

ORDINANCE NO. 561

AN ORDINANCE ESTABLISHING PROCEDURES AND LICENSE REQUIREMENTS FOR MARIJUANA BUSINESSES WITHIN THE CITY OF CAVE JUNCTION AND ADDING A NEW SECTION TO THE CAVE JUNCTION MUNICIPAL CODE, TITLE 5 CHAPTER 18.

WHEREAS, the Council has found that it is in the best interests of the City to enact regulations concerning the licensing of recreational and medical marijuana businesses operating within the City jurisdiction.

NOW THEREFORE, THE CITY OF CAVE JUNCTION ORDAINS AS FOLLOWS:

Section 1. Municipal Code Title 5, Chapter 18, is added to read:

Chapter 5.18 – MARIJUANA RELATED BUSINESSES

Sections:

5.18.010 - Definition.

“Business” means any trade, profession, occupation, calling, or pursuit and other business conducted for gain or livelihood.

“Legal Entity” means any natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, joint venture, or any other legal entity.

“Marijuana” means all parts of the plant Cannabis family Moraceae, whether growing or not, other than marijuana extracts.

“Marijuana items” means marijuana, marijuana products and marijuana extracts.

“Marijuana Processor” means a legal entity that processes marijuana within the City.

“Marijuana Producer” means a legal entity that produces marijuana within the City.

“Marijuana products” means products that contain marijuana or marijuana extracts and are intended for human consumption, but does not include marijuana by itself or a marijuana extract by itself.

“Marijuana Retailer” means a legal entity who sells marijuana items to a consumer in the City.

“Marijuana Wholesaler” means a legal entity that purchases marijuana items for resale to a legal entity other than a consumer within the City.

“Processes” means any of the following:

a) the processing, compounding, or conversion of marijuana into marijuana products or marijuana extracts;

b) the processing, compounding, or conversion of marijuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis;

c) the packaging or repackaging of marijuana items;

d) the labeling or relabeling of any package or container of marijuana items.
“Produces” means the manufacture, planting, cultivation, growing or harvesting of marijuana.
“Sale” or “Sold” means any transfer, exchange or barter, in any manner or by any means, and includes and means all sales made by a legal entity. It includes a gift by a legal entity engaged in the business of selling marijuana items, for advertising, as a means of evading this Ordinance, or for any other purpose.

5.18.020 - City Council-Authority to make rules and regulations.

The City Council may issue and promulgate from time to time, by motion or resolution, rules and regulations to protect the health, safety and peace of the citizens in relation to marijuana related businesses.

5.18.030 - License required.

It is unlawful for any legal entity to own or operate a marijuana related business within the City of Cave Junction without first obtaining a license from the City. A licensee issued a license hereunder may own and/or operate a marijuana related business within the City notwithstanding the provisions of Cave Junction Municipal Code 5.04, *et seq.*

5.18.040 - License application.

An application for a license may be obtained from the City Recorder.

A. An application request must include the following information:

1. The name and address of the business and the names and residence addresses of all principals of the business;
2. The name and address of the location of the business;
3. The nature of the marijuana related activities to be conducted at the business location.
4. The signature of the business, if a natural person, or otherwise the signature of an authorized agent of the business, if the applicant is other than a natural person;
5. If the business is leasing the property where the business will be located, the name and address of the owner, landlord, and property manager of the location of the business;
6. Certification (such as state license number) that the business has obtained, and is in full compliance with, all required permissions of the State of Oregon;
7. Certification that the business, at the location indicated in the application, is allowed in the applicable zoning district, and will comply with all applicable land use regulations.

5.18.050 - License issuance.

