

CITY OF  
GEARHART

**Staff Report**

For City Council Meeting - 08/01/2018

***Subject - Visitors - Oscar Nelson, Sweet Relief***

**Synopsis:** Mr. Nelson is the owner of Sweet Relief marijuana store located in Gearhart. He has asked to speak to the council regarding the 10% recreational and 5% medical tax Gearhart has established in October 2014. In his email, Mr. Nelson wrote that he would like to propose that the city only tax up to the 3% sales tax limit the state allowed by state statute. Gearhart established it's tax before the state statute was law.

Currently, the State of Oregon taxes recreational marijuana sales 17%. Cities receive 10% of these state tax revenues based on population and number of licenses in the town.

**Documents Attached:**

Request from Mr. Nelson

Oregon Dept of Revenue marijuana tax information sheet

Gearhart, Seaside, Cannon Beach, Astoria ordinances and resolutions

**Recommended Motion:** None.

**Legal Analysis:**

**Financial Analysis:** It's unclear what the financial impact of the Gearhart tax is as Sweet Relief has only been in business for a short time and has yet to remit taxes to the city. Two weeks ago the city had received a \$900 check from OLCC for our portion of state revenues for the quarter because we have the one store.

**Options:**

- Instruct staff to draft changes to the ordinance and bring it back for a future hearing.
- Keep the tax in place as is.
- Do nothing

Respectfully submitted,



Chad

**Sweet Relief Cannabis Oscar** to me

Jul 9

Hi Chad,

Great talking today.

As for the August 1st City Council Meeting, I would like to propose getting the city tax in line with the State Statue of 3% for Recreational Sales and no tax for Medical Sales.

Please let me know if this can be added to the City Council agenda for that date.

My Best,

- Oscar Nelson

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# Marijuana taxes



[www.oregon.gov/dor/news](http://www.oregon.gov/dor/news)

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## An overview of Oregon's recreational marijuana taxes

- The state tax rate is 17 percent.
- Municipalities can enact an additional tax of up to 3 percent with the approval of voters.
- Only retailers licensed by the Oregon Liquor Control Commission (OLCC) can sell recreational marijuana.
- Our rules require monthly payments. Payments are due on the last day of each month for retail sales from the previous month. For example, the tax for January's sales is due by February 28.
- Payments are accepted by check, money order, cashier's check, or cash. Cash payments are by appointment only at the Revenue building in Salem only.
- Taxpayers can keep 2 percent of the state tax to cover their administrative costs.
- Returns are due on the last day of the month following the quarter's end (January 31, April 30, July 31, October 31).
- Returns are only accepted electronically through Revenue Online at [www.oregon.gov/dor](http://www.oregon.gov/dor).

## Revenue disbursement

State marijuana tax revenues—minus tax program administration costs—will be distributed quarterly as follows:

- 40 percent for education.
- 20 percent for mental health treatment or for alcohol and drug abuse prevention, early intervention, and treatment.\*
- 15 percent for state law enforcement.
- 10 percent to cities, based on population and number of licensees.
- 10 percent to counties, based on total available grow canopy size and number of licensees.
- 5 percent for alcohol and drug abuse prevention, early intervention, and treatment services.

*\*Changed in 2018 Legislative Session. Prior to this change, 20 percent was distributed to the Mental Health Alcoholism and Drug Services Account. The reallocation of this portion of tax revenues is in effect until July 1, 2019. After that date, distributions will revert to the Mental Health Alcoholism and Drug Services Account.*

## **Information on local taxes**

In November 2016, voters in some municipalities approved local marijuana taxes of 3 percent. Many of those municipalities decided to have us collect those taxes on their behalf. A [list of those municipalities](#) is available on our website.

**Starting in with February's payment for taxes collected in January:** Businesses located in municipalities where we're responsible for the collection of the tax will include both state and local taxes in their monthly payment. Businesses located in a municipality that's collecting its own taxes should contact the municipality to find out how to file and pay their local taxes. They're still required to make monthly payments and quarterly filings to the Department of Revenue for their state taxes, regardless of how the local tax is being administered.

