

ORDINANCE NO. _____

AN ORDINANCE CONCERNING ESTABLISHMENT OF A TAX ON MARIJUANA AND ADDING SECTIONS 3.630 THROUGH 3.646 TO THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Sections 3.630 through 3.646 of the Eugene Code, 1971, are added to provide as follows:

3.630 **Marijuana Tax – Purpose.** The purpose of the levy of the taxes imposed by sections 3.630 through 3.646 of this code is for raising funds for the payment of direct and indirect expenses related to enforcement of marijuana laws in general, educational and public health programs to mitigate any negative consequences associated with the consumption of marijuana and marijuana products, programs to prevent the illegal diversion of marijuana to persons under the age of 21; and to otherwise pay the expenses of operating and improving the city and its facilities.

3.632 **Marijuana Tax – Definitions.** As used in sections 3.630 through 3.646, the following words and phrases mean:

City manager. The city manager or the manager’s designee.

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

Designated primary caregiver. An individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person’s application for registry identification care or in other written notification to the Oregon Health Authority.

Immature marijuana plant. A marijuana plant that has no flowers, is less than 12 inches in height, and less than 12 inches in diameter. A marijuana plant that does not meet all three criteria shall be considered a mature plant.

Marijuana. All parts of the plant Cannabis family Moraceae, whether growing or not, other than marijuana extracts.

Marijuana extract. A product obtained by separating the resins from marijuana by solvent extraction, using solvents other than vegetable glycerin, such as butane, hexane, isopropyl alcohol, ethanol and carbon dioxide.

Marijuana items. Marijuana, marijuana products and marijuana extracts.

Marijuana processor. A person who processes marijuana within the city.

Marijuana producer. A person who produces marijuana within the city.

Marijuana products. Products that contain marijuana or marijuana extracts and are intended for human consumption, but does not include marijuana by itself or a marijuana extract by itself.

Marijuana retailer. A person who sells marijuana items to a consumer in the city.

Marijuana wholesaler. A person who purchases marijuana items for resale to a person other than a consumer within the city.

Person. Any natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, joint venture, or any other legal entity.

Processes. Any of the following:

- (1) The processing, compounding, or conversion of marijuana into marijuana products or marijuana extracts;
- (2) The processing, compounding, or conversion of marijuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis;
- (3) The packaging or repackaging of marijuana items;
- (4) The labeling or relabeling of any package or container of marijuana items.

Produces. The manufacture, planting, cultivation, growing or harvesting of marijuana.

Registry identification card holder. A person who holds a valid registry identification card issued by the Oregon Health Authority.

Sale or Sold. Any transfer, exchange or barter, in any manner or by any means, for a consideration, and includes and means all sales made by a person. It includes a gift by a person engaged in the business of selling marijuana items, for advertising, as a means of evading sections 3.630 through 3.646 of this code, or for any other purpose. The term includes the transfer of useable marijuana and immature marijuana plants from a medical marijuana facility to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.

Useable marijuana. Dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

3.634 Marijuana Tax – Tax Imposed.

- (1) There is levied and shall be collected upon all sales of marijuana items to a consumer by a marijuana retailer a gross receipts tax at the rate of six percent of the amount of the sale.
- (2) There is levied and shall be collected upon all sales of marijuana items by

marijuana producers, marijuana processors and marijuana wholesalers an excise tax of eight percent. The excise tax shall be imposed as follows:

- (a) Marijuana producers: Upon the sale of marijuana items to a marijuana wholesaler, marijuana processor or marijuana retailer.
 - (b) Marijuana processors: Upon the sale of marijuana items to a marijuana retailer.
 - (c) Marijuana wholesalers: Upon the sale of marijuana to a marijuana processor or marijuana retailer.
- (3) There is levied and shall be collected upon all sales of useable marijuana, immature marijuana plants and marijuana items to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder by a medical marijuana facility a gross receipts tax at the rate of six percent of the amount of the sale.