- A. The Council shall have the authority to issue a license under this chapter when they determine that:
 - 1. The applicant has submitted a full and truthful application;
 - 2. The applicant has submitted all fees;
 - 3. The applicant has shown that they have valid State Licenses for state licensed marijuana business activities.
- B. The license shall be issued by the Council through the City Recorder, who shall only issue said license upon motion duly made and approved by the Council. A renewal license shall be issued by the Recorder upon submission of a renewal application and fee, without Council approval.
- C. The Council shall reserve the right to deny any license should the City Council determine that the application is not in the best interest of the citizens of the City.

5.18.060 - License fee.

- A. The business and/or legal entity requesting a license shall pay an annual license fee of \$3,500.00 dollars. The license term shall end June 30th; the first license, if issued after January 1st, shall be for \$1,750.00 dollars, shall end June 30th, and be renewable on an annual basis. The license is to be nontransferable. For regular annual license the fee shall be deposited with \$75.00 going to the Street Maintenance Fund, and \$2,925.00 going to the Law Enforcement Fund, and \$500.00 going to the General Fund to pay for planning and legal costs. If the first license is issued after January 1st, with a fee of \$1,750.00 dollars, it shall be deposited with \$37.50 going to the Street Maintenance Fund, and \$1,462.50 going to the Law Enforcement Fund, and \$250.00 going to the General Fund to pay for planning and legal costs.
- B. A marijuana business license is not transferable, and a new license shall be applied for upon the occurrence of any of the following:
 - 1. Change in ownership of the business;
 - 2. Change in location of the business (location change due to hardship may appeal to council for a waiver of the requirement to pay new license fees within the same fiscal year);
 - 3. Change in type of business, or;
 - 4. Revocation or suspension (temporarily or otherwise) of any state-issued license, permit or registration required by law for the business to operate.
- C. If a license is not approved by the City Council, those portions of the license fee designated for the Law Enforcement and Street Maintenance Funds shall be refunded.

5.18.070 - Recorder to issue receipt.

- A. All occupational tax fees provided in this chapter shall be paid to the Recorder, who shall issue a receipt and license for the business. If a question arises between the applicant and the Recorder as to classification, fee, or other question, the same shall be referred to the Council for determination.
- B. It is unlawful for any legal entity to willfully make any false or misleading statement to the Recorder in their application for the purpose of determining the amount of any occupational tax fee license provided to be paid by any such legal entity or legal entities, or to fail or refuse to comply with any of the provisions of this chapter to be complied with or observed by such legal entity or to fail or refuse to pay before the same shall be delinquent, any occupational tax fee or penalty hereby required to be paid by any such legal entity or legal entities.
- C. Upon a determination that a licensed activity or establishment is in violation of this chapter or state law, the Recorder shall notify the licensee in writing that their license is to be revoked. The notice shall be mailed not less than thirty days prior to the date of revocation. If the violation is terminated within thirty days, the Recorder may discontinue the revocation proceedings at his or her discretion. A notice of revocation shall state the reason for revocation and inform the licensee of the provisions of this section providing for their right to appeal to the council. If at any time the activities of said licensee shall be such that the best interests of the citizens are not fully protected, the council may revoke the license.
- D. An applicant whose application has been denied, revoked, terminated or suspended shall have thirty days from the date of notice to appeal to the Council. The Recorder shall notify the applicant of the time and place at which the appeal can be heard. The decision of the Council shall be final. If nature of revocation has been appealed, the revocation shall not take effect until final determination of the appeal by the Council.

5.18.080 - Display of license.

- A. Every legal entity or legal entities licensed under this chapter that are conducting a marijuana business at a fixed place shall, at all times when such license is in force, display the same in some conspicuous place on the licensee's premises.
- B. If any legal entity licensed under this chapter has no office/business premises or other established place of business within the City, the licensee shall be in possession of the license and present within the City at all times during which business is being transacted by any employee or representative within the City.

5.18.090 - Evidence of doing business.

