

ORDINANCE NS - 2286

AN ORDINANCE AMENDING THE BEND CODE TO ADD SECTION 12.20.20, ESTABLISHING INTEREST AND PENALTIES FOR UNTIMELY OR NON-PAYMENT OF THE CITY'S RECREATIONAL MARIJUANA SALES TAX, AND DECLARING AN EMERGENCY

Findings:

- A. On August 17, 2016, the Bend City Council approved an ordinance authorizing a 3% tax on recreational marijuana sales within the City of Bend.
- B. On November 8, 2016, the voters of the City of Bend approved Measure 9-110, the Recreational Marijuana Sales Tax.
- C. Following approval of Measure 9-110, the City entered in to a Marijuana Tax Collection Agreement with the State of Oregon Department of Revenue to supervise and administer the City's local tax.
- D. While the agreement means the State will be responsible for all aspects of administering the City's local tax, the State does not have independent authority under the agreement to impose interest or penalties for late or non-payment of the local tax.
- E. The City has determined that the ability to impose interest and penalties is an important incentive for achieving compliance with the local tax measure approved by the voters of the City, and that this ordinance is appropriate to create or reinforce that incentive.
- F. Because the local tax became effective January 1, immediate passage of this ordinance is necessary to create sufficient incentive for retailers to collect and remit the local tax, and to ensure that the tax approved by the voters of the City of Bend is collected and paid in a timely fashion. For this reason, this ordinance contains an emergency clause and, if passed, will be effective immediately on second reading.

Based on these findings, the City of Bend ordains as follows:

Section 1. The following provisions are added to Chapter 12.20 the Bend Code:

12.20.020 Interest and Penalty

- A. Interest shall be added to the overall tax amount due at the same rate established under ORS 305.220 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.

B. 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 ORS 314.400.

C. 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.

D. Taxes, interest and penalties transferred to the City of Bend by the Oregon Department of Revenue will be distributed to the City's General Fund.

E. 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 City of the owed amount in accordance with ORS 475B.700 to 475B.755, any agreement between the Oregon Department of Revenue and the City under ORS 305.620 and any applicable administrative rules adopted by the Oregon Department of Revenue.

Section 2. Declaration of Emergency. The City Council finds that this ordinance is necessary for the health, safety and welfare of the public, and finds that an emergency exists. The ordinance therefore becomes effective upon its passage.

All other provisions of the Bend Code remain unchanged and in full effect.

First Reading Date: January 18, 2017

Second Reading Date: February 1, 2017

Adopted by roll call vote on: February 1, 2017

YES: Casey Roats, Mayor
Sally Russell
Bill Moseley
Bruce Abernethy
Nathan Boddie
Justin Livingston
Barb Campbell


NO: NONE

Signed by the Mayor on: February 1, 2017



Casey Roats, Mayor

ATTEST:



Robyn Christie, City of Bend Recorder



Mary Winters, City Attorney

