

**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.**

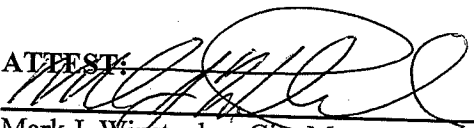
- (A) Any person violating any of the provisions of this chapter shall, upon conviction thereof in the municipal court of the city, be punishable by a fine not to exceed \$700.
- (B) Each day a violation of a provision of this chapter constitutes a separate violation.
- (C) Revocation or suspension of 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 14 day of March, 2016, by the following roll call vote:

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

**SUBMITTED** to and **APPROVED** by the Mayor on this 15 day of March, 2016.

  
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DON LARSON, MAYOR

**ATTEST:**  
  
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Mark J. Winstanley, City Manager