

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Adopting a Tax on the)
Retail Sale of Marijuana Items within) ORDINANCE No. 2016-3
Unincorporated Columbia County)

The People of Columbia County, Oregon, ordain as follows:

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2016-3, and Exhibit A, attached hereto and incorporated herein by this reference shall be known as the "Columbia County Marijuana Sales Tax Ordinance."

SECTION 2. AUTHORITY.

This Ordinance is adopted pursuant to ORS 203.035 and 475B.345.

SECTION 3. PURPOSE.

The purpose of this Ordinance is to establish a tax pursuant to ORS 475B.345 on the retail sale of marijuana items in the unincorporated area of Columbia County.

SECTION 4. ADOPTION.

The Board of County Commissioners hereby adopts the Columbia County Marijuana Sales Tax Ordinance as shown in Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 5. SEVERABILITY.

If for any reason any court of competent jurisdiction holds any portion of this Ordinance, including its attachments or any portion therein, to be invalid, and such holding is upheld on any appeal, such portion shall be deemed a separate, distinct and independent portion. Any such holding shall not affect the validity of the remaining portions.

SECTION 6. SCRIVENER'S ERRORS.

A scrivener's error in any portion of this ordinance or its attachments may be corrected by order of the Board of County Commissioners.

SECTION 7.

REFERRAL AND EFFECTIVE DATE.

This Ordinance shall be referred to the voters of Columbia County for approval at the Statewide General Election on November 8, 2016. If passed, this Ordinance shall become effective on January 1, 2017.

DATED this 20th day of July, 2016.

Approved as to Form

By: [Signature]
Office of County Counsel

Recording Secretary

By: [Signature]
Jan Greenhalgh
Recording Secretary

First Reading: July 6th
Second Reading: July 20th
Effective Date: 1-1-17

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: [Signature]
Anthony Hyde, Chair

By: [Signature]
Henry Heimuller, Commissioner

By: [Signature]
Earl Fisher, Commissioner

EXHIBIT A

COLUMBIA COUNTY MARIJUANA SALES TAX ORDINANCE

SECTION 1. PURPOSE.

This Ordinance imposes a tax on the sale of marijuana items as authorized by ORS 475B.345.

SECTION 2. DEFINITIONS.

- A. For the purpose of this Ordinance, words used in the present tense include the future, the singular number includes the plural, the word "shall" is mandatory and not advisory, and the term "this Ordinance" shall be deemed to include this Ordinance and all amendments hereafter.
- B. Unless otherwise specified herein, the words and phrases in this Ordinance shall have the meaning provided in ORS Chapter 475B, as amended.
- C. Other definitions include:
 - 1. "Business Day" means Monday through Friday but excludes any day that the Courthouse is closed to the public.
 - 2. "Department" means the Columbia County Finance Department.
 - 3. "Director" means the Director of the Columbia County Finance Department.
 - 4. "Marijuana Retailer," in addition to its definition in ORS Chapter 475B, includes owners, officers, employees and members of the marijuana retailer.
 - 5. "Tax" means the tax imposed by this Ordinance, unless described otherwise.

SECTION 3. TAX IMPOSED.

- A. A tax is hereby imposed upon the retail sale of marijuana items, as that term is defined by ORS 475B.015, as amended, in the unincorporated areas of Columbia County. The tax shall be at a rate of three percent (3%) of the retail sales price of:
 - 1. Marijuana leaves;
 - 2. Marijuana flowers;

3. Immature marijuana plants; and
 4. Any cannabinoid product, including but not limited to: edibles, concentrates, extracts, and cannabinoid products intended to be applied to the skin or hair.
- B. The tax is a direct tax on the consumer, which shall be collected at the point of sale. The marijuana retailer shall collect the tax from the consumer when the retail sale of the marijuana item occurs.
- C. If the tax imposed under this section does not equal an amount calculable to a whole cent, the tax shall be equal to the next higher whole cent.
- D. The amount of the tax shall be separately stated from the sales price and any other tax on an invoice, receipt or other similar document that the marijuana retailer provides to the consumer, or shall be otherwise disclosed to the consumer.

SECTION 4. COLLECTION OF TAX AND PAYMENT TO COUNTY.

- A. Registration Required.
1. A marijuana retailer that sells marijuana items shall register with the County as a marijuana tax collector. The marijuana retailer shall register by submitting a completed Columbia County Marijuana Tax Registration Form on or before the date that the Oregon Marijuana Tax Registration Form is due to the State of Oregon or within 30 days of the issuance of a final occupancy permit, whichever is sooner.
 2. Transfer of the marijuana retailer's license to another marijuana retailer shall require a new registration.
- B. Collection of Tax. A marijuana retailer that sells marijuana items shall collect the tax from the consumer at the point of sale and shall remit payment to the County as provided herein. The tax is considered a tax upon the marijuana retailer that is required to collect the tax, and the marijuana retailer is considered a taxpayer.
- C. Payment to County. The marijuana retailer shall pay the tax to the County, as follows:
1. The marijuana retailer shall submit a quarterly tax return to the Department on or before the last business day of January, April, July, and October of each year for the previous calendar quarter, regardless of whether any taxes are owed.

