ORDINANCE No. 3471

AN ORDINANCE ENACTING THE CITY OF PENDLETON BUSINESS LICENSE ACT; EXEMPTING THEIR FEES FROM ARTICLE XI, SECTION 11(b) OF THE OREGON CONSTITUTION; AND DECLARING AN EFFECTIVE DATE AFTER JUNE 30, 1992. (As amended by Ordinance No. 3517, 3558, 3563, 3566, 3590, 3752. 3765, 3793, 3856, 3869, 3913, 3955, 3993)

Enacted June 16, 1992; last amended December 20, 2022.

CITY OF PENDLETON ORDAINS AS FOLLOWS:

SECTION 1. Short Title. The provisions of this Ordinance shall be known as the "City of Pendleton Business License Act."

SECTION 2. Purpose of Pendleton Business License Act.

- A. It is necessary that business license fees be levied and fixed to regulate, to protect the public welfare and to secure revenue to assist in defraying the cost of providing police and fire protection and other municipal services necessary for the implementation and the enforcement of this Ordinance.
- B. The fee required by this Ordinance shall be in addition to general ad valorem taxes now or hereafter levied under law and shall be in addition to license fees prescribed in other ordinances.
- C. Neither the acceptance of the prescribed fee nor the issuance of the applicable license shall be construed to constitute a regulation of any business activity or a permit to engage in any activity otherwise prohibited by law or this Ordinance, or a waiver of any regulatory licensing requirement imposed by any Ordinance, State or Federal law.
- D. Seventy-Five percent of the base business fee imposed by resolution shall be used by the City of Pendleton for Economic Development Activities. Twenty-Five percent of the base business fee imposed by resolution and 50% of the employee (FTE) fee imposed by resolution shall be used for the operation of the Pendleton Convention Center. The remainder of the employee (FTE) fee shall be deposited in the City's Central Services Fund to contribute to the cost of collection.

(Section 2, as amended by Ordinance No. 3752, passed August 21, 2007; Ordinance No. 3869, passed June 2, 2015.)

SECTION 3. Definitions.

"Business" means any trade, profession, occupation or pursuit conducted with the public and for gain, including by fraternal organizations, clubs, lodges and similar places or establishments employing full or part-time employees in any business for gain.

"Business License" is an annual or period specific license, issued by the City License Administrator which is required for persons and entities conducting business for profit within the City, as are described in Section 4 of this ordinance.

- "Business License Administrator" means City Manager or designee.
- "City Manager" means the City Manager or designee.
- "Full-Time Equivalent Employee" (FTE) is defined for those persons working for an hourly wage as the total number of annual employee hours divided by 2,080. (For example, a restaurant which employed fifteen [15] people who worked a total of 20,800 hours annually would have ten [10] full-time equivalent employees [FTE].) A "Full-Time Equivalent Employee" (FTE) working for other than an hourly wage is defined as those persons who work an average of twenty five (25) hours per week or more in exchange for their salary, commission or other form of compensation. The Business License Administrator shall have the power to adopt reasonable further definitions of Full-Time Equivalent Employee (FTE) consistent with this Ordinance.

(Section 3, as amended by Ordinance No. 3517, passed April 18, 1995; Ordinance No. 3563, passed May 20, 1997; and Ordinance No. 3752, passed August 21, 2007, Ordinance 3993 passed December 20, 2022.)

SECTION 4. Businesses Required To Be Licensed Or Exempted.

- A. **License Types.** Business licenses, as defined above, shall be issued for regular year around businesses as well as for trade shows, special events, special event master licenses, construction projects and for marijuana products businesses.
 - B. License Required. This ordinance shall apply to businesses, as defined above, and including:
 - (a) Those persons and entities who offer goods or services, both professional and nonprofessional, to the general public; examples include, a shoe store, attorney's office, doctor's office, public accountant, welding shop, or cannery, and apartment houses.
- (b) Persons and entities whose physical plants or facilities are located outside of the City, but use City streets or facilities to offer services or materials to the public within the City; for example, a bakery truck delivering wares originating from outside the City but delivered within the City to the public and other retailers.
 - (i) A business which operates in multiple locations must have a business license for each location. A warehouse or ancillary location which is not open to the public is not a separate location requiring a license.
 - (ii) Two or more businesses which are conducted at the same premises by the same owner, may be covered by one license issued in the name of the business for which the premises is primarily used.
 - (iii) Two separately owned businesses which are operated at the same location by different operators or owners must each be separately licensed. For example, both a subtenant operating its own business within the premises of a separate landlord business and the landlord business must each have a business license.
 - (c) Persons and entities furnishing retail goods and services by door-to-door, mailed, or other media solicitation.
 - (d) Persons and entities furnishing retail goods and services to businesses within the City.
 - (e) Persons and entities which are required to be licensed by the State Construction Contractors Board.

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C. **Exempt Businesses** which are not required to be licensed include:

- (a) Non-profit entities and organizations, funds and foundations organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals, and which no part of its net earnings inures to the benefit of any private shareholder or individual, and no substantial part of its activity is lobbying, disseminating propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in any political campaign on behalf of any candidate for public office, including the publishing or distributing of statements;
- (b) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, the net earnings of which are devoted exclusively to charitable, educational or recreational purposes.
- (c) Persons providing day care services for children in the person's home and in compliance with state law and the requirements of the Oregon Children's Care Licensing Program.
 - (d) Public utilities covered by franchise ordinances and paying fees under the franchise.
- (e) Persons whose income is based solely on an hourly, daily, weekly, monthly or annual wage or salary shall be considered a person transacting and carrying on a business. All business fees levied by this Ordinance shall be borne by the employer or proprietor, not by an employee.
- (f) A business within the City which is exempt from a license fee or tax or regulation by virtue of the Constitution or laws of the United States or the Constitution or laws of the State of Oregon, for example insurance agents and brokers.
 - (g) Federal, State and municipal corporations.
- (h) A person or entity offering wholesale goods and/or services to a licensed business. This is intended not to discourage availability of goods or services originating from outside the City.
- (i) Minors who are under the age of eighteen (18) years of age who are personally providing otherwise legal goods or services.
 - (j) A business which has annual gross income of less than \$600.