3.636 Marijuana Tax – Collection; Administration; and Enforcement.

- (1) Every marijuana producer, wholesaler, processor, retailer and medical marijuana facility subject to sections 3.630 through 3.646 of this code shall collect the applicable tax as provided for in section 3.634. The tax collected by a marijuana producer, wholesaler, processor, retailer and medical marijuana facility constitutes a debt owing to the city.
- (2) The city manager shall enforce the provisions of sections 3.630 through 3.646 of this code and shall have the power to adopt rules and regulations consistent with sections 3.630 through 3.646 of this code as may be necessary to aid in its enforcement.
- (3) Every marijuana producer, wholesaler, processor, retailer and medical marijuana facility shall keep complete and accurate electronic records in an accounting format established by the city manager relating to the sale of useable marijuana, immature marijuana plants and marijuana items. All records shall be kept for a period of three years. The city manager shall have the right to inspect such records at all reasonable times.
- (4) It shall be unlawful for any marijuana producer, wholesaler, processor, retailer and medical marijuana facility subject to sections 3.630 through 3.646 of this code to engage in the sale of useable marijuana, immature marijuana plants and marijuana items without a business license as required by the code.
- (5) The following deductions shall be allowed against sales of useable marijuana, immature marijuana plants and marijuana items received by a marijuana producer, wholesaler, processor, retailer and medical marijuana facility.
 - (a) Refunds of sales actually returned;
 - (b) Any adjustments in sales which amount to a refund, providing such adjustment pertains to the actual sale of useable marijuana, immature marijuana plants and marijuana items and does not include any adjustments for the other services furnished by a marijuana producer, wholesaler, processor retailer or medical marijuana facility.
- (6) All amounts of such taxes collected by a marijuana producer, wholesaler, processor, retailer or medical marijuana facility are due and payable to the city manager on a monthly basis on or before the last day of the month immediately following for the preceding month, and are delinquent if not paid by the due date. Each person subject to sections 3.630 through 3.646 of this code shall make a return to the city manager, on forms provided by the city, specifying the total sales and amount of tax collected. At the time the return is

filed, the full amount of the tax collected shall be remitted. For good cause shown, the city manager may extend the time for filing a return or paying the tax for not more than one month. Any further extension may be granted only by the council.

- (7) If an extension is granted, a marijuana producer, wholesaler, processor, retailer or medical marijuana facility shall pay interest at the rate of three percent per month on the amount of the tax due, without proration for a fraction of a month. If a return is not filed and if the tax and interest due are not paid in full by the end of the extension period, the interest shall become part of the tax for computation of penalties prescribed in section 3.995 of this code.

3.638 Marijuana Tax – Penalties and Interest.

- (1) Any marijuana producer, wholesaler, processor, retailer or medical marijuana facility that fails to remit any portion of the tax imposed within the time required shall pay a penalty of ten percent of the amount of the tax in addition to the tax owed.
- (2) Any marijuana producer, wholesaler, processor, retailer or medical marijuana facility that fails to remit any delinquent remittance on or before a period of 60 days following the date on which the remittance became delinquent shall pay a second delinquency penalty of 15 percent of the amount of the tax, in addition to the amount of the tax and penalty first imposed.
- (3) If the city manager determines that the nonpayment of any remittance due under sections 3.630 through 3.646 of this code is due to fraud, a penalty of 25 percent of the amount of the tax shall be added thereto, in addition to the penalties stated in subsection (1) of this section.
- (4) In addition to the penalties imposed, any marijuana producer, wholesaler, processor, retailer or medical marijuana facility that fails to remit any tax imposed shall pay interest at the rate of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (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.

3.640 Marijuana Tax – Appeal. Any marijuana producer, wholesaler, processor, retailer or medical marijuana facility aggrieved by any decision of the city manager with respect to the amount of tax imposed or interest and penalties may appeal to the council by filing a notice of appeal pursuant to section 2.021 of this code.

3.642 Marijuana Tax – Action to Collect.

- (1) Any tax required to be paid to the city or collected and has not been paid to the city by any marijuana producer, wholesaler, processor, retailer or medical marijuana facility shall be deemed a debt owed to the city.
- (2) Within three years after the tax becomes payable or within three years after a determination becomes final, the city may bring an action in the name of the city in the courts of this state, another state, or the United States to collect the amount delinquent and penalties and interest.

3.646 Marijuana Tax – Violation of Ordinance.

- (1) Violation of a provision of sections 3.630 through 3.646 of this code constitutes a violation punishable by a fine as set forth in section 3.995 of this code. Each day in which a violation is caused or permitted to exist constitutes a separate violation.
- (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 sections 3.630 through 3.646 of this code prohibit or restrict the city or other appropriate prosecutor from pursuing criminal charges under state law.

Section 2. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this

___ day of _____, 2014

City Recorder

Approved by the Mayor this

___ day of _____, 2014

Mayor