2. The tax imposed by this Ordinance shall be remitted with the quarterly return in the amount indicated on the form.
3. The return shall be on the form prescribed by the Department.
4. A copy of the corresponding State of Oregon quarterly tax return and monthly voucher shall accompany each County tax return.
5. All tax payments shall be delivered to the Columbia County Courthouse, Department of Finance and Taxation, 230 Strand Street, St. Helens, Oregon, 97051.
6. Tax remittance in cash shall be arranged by appointment at least two business days in advance.
7. Overpayments will be applied to tax due in the subsequent quarter as an overpayment carried forward.
8. If a taxpayer account has any prior quarter unpaid tax, interest and/or penalties, tax remittances received are applied in the following order:
 - a. Oldest prior quarter unpaid tax until all prior period unpaid tax is paid.
 - b. Oldest interest charge until all interest due is paid.
 - c. Oldest penalties until all assessed penalties have been paid.
 - d. Current quarter tax liability.
9. Quarterly tax returns may be amended, as follows:
 - a. Amended County returns shall be submitted using the form established by the Department;
 - b. A copy of the corresponding amended state quarterly tax return shall be submitted with the amended county return;
 - c. Tax due with an amended return is subject to interest as described in Section 6, below, and shall be paid at the time the amended return is submitted; and
 - d. Overpayments of tax from an amended tax return shall be treated as described in Paragraph 7, above.

- D. Compensation to Retailer. The marijuana retailer may retain 2% of the tax collected to defray the administrative cost of collecting the tax, remitting it in a timely manner, and maintaining tax records.
- E. Closure of Business. The marijuana retailer shall immediately notify the County of the closure of its business and shall submit documentation of the closure along with a final quarterly return and any taxes collected.

SECTION 5. ENFORCEMENT.

- A. Every person who collects the tax shall hold the tax collected in trust for Columbia County and for the payment thereof to the Department in the manner and at the time provided in this Ordinance.
- B. At any time a marijuana retailer fails to collect taxes imposed by this Ordinance or remit any amount collected, the County may enforce collection, as follows:
 - 1. Issuance of Notice of Liability. The County may issue a notice of liability to a marijuana retailer that fails to remit payment in full by the date payment is due under this Ordinance.
 - a. The notice may be served on any owner, officer, employee, or member of the marijuana retailer within three (3) years from the payment due date.
 - b. Notice may be served personally or by first class mail to the address under which the retailer is registered by the Oregon Liquor Control Commission. If mailed, notice is considered served on the date mailed.
 - c. Within 30 days from the date of service of the notice of liability, the marijuana retailer shall pay the tax due plus penalties and interest, or appeal the notice of liability.
 - 2. Appeal of Notice of Liability. A marijuana retailer that objects to the liability may appeal a notice of liability in the following manner:
 - a. The marijuana retailer shall submit a written notice of appeal, which must be received by the Department not later than 30 days following the date of service of the notice of liability; and
 - b. The notice of appeal shall include the following information:
 - i. Name and address of the person submitting the

- appeal;
 - ii. Basis for the appeal;
 - iii. Whether the marijuana retailer has appealed its State of Oregon marijuana sales tax to the Oregon Department of Revenue or to the Oregon Tax Court; and
 - iv. Any evidence in support of the appeal.
- c. The notice of appeal shall be accompanied by the full amount of taxes plus penalties and interest identified in the Notice of Liability. If the marijuana retailer prevails on appeal, the County will return all funds submitted with the written objection.
- d. If the marijuana retailer has appealed its state marijuana tax with the Oregon Department of Revenue or the Oregon Tax Court, the appeal of the County's marijuana sales tax will be automatically stayed until final disposition of the state appeal.
3. Hearing on Appeal. The Board of County Commissioners will hold a hearing to consider the appeal. Notice of the hearing will be sent to the appellant at least two (2) weeks prior to the hearing. Following the hearing, the Board will decide whether to grant or deny the appeal. The Board's decision is not final until it is put in writing and mailed to the appellant. Review of the Board's decision shall be as provided in ORS 34.010 through 34.100 in the Circuit Court of the State of Oregon for Columbia County, located in St. Helens, Oregon.
4. Failure to Pay.
- a. If the County does not receive payment or a written notice of appeal within 30 days of service of the notice of liability, the notice of liability becomes final.
 - b. Failure to pay before the notice of liability becomes final is a violation of this Ordinance and subject penalties and interest as provided herein. In addition, this Ordinance is enforceable as provided by, and violators hereof are subject to, the Columbia County Enforcement Ordinance. The fine for a violation of this Ordinance shall be \$5,000.

- c. Each day the tax is not paid shall constitute a separate violation.
 - d. The County is authorized to collect the taxes owed by any administrative or judicial action or proceeding authorized by law.
 - e. The Columbia County Finance Director and Code Enforcement Officer shall have authority to issue citations under this Ordinance, in addition to any other person granted authority under the Columbia County Enforcement Ordinance.
5. More than one owner, officer or employee of a corporation may be held jointly and severally liable for payment of taxes.

SECTION 6. INTEREST.

Late payments of tax, including incomplete payments, are subject to interest at a rate of one percent (1%) per month (daily interest rate 0.0003288 calculated on a 365 day basis). Interest begins accruing on the quarterly unpaid balance starting from the first day it is overdue.

SECTION 7. RECORDS KEPT AND AVAILABLE FOR INSPECTION.

- A. A marijuana retailer shall keep receipts, invoices and other pertinent records related to retail sales of marijuana items in the form required by the State of Oregon Department of Revenue and this Ordinance and for the period of time required by ORS 475B.720.
- B. The Department or its authorized representative, upon oral or written demand, may make examinations of the books, papers, records and equipment of persons making retail sales of marijuana items and any other investigations as the Department deems necessary to carry out the provisions of this Ordinance.

SECTION 8. USE OF FUNDS.

All tax moneys received by the Department shall be deposited in the unrestricted General Fund. The County shall pay expenses for the administration and enforcement of this Ordinance out of moneys received from the tax. After the payment of administrative and enforcement expenses and refunds or credits arising from erroneous overpayments, the balance of the moneys generated from the local recreational marijuana tax will be an unrestricted revenue source to the County general fund.

SECTION 9. AMENDMENTS.

Unless required to be referred to the voters by law, amendments to this Ordinance may be made by ordinance adopted by the Board of Commissioners.