

**CITY OF DUNES CITY,
LANE COUNTY, OREGON**

ORDINANCE NO. 243

**AN ORDINANCE AMENDING ORDINANCE NO. 239 RELATING TO
COLLECTION OF A TAX ON THE RETAIL SALES OF RECREATIONAL
MARIJUANA ITEMS IN THE CITY OF DUNES CITY, AND OTHER MATTERS
PROPERLY RELATING THERETO.**

WHEREAS, Section 4 of the Charter of the City of Dunes City provides:

The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this charter specifically enumerated each of those powers; and

WHEREAS, ORS 475B.345 allows the City of Dunes City to impose a local tax of up to 3% on retail sales of recreational marijuana items within the City if the local tax is approved by the voters of the City at general election; and

WHEREAS, the Dunes City Council referred Ordinance No. 239, an Ordinance imposing a local tax on retail sales of recreational marijuana items within the City, to the voters of Dunes City at the November 8, 2016, general election; and

WHEREAS, on November 8, 2016, the voters of the City of Dunes City approved Ordinance No. 239; and

WHEREAS, the Dunes City Council wants to ensure both that the City can administer its local recreational marijuana tax if need be, but that the City also has the flexibility to contract with another agency or entity to administer the tax;

WHEREAS, the Dunes City Council wants to codify all the provisions relating to collection of a sales tax on the sale of recreation marijuana items within Dunes City limits;

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

SECTION 1. Ordinance No. 239 is amended to read as follows:

“§122.05 ESTABLISHMENT

In furtherance of the approval of the majority of the voters of the City of Dunes City held on Tuesday, November 8, 2016, Title XI, Business Regulations, Chapter 122, entitled “Recreational Marijuana Sales Tax” of the Dunes City Code of Ordinances is hereby established.

§ 122.10 DEFINITIONS

The following words and phrases as used in this Chapter 122 shall have the following meanings:

- A. “City” means the City of Dunes City.
- B. “Tax Administrator” means the City Administrator/Recorder of the City of Dunes City, the City Administrator/Recorder’s designee, and/or another individual or entity designated by the City to collect the tax on behalf of the City.
- C. “Consumer” means a person who purchases acquires, owns, holds or uses marijuana items other than for the purpose of resale.
- D. “Marijuana item” means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts as defined in ORS 475B.015.
- E. “Marijuana retailer” means a person licensed under ORS 475B.110 who sells marijuana items to a consumer in the State of Oregon.
- F. “Person” means individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.
- G. “Retail sales price” means the total consideration paid to a marijuana retailer for a marijuana item by or on behalf of a consumer, excluding any tax.

§ 122.15 TAX IMPOSED

The City of Dunes City hereby imposes a tax on each recreational marijuana item sold to a consumer within the City of Dunes City by a marijuana retailer. The City Council shall set the tax rate by resolution; however, the tax rate adopted by the City Council shall not exceed Three Percent (3%) of the retail sales price of each recreational marijuana item sold. The tax constitutes a debt owed by the consumer to the City and shall be extinguished only by payment to the marijuana retailer or to the City.

§ 122.20 COLLECTION

- A. The consumer shall pay the tax to the marijuana retailer at the time of the purchase or sale of the recreational marijuana item. Every marijuana retailer shall collect the tax from the consumer at the time of the sale of a recreational marijuana item. The tax collected by the marijuana retailer shall be held in trust by the marijuana retailer for payment to the City. The marijuana retailer shall remit the tax to the Tax Administrator. The Tax Administrator is authorized to exercise all supervisory and administrative powers with regard to the administration, collection and enforcement of the tax authorized by this Chapter 122.

B. Notwithstanding any provision of this Chapter 122, the City may enter into an intergovernmental agreement authorized by ORS 190.010, ORS 190.110, or ORS 305.620 for collection of the tax imposed by Section 122.15 herein. The City Council shall authorize by resolution any intergovernmental agreement entered into pursuant to this Section 122.20(B), after making a finding that any collection, enforcement, appeal, or refund procedures authorized by the intergovernmental agreement are comparable to, or provide greater protections to marijuana retailers and to the public, than the procedures set out in Sections 122.25 through and including Section 122.40 herein. If an intergovernmental agreement entered into pursuant to this Section 122.20(B) is approved by City Council resolution, the tax collection and enforcement procedures authorized by the intergovernmental agreement shall govern collection of the tax imposed by Section 122.15 herein as provided in the intergovernmental agreement.

