

RESOLUTION NO. 6527

A RESOLUTION APPROVING REFERAL TO THE ELECTORS OF THE CITY OF ALBANY THE QUESTION OF IMPOSING A TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER WITHIN THE CITY

**RECITALS:**

**WHEREAS**, section 34a of House Bill 3400 (2015) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

**WHEREAS**, the city of Albany city council adopted Ordinance 5873, which imposes a tax at a rate of three percent (3%) on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

NOW, THEREFORE, THE CITY OF ALBANY RESOLVES AS FOLLOWS:

MEASURE. A measure election is hereby called for the purpose of submitting to the electors of the city of Albany a measure imposing a tax on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city, a copy of which is attached hereto as "Exhibit 1," and incorporated herein by reference.

ELECTION CONDUCTED BY MAIL. The measure election shall be held in the city of Albany on November 8, 2016. As required by ORS 254.465, the measure election shall be conducted by mail by the County Clerks of Linn and Benton County, according to the procedures adopted by the Oregon Secretary of State.

DELEGATION. The city of Albany authorizes the City Manager, or the City Manager's designee, to act on behalf of the city and to take such further action as is necessary to carry out the intent and purposes set forth herein, in compliance with the applicable provisions of law.

PREPARATION OF BALLOT TITLE. The ballot title for the measure set for as "Exhibit 2" to this resolution is hereby adopted.

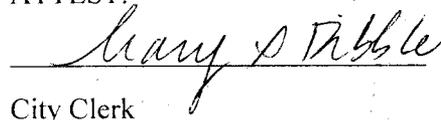
NOTICE OF BALLOT TITLE AND RIGHT TO APPEAL. Upon receiving the ballot title for this measure, the City Recorder shall publish in the next available edition of a newspaper of general circulation in the city a notice of receipt of the ballot title, including notice that an elector may file a petition for review of the ballot title.

EXPLANATORY STATEMENT. The explanatory statement for the measure, which is attached hereto as "Exhibit 3," and incorporated herein by reference, is hereby approved.

FILING WITH COUNTY ELECTIONS OFFICE. The City Recorder shall deliver the Notice of Measure Election to the county clerks for Linn and Benton County for inclusion on the ballot for the November 8, 2016 election.

DATED AND EFFECTIVE THIS 27 DAY OF July, 2016.

ATTEST:

  
City Clerk

  
Mayor

EXHIBIT 1

ORDINANCE NO. 5873

AN ORDINANCE OF THE CITY OF ALBANY IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER AND REFERRING ORDINANCE

WHEREAS, ORS 475B.345 provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

WHEREAS, the Albany City Council wants to impose a tax on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:**

**SECTION 1.** Title 3, Revenue and Finance of the Albany Municipal Code hereby adds a new Chapter 3.06 entitled "Marijuana Tax," establishing a tax on the sale of marijuana and marijuana-infused products as follows:

**SECTION 3.06. Purpose.**

For the purposes of this Chapter, every person who sells recreational marijuana or marijuana-infused products in the City of Albany is exercising a taxable privilege. The purpose of this Chapter is to impose a tax upon the retail sale of marijuana and marijuana-infused products.

**SECTION 3.06.020. Definitions.**

When not clearly otherwise indicated by the context, the following words and phrases as used in this chapter shall have the following meanings:

Marijuana item has the meaning given that term in ORS 475B.015(16).

Marijuana retailer means a person who sells marijuana items to a consumer in this state.

Retail sale price means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

**SECTION 3.06.030 Tax Imposed.** As described in ORS 475B.345 the City of Albany hereby imposes a tax of three percent (3%) on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the City.

**SECTION 3.06.040 Collection of Tax.** The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

**SECTION 2.** This ordinance shall be referred to the electors of Albany at the next statewide general election on Tuesday, November 8, 2016.

**SECTION 3.** Repeal of AMC 3.05: Upon approval of this measure by the electors of the City of Albany at the next general election on Tuesday, November 8, 2016, AMC 3.05 shall be repealed.

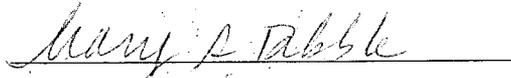
**SECTION 4.** If marijuana sales are banned by act of the City Council or act of the voters, then the tax rate shall be set at zero (0) percent for the duration of the ban. Upon conclusion of the ban, a new tax rate may be imposed as provided for under this section.

Passed by Council: July 27, 2016

Approved by Mayor: July 27, 2016

ATTEST:

Effective Date: August 26, 2016

A handwritten signature in cursive script, appearing to read "Mary P. Tabble", written over a horizontal line.

City Clerk

A handwritten signature in cursive script, appearing to read "J. Kaye", written over a horizontal line.

Mayor

EXHIBIT 2

BALLOT TITLE

Imposes city tax on marijuana retailer's sale of marijuana items.

QUESTION

Shall Albany impose a tax on the sale of marijuana items by a marijuana retailer within City limits?

SUMMARY

Under state law, a city council may adopt an ordinance to be referred to the voters of the city imposing up to a three percent tax on the sale of marijuana items in the city by a licensed marijuana retailer.

Approval of this measure would impose a tax, set by resolution of the City Council and not to exceed three (3) percent, on the sale of marijuana items in the city by a marijuana retailer. The tax would be collected at the point of sale and remitted by the marijuana retailer.

Under state law, a city that adopts an ordinance prohibiting the establishment of a medical marijuana processor, medical marijuana dispensary, or recreational marijuana producer, processor, wholesaler, or retailer may not impose a tax on the production, processing or sale of marijuana or any product into which marijuana has been incorporated. This measure would allow a tax rate above zero (0) percent only if the measure proposing to prohibit the establishment of any of those marijuana entities does not pass by a majority of votes.

## EXHIBIT 3

### EXPLANATORY STATEMENT

Approval of this measure would impose a tax on the sale of marijuana items by a marijuana retailer within the city. There are no restrictions on how the city may use the revenues generated by this tax. However, the tax will become operative only if the ballot measure prohibiting the establishment of certain marijuana registrants and licensees fails.

Under Measure 91, adopted by Oregon voters in November 2014 and amended by the Legislature in 2015, the Oregon Liquor Control Commission must license the retail sale of recreational marijuana. The 2015 Legislation provides that a city council may adopt an ordinance imposing up to a three percent tax on the sale of marijuana items (which include marijuana concentrates, extracts, edibles, and other products intended for human consumption and use) by retail licensees in the city, but the council must refer that ordinance to the voters at a statewide general election. The Albany City Council has adopted an ordinance imposing a tax on the sale of marijuana items by a retail licensee in the city, and, as a result, has referred this measure to the voters.

However, this tax will become operative only if the ballot measure prohibiting the establishment of certain marijuana registrants and licensees fails. Under state law, a city that adopts an ordinance that prohibits the establishment in the area subject to the jurisdiction of the city of a medical marijuana processor, medical marijuana dispensary, or recreational marijuana producer, processor, wholesaler, or retailer may not impose a tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated. As a result, if the voters pass a prohibition ordinance, this tax will not become operative, even if it also receives a majority of votes.