

**AGENDA SEASIDE CITY COUNCIL MEETING
MARCH 14, 2016 7:00 PM**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. APPROVAL OF AGENDA
5. COMMENTS FROM STUDENT REPRESENTATIVE, Taylor Barnes
6. COMMENTS – PUBLIC
7. DECLARATION OF POTENTIAL CONFLICT OF INTEREST
8. CONSENT AGENDA
 - a) PAYMENT OF THE BILLS – \$879,825.68
 - b) APPROVAL OF MINUTES – FEBRUARY 22, 2016 REGULAR MINUTES
9. UNFINISHED BUSINESS:
 - a) ORDINANCE 2016-02 – AN ORDINANCE OF THE CITY OF SEASIDE, OREGON, AMENDING CODE OF SEASIDE ORDINANCE CHAPTER 110.04: UNLAWFUL, ILLEGAL OR PROHIBITED BUSINESSES NOT AUTHORIZED AND AMENDING CHAPTER 118: MEDICAL MARIJUANA DISPENSARIES AND LICENSE RECREATIONAL RETAILERS, Third and Final Reading
 - OPEN PUBLIC COMMENTS
 - CLOSE PUBLIC COMMENTS
 - COUNCIL COMMENTS
 - MOTION FOR THIRD READING BY TITLE ONLY – ALL IN FAVOR AND OPPOSED
 - MOTION TO ADOPT – ROLL CALL VOTE
10. NEW BUSINESS:
 - a) REPORT – CLATSOP COUNTY MENTAL HEALTH FACILITY, Sumuer Watkins
 - b) ANNUAL REPORT – SEASIDE LIBRARY, Esther Moberg
 - c) APPROVAL – SALE OF SEASIDE LIBRARY SURPLUS EXTERIOR BOOK-DROP TO THE WEST LINN LIBRARY, Esther Moberg
 - d) APPROVAL – NORTH HOLLADAY DRIVE IMPROVEMENT PROJECT CHANGE ORDERS, Dale McDowell
11. COMMENTS FROM THE CITY STAFF
12. COMMENTS FROM THE COUNCIL
13. ADJOURNMENT

Complete copies of the Current Council meeting Agenda Packets can be viewed at: *Seaside Public Library and Seaside City Hall. The Agendas and Minutes can be viewed on our website at www.cityofseaside.us.*

All meetings other than executive sessions are open to the public. When appropriate, any public member desiring to address the Council may be recognized by the presiding officer. Remarks are limited to the question under discussion except during public comment. This meeting is handicapped accessible. Please let us know at 503-738-5511 if you will need any special accommodation to participate in this meeting.

ORDINANCE NO. 2016-02

AN ORDINANCE OF THE CITY OF SEASIDE, OREGON, AMENDING CODE OF SEASIDE ORDINANCE CHAPTER 110.04: UNLAWFUL, ILLEGAL OR PROHIBITED BUSINESSES NOT AUTHORIZED AND AMENDING CHAPTER 118: MEDICAL MARIJUANA DISPENSARIES AND LICENSE RECREATIONAL RETAILERS .

WHEREAS, the previously established Chapter 118 in the Code of Seaside to establish a license procedure for medical marijuana dispensaries following the Oregon Legislature's enactment of Senate Bill 1531 (2014) which granted cities the authority to adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities registered under ORS 475.314 that are located in the city's jurisdiction; and

WHEREAS, the voters of Seaside and the State of Oregon passed Ballot Measure 91 allowing the retail sale and use of recreational marijuana; and

WHEREAS, the Oregon Legislature enacted House Bill 3400 directing the Oregon Liquor Control Commission to establish administrative rules to govern the licensing requirements and procedures for recreational marijuana retailers

WHEREAS, this is a new industry and the City seeks to develop regulations that protect public health and safety; and

WHEREAS, the City of Seaside wishes to develop reasonable regulations for this industry in addition to the administrative rules adopted by the Oregon Liquor Control Commission; and

WHEREAS, the City of Seaside believes it is in the best interest of the health, safety and welfare of the citizens of the city to adopt and include such regulations in the Municipal Code.

NOW, THEREFORE, THE CITY OF SEASIDE ORDAINS AS FOLLOWS:

SECTION 1: Chapter 110 of the Code of Seaside is amended to read:

110.04 UNLAWFUL, ILLEGAL OR PROHIBITED BUSINESSES NOT AUTHORIZED.

The levy or collection of a license fee upon any business shall not be construed to be a license or permit of the city, to the person engaged therein, in the event such business shall be unlawful, illegal, or prohibited by the laws of the state or the United States or ordinances of the city. Notwithstanding the aforementioned provisions, a license can be issued for medical marijuana dispensaries and recreational marijuana retailers that comply with the additional licensing requirements in Chapter 118 or medical marijuana production & processing facilities that comply with the additional licensing requirements in Chapter 119. .

