

ORDINANCE NO. 2015-07

AN ORDINANCE OF THE CITY OF SEASIDE, OREGON, AMENDING CODE OF SEASIDE CHAPTER 110.04: UNLAWFUL, ILLEGAL OR PROHIBITED BUSINESSES NOT AUTHORIZED AND CREATING A NEW CHAPTER 119: MEDICAL MARIJUANA GROW SITES.

WHEREAS, the 2013 Oregon Legislature enacted House Bill 3460 (2013) which creates a registration system for medical marijuana facilities that may receive usable marijuana a person responsible for a marijuana grow site; and

WHEREAS, Oregon Revised Statute 475.304 calls for the Oregon Health Authority to establish a registration system for medical marijuana grow sites responsible for production & processing of usable marijuana products; and

WHEREAS, the City of Seaside allows for production & processing within the M1 industrial zone in accordance with the City of Seaside Zoning Ordinance, Code of Seaside Chapter 158; 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 or medical marijuana production & processing facilities that comply with the additional licensing requirements in Chapter 119.

SECTION 2: A new Chapter 119 is hereby created and added to the Code of Seaside to read:

Chapter 119 MEDICAL MARIJUANA PRODUCTION & PROCESSING FACILITIES

119.01 DEFINITIONS.

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

Marijuana. All parts of the plant 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. 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 therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination, or industrial hemp, as defined in ORS 571.300, or industrial hemp commodities or products.

Marijuana grow site. A location registered under ORS 475.304 where marijuana is produced or processed for use by a registry identification cardholder that may be transferred to a medical marijuana facility registered by the Oregon Health Authority under ORS 475.314.

License. A medical marijuana grow site license issued pursuant to this Chapter.

119.02 PURPOSE OF REGULATION.

To protect the public health, safety, and welfare from unlawful production & processing of marijuana, all medical marijuana grow sites shall be registered in accordance with ORS Chapter 475.304 and the applicable Oregon Administrative Rule (OAR 333-008).

Registration by the Oregon Health Authority is not a guarantee that a medical marijuana grow site is permitted to operate under applicable local municipal regulations. All grow sites 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 medical marijuana grow site production and processing facilities. 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.

119.03 LICENSE REQUIRED.

(A) No person shall establish, maintain or operate a medical marijuana grow site within the city unless an annual license is obtained from the city. Every place or building where a medical marijuana grow site is established shall be deemed a grow site 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 medical marijuana grow site issued by the State of Oregon. The applicant for the license must also provide copies of electrical permits obtained in order to facilitate the production and processing of medical marijuana and written documentation of the security measures in place to prevent unauthorized entry into the facility.

(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 at the grow site.

(F) No license shall be issued until after the grow site has been inspected by the City of Seaside Building Official and approved for the proposed occupancy in accordance with the State of Oregon Structural Specialty Code, Fire and Life Safety Regulations, and the Uniform Building Code adopted by the City of Seaside.

(G) Once the grow site 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.

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

119.04 OPERATIONAL REQUIREMENTS.

(A) Medical marijuana grow sites are not allowed to operate within 1,000 feet of the real property comprising a public or private elementary, secondary or career school.

(B) Grow sites must remain in compliance with all of the applicable provision of OAR 333-008 and they are specifically subject to the monitoring and investigation provisions of OAR 333-008-0060.

(C) Grow sites are subject to periodic inspection by the Seaside Fire Marshal to ensure they remain in compliance with applicable Fire and Life Safety Regulations.

119.05 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 grow site 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.

119.06 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 grow site 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.

119.07 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 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.

119.99 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.

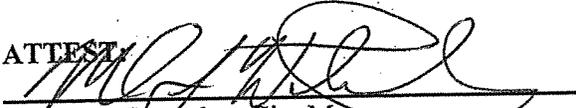
ADOPTED by the City Council of the City of Seaside on this 10 day of August, 2015, by the following roll call vote:

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

SUBMITTED to and **APPROVED** by the Mayor on this 11 day of August, 2015.



DON LARSON, MAYOR

ATTEST:


Mark J. Winstanley, City Manager