

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO: 17 -04

IN THE MATTER OF AMENDING LANE CODE CHAPTER 4 TO CONFORM WITH DEPARTMENT OF REVENUE PRACTICES AND THE REQUIREMENTS OF THE INTERGOVERNMENTAL AGREEMENT FOR LOCAL MARIJUANA TAX COLLECTION

WHEREAS, the Board of Commissioners adopted an ordinance to be referred to the electors of unincorporated Lane County that imposes a three percent tax on the sale of marijuana items as authorized by Oregon Revised Statutes 475B.345; and

WHEREAS, the electors of unincorporated Lane County voted to approve the ordinance at the November 2016 general election; and

WHEREAS, this ordinance complies with the requirements set forth in the Lane County Charter and the Lane County Code; and

WHEREAS, Lane County entered into an intergovernmental agreement with the Oregon Department of Revenue for the collection of the local marijuana tax; and

WHEREAS, the Oregon Department of Revenue requires specific language related to a penalty and interest structure that conforms to its practices and the requirements of the intergovernmental agreement; and

WHEREAS, this ordinance complies with the requirements set forth in the intergovernmental agreement Lane County entered into with the Oregon Department of Revenue for the collection of the local marijuana tax.

NOW, THEREFORE, the Board of County Commissioners of Lane County **ORDAINS** as follows:

Lane Code Chapter 4 is amended by removing, substituting and adding the following sections:

REMOVE THESE SECTIONS

4.700 – 4.720

INSERT THESE SECTIONS

4.700 – 4.720

The above code sections are attached to this Ordinance and incorporated by this reference.

Nothing herein is intended to, nor acts to amend, replace, or otherwise conflict with any other ordinances of Lane County or any other Code or statutory provisions unless expressly so stated.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance, including any exhibit, is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion is deemed a separate, distinct, and independent provision, and such holding does not affect the validity of the remaining portions.

The office of Lane County Legal Counsel is authorized to codify this Ordinance and to make any technical changes, not affecting its substance, as are reasonably necessary to accomplish codification.

ENACTED this 1st day of August, 2017.

APPROVED AS TO FORM
Date 8/1/17

LANE COUNTY OFFICE OF LEGAL COUNSEL



Pat Farr, Chair
Lane County Board of Commissioners



Recording Secretary for this Meeting of the Board

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Bold indicates material being added
~~Strikethrough~~ indicates material being deleted

LEGISLATIVE
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4.670

Lane Code

4.715

4.670 Adoption and Amendment of the Parks and Recreation Capital Improvement Plan (CIP).

The County shall adopt, by order, a Parks and Recreation Capital Improvement Plan (CIP) which lists the projects to be funded with SDC revenues, their estimated cost and timing. The County may, by order, amend the list to add or remove projects at any time. The Administrator may, at any time, change the timing and sequence for completion of projects included in the Parks and Recreation CIP list. *(Revised by Ordinance 1-02, Effective 3.13.02)*

LANE COUNTY RECREATIONAL MARIJUANA TAX ~~OF 3% ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER LICENSED TO OPERATE IN UNINCORPORATED LANE COUNTY~~

4.700 Title.

This subchapter ~~is may be referred to as~~ the Lane County Recreational Marijuana Tax ~~of 3% on the Sale of Marijuana Items by a Marijuana Retailer Licensed to Operate in Unincorporated Lane County.~~ *(Revised by Ordinance 16-04, Effective 11.25.16)*

4.705 Definitions.

“Consumer.” A person who purchases, acquires, owns, holds, or uses marijuana items other than for the purpose of resale.

“Marijuana item.” Marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts as defined ~~has the meaning given that term in ORS 475B.015 Oregon state law(16).~~

“Marijuana retailer.” ~~means a~~ A person licensed by the Oregon Liquor Control Commission to ~~who sells~~ marijuana items to a consumer in this state.

“Person.” Includes any natural person, business, corporation, association, club, firm, partnership, limited liability company, trust, organization, or any group or combination acting as a unit and joint stock company.

“Retail sale price.” ~~means~~ The price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item. *(Revised by Ordinance 16-04, Effective 11.25.16)*

4.710 Policy.

~~As described in ORS 475B.345, Lane~~ The County hereby imposes a tax of ~~3~~ **three** percent on the retail sale price of marijuana items **sold to a consumer** by a marijuana retailer licensed to operate in ~~the~~ unincorporated ~~area of~~ Lane County. *(Revised by Ordinance 16-04, Effective 11.25.16)*