For more information on marijuana taxes, visit [www.oregon.gov/dor/marijuana](http://www.oregon.gov/dor/marijuana).

**ORDINANCE NO. 884**

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

**WHEREAS**, Gearhart is an Oregon home-rule municipal corporation having all the powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though its Charter specifically enumerated each of those powers; and

**WHEREAS**, the powers of the City under its Charter shall be liberally construed to the end that the City may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to State laws and to municipal home rule provisions of the state constitution; and

**WHEREAS**, except as provided otherwise in the City's Charter, all powers of the City are vested in the City Council; and

**WHEREAS**, the City Council wishes to exercise its power to tax the sale or transfer of marijuana and marijuana-infused products within the City.

**NOW, THEREFORE, THE CITY OF GEARHART DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Gearhart Municipal Code is amended by adding a new Chapter, Marijuana Tax, to read as follows:

**MARIJUANA TAX**

- 33.80 Purpose**
- 33.81 Definitions**
- 33.82 Tax Imposed**
- 33.83 Amount and Payment, Deductions**
- 33.84 Seller Responsible for Payment of Tax**
- 33.85 Penalties and Interest**
- 33.86 Failure to Report and Remit Tax – Determination of Tax by Administrator**
- 33.87 Appeal**
- 33.88 Refunds**
- 33.89 Actions to Collect**
- 33.90 Violation**
- 33.91 Confidentiality**
- 33.92 Audit of Books, Records, or Persons**
- 33.93 Forms and Regulations**

**33.80 Purpose**

For the purposes of this chapter, every person who sells marijuana, medical marijuana or marijuana-infused products in the City of Gearhart 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.

### **33.81 Definitions**

As used in this ordinance, unless the context requires otherwise:

1. "Administrator" means the city administrator for the City of Gearhart or his/her designee.
2. "Gross 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.
3. "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.
4. "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.
5. "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.
6. "Purchase or Sale" means the acquisition or furnishing for consideration by any person of marijuana or marijuana-infused product within the City.
7. "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.
8. "Retail sale" means the transfer of goods or services in exchange for any valuable consideration.
9. "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.

10. "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.
11. "Taxpayer" means any person obligated to account to the Administrator of Finance for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

### **33.82 Tax Imposed**

A tax is hereby levied and shall be paid by every seller exercising the taxable privilege of selling marijuana and marijuana-infused products as defined in this chapter. The Administrator is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection, and administration of the marijuana tax.

### **33.83 Amount and Payment, Deductions**

1. In addition to any fees or taxes otherwise provided for by law, every seller engaged in the sale of marijuana and marijuana-infused products shall pay a tax as follows:
  - a. Five percent (5%) of the gross sale amount paid to the seller by a registry identification cardholder.
  - b. Ten percent (10%) of the gross sale amount paid to the seller of marijuana and marijuana-infused products by individuals who are not registry identification cardholders purchasing marijuana or marijuana-infused products under the Oregon Medical Marijuana Program.
2. The following deductions shall be allowed against sales received by the seller providing marijuana or marijuana-infused products:
  - 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.

### **33.84 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 Administrator, 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 Administrator may establish shorter reporting periods for any seller if the seller or Administrator deems it necessary in order to ensure collection of the tax and the

Administrator 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 Administrator.

2. At the time the return is filed, the full amount of the tax collected shall be remitted to the Administrator. Payments received by the Administrator 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.
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. 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 Administrator, 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 Administrator may order such a change. The Administrator may establish shorter reporting periods for any seller if the Administrator deems it necessary in order to ensure collection of the tax. The Administrator 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 Administrator. 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 this chapter shall be entitled to retain five percent (5%) 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 Administrator records of all sales made by the dispensary and such other books or accounts as may be required by the Administrator. Every seller must keep and preserve for a period of three (3) years all such books, invoices and other records. The Administrator shall have the right to inspect all such records at all reasonable times.