(Section 4 as amended by Ordinance 3993, passed December 20, 2022.)

SECTION 5. Operation Without Securing License or Payment of Fee.

A. No person or entity shall carry on any business, trade, occupation, profession or calling, or transact any business as described in this Ordinance, without first paying in advance the business fee imposed by this Ordinance and obtaining a business license.

(Section 5 as re-numbered and amended by Ordinance 3993, passed December 20, 2022)

SECTION 6. License Duration. Regular and marijuana products licenses shall be valid from February 1, to January 31 of the following year, and shall be renewable annually as described in Section 11. Licenses for trade shows, special events (Round-Up, Whiskyfest and Bike Week), special event master licenses, and construction licenses are issued for particular periods of time as described in this ordinance.

(Section 6 formerly 5), as amended by Ordinance No. 3955, passed February 4, 2020, as renumbered and amended by Ordinance 3993, passed December 20, 2022.)

SECTION 7. Application for License. Each person wishing to engage in a new business shall apply for a license to carry on business for the license year. Suitable blanks will be furnished by the City. At the time of filing, the applicant shall pay the license fee required. The application shall be filed with the Business License Administrator and shall contain:

- A. A description of the trade, shop, business, profession, occupation or calling.
- B. The name and address of the applicant; if a partnership, the names and addresses of the several partners; if the business is a corporation, its name and the address of the home office, the name and address of the designated agent in the State if a foreign corporation, and the name and address of the local agent or representative who will be in charge of the business in the City.
 - C. The address where the business will be located or have its City office.
 - D. The amount of license fee tendered with the application.
 - E. The date of application.
- F. Any other information the Business License Administrator or City Council determines that the application should contain for review purposes under this Ordinance.
 - G. The signature of the applicant or agent making the application.
 - H. An agreement holding the City harmless from any and all liability for licensing the business.
 - I. Construction contractors Board license number if business is required by State of Oregon to obtain a CCB license. (Section 6, as amended by Ordinance No. 3752, passed August 21, 2007.)

SECTION 8. Application Review. The Business License Administrator may refer each application to the persons or departments designated by the Business License Administrator for review. The license may not be issued if the business as described in the application would not comply with this Ordinance, or other City ordinances. Issuance of the license itself does not mean the applicant has complied with all Federal or State laws and, with the exception of federal regulation concerning marijuana, if it is later determined that applicant has failed to comply with any Federal or State law and fails to correct such violation within thirty (30) days the applicant's license may be revoked as described herein.

(Section 7, as amended by Ordinance No. 3904, passed December 20, 2016.)

SECTION 9. Information From Applicant. A person or department designated to review a license application may require the applicant to supply information necessary to determine, as required under this Ordinance, the business qualifications for the license. If the applicant fails to supply information so required or submits false or misleading information so required or submits false or misleading information, the license may be suspended or denied.

SECTION 10. Issuance of License.

- A. After receipt of reports from all persons and departments designated to review an application, the Business License Administrator shall determine whether the business qualified for issuance of a license. If the business qualified, the Business License Administrator shall issue the license.
- B. PENALTY PROVISIONS FOR OPERATING WITHOUT A LICENSE. No license shall be issued to a person if the person has, prior to making application, conducted a business within the City while this Ordinance was in effect without a current,

valid license issued under this Ordinance, unless an additional amount equal to the license fee for the period during which the business was thus conducted is paid.

SECTION 11. Denial of Application. If, on the basis of the application review under this Ordinance, the Business License Administrator determines that the business does not qualify for issuance of the license applied for, the Business License Administrator shall notify the applicant in writing that the application has been denied. The notice shall state the reason for denial and inform the applicant of the provisions for appeal in this Ordinance.

SECTION 12. License Renewal and Late Penalty.

- A. Renewal. All business licenses for year-round businesses are valid from February 1, to January 31 of the following year. No license may be purchased for less than that time period and no prorations are given. An application for renewal shall be received by the Business License Administrator not later than the first day of March immediately following expiration of the license to be renewed. The foregoing provisions do not apply to seasonal businesses.
- B. Late Penalty. License renewal must be completed in the February following the previous license. Application for renewal not received by March 1 will receive a penalty of ten (10%) percent of the fee for each month or part thereof during which the fee remains unpaid, up to one hundred (100%) percent, which shall be added to the license fee accompanying a late renewal application.

(Section 11, as amended by Ordinance No. 3955, passed February 4, 2020.)

SECTION 13. Review of Renewal. If the City has received written complaints about the licensed business, the application for renewal of the license may be reviewed under this Ordinance.

SECTION 14. Denial of Renewal. If a licensed business does not qualify for renewal under this Ordinance, the Business License Administrator shall notify the licensee in writing that renewal of the license has been denied. The notice shall state the reason for denial and inform the applicant of the provisions for appeal herein.

SECTION 15. Suspension of License.

