

RESOLUTION NO. 6528

A RESOLUTION APPROVING REFERRAL TO THE ELECTORS OF THE CITY OF ALBANY THE QUESTION OF BANNING RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND RECREATIONAL MARIJUANA RETAILERS WITHIN THE CITY

**RECITALS:**

WHEREAS, 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;

WHEREAS, the Albany City Council adopted Ordinance 5862, which prohibits the establishment and business of recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers and recreational marijuana retailers in the area subject to the jurisdiction of the City. A copy of the Ordinance is attached hereto and incorporated by reference herein as Exhibit 1;

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 prohibiting the establishment of certain marijuana activities in the area subject to the jurisdiction of the City. The ballot title for the measure set forth as Exhibit 2 to this Resolution is hereby adopted.

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 counties, 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.

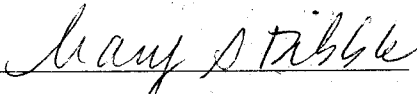
NOTICE OF BALLOT TITLE AND RIGHT TO APPEAL. Upon receiving the ballot title for this measure, the City Elections Officer shall publish in the next available edition of a newspaper of general circulation in the city a notice of receipt of the ballot title, including notice that an elector may file a petition 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 Elections Officer shall deliver the Notice of Measure Election to the county clerks for Linn and Benton counties for inclusion on the ballot for the November 8, 2016 General Election.

DATED AND EFFECTIVE THIS 27 DAY OF July, 2016.

ATTEST:

  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
Mayor

EXHIBIT 1

ORDINANCE NO. 5862

AN ORDINANCE OF THE CITY OF ALBANY DECLARING A BAN ON RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND/OR RECREATIONAL MARIJUANA RETAILERS; REFERRING ORDINANCE; AND DECLARING AN EMERGENCY.

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; and

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

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; and

WHEREAS, the Albany City Council wants to refer the question of whether to prohibit recreational marijuana producers, processors, wholesalers, and/or retailers to the voters of Albany.

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

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

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 dispensary means an entity registered with the Oregon Health Authority to transfer marijuana.

EXHIBIT 1

BAN DECLARED: As described in Section 134 of House Bill 3400 (2015), the City of Albany hereby prohibits the establishment and operation of the following in the area subject to the jurisdiction of the city.

- (a) Marijuana producers;
- (b) Marijuana processors;
- (c) Marijuana wholesalers;
- (d) Marijuana retailers.

EXCEPTION. The prohibition set out in this ordinance does not apply to a marijuana processing site or medical marijuana dispensary that meets the conditions set out in subsections 6 or 7 of Section 134, Section 136, or Section 137 of House Bill 3400 (2015).

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

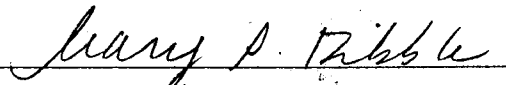
EMERGENCY. In as much as this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Albany, or to facilitate the prompt and timely completion of important City business, an emergency is hereby declared to exist; and this Ordinance shall take effect and be in full force and effect when signed by the Mayor.

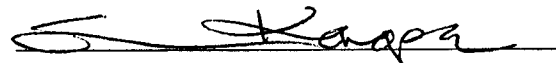
Passed by Council: Dec 7, 2015

Approved by Mayor: Dec 7, 2015

ATTEST:

Effective Date: Dec 7, 2015

  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
Mayor

## **EXHIBIT 2**

### **BALLOT TITLE**

Prohibits certain marijuana registrants and/or licensees in Albany.

### **QUESTION**

Shall the City of Albany prohibit recreational marijuana producers, processors, wholesalers, and retailers within the City limits?

### **SUMMARY**

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 to the voters to prohibit the establishment of any of those registered or licensed activities.

Approval of this measure would prohibit the establishment of recreational marijuana producers, processors, wholesalers, and retailers within the area subject to the jurisdiction of the City. If approved, this measure will have no impact on medical marijuana processors or medical marijuana dispensaries located in Albany.

If this measure is approved, the City will be ineligible to receive distributions of state marijuana tax revenues and will be unable to impose a local tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated.

### EXHIBIT 3

#### EXPLANATORY STATEMENT

Approval of this measure would prohibit the establishment of certain marijuana activities within the City.

ORS 475B.400 to 475B.525 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. ORS 475B.005 to 475B.399 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 Albany City Council has adopted an ordinance prohibiting the establishment of 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 recreational marijuana producers, processors, wholesalers, and/or retailers within the City. Medical marijuana processors and medical marijuana dispensaries can continue operating in the City even if this measure is approved.

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 ORS 475B.760 (2). If approved, this measure would make the City ineligible to receive distributions of state marijuana tax revenues.

Currently, under ORS 475B.345, 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, medical marijuana dispensaries, 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 into which marijuana has been incorporated. Approval of this measure would therefore prevent the City from imposing a local tax on those activities.