

ORDINANCE NO. 2015-04

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

WHEREAS, the 2013 Oregon Legislature enacted House Bill 3460 (2013) which creates a registration system for medical marijuana facilities; and

WHEREAS, House Bill 3460 (2013) directed that persons who operate or are employed by a registered medical marijuana facility would enjoy immunity from state prosecution; and

WHEREAS, the Oregon Legislature enacted Senate Bill 1531 (2014) which grants a city 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, 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; 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 that comply with the additional licensing requirements in Chapter 118.

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

Chapter 118 MEDICAL MARIJUANA DISPENSARIES

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 license issued pursuant to this Chapter.

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 in accordance with ORS Chapter 475.300 to 475.346 and the applicable Oregon Administrative Rule (OAR 333-008).

Registration by the Oregon Health Authority is not a guarantee that a dispensary is permitted to operate under applicable local municipal regulations. All dispensaries 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. These regulations are intended to solely address the issue of selling or dispensing medical 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 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 Chapter 110 of the Code of Seaside.
- (B) No license will be issued without proof of registration to operate a dispensary 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 are used as the basis for documenting compliance with OAR 333-008-1200 (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).
- (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.
- (F) Once the dispensary 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 must be located in accordance with ORS 475.314.
- (B) Remain in compliance with all of the applicable provision of OAR 333-008 and specifically recognize local law enforcement officers as government officials that have jurisdiction over some aspect of the registered facility or that otherwise have authority to be on the premises of the registered facility as specified in OAR 333-008-1200 (3) (h).
- (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 shall not distribute to consumers marijuana or marijuana-infused products free of charge.

118.05 LICENSE VALIDITY & ANNUAL REVIEW FOR RENEWAL.

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.

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 Rule.

(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.

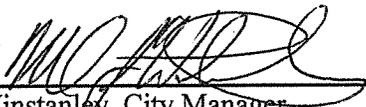
ADOPTED by the City Council of the City of Seaside on this 11 day of May, 2015, by the following roll call vote:

YEAS: BARBER, FRANK, MORRISEY, MONTERO, JOHNSON
NAYS: LARSON, PHILLIPS
ABSTAIN: NONE
ABSENT: NONE

SUBMITTED to and **APPROVED** by the Mayor on this 12 day of May, 2015.



DON LARSON, MAYOR

ATTEST: 

Mark J. Winstanley, City Manager