- A. For violation of law. With the exception of federal regulation concerning marijuana, if the Business License Administrator determines that a licensee in operation of its business is violating this Ordinance, City ordinances, or State or Federal law, the Business License Administrator shall notify the licensee in writing that the licensee shall be suspended after 15 days unless the licensee submits proof that the violative condition is cured.
- B. For immediate danger to persons or property. If a licensed business is determined by the Administrator, and with the concurrence of the Police Chief, to present an immediate danger to persons or property, the Administrator may suspend the license for the business without advanced notice. The suspension takes effect immediately upon delivery of notice of the suspension.
- C. Notice. Suspension and revocation of a business license Notice may be mailed by certified mail, return receipt requested, or personally served to the licensee to or at the licensee's business address as stated on the licensee's application. The notice will state the reason for the suspension or revocation, what is required to cure the violation or danger, and inform the licensee of the provisions for appeal. The Business License Administrator may continue a suspension so long as the reason for the suspension exists, until the determination of an appeal, or until a determination is made by the Administrator and Police Chief that the suspended license shall be revoked.

(Section 14, as amended by Ordinance No. 3904, passed December 20, 2016, Ordinance 3993, passed December 20, 2022.)

SECTION 16. Revocation of License.

A suspended license may be revoked by the Administrator:

- 1. If it remains suspended for a period of more than 90 days.
- 2. After decision of an appeal by the City Council for revocation.
- 3. A license which has been suspended for being a danger to persons or property may become revoked by determination of the Administrator and with the concurrence of the Police Chief. Said revocation is subject to appeal to the City Council.

(Section 16 as renumbered and amended by Ordinance 3993, passed December 20, 2022)

SECTION 17. Appeal.

- A. An applicant whose application to the Business License Administrator for a license has been denied, whose license has been denied renewal, whose license has been suspended, or been revoked, may, within thirty (30) days of the applicable notice, appeal by filing a written appeal at the office of the Business License Administrator.
 - B. The appeal shall state:
 - (1) The name and address of the applicant;
 - (2) The nature of the determination being appealed;
 - (3) The reason the determination is incorrect; and
 - (4) What the correct determination of the appeal should be.
- C. The City Council shall hear and determine the appeal at the first opportunity for submission of the matter to its upcoming meeting agenda.
- D. At the hearing, the appellant may present testimony and oral argument, personally or by counsel, and any additional evidence. The Council may hear evidence which it considers appropriate. The rules of evidence as used by courts of law do not apply, and the decision of the Council after the hearing is final. (Section 17 as renumbered and amended by Ordinance 3993, passed December 20, 2022)

SECTION 18. Posting of License.

- A. Except as provided in Subsection B, at all times after the issuance of the license, the license shall be posted in a conspicuous place upon the business premises, available for inspection by the public and by employees and prospective employees of the business.
- B. When the licensee has no office, business premises or other established place of business in the City, the license shall be in the possession of the representative of the business who is present in the City at all times during which business is being transacted by any employee or representative in the City.
- **SECTION 19. Contents of License.** Licenses shall be issued to the applicant in the name of the business to be licensed and shall designate the nature of the business, the address of the business premises, if any, and the date of issuance.

SECTION 20. Business Fee.

- A. Business License fees shall be established by resolution. Such fees shall be annually assessed on February 1 of each year.
- B. The fee herein imposed shall not be subject to proration.

(Section 19, as amended by Ordinance No. 3558, passed March 18, 1997; Ordinance No. 3566, passed August 5, 1997; Ordinance No. 3752, passed August 21, 2007; and Ordinance No. 3856, passed January 20, 2015.)

SECTION 21. No Transfer. A business license issued under this ordinance may not be transferred. (Section 21 as renumbered and amended by Ordinance 3993, passed December 20, 2022)

TRADE SHOWS

SECTION 22. Trade Shows.

- A. A trade show is any profit or not-for-profit show within the City limits of the City of Pendleton which offers for sale or display merchandise of one (1) or more vendors at a location within the City. Trade shows include those shows located at the Pendleton Convention Center, Pendleton Airport and other public and private buildings. The purpose of the trade show license is to allow a number of vendors together under one (1) common area for a short period of time to display and sell their merchandise and to be properly licensed within the City of Pendleton. Trade shows for the purposes of this definition may not exceed:
 - (1) one (1) week in duration in any one (1) calendar year; or
 - (2) 26 periods of not more than three consecutive days in a single week. No license shall continue beyond that period specified in Section 5 of this Ordinance,

without securing a second license. A trade show does not include the merchandising of goods and/or services of an already licensed Pendleton business or businesses.

- B. Application Procedure for Trade Shows. Each promoter(s) wishing to put on a trade show shall apply for a license with the City on forms furnished by the City. The application shall be filed with the Business License Administrator and shall contain at least the following information:
 - (1) A description of the trade show and the businesses participating.
 - (2) The name, address and date of birth of the applicant; if a partnership, the names, addresses and dates of birth of the partners; if the business is a corporation, its name and address of the home office, the name, address and date of birth of the registered agent in the State if a foreign corporation, and the name, address and date of birth of the local agent or agent or representative who will be in charge of the business in the City.
 - (3) The address where the trade show will be located within the City of Pendleton.
 - (4) The amount of license fee tendered with the application.
 - (5) The date of the application.
 - (6) A statement that the trade show will be for a period of seven (7) days or less in any one (1) calendar year and only the type of businesses described will participate.
 - (7) Any other information the Business License Administrator determines necessary.
 - (8) The signature of the promoter(s).
- C. Promoter. Means any legal entity whether for profit or not-for-profit and whether a person, partnership, corporation or other legal entity which promotes a trade show.
- D. License Duration. New licenses shall be valid for the duration of the trade show, as described in subsection A of this section.
- E. Posting of License at all Times After the Issuance of the License. The license shall be posted in a conspicuous place upon the trade show premises available for inspection by the public and by employees and prospective employees of all businesses participating in a trade show. It shall be conclusively presumed that any trade show not complying with this section is operating without a business license.
- F. Registration. Trade show participants shall be registered with the promoter(s) and the promoter(s) shall maintain a listing of all businesses which have participated or are participating in a trade show under the license.

