fire codes and all provisions of this Chapter, and to ensure safe access to recreational marijuana, while protecting the health, safety and welfare of the citizens of Roseburg.

(Ord. No. 3457, § 1, 2-8-2016)

9.15.020 - Recreational marijuana dispensary operator's license application, term and fee.

A. Marijuana Dispensary Operator's License Application. Pursuant to the provisions of this Chapter, no person shall operate a recreational marijuana dispensary within the City without first obtaining a recreational marijuana dispensary operator's license from the City Recorder. Applications for such dispensary operator's license shall be available from the City Recorder's Office. Completed applications must be submitted to the City Recorder along with a copy of the applicant's license issued by the Oregon Liquor Control Commission pursuant to OAR 845-025-1000-8580, a copy of the applicant's driver's license or other government-issued photo identification, a current passport sized photograph of the applicant and payment of the original operator's application investigation fee and license fee as set by Council resolution. The application shall require the following information:

1. The business name, mailing address, physical location and telephone number under which the recreational marijuana dispensary shall be operated;
2. The days and hours during which the recreational dispensary shall be open for business;
3. The true name, residence address, date and place of birth and driver's license number or other government-issued photo identification number of the person intending to operate the

recreational dispensary;

4. A statement that the recreational dispensary operator shall at all times comply with the regulations established by the Oregon Liquor Control Commission and this Chapter, as well as all other state and local laws relating to the dispensing and distribution of marijuana, including the City's land use and development regulations, building codes and fire codes relating to such dispensaries;
5. A statement whether the applicant for the dispensary operator's license has been convicted within the past seven (7) years of any felony or of any misdemeanor that relates to fraud, theft or the manufacture or delivery of a CFR Schedule I or Schedule II controlled substance.
6. A statement that the recreational dispensary operator shall not employ, or accept volunteer services from, any person to dispense marijuana or perform any other dispensary-related tasks, whom has not obtained a marijuana handler's permit from OLCC in accordance with OAR 845-025-5500 and a recreational marijuana dispenser's permit from the City; and
7. Any other information the City Recorder deems relevant and necessary to conduct any investigation or background check (including fingerprints) of the applicant and to ensure the proper protection of the public health, safety and welfare. All information provided on the recreational dispensary operator's application must be kept current at all times; any change in such information must be reported to the City Recorder's office within ten (10) days of such change.

B. Term of Recreational Marijuana Dispensary Operator's License. Licenses to operate a recreational marijuana dispensary shall be issued on a calendar year basis for a term of one year or portion thereof beginning upon the date of approval of the original application. Persons issued a recreational dispensary operator's license shall also be issued a recreational marijuana dispenser's permit, but shall not be required to pay the permit fee set forth in Section 9.15.030(C) of this Chapter. All dispensary licenses shall expire on December 31 of the year issued. If a licensee intends to continue to operate the following license year, not less than 30 days prior to the license expiration, the licensee shall complete a license renewal application and pay the annual license fee. Criminal history checks will be performed on the applicants of the original and each renewal application. A recreational marijuana dispensary operator's license shall not be sold, assigned, mortgaged or otherwise transferred.

C. Recreational Marijuana Dispensary Operator's License Fee. Upon submission of an original application for a recreational marijuana dispensary operator's license, the applicant shall submit a non-refundable application investigation fee and the annual license fee as set by Council resolution. If an applicant applies for such dispensary operator's license after July 1, the annual license fee shall be reduced by one-half for the remaining portion of the first license year.

(Ord. No. 3519, § 4, 2-11-2019; Ord. No. 3457, § 1, 2-8-2016)

9.15.030 - Recreational marijuana dispenser's permit application, term and fee.

