

RESOLUTION NO. 16-13

A RESOLUTION APPROVING REFERRAL TO THE ELECTORS OF THE CITY OF SCAPPOOSE AT THE NOVEMBER 8, 2016 GENERAL ELECTION, THE QUESTION OF WHETHER TO BAN MEDICAL MARIJUANA PROCESSING SITES, RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND RECREATIONAL MARIJUANA RETAILERS WITHIN THE CITY

WHEREAS, Section 134 of HB 3400 (codified at ORS 475B.800) provides that a city council may adopt an ordinance to be referred to the electors of the city prohibiting the establishment of certain state-registered and state-licensed marijuana businesses in the area subject to the jurisdiction of the city; and

WHEREAS, the City of Scappoose City Council adopted Ordinance No.852, which prohibits the establishment of medical marijuana processing sites, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and recreational marijuana retailers within the corporate limits of the City of Scappoose; and

WHEREAS, the Scappoose City Council, pursuant to Section 134 of HB 3400 (ORS 475B.800), desires to refer Ordinance No. 852 to the electors of the City of Scappoose.

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

SECTION 1. Measure. A measure election is called in and for the City of Scappoose, Columbia County, Oregon, for the purpose of submitting a measure prohibiting the establishment of certain marijuana activities in the city to the legal voters of the City. A copy of the measure is attached and incorporated as "Exhibit 1."

SECTION 2. Election Conducted by Mail. The measure election shall be held on Tuesday, November 8, 2016, which is the next general election. The precinct for the election shall be all of the territory within the corporate limits of the City of Scappoose. As required by ORS 254.465, the measure election will be conducted by mail by the Columbia County Elections Department, according to the procedures adopted by the Oregon Secretary of State.

SECTION 3. Notice of Ballot Title. The City Elections Officer is directed to publish notice of receipt of the ballot title in the Scappoose Spotlight or The Oregonian in compliance with ORS 250.275(5).

SECTION 4. Ballot Title. Pursuant to ORS 250.285 and ORS 254.095, the Scappoose City Council directs the City Elections Officer to file a notice of City Measure Election in substantially the form of Exhibit 2, with the Columbia County Elections Office, unless, pursuant to a valid ballot title challenge, a judge at the Columbia County Circuit Court judge certifies a different Notice of City Measure Election be filed, such

filing shall occur no earlier than the eighth business day after the date on which Exhibit 2 is filed with the City Elections Officer and not later than September 8, 2016.

SECTION 5. Explanatory Statement. The explanatory statement for the measure, for publication in the county voters' pamphlet, which is attached and incorporated as "Exhibit 3," is approved; said statement shall be filed with the Columbia County Elections Office at the same time the Notice of City Measure Election is filed by the City Elections Officer.

SECTION 6. Delegation. The Scappoose City Council authorizes the City Manager or a designee of the City Manager to act on behalf of the city of Scappoose and to take such further action as is necessary to carry out the intent and purposes herein in compliance with the applicable provisions of law

SECTION 7. Effect of "Yes" Vote. If a majority of eligible voters vote "yes" on the measure, medical marijuana processing sites, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and recreational marijuana retailers will be prohibited within the corporate limits of the City of Scappoose.

This resolution was PASSED and ADOPTED this 1st day of August, 2016, and takes effect upon passage.



SCOTT BURGE, MAYOR

ATTEST:



SUSAN REEVES, CITY RECORDER

EXHIBIT 1

ORDINANCE NO. 852

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SCAPPOOSE, OREGON, DECLARING A BAN ON MEDICAL MARIJUANA PROCESSING SITES, MARIJUANA PRODUCERS, MARIJUANA PROCESSORS, MARIJUANA WHOLESALERS, AND MARIJUANA RETAILERS; REFERRING ORDINANCE

WHEREAS, the Oregon Medical Marijuana Act, as amended by House Bill 3400 (2015) provides that the Oregon Health Authority will register medical marijuana processing sites and medical marijuana dispensaries;

WHEREAS, Measure 91, adopted by the voters in November 2014, directs the Oregon Liquor Control Commission to license the production, processing, wholesale, and retail sale of recreational marijuana;

WHEREAS, Section 134 of HB 3400 provides that a city council may adopt an ordinance to be referred to the electors of the city prohibiting the establishment of certain state-registered and state-licensed marijuana businesses in the area subject to the jurisdiction of the city;

WHEREAS, the Scappoose City Council wishes to refer the question of whether to prohibit medical marijuana processing sites, marijuana producers, marijuana processors, marijuana wholesalers, and marijuana retailers to the voters of Scappoose.

NOW, THEREFORE, THE CITY OF SCAPPOOSE ORDAINS AS FOLLOWS:

Section 1: Definitions

Marijuana means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

Marijuana processor means an entity licensed by the Oregon Liquor Control Commission to process marijuana.

Marijuana producer means an entity licensed by the Oregon Liquor Control Commission to manufacture, plant, cultivate, grow or harvest marijuana.

Marijuana retailer means an entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state.

Marijuana wholesaler means an entity licensed by the Oregon Liquor Control Commission to purchase items in this state for resale to a person other than a consumer.

Medical marijuana processing site means an entity registered with the Oregon Health Authority to process medical marijuana.

Section 2: Ban Declared

As described in Section 134 of HB 3400 (2015), the City of Scappoose hereby prohibits the establishment of the following facilities in the area subject to the jurisdiction of the City:

- a) Medical marijuana processing sites;
- b) Marijuana producers;
- c) Marijuana processors;
- d) Marijuana wholesalers;
- e) Marijuana retailers

Section 3: Exception

The prohibition set out in this ordinance does not apply to a medical marijuana processing site that meets the conditions set out in subsection 7 of Section 134 and Section 136 of HB 3400.

