

**Chapter 3-23 - BANNING CERTAIN MARIJUANA-RELATED OPERATIONS AND ACTIVITIES** is amended to read:

**Chapter 3-23 - ALLOWING CERTAIN MARIJUANA-RELATED OPERATIONS AND ACTIVITIES**

**3-23-1 – Allowed licensed marijuana operations and activities.**

The establishment and maintenance of any of the following operations and activities are allowed within the jurisdictional limits of the City of Ontario:

(A) Medical marijuana processors or processing sites required to be registered under Section 85 of House Bill 3400 (2015);

(B) Medical marijuana dispensaries required to be registered under ORS 475.314;

(C) Marijuana producers required to be licensed under Section 19, Chapter 1, Oregon Laws 2015;

(D) Marijuana processors required to be licensed under Section 20, Chapter 1, Oregon Laws 2015;

(E) Marijuana wholesalers required to be licensed under Section 21, Chapter 1, Oregon Laws 2015; and

(F) Marijuana retailers required to be licensed under Section 22, Chapter 1, Oregon Laws 2015

**3-23-2 – Definitions.**

**MARIJUANA BUSINESS LICENSEE** means any marijuana business entity licensed by Oregon Liquor Control Commission, whether it be a retailer, processor, producer, wholesaler, lab, or researcher.

**MARIJUANA RETAILER** means any marijuana business entity licensed by the Oregon Liquor Control Commission that is licensed to sell marijuana directly to a consumer.

**MARIJUANA ITEM** means any marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts as defined in Oregon Revised Statute 475B.015.

**RETAIL SALE PRICE** means the total consideration paid to a marijuana retailer for a marijuana item by or on behalf of a consumer, excluding any tax.

**TAX ADMINISTATOR** means the City Manager or a person designated by the City Manager to administer the marijuana retail tax program

**CONSUMER** means a person who purchases marijuana items from a Marijuana Retailer.

### **3-23-3 – Local License and Registration Required.**

- (A) Marijuana Business Licensees must possess a valid license issued under this Chapter to operate within the City. The license required by this Chapter facilitates the registration and the City's oversight of marijuana businesses. The license required by this Chapter should not be construed to constitute an authorization to engage in any activity prohibited by law nor a waiver of any other regulatory or license requirement imposed by any other provision of City ordinance or local, regional, state or federal law.
- (B) Marijuana Business Licensees must register with the city under Section 3-4-2 and notwithstanding the license fee in this Section, shall not pay more for a business registration fee than any regular, non-exempt business registered with the City.

### **3-23-4 – State Registration Required.**

Marijuana business licensees must have received approval by the Oregon Liquor Control Commission before operating in the City.

### **3-23-4 – City Application Requirements.**

Applications for new and renewed licenses must be submitted to the City Manager on forms provided by the City. A separate application must be submitted for each proposed marijuana business. The initial or renewal application must include the same information required by the Oregon Liquor Control Commission.

### **3-23-5 - License determination.**

- (A) Determination. Within twenty-five (25) days after receiving a complete application and application fee for a marijuana business license, the City Manager will issue the license if the City Manager finds that the business is properly licensed as a marijuana licensee with the Oregon Liquor Control Commission and that all other requirements under this Chapter have been met.
- (B) Denial. The City Manager may deny for failure to meet the requirements of this Chapter.
- (C) Appeal. An applicant may appeal the City Manager's denial of a license in accordance with Section 3-23-12(B). Any aggrieved person may appeal the City Manager's issuance of a license in accordance with Section 3-23-12(B).

### **3-23-6 - Application fee.**

An initial license application and a renewal application must be accompanied by a nonrefundable application fee in the base amount of two hundred dollars (\$200.00). The City Council may revise the fee amount by resolution of the Council only to adjust for inflation.

### **3-23-7 - Display of license.**

The license issued under this Chapter must be prominently displayed at all times in an easily visible location inside the marijuana business.

### **3-23-8 - Termination of license.**

(A) Termination. A license terminates automatically one year from the date of issuance, unless a license renewal application has been approved.

(B) Renewal. A license may be renewed for additional annual terms as provided by this Chapter.

(C) Renewal Application. Renewal applications shall be submitted, with the required application fee, to the City Manager not less than thirty (30) days prior to the expiration date of the existing license.

(D) Termination Due to Change in Law. A license terminates automatically if federal or state statutes, regulations or guidelines are modified, changed, or interpreted in such a way by state or federal law enforcement officials as to prohibit operation of the marijuana business under this Chapter.

(E) Surrender. A licensee may surrender a marijuana business license by delivering written notice to the City that the licensee thereby surrenders the license. A licensee's surrender of a license under this section does not affect the licensee's civil or criminal liability for acts the licensee committed before surrendering the license.

### **3-23-9 – Transferability**

Licenses issued under this Chapter shall not be transferred to any other person. The City Manager may waive this restriction and authorize a transfer if it is to a limited liability company, corporation or partnership in which the names of principals have been included in the most recent license application for the marijuana.