A. Recreational Marijuana Dispenser Permit Application. No person shall be employed by, or provide

volunteer services for, a recreational marijuana dispensary operator to dispense marijuana to consumers, or perform any other dispensary-related tasks, without first obtaining a recreational marijuana handler's permit from OLCC in accordance with OAR 845-025-5500 and a recreational marijuana dispenser's permit from the City Recorder. A recreational dispenser's permit shall be required for each recreational dispensary at which a person dispenses or performs any other dispensary-related tasks. Completed applications for a recreational marijuana dispenser's permit shall be submitted to the City Recorder, along with a copy of the applicant's OLCC marijuana handler's permit, driver's license or other government-issued form of identification, a current passport sized photograph of the applicant and payment of the non-refundable application investigation fee and recreational marijuana dispenser's permit fee as set by Council resolution. The application for such dispenser's permit shall provide the following information:

1. The business name, address, telephone number and the name of the licensed recreational dispensary operator for which the dispenser will be employed by or provide volunteer services for;
 2. The applicant's true name, residence address, date and place of birth and driver's license number or other government-issued photo identification number;
 3. A statement that the applicant is fully aware and knowledgeable of the rules and regulations established by the Oregon Liquor Control Commission, as well as all other state and local laws relating to the dispensing and distribution of recreational marijuana including the City's land use and development regulations, building codes and fire codes relating to such dispensaries; and
 4. A statement whether the applicant has been convicted within the past seven (7) years of any felony or of any misdemeanor that relates to fraud, theft or the manufacture or delivery of a CFR Schedule I or Schedule II controlled substance; and
 5. Any other information the City Recorder deems relevant and necessary to conduct any investigation or background check (including fingerprints) of the applicant and to ensure the proper protection of the public health, safety and welfare. All information provided on the dispenser's application must be kept current at all times; any change in such information must be reported to the City Recorder's office within ten (10) days of such change.
- B. Term of Recreational Marijuana Dispenser's Permit. Recreational marijuana dispenser permits shall be issued on a calendar year basis for a term of one year or portion thereof beginning upon the date of approval of the original application. All such dispenser permits shall expire on December 31 of the year issued. If a recreational dispenser intends to continue dispensing for a licensed recreational marijuana dispensary operator the following year, not less than 30 days prior to the permit expiration, the dispenser shall complete a permit renewal application and pay the annual permit fee. Criminal history checks will be performed on the original and each renewal application.
- C. Recreational Marijuana Dispenser's Permit Fee. Upon submission of an original application for a recreational marijuana dispenser's permit, the applicant shall submit a non-refundable application

investigation fee and the annual permit fee as set by Council resolution. If an applicant applies for such recreational dispenser's permit after July 1, the annual permit fee shall be reduced by one-half for the remaining portion of the first year of the permit.

(Ord. No. 3519, § 5, 2-11-2019; Ord. No. 3457, § 1, 2-8-2016)

9.15.040 - Recreational marijuana dispensary operating regulations.

Each licensed recreational marijuana dispensary operator shall comply with the following operating regulations in addition to any other state or local rules and regulations:

- A. Recreational marijuana dispensaries shall open for business no earlier than 7:00 a.m. and close no later than 10:00 p.m. any day of the week.
- B. Recreational marijuana dispensaries must at all times be operated in strict compliance with Oregon Administrative Rules, Oregon Revised Statutes, this Chapter, building and fire codes and all other rules and regulations directly or indirectly relating to marijuana and the receipt, distribution, dispensing, transferring, advertising and packaging thereof, as well as the security requirements, possession limits, and location and zoning requirements of recreational marijuana dispensaries.
- C. The recreational marijuana dispensary operator's license issued by the Oregon Liquor Control Commission and the license certificate issued by the City must be prominently displayed in an easily visible location inside the dispensary at all times. All recreational dispensers employed by, or any person serving as a volunteer dispenser or providing any other dispensary-related services for the dispensary operator, must have their OLCC marijuana handler's permit and the recreational marijuana dispenser's permit issued by the City on their persons at all times while working or volunteering at the dispensary.
- D. The recreational dispensary must not manufacture or produce any extracts, oils, resins or similar derivatives of marijuana on-site and must not use open flames or butane or other corrosive gases in the preparation of any product.
- E. The recreational dispensary must be located in a permanent building and may not locate in a trailer, cargo container or motor vehicle and shall not offer drive-through services. Outdoor storage of merchandise, raw materials or other material associated with the recreational dispensary is prohibited.
- F. No marijuana or paraphernalia shall be displayed or kept in a dispensary so as to be visible from the outside of the licensed premises. Marijuana and tobacco products must not be inhaled (smoked or vaporized), ingested (orally, sublingually or rectally), topically applied or otherwise consumed, in any manner that creates any pharmaceutical effect or chemical influences on a person while on the premises of the recreational dispensary.
- G. The recreational dispensary must utilize an air filtration and ventilation system which, to the