Section 4: Referral

This ordinance shall be referred to the electors of the City of Scappoose at the next statewide general election on Tuesday, November 8, 2016.

Section 5: Effective Date

This ordinance shall go into effect 30 days after passage by the City Council and approval by the Mayor.

CITY OF SCAPPOOSE, OREGON

Scott Burge, Mayor

First Reading: January 4, 2016
Second Reading: January 19, 2016

Attest:

Susan M. Reeves, City Recorder

EXHIBIT 2

Notice of Measure Election
City

SEL 802

rev 1/14: ORS 250.035, 250.041,
250.275, 250.285, 254.095, 254.465

Notice		
Date of Notice	Name of City or Cities City of Scappoose	Date of Election November 8, 2016

The following is the final ballot title of the measure to be submitted to the city's voters.

Final Ballot Title Notice of receipt of ballot title has been published and the ballot title challenge process has been completed.
Caption 10 words which reasonably identifies the subject of the measure
Prohibits recreational marijuana retailers and businesses; prohibits medical marijuana processors.

Question 20 words which plainly phrases the chief purpose of the measure
Shall Scappoose prohibit recreational marijuana retailers, producers, processors wholesalers and prohibit medical marijuana processors, while allowing medical marijuana dispensaries?

Summary 175 words which concisely and impartially summarizes the measure and its major effect
This measure does not affect legal medical marijuana dispensaries. State law allows operation of registered medical marijuana processors, medical marijuana dispensaries and licensed recreational marijuana producers, processors, wholesalers, and retailers. State law provides that a city council may adopt an ordinance to be referred as a measure to voters to prohibit the establishment of any of those registered or licensed marijuana activities.
Approval of this measure would approve Scappoose Ordinance No. 852, which would prohibit medical marijuana processors, recreational marijuana producers, processors, wholesalers, and retailers from locating in areas subject to the City's jurisdiction.
This measure would not affect individual use; individuals will continue to be able to use and possess marijuana products in Scappoose in accordance with state law.
If this measure is approved, the City will not receive any state disbursements of marijuana tax revenue. The City would also be unable to impose a local tax or fee on the production, processing or sale of marijuana or products that incorporate marijuana.

Explanatory Statement 500 words that impartially explains the measure and its effect, if required attach to this form						
If the county is producing a voters' pamphlet an explanatory statement must be submitted for any measure referred by the city governing body and if required by local ordinance, for any initiative or referendum.						
Measure Type	County producing voters' pamphlet		Local ordinance requiring submission		Explanatory statement required	
<input checked="" type="checkbox"/> Referral	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Not applicable		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Initiative	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Referendum	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Authorized City Official Not required to be notarized
→ By signing this document, I hereby state that I am authorized by the city to submit this Notice of Measure Election and I certify that notice of receipt of ballot title has been published and the ballot title challenge process for this measure completed.

Name Michael J. Sykes	Title City Manager	Work Phone 503-543-7146
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Signature	Date Signed
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EXHIBIT 3 EXPLANATORY STATEMENT

Approval of this measure would prohibit the establishment of certain marijuana activities within the city. Ordinance 852, and this measure does not affect legal medical marijuana dispensaries.

The Oregon Medical Marijuana Act, as amended by the Legislature in 2015, provides that the Oregon Health Authority will register medical marijuana processors and medical marijuana dispensaries. Medical marijuana processors compound or convert marijuana into concentrates, extracts, edible products, and other products intended for human consumption and use. Medical marijuana dispensaries facilitate the transfer of marijuana and marijuana products between patients, caregivers, processors, and growers. Measure 91, approved by Oregon voters in 2014 and by the Legislature in 2015, provides that the Oregon Liquor Control Commission will license recreational marijuana producers (those who manufacture, plant, cultivate, grow or harvest marijuana), processors, wholesalers, and retailers.

A city council may adopt an ordinance prohibiting the establishment of any of those entities within the city, but the council must refer the ordinance to the voters at a statewide general election. The Scappoose City Council has adopted an ordinance prohibiting the establishment of medical marijuana processors, recreational marijuana producers, processors, wholesalers, and retailers within the city and, as a result, has referred this measure to the voters.

If approved, this measure would prohibit medical marijuana processors and recreational marijuana producers, processors, wholesalers, and retailers within the city. Medical marijuana processors that were registered with the state before the city council adopted the ordinance may continue operating in the city even if this measure is approved. Ordinance 852, and this measure, does not affect legal medical marijuana dispensaries.

Approval of this measure has revenue impacts. Currently, ten percent of state marijuana tax revenues will be distributed to cities to assist local law enforcement in performing their duties under Measure 91. If approved, this measure would make Scappoose ineligible to receive distributions of state marijuana tax revenues. State marijuana tax disbursements to cities will be determined by population through July 2017. After July 2017, disbursements will be determined by the number of licenses issued by OLCC in a given area.

Currently, under the 2015 legislation, a city may impose up to a three percent tax on the sale of marijuana items by a marijuana retailer in the city. However, a city that adopts an ordinance prohibiting the establishment of medical marijuana processors or recreational marijuana producers, processors, wholesalers, or retailers may not impose a local tax or fee on the production, processing or sale of marijuana or any product that incorporates marijuana. Approval of this measure would therefore prevent Scappoose from imposing a local tax on those activities. Should this measure pass by a majority of votes, the measure imposing a tax on marijuana sales in Scappoose will not become operative.

Approval of this measure will not affect individual use; individuals will continue to be able to use and possess marijuana products in Scappoose in accordance with state law.