(Section 21, as amended by Ordinance No. 3517, passed April 18, 1995; Ordinance No. 3752, passed August 21, 2007 and Ordinance No. 3856, passed January 20, 2015, Ordinance 3993, passed December 20, 2022.)

SECTION 23. Round-Up, Whiskyfest, and Bike Week Licenses.

- A. The provisions of this section apply to businesses only during Round-Up, Whiskyfest, and Bike Week time periods defined as:
 - (1) Round-Up begins the Wednesday before Round-Up each year and ending the Sunday after Round-Up.
 - (2) Whiskyfest begins the Wednesday before Whiskyfest each year and ending the Sunday after Whiskyfest.
 - (3) Bike Week begins the Wednesday before Bike Week each year and ending the Sunday after Bike Week.
- B. Special Event Business License Required. During Round-Up, Whiskyfest, and Bike Week, as defined above, every business, if not already licensed, or excepted in Section 23C, shall be required to obtain either a regular annual or a specified event (limited) business license and may not operate under a trade show promoter's license.

This specifically applies to require a special event business license for:

- (i) Two separate businesses operating at a shared location must each have a business license.
- (ii) Non-profit entities and organizations, as defined in Section 4, which are organized and operated exclusively for religious, charitable, or similar purposes; and
- (iii) A business with a regular business license operating one or more temporary additional locations of the same business.
- C. Exceptions. The following business activities are not required to have a business license during Round-Up, Whiskyfest, and Bike Week:
- (1) Children. Businesses operated by a child under the age of eighteen (18), as prescribed in Section 4.C(j) of this ordinance.
- (2) Arena Non-Profit Vendors. Non-profit vendors doing business in the Round-Up and Happy Canyon arenas and grounds and which are registered with and permitted to operate by the Round-Up Association. The purpose of this exception is to allow the non-profit corporations to earn money during Round-Up to support their organizations' endeavors.

- (3) Main Street Cowboys Master License. Main Street Cowboys, an Oregon Non-profit Corporation may obtain a Main Street Show Master License effective from the Friday before Round-Up each year and ending the Sunday after Round-Up. Vendors and performers operating on Main Street as a part of the Main street area Cowboy Street Show are exempt from obtaining a license and must be listed in the master license.
- (4) Round-Up/Indian Village/Indian Crafts Master License. The Round-Up Association may obtain a Master License for the Round-Up grounds, Indian Village and Roy Raley Park, exempting vendors and businesses which are conducted by non-profit entities or persons who are determined by the Round-Up Association to be native American origin. Such businesses must be listed on the Round-Up Master License.

(Section 24 as amended by Ordinance No. 3590, passed August 4, 1998, Ordinance No. 3752, passed August 21, 2007; and Ordinance No. 3793, passed July 7, 2009, Ordinance 3913 passed October 17, 2017, as renumbered from Section 22, 23, 23A, and 24 and amended by Ordinance 3993, passed December 20, 2022.)

CONSTRUCTION PROJECT LICENSE

SECTION 24. Construction Project.

- A. A Construction Project is any activity for which registration with the Oregon Construction Contractor=s Board (CCB) is required pursuant to Oregon Revised Statutes, Chapter 701, for which a building permit has been issued or which is undertaken pursuant to a construction contract with the owner.
- B. The prime contractor engaged in a Construction Project may obtain a Construction Project License for a project as an alternative to obtaining Business Licenses for each subcontractor engaged in the Construction Project. The Construction Project License is in lieu of Business Licenses for subcontractors only and is in addition to the Business License of the prime contractor.
- C. Application Procedure for Prime Contractors. Each prime contractor wishing to obtain a Prime Contractor=s license with the City on forms furnished by the City. The application shall be filed with the Business License Administrator and shall contain at least the following information:
 - (1) A description of the Construction Project for which the Construction Project License is requested.
 - (2) The name and CCB registration number of the applicant and of each subcontractor engaged in the Construction Project.
 - (3) The location of the Construction Project.
 - (4) The amount of license fee tendered with the application.
 - (5) The date of the application.
 - (6) A signed statement by the prime contractor and each subcontractor engaged in the Construction Project that each signatory is registered under the provisions of this Oregon Revised Statutes, Chapter 701, and stating that the registration is in full force and effect. For the prime contractor and each subcontractor, a copy of a current certificate of registration issued by the Oregon Construction Contractors Board.
 - (7) Any other information the Business License Administrator determines necessary.
 - (8) The signature of the prime contractor applicant.
- D. Supplements to Application. The applicant may supplement the business license application from time to time by providing a supplemental application containing at least the following information:
 - (1) A description of the Construction Project to which the supplemental application applies.
 - (2) The name and CCB registration number of the applicant and of each additional subcontractor engaged in the Construction Project.
 - (3) The date of the supplement application.
 - (4) A signed statement by each additional subcontractor engaged in the Construction Project that such subcontractor is registered under the provisions of this Oregon Revised Statutes, Chapter 701, and stating that the registration is in full force and effect. For each additional subcontractor, a copy of a current certificate of registration issued by the Oregon Construction Contractors Board.
 - (5) Any other information the Business License Administrator determines necessary.
 - (6) The signature of the prime contractor applicant.
- E. License Duration. New licenses shall be valid for the duration of Construction Project, or until the next February 1, whichever is earlier.
- F. Posting of License at all Times After the Issuance of the License. The license shall be posted in a conspicuous place upon the construction project premises available for inspection by the public. It shall be conclusively presumed that any contractor not complying with this section is operating without a business license.