### **33.85 Penalties and Interest**

1. 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.
2. 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.
3. If the Administrator 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 1 and 2 of this section.



4. 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.
5. 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.
6. All sums collected pursuant to the penalty provisions in subparagraphs 1 and 3 of this section shall be distributed to the City of Gearhart General Fund to offset the costs of auditing and enforcement of this tax.

### **33.86 Failure to Report and Remit Tax – Determination of Tax by Administrator**

If any seller should fail to make, within the time provided in this chapter, any report of the tax required by this chapter, the Administrator 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 Administrator 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 Administrator 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 Administrator 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 33.87. If no appeal is filed, the Administrator's determination is final and the amount thereby is immediately due and payable.

### **33.87 Appeal**

Any seller aggrieved by any decision of the Administrator with respect to the amount of such tax, interest and penalties, if any, may petition the Administrator for redetermination within twenty (20) days after notice of the Administrator's decision is given. If the seller's petition for redetermination is filed within the allowable period, the Administrator shall reconsider the determination and, if the person has so requested in his or her petition, shall grant the person an oral hearing and shall give twenty (20) days' notice of the time and place of the hearing. The order or decision of the Administrator becomes final twenty (20) days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the City Council within twenty (20) days after the service of such notice.

### **33.88 Refunds**

1. 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 2 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 Administrator within one year of the date of payment. The claim shall be on forms furnished by the Administrator.
2. The Administrator shall have twenty (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 Administrator shall notify the claimant in writing of the Administrator'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 Administrator to be a valid claim, in a manner prescribed by the Administrator 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 Administrator of claimant's choice no later than fifteen (15) days following the date Administrator mailed the determination. In the event claimant has not notified the Administrator of claimant's choice within the fifteen (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.

3. Any credit for erroneous overpayment of tax made by a seller taken on a subsequent return or any claim for refund of tax erroneously overpaid filed by a seller must be so taken or filed within three (3) years after the date on which the overpayment was made to the City.
4. 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 Administrator acknowledged the validity of the claim.

### **33.89 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 Gearhart for the recovery of such amount. In lieu of filing an action for the recovery, the City of Gearhart, when taxes due are more than 30 days delinquent, can submit any outstanding tax to a collection agency. So long as the City of Gearhart 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.

### **33.90 Violation**

1. Violation of this chapter is a misdemeanor punishable by a fine not to exceed \$500.00 per day for each continuing day of violation, or by imprisonment in the city or county jail for a period of not more than six months, or by both such fine and imprisonment. It is a violation of this chapter for any seller or other person to:
  - a. Fail or refuse to comply as required herein;
  - 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

Administrator;

- 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. 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.

### **33.91 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:

1. The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana or marijuana-infused products are 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 the prosecution of any criminal or civil claim by the Administrator or an appeal from the Administrator for amount due the City under this chapter; 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 when the report or tax is in arrears for over six (6) 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).

### **33.92 Audit of Books, Records, or Persons**

1. 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 Administrator or an authorized agent of the Administrator.

2. If the examinations or investigations disclose that any reports of sellers filed with the Administrator pursuant to the requirements herein have shown incorrectly the amount of tax accruing, the Administrator may make such changes in subsequent reports and payments, or make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations.
3. The seller shall reimburse the City for reasonable costs of the examination or investigation if the action disclosed that the seller paid 95 percent or less of the tax owing for the period of the examination or investigation. In the event that such examination or investigation results in an assessment by and an additional payment due to the City, such additional payment shall be subject to interest at the rate of 9 percent per year from the date the original tax payment was due.
4. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Administrator may immediately seek a subpoena from the Gearhart 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.
5. Every seller shall keep a record in such form as may be prescribed by the Administrator of all sales of marijuana and marijuana-infused products. The records shall at all times during the business hours of the day be subject to inspection by the Administrator or authorized officers or agents of the Administrator.
6. Every seller shall maintain and keep, for a period of three (3) years, all records of marijuana and marijuana-infused products sold.