4.715 Revenue Collection and Distribution.

~~Each marijuana retailer that engages in the retail sale of marijuana items shall collect the county tax at the point of sale of a marijuana item at the time at which the retail sale occurs. The marijuana retailer shall remit the full amount of the county tax in accordance with ORS 475B.710 (2016 ed.) and any implementing regulations to the Oregon Department of Revenue, acting as Lane County’s agent through intergovernmental agreement. The marijuana retailer shall delineate the remitted funds as the “Lane County Local Marijuana Tax of 3%”. The tax will be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs~~

4.720

Lane Code

and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

The Lane County Treasurer or designee, which may include an official of the Oregon Department of Revenue, will collect the tax. Pursuant to the terms and conditions contained in the intergovernmental agreement entered into between the Department of Revenue and Lane County, the Oregon Department of Revenue is responsible for all aspects of the local marijuana tax administration, including, but not limited to adopting administrative rules and collecting the local tax, penalties and interest under applicable statutes. In the event of a conflict, the provisions of the intergovernmental agreement will govern.

The Department of Revenue has adopted rules addressing the requirements for paying taxes with currency and other matters related to the taxation of marijuana under Oregon state law.

The Lane County Treasurer will deposit all taxes, interest and penalties transferred from the Oregon Department of Revenue under this section for general governmental purposes as appropriated through the budget process. (Revised by Ordinance 16-04, Effective 11.25.16)

4.720 Interest and Penalty.~~Use of Proceeds.~~

(1) Interest shall be added to the overall tax amount due at the same rate established under Oregon state law for each month, or fraction of a month, from the time the return to the Oregon Department of Revenue was originally required to be filed by the marijuana retailer to the time of payment.

(2) If a marijuana retailer fails to file a return with the Oregon Department of Revenue or pay the tax as required, a penalty shall be imposed upon the marijuana retailer in the same manner and amount provided under Oregon state law.

(3) Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid by the marijuana retailer and remitted to the Oregon Department of Revenue.

(4) Taxes, interest and penalties transferred to Lane County by the Oregon Department of Revenue will be distributed to the Lane County Treasurer.

(5) If at any time a marijuana retailer fails to remit any amount owed in taxes, interest or penalties, the Oregon Department of Revenue is authorized to enforce collection on behalf of the County of the owed amount in accordance with Oregon state law, any agreement between the Oregon Department of Revenue and Lane County under Oregon state law and any applicable administrative rules adopted by the Oregon Department of Revenue. ~~Under an intergovernmental agreement with Lane County, the Oregon Department of Revenue will collect the taxes paid under this ordinance and transmit the amount collected, less any amounts due under the intergovernmental agreement, to the Lane County Treasurer who shall deposit such funds for use in the following manner:~~

~~**(1) 25% for the provision of county public safety services related to the enforcement and prosecution of driving while under the influence of intoxicants laws.**~~

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4.997

~~———— (2) ——— 25% for the provision of county public health services related to establishing foundational capabilities and foundational programs to improve the health of the residents of Lane County.~~

~~———— (3) ——— 25% for the provision of community mental health services in accordance with the comprehensive local plan and in coordination with the coordinated care organization servicing Lane County.~~

~~———— (4) ——— 25% for the provision of planning and enforcement of zoning regulations related to the growing, processing, wholesaling, and retailing of marijuana items in accordance with Chapter 16 of the Lane Code. (Revised by Ordinance 16-04, Effective 11.25.16)~~

PENALTY

4.995 Penalties - Lane County Transient Room Tax.

(1) It is unlawful for any operator or other person so required by LC 4.100 to 4.195 to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Tax Administrator or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this subchapter.

(2) Any person willfully violating any of the provisions of LC 4.110, 4.115, 4.120 4.130, 4.135, 4.145, 4.155, 4.170 and 4.175 shall be guilty of a misdemeanor and shall be punishable therefore by a fine of not more than \$500 or by imprisonment in the County Jail for a period of not more than six months or by both such fine and imprisonment. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 19-77, 7.1.78; 5-83, 7.15.83)*

4.997 Penalties - Lane County Car Rental Tax.

(1) It is unlawful for any operator or other person so required by LC 4.200-4.275 to fail or refuse to register as required herein, or to furnish any return required to be made or fail or refuse to furnish a supplemental return or other data required by the County Finance Officer or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this subchapter.

(2) Any person who willfully violates any provision of LC 4.200-4.275 or 4.997 shall, upon conviction, be subject to a fine of not more than \$500, imprisonment in the County Jail for not more than six months, or both. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 5-83, 7.15.83)*

LANE COUNTY RECREATIONAL MARIJUANA TAX

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This subchapter may be referred to as the Lane County Recreational Marijuana Tax. *(Revised by Ordinance 16-04, Effective 11.25.16)*

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“Person.” Includes any natural person, business, corporation, association, club, firm, partnership, limited liability company, trust, organization, or any group or combination acting as a unit and joint stock company.

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