The use of signs, circulars, cards or any other advertising media, including, without limitation, the use of telephone solicitation, newspaper, radio, television advertisement, or any other means by which a legal entity may hold himself out as, or represent that he is, doing business in the City may be used as evidence that a legal entity is doing business in the City and shall constitute prima facie evidence that the legal entity was transacting the business suggested

by such public representation within the City on the date or dates during which such representation occurred. Such evidence may be used as the basis for a determination that a violation of this chapter has occurred.

5.18.100 – General Provisions

- A. All marijuana related businesses will conduct operations inside secure, enclosed, permanent buildings and may not locate in a trailer, cargo container, or motor vehicle. No processing, storage, or sales may be conducted out of doors.
- B. No marijuana related business shall cause or allow an offensive odor of marijuana items to emanate from a structure or property.
- C. No marijuana related business shall permit trespass or glare from security or other lighting beyond its property line. In addition, lighting must be “full cutoff” lighting.
- D. Large scale processing facilities, and any processing facility utilizing high-heat extraction or volatile chemical extraction methods, shall be limited to the General Employment/Light Industrial (EGLI) zoning districts.
- E. All provisions of this Chapter shall apply to all marijuana related business including; medical marijuana processors, medical marijuana dispensaries, and medical marijuana laboratories, recreational marijuana producers, recreational marijuana laboratories, recreational marijuana processors, recreational marijuana wholesalers, and recreational marijuana retailers. Exempt from the regulations of this chapter are; personal recreational users, personal medical users, and medical growers who are conducting marijuana activities where no commerce or sales are taking place, and Oregon State law is being followed.

5.18.110 – Land Use Application Fees.

- A. Any land use application involving marijuana related activities shall pay an additional fee of \$500.00 (which shall be deposited in the General Fund to pay for planning and legal fees) and fill out a supplemental application describing the state licensed marijuana activities proposed in the land use application. This fee will help cover the cost of increased staff time and the utilization of legal and professional planning resources. This fee shall apply to any Land Use Compatibility Statement (LUCS) review.

5.18.120 - Violation-Penalty.

- A. Any legal entity or legal entities, partnerships, associations or corporations who shall engage in or carry on within the corporate limits of the City any of the callings, trades, occupations, or employments enumerated or mentioned in this chapter, without first having paid and obtained the occupational tax license therefor, as required by this chapter, shall be deemed guilty of a violation of this chapter and shall, upon conviction thereof, be punished by a fine

in a sum not exceeding fifteen thousand dollars or confined for a period of thirty days or both.

- B. In addition to the penalties provided in this chapter and as separate and distinct remedies, the City may sue in any court of competent jurisdiction to obtain a judgment and enforce collection thereof by execution for any tax due.
- C. The City may seek an injunction prohibiting any legal entity or legal entities from engaging in business within the City.
- D. In any action or suit authorized by this chapter, the City, if it prevails, shall recover a reasonable attorney's fee to be set by the court, in addition to its costs and disbursements.
- E. When any tax required by this chapter is not paid when due, an amount equal to ten percent of the tax each month or part thereof during which the tax and accumulated penalty amounts remain unpaid shall be added.
- F. A legal entity violating a provision of this chapter shall be deemed guilty of a separate offense for each day during which the violation continues.

Section 2. Emergency. In order to expedite the ability of citizens to avail themselves of upcoming changes in the marijuana laws in the State of Oregon, the City Council of Cave Junction declares this Ordinance to be passed in an emergency situation and to take immediate effect. Therefore, the City Council hereby declares the existence of an emergency and this ordinance shall be in full force and effect from the time of its passage and approval.

Section 3. Invalidity of a section or part of a section of this ordinance shall not affect the validity of the remaining sections or parts of sections.

PASSED by the Common Council of the City of Cave Junction this 19th day of December, 2016.

SUBMITTED TO AND APPROVED by the Mayor of the City of Cave Junction, this 20th day of December, 2016.

Signed: 
CARL B. JACOBSON, JR., Mayor

Attest: 
RYAN L. NOLAN, Recorder