### **33.93 Forms and Regulations**

The Administrator 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:

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.

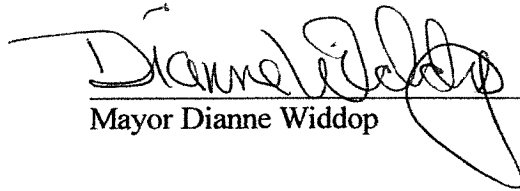
**SECTION 2. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**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.** This ordinance shall be effective 30 days after its passage by the Council  
Ordinance No. \_\_\_\_\_

and signature by the Mayor

APPROVED: Approved by the City Council of Gearhart this 15<sup>th</sup> day of October, 2014.

  
\_\_\_\_\_  
Mayor Dianne Widdop

First Reading:

Second Reading:

ATTEST:

  
\_\_\_\_\_

*City Recorder*

Approved as to form:

\_\_\_\_\_  
City Attorney

Seaside

**RESOLUTION #3878**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE, OREGON, APPROVING A BALLOT TITLE TO BE SUBMITTED TO THE VOTERS AT THE NEXT GENERAL ELECTION; REGARDING A MEASURE THAT WOULD IMPOSE A THREE PERCENT TAX ON THE SALE OF RECREATIONAL MARIJUANA PRODUCTS IN THE CITY OF SEASIDE**

WHEREAS, the Council of the City of Seaside desires to impose a three percent tax on the sale of marijuana products in the City of Seaside.

**NOW, THEREFORE, BE IT RESOLVED:**

**SECTION 1.** That the following Ballot Title shall be submitted to the voters of the City of Seaside at the November 8, 2016, general election.

**AUTHORIZING THREE PERCENT TAX ON THE SALE OF MARIJUANA PRODUCTS**

**Question:** Shall the City of Seaside impose a three percent tax on the sale of marijuana products by a marijuana retailer.

**Explanation:** Approval of this measure would impose a three percent tax on the sale of marijuana by a recreational marijuana retailer within the City of Seaside. Revenues generated by this tax are restricted to public safety operations. Oregon voters adopted Measure 91 in November, 2014, which was amended by the Oregon Legislature in 2015. Pursuant to this law the Oregon Liquor Control Commission must license the retail sale of recreational marijuana. The law provides that a city council may adopt a resolution imposing up to a three percent tax on the sale of marijuana products, which include marijuana concentrates, extracts, edibles, and other marijuana products intended for human consumption and use. Council must refer the resolution to the voters at a general election. The Seaside City Council has enacted a resolution imposing a three percent tax on the sale of marijuana by a recreational marijuana retailer in the city and is referring the measure to the voters.

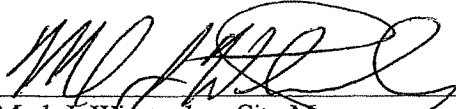
**SECTION 2.** Those polling places, form of election, judges, and times, shall be the same as established by the County for Special Election.

**PASSED** by the City Council of the City of Seaside this 25 day of July, 2016.

**SUBMITTED** to the Mayor and **APPROVED** by the Mayor on this 26 day of July, 2016.

  
\_\_\_\_\_  
DON LARSON, MAYOR

ATTEST:

  
\_\_\_\_\_  
Mark J. Winstanley, City Manager

**Chapter 3.18 MARIJUANA TAX**

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**3.18.005 Purpose.**

The purpose of this chapter is to impose a three percent tax upon the retail sale of marijuana items by marijuana retailers in the city of Cannon Beach. (Ord. 17-1 § 1)

**3.18.010 Definitions.**

“Local tax” or “local taxes” means the marijuana tax imposed by the city of Cannon Beach together with any additional interest or penalties provided for by statute or the Oregon Department of Revenue rules.

“Local taxpayer” means a licensed marijuana retailer located in the taxing jurisdiction of the city of Cannon Beach.

“Marijuana item” has the meaning given that term in Oregon Laws 2015, Chapter 614, Section 1.