G. As an alternative to obtaining a Construction Project License, the prime contractor and each subcontractor may obtain a separate business license as provided by Section 3 K of this Business License Act.

(Section 24A, as added by Ordinance No. 3563, passed May 20, 1997, and Ordinance No. 3765, passed March 4, 2008 and Ordinance No. 3856, passed January 20, 2015.)

MARIJUANA BUSINESSES

SECTION 25. Rulemaking. The City Manager or his designee has authority to adopt administrative rules and procedures necessary for the proper administration and enforcement of the Marijuana Businesses sections of this ordinance.

SECTION 25A. Definitions.

A. In addition to the terms defined herein below, all terms defined in ORS 475B.015 (Definitions for the Control and Regulation of Marijuana Act), as it may be amended from time to time, are applicable to this section of this ordinance.

- (1) **Consumer.** A person who purchases, acquires, owns, holds, or uses marijuana items other than for the purpose of resale.
- (2) **Eastern Oregon Regional Airport**, defined as the real property conveyed to City of Pendleton by Instrument of Transfer dated July 13, 1948, from the United States of America, reserving certain rights to the United States of America, including but not limited to regulation and restrictions imposed by the Federal Aviation Administration.
- (3) **License**. A license issued pursuant to this ordinance.
- (4) Marijuana Items. Means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.
- (5) **Non-Retail Recreational Marijuana Business**. Any person or entity, other than a retail recreational marijuana business, which processes, produces, transports, sells, tests, or delivers marijuana or marijuana items for commercial recreational use within the city. Recreational marijuana business does not include medical marijuana dispensaries as defined in section 3 of this code.
- (6) **Retail Recreational Marijuana Business**. Any person or entity that is engaged in the retail sale of marijuana or marijuana items for commercial recreational use within the city. Recreational marijuana business does not include medical marijuana dispensaries as defined in section 3 of this code.
- (7) **Retail Sale.** The transfer of marijuana or marijuana items in exchange for any valuable consideration to a consumer.

SECTION 25B. Recreational Marijuana Businesses.

A. Purpose. To protect the public from unlawful use and sale of recreational marijuana, all recreational marijuana sales shall be administered in accordance with the provisions of HB 3400, ORS Chapter 475, and all applicable Oregon Administrative Regulations. Registration or licensing by the Oregon Liquor Control Commission (OLCC) is not a guarantee that any recreational marijuana business will be permitted to operate in the City of Pendleton. These regulations provide reasonable regulations to supplement the rules promulgated by OLCC. These regulations are intended to address solely the issue of producing, processing, transporting, selling, testing, or delivering marijuana for commercial recreational use. These regulations do not address and shall not be applied to any medical or other use of marijuana that does not relate to the authorized use under Oregon's existing Medical Marijuana Act.

B. License Required.

(1) No person shall establish, maintain, conduct, manage, or operate a business that is engaged in the retail sale of marijuana or marijuana items for commercial recreational use within the city unless a license for that use is obtained from the City of Pendleton. Every place or building where a recreational marijuana business engaged in retail sales is carried on, whether for profit or not, shall be deemed a retail recreational marijuana business subject to the provisions of this ordinance as well as the relevant provisions of Oregon Revised Statutes and the Oregon administrative Rules. Each licensee shall meet the requirements set forth in this ordinance.

- (2) No person shall establish, maintain, or operate a business that produces, processes, transports, sells, tests, or delivers marijuana or marijuana items for commercial recreational use other than retail sale within the city unless a license for that use is obtained from the City of Pendleton. Every place or building where a non-retail recreational marijuana business is carried on, whether for profit or not, shall be deemed a non-retail recreational marijuana business subject to the provisions of this ordinance. Each licensee shall meet the requirements set forth in this ordinance.
- (3) A license issued under this section may be suspended, terminated, or revoked if the standards are not met or if the business is sold or otherwise transferred as defined in this section. No person may engage in retail or non-retail recreational marijuana business without the appropriate license.
- (4) No license will be issued without proof of registration to operate a retail or non-retail recreational marijuana business issued by the state of Oregon.
- (5) The City may deny a license if any owner, manager, operator, employee, agent, or volunteer has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license; provided however that the City may not consider the prior conviction of the applicant or any owner, director, officer, manager, employee, agent, or other representative of the applicant for:
 - (a) The manufacture of marijuana, if the date of the conviction is more than five years before the date of the application to the city and the person has not been convicted more than once for the manufacture or delivery of marijuana;
 - (b) The delivery of marijuana to a person 21 years of age or older, if the date of the conviction is more than five years before the date of the application to the City, and the person has not been convicted more than once for the manufacture or delivery of marijuana; or
 - (c) The possession of marijuana.
- (6) Application for a license must include the information necessary for background checks of a criminal record of any owner, manager, operator, employee, agent, or volunteer. The City of Pendleton will conduct all necessary background checks.
- (7) No license shall be issued until after a background check of the criminal record by the police department of the applicant and all individuals employed or volunteering with the retail or non-retail recreational marijuana business.
- (8) The licensee must notify the City and submit necessary information for background checks of a criminal record of any new owner, manager, operator, employee, agent, or volunteer.
- (9) The requirements of this ordinance shall apply to the owners, managers, operators, employees, agents, and volunteers of the licensee's business.
- (10) The licenses authorized by the City shall be displayed in the window such that it is clearly visible from the nearest public right-of-way. The sign shall be no less than eight inches by 11 inches in size.