greatest extent feasible, confines all marijuana-related odors within the recreational dispensary rather than allowing such odors to escape outside. Sufficient measures and means of preventing odors, debris, fluids and other substances from exiting the dispensary must be in effect at all times.

- H. The recreational dispensary shall require each person who delivers, transfers or provides marijuana to the dispensary to sign a written waiver/release stating the person releases all claims to the marijuana and agrees that the recreational dispensary will destroy any marijuana that tests positive for pesticides, mold or mildew. The recreational dispensary will document who the marijuana was received from, how much was received and the date it was destroyed. The recreational dispensary must provide for secure disposal of all marijuana that has tested positive for pesticides, mold, or mildew as well as, all remnants and by-products of all marijuana received, but shall not place such material within the dispensary's exterior refuse containers.
- I. No minors shall be allowed in a recreational marijuana dispensary.

(Ord. No. 3457, § 1, 2-8-2016; Ord. No. 3536, § 2, 2-24-2020)

9.15.050 - Inspection of books and premises.

- A. For purposes of confirming compliance with this Chapter, the City Manager, or his designee shall be authorized to inspect the premises of a recreational marijuana dispensary and all of the dispensary's financial, operational and facility information, including books, records, payroll records and state and federal tax returns. The operator shall be required to furnish the means, facilities and opportunity for such inspection.
- B. As part of the investigation of any crime which law enforcement officials reasonably suspect has taken place in a recreational dispensary or in connection with the operation of such dispensary, upon request, the Roseburg Police Department shall have the authority to view the dispensary's video surveillance records and recordings, and audio records and recordings when available.

(Ord. No. 3457, § 1, 2-8-2016)

9.15.060 - City indemnification.

- A. By accepting a recreational marijuana dispensary operator's license or a recreational dispenser's permit issued pursuant to this Chapter, the licensee and/or permittee waives and releases the City, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of dispensary owners, operators, employees, volunteers, clients or customers for a violation of federal, state or local laws and regulations.
- B. By accepting a license or permit issued pursuant to this Chapter, the licensee and/or permittee, jointly and severally, if more than one (1), agree to indemnify and hold harmless the City, its officers, elected officials, employees, volunteers and agents, insurers and self-insurance pool against all liability, claims

and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the recreational marijuana dispensary that is subject of the license.

(Ord. No. 3457, § 1, 2-8-2016)

9.15.070 - Other commercial marijuana activities.

No recreational marijuana dispensary or other commercial marijuana related business may lawfully exist in the City of Roseburg absent the issuance of a state license and full regulatory oversight of the marijuana establishment by the State as well as the City. Compliance with the requirements of this Chapter does not provide a defense to criminal prosecution under otherwise applicable law. All commercial marijuana activities that are not subject to the licensing requirements of this Chapter or Chapter 9.14 of the Roseburg Municipal Code, including but not limited to medical or recreational marijuana processors, producers, wholesalers, and laboratories, shall be required to obtain a general business registration pursuant to Chapter 9.02 of the Roseburg Municipal Code in addition to meeting all other local and state laws.

(Ord. No. 3457, § 1, 2-8-2016)

9.15.080 - Denial, suspension and revocation, appeals and penalties.