“Marijuana retailer” means a person who sells marijuana items to a consumer in this state pursuant to ORS 475B.015.

“Marijuana tax” means the tax imposed on sales of marijuana items by marijuana retailers pursuant to ORS 475B.345.

“Marijuana taxpayer” means a licensed marijuana retailer that is subject to the marijuana tax imposed by the city of Cannon Beach.

“Retail sale price” means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item. (Ord. 17-1 § 1)

**3.18.020 Tax imposed.**

A tax of three percent on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city of Cannon Beach shall be imposed. (Ord. 17-1 § 1)

**3.18.030 Intergovernmental agreement.**

The city shall enter into an intergovernmental agreement (IGA) with the state of Oregon whereby a state department or agency is responsible for the administration, collection, distribution, or enforcement of the tax authorized by this chapter. The terms of that agreement shall apply in lieu of and shall supersede conflicting provisions of this chapter but shall not be construed as repealing any provision of this chapter. (Ord. 17-1 § 1)

**3.18.040 Rules of collection.**

The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items. (Ord. 17-1 § 1)

**3.18.050 General administration of tax payment.**

The Oregon Department of Revenue (the Department) shall be responsible for all aspects of this marijuana tax administration pursuant to this chapter, including, but not limited to, adopting administrative rules; auditing returns; assessing deficiencies and collecting the local tax and penalties and interest under applicable statutes, including, but not limited to, ORS 305.265, ORS 305.220, and ORS 314.400; making refunds; holding conferences with local taxpayers; handling appeals to the Oregon Tax Court; issuing warrants for the collection of unpaid taxes; determining the minimum amount of local tax economically collectible; and taking any other action necessary to administer and collect the local taxes. The local taxpayer must follow the rules of the Department addressing the requirements for paying taxes with currency and other matters related to the taxation of marijuana under ORS Chapter 475B and pursuant to this chapter. (Ord. 17-1 § 1)

**3.18.060 Interest and penalties.**

The taxes collected by the local taxpayer are payable as instructed by the tax collector, in this case, the Oregon Department of Revenue. If said taxes are not properly and timely paid the following interest and penalties apply.

A. Interest shall be added to the overall tax amount due at the same rate established under ORS 305.220 for each month, or fraction of a month, from the time the return to the Oregon Department of Revenue was originally required to be filed by the marijuana retailer to the time of payment. See ORS 475B.710(6).

B. If a marijuana retailer fails to file a return with the Oregon Department of Revenue or pay the tax as required, a penalty shall be imposed upon the marijuana retailer in the same manner and amount provided under ORS 314.400. See ORS 475B.710(7).

C. Every penalty imposed, and any interest that accrues, become a part of the financial obligation required to be paid by the marijuana retailer and remitted to the Oregon Department of Revenue.

D. Taxes, interest, and penalties transferred to the city of Cannon Beach by the Oregon Department of Revenue will be transferred to the city's general fund.

E. If at any time a marijuana retailer fails to remit any amount owed in taxes, interest or penalties, the Oregon Department of Revenue is authorized to enforce collection on behalf of the city of the owed amount in accordance with ORS 475B.700 to 475B.755, any agreement between the Oregon Department of Revenue and the city of Cannon Beach under ORS 305.620 and any applicable administrative rules adopted by the Oregon Department of Revenue. (Ord. 17-1 § 1)

**3.18.070 Disposition and use of tax funds.**

Revenues received from the marijuana tax shall be appropriated as recommended by the city budget committee and adopted by the city council in accordance with Oregon Budget Law. (Ord. 17-1 § 1)

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View the [mobile version](#).