C. Operational Requirements.

- (1) No person shall operate a retail or non-retail recreational marijuana business without a valid business license issued by the Oregon Liquor Control Commission.
- (2) All recreational marijuana businesses must abide by the applicable regulations governing recreational marijuana producers, retailers, processors, wholesalers, and testing laboratories, as those terms are defined in Oregon Administrative Rules Chapter 845, Division 25, and all other applicable regulations.
- (3) All recreational marijuana businesses must be located in accordance with the City of Pendleton Development Code (Ordinance 3845), and Oregon Administrative Rules Chapter 845, Division 25 and have been granted a conditional use permit to conduct such business activity at the specified location.
- (4) No licenses for retail sales of marijuana products or non-retail recreational marijuana businesses will be issued or permitted within the boundaries of Eastern Oregon Regional Airport.
- (5) No minors shall be permitted on the premises of any recreational marijuana business except as described in subsections (4)(a) and (4)(b).

- (a) A minor, other than an employee of a marijuana business, may be on the premises of a marijuana business for a limited period of time in order to accomplish a legitimate business purpose, including but not limited to, a minor construction or building tradesperson being on the premises in order to conduct professional services.
- (b) A minor who resides on the tax lot or parcel where a marijuana producer is licensed may be present on those portions of the premises that do not contain usable marijuana or cut and drying marijuana plants.
- (6) <u>Sign Code</u>. All recreational marijuana businesses shall be subject to the requirements of sections the Pendleton Sign Code, Ordinance 2775.
- (7) <u>Gross Receipts Tax</u>. All recreational marijuana businesses shall comply with the requirements of Ordinance 3894 (The Marijuana Tax Ordinance).
- (8) <u>Hours of Operation</u>. No sale or other distribution of marijuana shall occur upon the premises or via delivery between 10:00 p.m. and 7:00 a.m.
- (9) <u>Giveaways</u>. Recreational marijuana businesses shall not distribute marijuana or marijuana-infused products free of charge to consumers.
- (10) <u>Consumption on Premises Prohibited</u>. Consumption, ingestion, inhalation, or topical application of usable marijuana, marijuana items, alcohol, or other intoxicants anywhere on the premises of the recreational marijuana business shall be prohibited; except as allowed under OAR 333-008-1200.
- (11) Sale of items unrelated to marijuana and its consumption is prohibited.

SECTION 25C. Medical Marijuana Businesses.

A. Purpose. To protect the public health and safety from unlawful use and sale of marijuana. All medical marijuana dispensaries shall be registered in accordance with ORS chapter 475 and the applicable Oregon Administrative Regulations (OAR). Registration by the Oregon Health Authority is not a guarantee that a dispensary is permitted to operate under applicable local municipal regulations. All dispensaries shall comply with the regulations set forth in this ordinance and the Pendleton Development Code.

These regulations set forth by the Pendleton Municipal Code provide reasonable regulations that supplement the Oregon Health Authority's Medical Marijuana Program. These regulations are intended to address solely the issue of selling or dispensing medical 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.

- **B. Definitions.** In addition to the terms defined herein above, all terms defined in ORS 475B.410, as it may be amended from time to time, (Definitions for Oregon Medical Marijuana Act) are applicable to this section of this ordinance.
 - (1) **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 business, and person responsible for a medical marijuana grow site.
 - (2) Dispensary. A medical marijuana business registered by the Oregon Health Authority under ORS 475B.450.

C. License Required.

- (1) No person shall establish, maintain or operate a dispensary within the city unless a license for that use is obtained from the City of Pendleton. Every place or building where a dispensary is carried on, whether for profit or not, shall be deemed a dispensary subject to the provisions of this section. Each licensee shall meet the requirements set forth in this ordinance.
- (2) No license will be issued without proof of registration to operate a dispensary issued by the State of Oregon.
- (3) The City may deny a license if any owner, manager, operator, employee, agent, or volunteer:
 - (a) 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
 - (b) Has been convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II; or
 - (c) Is prohibited by a court from participating in the Oregon Medical Marijuana Program (OMMP).

- (4) Application for a license must include the information necessary for background checks of a criminal record of any owner, manager, operator, employee, agent, or volunteer. The City of Pendleton will conduct all necessary background checks.
- (5) No license shall be issued until after a background check of the criminal record by the police department of the applicant and all individuals employed or volunteering with the dispensary.
- (6) Once the dispensary is licensed, the licensee must notify the City and submit necessary information for background checks of a criminal record of any new owner, manager, operator, employee, agent, or volunteer.
- (7) Each licensee shall be required to pay the applicable license fee as set by resolution of the common council.
- (8) The requirements of this section shall apply to the owners, managers, operators, employees, agents, and volunteers of the licensee's business.
- (9) The licenses authorized by the city shall be displayed in the window such that it is clearly visible from the nearest public right-of-way. The sign shall be no less than eight inches by 11 inches in size.
- D. Operational Requirements.
- (1) Dispensaries must be located in accordance with ORS 475.314 and the Pendleton Development Code (Ordinance 3845).
- (2) Sign Code. All dispensaries shall be subject to the requirements of the Pendleton Sign Code (Ordinance 2775).
- (3) <u>Hours of Operation</u>. No sale or other distribution of marijuana shall occur upon the premises or via delivery between 10:00 p.m. and 7:00 a.m.
- (4) <u>Giveaways</u>. Dispensaries shall not distribute to consumers marijuana or marijuana-infused products free of charge.
- (5) <u>Consumption on Premises Prohibited</u>. Consumption, ingestion, inhalation, or topical application of usable marijuana anywhere on the premises of the dispensary shall be prohibited; except as allowed under OAR 333-008-1200.
- (6) No licenses for retail sales of marijuana products will be issued or permitted within the boundaries of Eastern Oregon Regional Airport.
- (7) Sale of items unrelated to marijuana and its consumption is prohibited.