SECTION 2: A new Chapter 118 is hereby amended in the created and added to the Code of Seaside to read:

Chapter 118 MEDICAL MARIJUANA DISPENSARIES & RECREATIONAL MARIJUANA RETAILERS

118.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the content clearly indicates or requires a different meaning:

Marijuana. As defined under ORS 475.005.

Dispensary. A medical marijuana facility registered by the Oregon Health Authority under ORS 475.314.

Cardholders. Persons authorized under Oregon's Medical Marijuana Program to buy and transfer medical marijuana. This includes patients, designated primary caregivers, person responsible for a medical marijuana facility, and person responsible for a medical marijuana grow site.

License. A medical marijuana dispensary or recreational marijuana retailer license issued pursuant to this Chapter.

Recreational marijuana retailer (retailer). A person licensed by the Oregon Liquor Control Commission who sells marijuana items to a consumer in this state in accordance with the applicable provision of Oregon Administrative Rule OAR 845-025-1000 to 845-025-8590.

118.02 PURPOSE OF REGULATION.

To protect the public health and safety from unlawful use and sale of marijuana, all medical marijuana dispensaries shall be registered with the Oregon Health Authority in accordance with ORS Chapter 475.300 to 475.346 and the applicable Oregon Administrative Rule (OAR 333-008). Likewise, recreational marijuana retailers shall be licensed with the Oregon Liquor Control Commission in accordance with Oregon Administrative Rule OAR 845-025-1100. Registration by the Oregon Health Authority or a license from the Oregon Liquor Control Commission is not a guarantee that a dispensary or recreational marijuana retailer is permitted to operate under applicable local municipal regulations. All dispensaries and retailers shall comply with the regulations set forth in the *Code of Seaside*.

The regulations set forth by the City of Seaside in this chapter provide reasonable regulations that supplement the Oregon Health Authority's Medical Marijuana Program and Oregon Recreational Marijuana Laws. These regulations are intended to solely address the issue of selling or dispensing medical and recreational marijuana. These regulations do not address and shall not be applied to any recreational or other use of marijuana that does not relate to the authorized use under Oregon's existing Medical Marijuana Act.

118.03 LICENSE REQUIRED.

(A) No person shall establish, maintain or operate a dispensary or recreational marijuana retailer within the city unless an annual license is obtained from the city. Every place or building where a dispensary is established shall be deemed a dispensary subject to the provisions of this chapter. Each licensee shall also obtain a General Business License in accordance with Code of Ordinance Chapter 110.

(B) No license will be issued without proof of registration to operate a dispensary or license for a recreational marijuana retailer issued by the State of Oregon. The applicant for the license must also provide copies of the written detailed policies and procedures and training for employees on the policies and procedures that were used as the basis for documenting compliance with OAR 333-008-1200 (4) or OAR 845-025-1030 (4).

(C) The City may deny a license if any owner, manager, operator, employee, agent, or volunteer:

(1) Has been convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years from the date the application for a license was received by the City; or

(2) Has been Convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II; or

(3) Is prohibited by a court from participating in the Oregon Medical Marijuana Program (OMMP) or activities associate with Oregon Recreational Marijuana Laws.

(D) Application for a license must include the information necessary for criminal record background checks for any owner, manager, operator, employee, agent, or volunteer. The City of Seaside police department will conduct all necessary background checks.

(E) No license shall be issued until after a criminal record background check has been completed for the applicant and all individuals employed or volunteering with the dispensary or retailer.

(F) Once the dispensary or retailer is licensed, the licensee must notify the city and submit necessary information for criminal record background checks of any new owner, manager, operator, employee, agent, or volunteer.

(G) Each licensee shall be required to pay the applicable license fee as set by Resolution of the Seaside City Council.

(H) The requirements of sections 118.01 to 118.04 shall apply to the owners, managers, operators, employees, agents, and volunteers of the licensee's business.

118.04 OPERATIONAL REQUIREMENTS.

(A) Dispensaries and retailers must be located in accordance with ORS 475.314 and retailers will be subject to the same 1000 foot separation requirement from other retailers and dispensaries. They are also subject to an additional exclusion area described as follows:

The area lying between a line drawn 600' north of the Broadway right-of-way that extends from the east side of North Prom to the West side of North Roosevelt Drive and a line drawn 600' south of the Broadway right-of-way that extends from the east side of South Prom to the West side of South Roosevelt Drive.