**CITY OF ASTORIA**  
Founded 1811 • Incorporated 1856

December 21, 2016

**M E M O R A N D U M**

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: ORDINANCE ADOPTING CHANGES TO 3% MARIJUANA TAX ON SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER

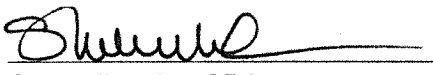
**DISCUSSION/ANALYSIS**

City Council Adopted Ordinance 16-02 on February 16, 2016 imposing a three percent tax on the sale of marijuana items by a recreational marijuana retailer and referring ordinance to electors of Astoria. On November 8, 2016, Local Ballot Measure 4-180 passed with Yes votes totaling 3,420 and No votes totaling 1,251. Additionally, on November 29, 2016 City Council approved an intergovernmental agreement with Oregon Department of Revenue for the collection and distribution of the 3% tax on recreational marijuana sales. The Oregon Department of Revenue has worked in conjunction with the League of Oregon Cities to provide suggested code language which provides authority for penalty and interest language in the enforcement of local marijuana tax collection.

The attached ordinance, enacting the tax approval adopted by voters and adding language necessary for the collection and enforcement of the tax, was prepared by Attorney Henningsgaard and is attached for your consideration. Council would hold a first reading at the January 3, 2017 meeting and second reading at the January 17, 2017 meeting.

**RECOMMENDATION**

It is recommended that Council consider holding a first reading of the ordinance enacting the voter approved 3% marijuana tax with collection and enforcement language incorporated.

By:   
Susan Brooks, CPA  
Director of Finance & Administrative Services

ORDINANCE NO. 17-\_\_\_\_\_

**AN ORDINANCE OF THE CITY OF ASTORIA IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER**

**Recital**

Whereas, ORS 475B.345 provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

Whereas, during the November 8, 2016 general election, the voters of the City of Astoria approved a proposal to impose a three percent tax on the sale of marijuana items by a marijuana retailer in the City of Astoria.

Whereas the City Council of the City of Astoria wishes to provide for the effective collection of the tax approved by the voters.

**THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:**

**Section 1. Definitions.**

**Marijuana item** has the meaning given that term in ORS 475B.015(16).

**Marijuana retailer** means a person who sells marijuana items to a consumer in this state.

**Retail sale price** means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

**Section 2. Tax Imposed.** As described in ORS 475B.345 the City of Astoria imposes a tax of three percent on the retail sale price of marijuana items by a marijuana retailer in the City of Astoria.

**Section 3. Collection.** Every marijuana retailer shall collect this tax at the point of sale at the time at which the retail sale occurs.

**Section 4. Tax Returns.** Every marijuana retailer shall pay the taxes collected to the Oregon Department of Revenue and shall file all returns reporting this tax as required by any rules and procedures established by the Oregon Department of Revenue.

**Section 5. Interest and Penalty.**

- (A) Interest shall be added to the overall tax amount due at the same rate established under ORS 305.220 for each month, or fraction of a month, from the time the return to the Oregon Department of Revenue was originally required to be filed by the marijuana retailer to the time of payment.

- (B) If a marijuana retailer fails to file a return with the Oregon Department of Revenue or pay the tax as required, a penalty shall be imposed upon the marijuana retailer in the same manner and amount provided under ORS 314.400.
- (C) Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid by the marijuana retailer and remitted to the Oregon Department of Revenue.
- (D) Taxes, interest and penalties transferred to the City of Astoria by the Oregon Department of Revenue will be distributed to the City's General Fund.
- (E) If at any time a marijuana retailer fails to remit any amount owed in taxes, interest or penalties, the Oregon Department of Revenue is authorized to enforce collection on behalf of the City of the owed amount in accordance with ORS 475B.700 to 475B.755, any agreement between the Oregon Department of Revenue and the City of Astoria under ORS 305.620 and any applicable administrative rules adopted by the Oregon Department of Revenue.

**Section 6. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

**Section 7. Effective Date.** This ordinance will be effective thirty (30) days after its passage.

ADOPTED BY THE CITY COUNCIL THIS \_\_\_\_\_ DAY OF JANUARY 2017.

APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF JANUARY 2017.

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City Manager

ROLL CALL ON ADOPTION	YEA	NAY	ABSENT
Councilor Nemlowill			
Brownson			
Price			
Jones			
Mayor LaMear			