SECTION 25D. License Application; Approval; Issuance; Fees.

A. The person responsible for a medical marijuana business or the person responsible for a recreational marijuana business shall apply to the City for a marijuana business license in writing on a form and in a manner consistent with Section 6, with the application materials provided by the City Manager and include the following additional information:

- (1) The name of the person responsible for the medical marijuana business or the person responsible for the recreational marijuana business;
- (2) The address or location of the medical marijuana business or recreational marijuana business;
- (3) The OHA MMD number of the medical marijuana business or the OLCC license number of the recreational marijuana business;
- (4) Proof that the OHA has registered the medical marijuana business at the location indicated on the application or proof that the OLCC has licensed the recreational marijuana business at the location indicated on the application; and
- (5) Any other information the City considers necessary.
- B. At the time the person responsible for a marijuana business submits an application under this section, the person shall pay to the City a license application fee of \$1,550.00 for a retail recreational business, \$1,000.00 for a non-retail recreational marijuana business, and \$600.00 for a medical marijuana business. The license application fee is not refundable. The Council may establish a different license application fee by adoption of a resolution.
- C. Except as provided in subsection D of this section, within 30 days after receiving an application for a marijuana business license, the City shall issue a license to conduct, maintain, manage, or operate a medical marijuana business or recreational marijuana business in Pendleton at the location identified in the application only if the City finds that:

- 1. The application is complete and accurate;
- 2. The OHA has registered the medical marijuana business at the location indicated on the application or the OLCC has licensed the recreational marijuana business at the location indicated on the application;
 - 3. The applicant has paid the required application fee; and
- 4. The applicant's recreational marijuana business or medical marijuana business is located in a zone permitted by the City's Development Code and applicant has been granted approval of a Conditional Use Permit.
- D. The City may disapprove an application and deny the applicant a license if the City finds that any of the criteria set forth in this Section is not met or that the application is incomplete.
- E. If the City disapproves an application or denies the applicant a license under subsection A of this section, the City shall notify the applicant promptly and state the reasons for the disapproval and denial.
- F. As reasonably required to complete the review of an application for a license issued under this chapter, the City may conduct a criminal history background check.
- G. Applications for marijuana business license, must be hand-delivered to the City's Community Development Department. At time of application submittal, or within 30 business days, applications will be reviewed for completeness and applicants will be notified of any missing information required to deem their application complete. Applications shall be processed in the order they are deemed complete by the Community Development Department Director.

SECTION 25E. Licenses. A marijuana business license:

- A. Is not transferable or assignable;
- B. Authorizes the person responsible for the medical marijuana business to conduct, maintain, manage, and operate a medical marijuana business only at the location displayed on the license; or authorizes the person responsible for the recreational marijuana business to conduct, maintain, manage, and operate a recreational marijuana business only at the location displayed on the license; and
- C. Remains in full force and effect for one year from date of issuance, unless sooner surrendered, suspended or revoked as provided herein.
- D. Renewal. Application for renewal of a marijuana business license shall pay a fee of \$950 for a retail recreational marijuana business, \$500 for a non-retail recreational marijuana business, and \$300.00 for a medical marijuana business. The license renewal application fee is not refundable. The Council may establish a different license renewal application fee by adoption of a resolution. The license will be renewed upon the same criteria herein for a new license. If the City disapproves an application or denies the applicant renewal of a marijuana business license, the City shall notify the applicant promptly and state the reasons for the disapproval and denial.

SECTION 25F. Surrender, Suspension, Revocation and Denial of License.

- A. A licensee may surrender a marijuana business license by delivering written notice to the City that the licensee thereby surrenders the license. A licensee's surrender of a license under this section does not affect the licensee's civil or criminal liability for acts the licensee may have committed before surrendering the license.
- B. The City may initiate proceedings to suspend, revoke or refuse to grant a marijuana business license if the City has reasonable grounds to believe that one or more grounds as provided below exist:
 - 1. The licensee or applicant knowingly makes a material false statement or omission in connection with the issuance or renewal of the license;
 - 2. The OHA or the OLCC suspends or revokes the registration of the medical marijuana business or the recreational marijuana business to which the license pertains;

- 3. The OHA or the OLCC suspends or revokes the authority of the person responsible for the medical marijuana business to operate a medical marijuana business or the authority of the person responsible for the recreational marijuana business to operate a recreational marijuana business;
- 4. (a) A violation of the provisions of this chapter, State, or local law has been committed; (b) the citation for the violation is connected with the operation of the recreational marijuana business or medical marijuana business; and (c) the person responsible for a recreational marijuana business or person responsible for a medical marijuana business knew, or reasonably should have known, that violations or offenses were allowed to occur at the location.
- C. Upon a determination that grounds for suspension, revocation, or refusal to grant a marijuana business license exist, the factors to be considered in determining whether to suspend, revoke, or refuse to grant a marijuana business license are limited to one or more of the following:
 - 1. The nature of the conduct constituting the grounds for suspension, revocation, or refusal;
 - 2. The frequency of the conduct;
 - 3. The effect the conduct has upon the enjoyment of life, health and property of members of the community;
 - 4. The efforts of the person responsible for the medical marijuana business or the person responsible for the recreational marijuana business to prevent, mitigate or eliminate the conduct;
 - 5. The actual results of any actions taken by the person responsible for the medical marijuana business or the person responsible for the recreational marijuana business to prevent, mitigate or eliminate the conduct; and
- 6. The license history of either or both the medical marijuana business and the person responsible for the medical marijuana business, or the license history of either or both the recreational marijuana business and the person responsible for the recreational marijuana business.