(B) Remain in compliance with all of the applicable provision of OAR 333-008 or OAR 845-025 and specifically recognize local law enforcement officers as government officials that have jurisdiction over some aspect of the registered facility and licensed retailer or that otherwise have authority to be on the premises of the registered facility as specified in OAR 333-008-1200 (3) (h) and OAR 845-025-1600 (1).

(C) Non-Operational Hours. No sale or other distribution of marijuana shall occur upon the premises or via delivery between 8:00 pm and 8:00 am.

(D) Giveaways. Dispensaries and retailers shall not distribute to consumers marijuana or marijuana-infused products free of charge.

118.05 LICENSE VALIDITY & ANNUAL REVIEW FOR RENEWAL.

(A) A license will be valid for one calendar year and a new application for a license must be submitted each year. A previously licensed business may continue to operate during the next calendar year until the status of their new application is determined, provided a complete renewal application is submitted in December.

(B) A license for a medical marijuana dispensary or a recreational marijuana retailer may be converted prior to expiration of a current license; however, each conversion will require a new application and the prior license will become void at the time the new license is approved.

118.06 REVOCATION OF LICENSE

(A) A license is subject to revocation at any time for violation of this chapter or any of the provisions of state law or the applicable Oregon Administrative Rules.

(B) If at any time facts arise or become known to the City Manager that are sufficient to show violation of this chapter, state law, or Oregon Administrative Rule; the City Manager shall notify the licensee, in writing, that the license is to be revoked and that all dispensary activities must cease within 15 days.

(C) The violations need not lead to a conviction, but must establish a reasonable doubt about the licensee's ability to perform the licensed activity without danger to property, public health or safety.

118.13 SUSPENSION OF LICENSE.

(A) Upon determining that a licensed activity presents an immediate danger to person or property, the City Manager may suspend the license for the activity.

(B) The suspension shall take effect immediately on notice being received by the licensee, or being delivered to the licensee's business address, as stated on the licensee's application for the license that is being suspended.

(C) The notice shall be mailed to the licensee and state the reason for the suspension, and inform the licensee of the procedures for filing an appeal.

(D) The City Manager may continue the suspension for as long as the reason for the suspension exists, or until a decision by the appellate authority on an appeal regarding the suspension concludes the matter.

118.99 PENALTY.

- (A) Any person violating any of the provisions of this chapter shall, upon conviction thereof in the municipal court of the city, be punishable by a fine not to exceed \$700.
- (B) Each day a violation of a provision of this chapter constitutes a separate violation.
- (C) Revocation or suspension of a license is not a penalty for violation of this chapter and it does not relieve a person of any fine for the violation.

ADOPTED by the City Council of the City of Seaside on this ___ day of _____, 2016, by the following roll call vote:

YEAS:
NAYS:
ABSTAIN:
ABSENT:

SUBMITTED to and **APPROVED** by the Mayor on this ___ day of _____, 2016.

DON LARSON, MAYOR

ATTEST:

Mark J. Winstanley, City Manager

CITY OF SEASIDE MEMORANDUM

To: Mayor & City Council
From: Community Development Department
Date: February 8, 2016
Subject: Recreational Marijuana Retail Ordinance 2016-02

Request Summary:

The Oregon Liquor Control Commission has established administrative rules that regulate four different types of recreational marijuana facilities (retail, wholesale, processing, & production). Although the City's business license ordinance indicates only medical marijuana facilities can be licensed in Seaside, the Oregon Liquor Control Commission (OLCC) has indicated they do not believe our current regulations are sufficient to be considered an opt out that would prohibit retail establishments.

Staff is concerned the limiting provision of our business license ordinance could lead to legal challenges if OLCC approves a retail business even if we have stated our ordinance restricts the activity. Prior rule making by the Oregon Health Authority has already allowed retail sales of recreational marijuana from licensed medical marijuana facilities.

In an attempt to regulate recreational marijuana retailers to the same extent currently recognized under our limitations for medical marijuana dispensaries, staff has prepared an amendment to Ordinance Chapter 118 (attached).

If this is acceptable to the Council, similar amendments to Chapter 119 can be prepared in order to address the licensing process for the other recreational marijuana activities regulated by OLCC. A resolution addressing a potential fees schedule has not been prepared at this point; however, that can be reviewed at a future date if the ordinance is acceptable to the Council.

As with any new ordinance, adoption is at the discretion of Council and the proposed text can be modified in order to address any additional concerns.

Recommended City Council Action:

Following public testimony, review the proposed ordinance and consider beginning the adoption process for the new regulations intended to establish new licensing requirements for recreational marijuana retailers.