§ 122.25 ACCOUNTING AND RECORDS

A. Every marijuana retailer must keep and preserve, in a generally accepted accounting format used for reporting revenue and taxes due on business activity, detailed records of all sales made and all taxes collected. Every marijuana retailer must keep and preserve such records for a period of Six (6) years. The Tax Administrator shall have the right to inspect all such records at reasonable times.

B. For purposes of determining the accuracy of any tax return or for the purpose of an estimate of taxes due, the Tax Administrator may examine any books, papers, records, or memoranda bearing upon the marijuana retailer's tax returns, including copies of the marijuana retailer's state and federal income tax returns and copies of the marijuana retailer's state marijuana tax returns. All books, invoices and other records shall be made available within the City for examination by the Tax Administrator during regular business hours.

§ 122.30 PENALTIES AND INTEREST

A. Any marijuana retailer who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Chapter 122 prior to delinquency shall pay a penalty of Ten Percent (10%) of the amount of the tax due in addition to the amount of the tax.

B. Any marijuana retailer who has not been granted an extension of time for remittance of tax due, and who fails to pay any delinquent remittance on or before a period of Thirty (30) calendar days following the date on which the remittance first becomes delinquent, shall pay a second delinquency penalty of Fifteen Percent (15%) of the amount of the tax due plus the amount of the tax and the Ten Percent (10%) penalty first imposed.

C. If the Tax Administrator determines that the nonpayment of any remittance due under this Chapter 122 is due to fraud or intent to evade the provisions of this

Chapter 122, a penalty of Twenty-five Percent (25%) of the amount of the tax shall be added to the amount of the remittance due, in addition to the penalties stated in subsections A and B of this section.

D. In addition to the penalties imposed, any marijuana retailer who fails to remit any tax imposed by this Chapter 122 shall pay interest at the rate of One-half of One Percent (1/2 of 1%) per month or fraction thereof, without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first becomes delinquent, until paid.

E. Every penalty imposed and any interest that accrues under the provisions of this Chapter 122 shall be merged with, and become a part of, the tax required to be paid.

§122.35 APPEAL

A. Any person aggrieved by a decision of the Tax Administrator may appeal to the City Administrator/Recorder by filing a notice of appeal with the Tax Administrator within Ten (10) calendar days of the date the notice of decision is served or mailed. The Tax Administrator shall fix a time and place for hearing the appeal and shall give the appellant Ten (10) calendar days' written notice of the time and place of the hearing.

B. Any person aggrieved by any decision of the City Administrator/Recorder under subsection A of this section may appeal to the Council by filing a notice of appeal with the Tax Administrator within Ten (10) calendar days of the date the City Administrator/Recorder's decision is served or mailed. The Tax Administrator shall transmit the notice, together with the file of the appealed matter, to the City Council, who shall fix a time and place of hearing the appeal. The City Council shall give the appellant not less than Ten (10) calendar days written notice of the time and place of hearing the appeal.

§122.40 REFUND

Whenever the amount of any tax imposed under this Chapter 122 has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within Three (3) years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the Tax Administrator approves the claim, the excess amount collected or paid may be refunded to, or may be credited on any amounts then due and payable from the marijuana retailer from whom it was collected or by whom it was paid and the balance may be refunded to the marijuana retailer or the marijuana retailer's administrators, executors or assigns."

SECTION 2. SEVERABILITY.

Any provision of this Ordinance which proves to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision of this Ordinance, and the remaining provisions of this Ordinance shall remain in full force and effect.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect on the 30th day after its adoption.

The first reading of this Ordinance was conducted in a regular meeting of the City Council of Dunes City, Oregon, on the 12th day of January, 2017.

The second reading of this Ordinance was conducted in a regular meeting and adopted by the City Council of Dunes City, Oregon on this 12th day of January, 2017.

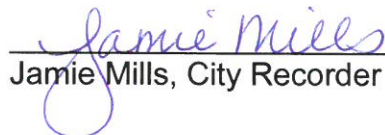
Ayes: 4 Nays: 0 Abstain: 0 Absent: 1 Vacant: 1

ADOPTED BY THE DUNES CITY COUNCIL THIS 12th DAY OF January, 2017.



Sheldon Meyer, Council President

ATTEST:



Jamie Mills, City Recorder