

Resolution No. 16, Series 2016 - Exhibit 1

**CITY OF FLORENCE
ORDINANCE NO. 10, SERIES 2016**

**An Ordinance establishing a tax on retail sales of recreational marijuana in the
City of Florence and amending Title 3, Chapter 11 of the
Florence City Code.**

RECITALS:

1. Section 4, of the Charter of the City of Florence provides:

The City shall have all powers that the constitutions, statutes and common law of the United States and the State of Oregon expressly or impliedly grant or allow municipalities as through this Charter specifically enumerated each of those powers.

2. ORS 475B.345 allows the City of Florence to impose a local tax on retail sales of recreational marijuana items within the City if the local tax is approved by the voters of the City at a general election.
3. The City of Florence desires to impose a tax on the sale of recreational marijuana items by marijuana retailers in the City.

Based on these findings,

THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

1. The Florence City Code Chapter 11 of Title 3, is amended as shown in Exhibit A.
2. If approved by a majority of the voters of the City of Florence at the statewide general election held on Tuesday, November 8, 2016, this ordinance shall take effect on January 1, 2017.
3. The City Recorder is authorized to administratively correct any reference errors contained herein or in other provisions of the Florence City Code to the provisions added, amended, or repealed herein.
4. Severability: Any provision of this Ordinance which provides to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision of this Ordinance, and the remaining provisions of this Ordinance shall remain in full force and effect.

3-11-3: COLLECTION: The consumer shall pay the tax to the marijuana retailer at the time of the purchase or sale of the marijuana item. Every marijuana retailer shall collect the tax from the consumer at the sale of a marijuana item. The tax collected by the marijuana retailer shall be held in trust by the marijuana retailer for payment to the City. The marijuana retailer shall remit the tax to the Tax Administrator. The Tax Administrator is authorized to exercise all supervisory and administrative powers with regard to the administration, collection and enforcement of the tax authorized by this Ordinance.

3-11-4: ACCOUNTING AND RECORDS:

- A. Every marijuana retailer must keep and preserve, in a generally accepted accounting format used for reporting revenue and taxes due on business activity, detailed records of all sales made and all taxes collected. Every marijuana retailer must keep and preserve such records for a period of six (6) years. The Tax Administrator shall have the right to inspect all such records at reasonable times.
- B. For purposes of determining the accuracy of any tax or for the purpose of an estimate of taxes due, the Tax Administrator may examine any books, papers, records, or memoranda bearing upon the marijuana retailer's tax returns, including copies of the marijuana retailer's state and federal income tax returns and copies of the marijuana retailer's state marijuana tax returns. All books, invoices and other records shall be made available within the City for examination by the Tax Administrator during regular business hours.

3-11-5: PENALTIES AND INTEREST:

- A. Any marijuana retailer who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Chapter prior to delinquency shall pay a penalty of ten percent of this amount of the tax due in addition to the amount of the tax.
- B. Any marijuana retailer who has not been granted an extension of time for remittance of tax due, and who fails to pay any delinquent remittance on or before a period of thirty days following the date on which the remittance first becomes delinquent shall pay a second delinquency penalty of fifteen percent of the amount of the tax due plus the amount of the tax and the ten percent penalty first imposed.
- C. If the Tax Administrator determines that the nonpayment of any remittance due under this Chapter is due to fraud or intent to evade the provisions of this Chapter, a penalty of twenty-five percent of the amount of the tax shall be added to the amount of the remittance due, in addition to the penalties stated in subsections A and B of this section.
- D. In addition to the penalties imposed, any marijuana retailer who fails to remit any tax imposed by this Chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof, without proration for portions of a month, or the amount of the tax due, exclusive of penalties, from the date on which the remittance first becomes delinquent, until paid.
- E. Every penalty imposed and any interest that accrues under the provisions of this Chapter shall be merged with, and become a part of, the tax required to be paid.

3-11-6: APPEAL:

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

3-11-7: **REFUND:** Whenever the amount of any tax imposed under this Chapter has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within three years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the Tax Administrator approves the claim, the excess amount collected or paid may be refunded to, or may be credited on any amounts then due and payable from, the marijuana retailer from whom it was collected or by whom it was paid, and the balance may be refunded to the marijuana retailer or the marijuana retailer's administrators, executors or assignees.