Kevin Cupples

From: MARIJUANA OLCC * OLCC <marijuana@oregon.gov>
Sent: Monday, December 21, 2015 4:28 PM
To: kcupples@cityofseaside.us
Subject: OLCC Opt-Out
Attachments: 20151221161300343.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Good afternoon,

Thank you for providing us with your local ordinance regarding federally illegal businesses. However after some review it has been determined that the ordinance in question does not explicitly prohibit the establishment of marijuana businesses and, therefore, does not qualify as an "opt-out" under Section 133 or 134 of House Bill 3400. This means that OLCC will still accept applications for Seaside beginning in January 2016. Per your notification regarding the LUCS however, we understand applications will most likely not move forward based on your LUCS denials.

Please feel free to contact us via email or at 503-872-6366 should have you any questions regarding this matter.



Seaside Public Library

1131 Broadway Seaside, OR 97138

LIBRARY MEMORANDUM

To: The Honorable Mayor and City Council

From: Esther Moberg, Library Director

Date: March 14th, 2016

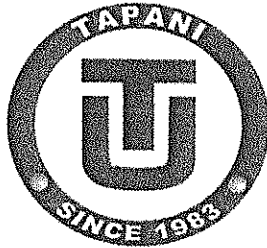
Subject: Sale of surplus exterior book-drop to the West Linn Library.

Dear Mayor and City Council, the Seaside Public Library would like to request the sale of our older book-drop that is now surplus. The West Linn Public Library has agreed to purchase this surplus book-drop for use outside of their Library. We would like to sell the book-drop in the amount of \$500 for the book-drop and two carts that are included with the book drop. The Friends of the Library replaced this book-drop with one two times larger they had custom built to suit the Seaside Public Library's needs. The Library now owns two working book drops and no longer needs this smaller sized book drop. I am recommending the sale of this book-drop to the West Linn Public Library.

Sincerely,

Esther Moberg

Library Director
Seaside Public Library



P.O. Box 1900
 Battle Ground, WA 98604
 Phone (360) 687-1148
 Fax (360) 687-7968

Invoice

TO: City of Seaside
989 Broadway
Seaside, OR 97138

INVOICE # Feb Force Account
 DATE 02/29/16

Date	DESCRIPTION	UNIT PRICE	AMOUNT
2/11/2016	Unknown 20+13, 20+19.5, 20+20, 21+95	\$ 818.87	\$ 818.87
2/2/2016	Power and Phone/Unknown Pipes 32+58	\$ 862.15	\$ 862.15
2/3/2016	Unlocated Gas Hit	\$ 818.87	\$ 818.87
2/3/2016	Unknown 3+05, 3+14, 3+15, 4+13	\$ 818.87	\$ 818.87
2/5/2016	Existing MH C2A Leaking Sewage in Ditch	\$ 2,433.85	\$ 2,433.85
2/9/2016	Manhole Removal	\$ 849.85	\$ 849.85
2/10/2016	Unknown Water Valve Can	\$ 2,067.85	\$ 2,067.85
2/10/2016	Unknown Pipes 20+20, 20+18, 20+13	\$ 780.06	\$ 780.06
2/11/2016	Manhole Removal	\$ 583.43	\$ 583.43
2/11/2016	Leaking Water Service	\$ 823.69	\$ 823.69
2/11/2016	Unknown Pipes 9+63	\$ 364.39	\$ 364.39
2/16/2016	Unknown Water Service at 11+05	\$ 359.68	\$ 359.68
2/22/2016	Manhole Removal	\$ 726.23	\$ 726.23
2/23/2016	Manhole Removal C4A	\$ 325.74	\$ 325.74
2/23/2016	10" Concrete VS. 12" PVC	\$ 1,321.89	\$ 1,321.89
2/24/2016	Searching for SS Lateral 16+75	\$ 1,316.10	\$ 1,316.10
2/24/2016	Removing Existing MH C2A	\$ 369.77	\$ 369.77
2/25/2016	SS Lateral/Fiber Duct Bank Conflict	\$ 1,120.53	\$ 1,120.53
2/29/2016	Pot Holing Fiber Duct Bank	\$ 1,211.92	\$ 1,211.92
2/29/2016	MH St 10A Removal 5+70	\$ 348.40	\$ 348.40
2/29/2016	12" Storm/Phone Conflict 5+42	\$ 869.77	\$ 869.77
2/29/2016	MH C3A Removal 19+80	\$ 575.41	\$ 575.41
		\$ -	\$ -
		SUBTOTAL	\$ 19,767.32
		TOTAL	\$ 19,767.32

Make all checks payable to Tapani Inc.
 Total due on Receipt. Overdue Accounts Subject to a service charge of 1.5% per month

THANK YOU FOR YOUR BUSINESS