SECTION 25G. Appeal.

A decision pursuant to this chapter to deny an application for a new license or to deny an application for the renewal of an existing license, or to suspend or revoke a license, is final. Appeal of a final decision shall be by heard by the City Council upon written application within 5 days of issuance of the decision.

SECTION 25H. Specific Enforcement Provisions.

The following enforcement provisions are applicable to marijuana facilities, in addition to but not in place of any enforcement provisions set out elsewhere in this Chapter.

- A. Compliance inspections. The City may conduct inspections of a business, including business records and video surveillance, to determine compliance within this Chapter. Business owners, employees, and volunteers shall comply with all reasonable requests for information as part of the City's compliance inspection. City inspectors may seek an administrative search warrant if a business refuses to cooperate with an inspection.
- B. Impact on Criminal Law. Nothing in this Chapter shall be construed as decriminalizing or making lawful in the City any marijuana business or other business involved in the acquisition, possession, manufacture, production, use, sale, distribution, or transportation of marijuana or related paraphernalia that is not lawful under state law. (Section 25, as added by Ordinance No. 3904, passed December 20, 2016.)

PENALTIES AND ENFORCEMENT

SECTION 26. Penalties.

- A. Conducting a business without a required license or in violation of this Ordinance shall be punishable by a fine not to exceed One Thousand and No/100 (\$1,000.00) Dollars.
- B. Every full business day during which a business activity continues to be conducted in violation of this Ordinance shall be considered a separate offense.

- C. Offenses under this Section shall be tried in the Municipal Court as a violation and not as a crime. As a violation there is no right to jury trial or court appointed counsel.
- D. Entity Responsibility. An individual person and other entities may act in violation of this ordinance. In the event that the party acting in violation of this ordinance is any entity, the entity shall be subject to fine, abatement or other penalties allowed by this ordinance and by law. In such case where an entity is the offending party, a citation may be served upon the entity by serving an owner, officer, a person in charge of the premises, or any person or firm designated as an official or agent of the entity. The entity shall be named on the citation. The citation shall require appearance by a representative of the entity at the time indicated on the citation. In the event that a representative fails to appear as required by the citation the city attorney may seek appropriate remedies for the failure to appear and default against the officers, owners and agents of the entity. For application of this section, the terms "entity" shall also include corporations, partnerships, limited liability companies or partnership, associations, sole proprietorships and other forms of entities.

(Section 26 as amended by Ordinance 3993, passed December 20, 2022.)

SECTION 27. Evidence of Doing Business. In a prosecution for a violation of this Ordinance, evidence that the business made a public representation, by way of newspaper, radio, television or similar media advertisement or by signs conspicuously displayed for public view, that the business was being conducted, expressly or impliedly offering to sell goods or services in the course of the business to the public, shall constitute prima facie evidence that the business was transacting the business suggested by the public representation within the City on the date or dates during which the representations were made.

SECTION 28. Additional Remedies.

- A. In addition to the penalties provided in Section 26 of this Ordinance, the City may sue in a court of competent jurisdiction to obtain a judgment for a tax or fee due under this Ordinance and enforce collection of the judgment by execution.
 - B. The City may seek an injunction to prohibit a person from engaging in a business without complying with this Ordinance.
- C. Whenever a fee required by this Ordinance is not paid when due, the Business License Administrator may add as a penalty to the fee an amount equal to ten (10%) percent of the fee for each month or part thereof during which the fee and accumulated penalty amounts remain unpaid. The total amount of penalties shall not exceed one hundred (100%) percent of the original fee.
- **SECTION 29. Severability.** The Sections of this Ordinance are severable. The invalidity of a Section or part of a Section shall not affect the validity of the remaining Sections or parts of Sections.
- **SECTION 30.** The fees and charges herein are classified as not subject to the limits of Article XI, Section 11(b) of the Oregon Constitution.
- **SECTION 31.** Within fifteen (15) days of the adoption of this Ordinance, the City Manager shall cause to be published in a newspaper of general circulation within the City, a notice of adoption of this Ordinance classifying fees and charges. The notice shall:
 - A. Appear in the general news section of the newspaper, not in the classified advertisements;
 - B. Measure at least three (3) square inches;
 - C. Be printed in a type size at least equal to 8-point type; and
- D. State that the City has adopted an ordinance classifying taxes, fees and charges as not subject to the limits of Article XI, Section 11(b) of the Oregon Constitution, that the reader may contact a designated City official to obtain a copy of the Ordinance, that judicial review of the classification may be sought within sixty (60) days of the date the Ordinance was adopted, and if no such review is sought within the time specified, no subsequent challenges to the classifications will be permitted.

SECTION 32. Effective Date. This Ordinance shall become effective after June 30, 1992.

PASSED and approved June 16, 1992.

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CITY OF PENDLETON, OREGON

BUSINESS LICENSE ACT

ORDINANCE No. 3471

ADOPTED JUNE 16, 1992

(As amended by Ordinance No. 3517, 3558, 3563, 3566, 3590, 3752, 3765, 3793, 3856)

Cost per Copy -- \$2.00