

TITLE 3
CHAPTER 11

RETAIL TAX ON MARIJUANA ITEMS

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3-11-1: DEFINITIONS: For the purpose of this Chapter, certain words, terms and phrases are defined as follows:

CITY	The City of Florence
TAX ADMINISTRATOR	City Manager of the City of Florence, the City Manager's designee, and/or another individual or entity designated by the City to collect tax on behalf of the City.
CONSUMER	A person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.
MARIJUANA ITEM	Marijuana, cannabinoid product, cannabinoid concentrates and cannabinoid extracts as defined in ORS 475B.015
MARIJUANA RETAILER	A person licensed under ORS 475B.015 who sells marijuana items to a consumer in the State of Oregon
PERSON	Individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies
RETAIL SALE PRICE	The total consideration paid to a marijuana retailer for a marijuana item by or on behalf of a consumer, excluding any tax

3-11-2: TAX IMPOSED: The City of Florence hereby imposes a tax on each marijuana item sold to a consumer within the City of Florence by a marijuana retailer. The Florence City Council shall set the tax rate by resolution; however, the tax rate adopted by the City Council shall not exceed the maximum rate allowed under state law. Until such time as the City Council may lower the tax rate by resolution, the initial tax rate shall be three percent (3%) of the retail sale price for each marijuana item sold. The tax constitutes a debt owned by the consumer to the City and shall be extinguished only by payment to the marijuana retailer or the City.

3-11-3: COLLECTION: The consumer shall pay the tax to the marijuana retailer at the time of 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 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 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.

3-11-8: TAX COLLECTION BY ANOTHER AGENCY: Pursuant to an agreement with an Oregon government agency, the City Council may authorize the retail tax on marijuana items established by this Chapter to be collected and administered by the other government agency. In authorizing the other government agency to collect and administer the City's retail tax on marijuana items, the City Council shall authorize the agreement by resolution after making a finding that the tax collection procedures of the other government agency provide sufficient procedural protections for taxpayers. Upon adoption of the Council's resolution, and notwithstanding Section 3-11-5, 3-11-6, and 3-11-7, the tax collection and enforcement procedures of the other governmental agency shall govern the tax imposed under Section 3-11-2 as provided in the agreement.

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