### **3-23-10 - Indemnification.**

(A) Waiver. By accepting a marijuana business license issued under this Chapter, the licensee 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 a dispensary owner or operator, principal, person or legal entity with a financial interest in the dispensary, person or entity that has leased real property to the dispensary, employee, volunteer, client or customer for a violation of federal, state or local laws and regulations.

B) Indemnification. By accepting a marijuana business license issued under this Chapter, the licensee(s), jointly and severally if there is more than one, 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 medical marijuana dispensary that is the subject of the license.

### **3-23-11 - Standards of operation.**

- (A) Registration and Compliance with Oregon Liquor Control Commission and other state agency Rules. The marijuana business licensee's registration as a marijuana business must be in good standing with the Oregon Liquor Control Commission, and the marijuana business must comply with all applicable laws and regulations administered by the Oregon Liquor Control Commission, the Oregon Health Authority, the Oregon Department Agriculture, the Oregon Department of Revenue, and any and all state agencies that regulate any aspect of Oregon's marijuana laws.
- (B) Compliance with Other Laws. The marijuana business licensee must comply with all applicable City laws and regulations, including, but not limited to, the building and fire codes.
- (C) Marijuana Business Licensees shall not operate within fully residentially zoned areas, unless provided a waiver by the City.
- (D) Marijuana retail stores, other than in accordance with Oregon Revised Statute 475B.109, may not be licensed within 1,000 feet of a school as defined by state law.
- (E) Hours of Operation. Marijuana business licensees shall only operate within the hours allowed by the Oregon Liquor Control Commission.

### **3-23-12 - Enforcement and penalties.**

- (A) Revocation or Suspension of License. The City Manager may deny, suspend or revoke a license issued under this Chapter for failure to comply with this Chapter, for submitting falsified information to the City, the Oregon Liquor Control Commission or another Oregon state agency, or for continued noncompliance with any other City ordinances or state law. Every marijuana business licensee shall first get a warning as to any matter of noncompliance, except for illegally selling marijuana to a minor or over state lines, and get thirty (30) days to correct the issue.
- (B) Appeal of Issuance, Denial, Revocation or Suspension. Any person aggrieved by the City Manager's issuance, denial, suspension or revocation of a license may appeal it to the City Council by delivering a written notice of appeal to the City Manager within thirty (30) days of the date of the denial, suspension or revocation. The appeal shall be heard by the City Council in a public meeting scheduled within sixty (60) days of the date that the notice of appeal is delivered to the City Manager. The appellant shall be given at least a five (5) day notice of the public meeting, and shall be entitled to appear and be heard. The City Council's decision on the appeal shall be final.
- (C) Civil Penalty. In addition to the other remedies provided in this Section, any person or entity, including any person who acts as the agent of, or otherwise assists, a person or entity who fails to comply with the requirements of this Chapter or the terms of a license issued under this Chapter, who undertakes an activity regulated

by this Chapter without first obtaining a license, who fails to comply with a cease and desist order issued pursuant to this Chapter, or who fails to comply with state law commits an unclassified civil violation which shall be processed according to the procedures established in Chapter 4 "General Penalty" of [Title 1](#) of this Code.

- (D) Remedies not Exclusive. The remedies provided in 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 Chapter prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under City ordinance or state law.

### **3-23-13 – Retail Tax on Marijuana Items.**

- (A) The City imposes a tax on each marijuana item sold to a consumer within the city by a marijuana retailer to be used for general government purposes. The tax shall equal three percent of the retail sale price for each marijuana item sold.
- (B) The consumer shall pay the tax to the Marijuana Retailer at the time of the purchase or sale of the marijuana item. Every Marijuana Retailer shall collect the tax from the consumer at the time of the sale of a marijuana item. The Marijuana Retailer shall remit the tax to the Tax Administrator.
- (C) Every Marijuana Retailer must keep, preserve and make available to the tax administrator detailed records of all sales made and all taxes collected consistent with administrative regulations adopted by the City Manager.
- (D) The City Manager shall adopt administrative rules to specify the amount of penalties and interest that a retailer must pay if the retailer fails to timely remit any tax imposed by this code. The amount of penalties and interest established by administrative regulation shall be consistent with comparable provisions of state law.
- (E) Any person aggrieved by any decision of the Tax Administrator under this code may appeal the decision in the manner provided in Section 3-23-12 of this code. The appeal shall be heard and determined as provided in Section 3-23-12 of this code. However, if the City Manager contracts with the State of Oregon to administer the tax, then in lieu of processing an appeal as provided in Section 3-23-12, the city manager may provide that the appeal shall be processed in accordance with procedures adopted by the State.

### **3-23-44 - Severability.**

If any part or section of this ordinance from which this Chapter is derived is invalid or unenforceable in any respect for any reason, the validity and enforceability of any such provision in any other respect and of the remaining provisions of this Chapter shall not be in any way impaired.