- A. In addition to the grounds set forth in Chapter 9.100, the City Recorder may deny, suspend or revoke a recreational marijuana dispensary operator's license or a recreational dispenser's permit for failure to meet the requirements of this Chapter or to comply with the rules adopted by this Chapter or any other local or state requirement relating to recreational marijuana facilities.
- B. A decision to deny an application for a recreational dispensary operator's license or dispenser's permit shall be submitted in writing setting forth the reasons therefore and advising the applicant of the right to appeal the Recorder's decision pursuant to RMC 9.100.
- C. A decision to suspend or revoke a recreational dispensary operator's license or dispenser's permit pursuant to this Section shall be in writing, setting for the reasons therefore, and giving the licensed operator or permitted dispenser written notice by first-class mail at least five (5) days prior to the effective date of the suspension or revocation. Such notice shall also advise the operator or dispenser of the right to appeal the Recorder's decision pursuant to RMC 9.100.
- D. The remedies provided in this Section are not exclusive and shall not prevent the City from exercising any other remedy available under law, either simultaneously or otherwise, including but not limited to seeking penalties as provided in Chapter 1.06 of this Code.

(Ord. No. 3457, § 1, 2-8-2016)



Marijuana Regulations in Happy Valley

History

On November 4, 2014, Oregon voters approved Ballot Measure 91, which legalized personal possession of certain amounts of marijuana for people 21 years of age or older. The measure, as well as several implementing legislative bills, also created a regulatory system for the production, distribution, and sale of recreational marijuana and marijuana products.

City Regulations

State law contains few regulations on where commercial marijuana businesses may occur, except they may not locate within 1,000 feet of schools. To address citizen concerns, Oregon Law allows local governments to place additional regulations on marijuana businesses and limit their facilities to specific areas. Throughout Oregon, cities, and counties have been developing local regulations to govern where marijuana facilities can locate, their hours of operations, and several other aspects specific to marijuana businesses.

For several months, Happy Valley monitored how other cities regulated marijuana in pursuit of finding the best practices. The City Council discussed many options and forms of regulation to balance the legal rights of marijuana business owners with the safety, livability, and character of the Happy Valley community.

After much consideration, the City Council adopted regulations on September 6, 2016 following a recommendation by the Planning Commission in August. Below are summaries and links to Happy Valley regulations for marijuana dispensaries, production (marijuana grows), processing, and wholesaling businesses.

Marijuana Retail Sales in Happy Valley

Without local regulations, marijuana dispensaries would be allowed in all non-residential zones in Happy Valley, provided they are 1,000 feet from a school. If you are interested in where marijuana dispensaries would be allowed without local regulations, [click here](#) to see it on a map. However, the Happy Valley City Council sought to add additional restrictions to maintain the character of Happy Valley and limits sales only to commercial zones. Some of these additional restrictions include a larger buffer from schools (2,000 feet), parks (1,000 feet), and day cares (500 feet). As a result, the draft regulations would limit retail sales to two general areas within the city. These areas are only located on Sunnyside Road in the vicinity of 172nd Avenue and the southwest corner of Highway 212/224. [Click here](#) to see it on a map.

Marijuana Production, Processing, & Wholesale Operations

Marijuana facilities operating at an industrial level may only local in Industrial Campus and Employment Center zones excluding the Rock Creek Employment Center. [Click here](#) to see it on a map.

Land Development Code Changes

In addition to the location of marijuana facilities, regulations were enacted that guide the hours of operation, odor control, security, and other aspects specific to the marijuana industry. For example:



- No one under the age of 21 is permitted in a dispensary, except as allowed by state law.

Want to know more? [Click here](#) to read Land Development Code changes.

More Information

For more information about Measure 91 and what it means for Oregon Cities and Clackamas County, please visit the following useful websites:

- [What's Legal Oregon](#)
- [Oregon Liquor Control Commission \(Marijuana Information\)](#)
- [League of Oregon Cities \(Marijuana Information\)](#)
- [Clackamas County \(Marijuana Information\)](#)

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