



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
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August 11, 2016

Board of County Commissioners
 Clackamas County

Members of the Board:

Stephen L. Madkour
 County Counsel

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Board Resolution Referring Ordinance Imposing 3% Tax on Retail Sales of
Marijuana Items by a Marijuana Retailer in Unincorporated Areas

Purpose/Outcomes	Impose a Three Percent Tax on the Sale of Marijuana Items.
Dollar Amount and Fiscal Impact	Nominal internal staff costs. Estimated revenue of \$180,000 based on state projections.
Funding Source	County General Fund
Duration	Indefinitely
Previous Board Action	Direction from the Board of County Commissioners at a policy session on May 24, 2016 to pursue a 3% sales tax.
Strategic Plan Alignment	Ensure safe, healthy and secure communities.
Contact Person	Stephen L. Madkour, County Counsel

BACKGROUND:

ORS 475B.345 allows counties to impose up to a 3 percent tax on sales of marijuana items made by those with recreational retail licenses in unincorporated areas of the county by referring an ordinance to the voters at a statewide general election, meaning an election in November of an even-numbered year. The next statewide general election is to be held on Tuesday, November 8, 2016.

As described in ORS 475B.345, the tax is calculated as a percentage of the retail price of marijuana items by a retailer selling recreational marijuana in the unincorporated areas of the county. 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. The tax would be collected by the Oregon Department of Revenue and it is anticipated that if passed the County would enter into an Inter-governmental Agreement with the Department of Revenue for the collection and distribution of the 3% sales tax.

Approval of this measure would adopt the Ordinance imposing a three percent tax on the sale of recreational marijuana items in the unincorporated area of the county by a state licensed marijuana retailer. "Marijuana items" means marijuana, cannabinoid products, cannabinoid

concentrates and cannabinoid extracts. Revenues from the tax will be directed towards code enforcement, law enforcement, juvenile and adult prevention, dependency, and addiction, and public health and safety services.

This tax will not apply to marijuana sales that occur within any city in the county. Cities are authorized under ORS 475B.345 to pass the same retail tax.

RECOMMENDATION:

Staff recommends the Board approve the Resolution seeking voter approval of the ordinance imposing a 3% tax on retail sales of marijuana items in unincorporated areas of Clackamas County.

Respectfully submitted,

Stephen L. Madkour
County Counsel

Attachments:
Resolution
Ballot Title
Explanatory Statement
Proposed Ordinance

In the Matter of Referring a
Ballot Measure on Ordinance
Imposing 3% Tax for Retail
Marijuana Items

RESOLUTION NO. 2016-_____

WHEREAS, ORS 475B.345 provides that a county governing body may refer an ordinance 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 unincorporated area of the county;

WHEREAS, at a policy session on May 24, 2016, the Board of County Commissioners approved a motion to send a 3% retail marijuana tax to the voters at the November 8, 2016 election;

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS that:

1. An Ordinance substantially in the form attached hereto as Exhibit B is hereby referred to the voters of Clackamas County;
2. A Ballot Measure seeking voter approval of an ordinance imposing a 3% tax on the retail sales of marijuana items substantially in the form attached hereto as Exhibit A and related explanatory statement is approved, subject to ministerial correction by staff.
3. An election on this matter shall be held in Clackamas County on Tuesday, November 8, 2016.
4. The County hereby authorizes the Chair, the County Administrator, and County Counsel or their designees to submit, sign, and otherwise take all necessary action to effectuate the foregoing and to file the ballot title and proposed ordinance with the County Clerk for publication.

DATED this 11th day of August, 2016.

Chair

Recording Secretary

EXHIBIT A
BALLOT TITLE

CAPTION (10 words):

Ordinance Imposing 3% County Tax on Retail Sales of Marijuana

QUESTION (20 words):

Shall Clackamas County impose a 3% tax on the sale of recreational marijuana items in unincorporated areas of Clackamas County?

BALLOT SUMMARY (175 words):

Under state law, a county governing body may adopt an ordinance to be referred to the voters of the County imposing up to a three percent tax or fee on the sale of retail recreational marijuana items in unincorporated areas of the county by a state licensed marijuana retailer.

Approval of this measure would adopt the Ordinance imposing a three percent tax on the sale of recreational marijuana items in the unincorporated area of the county by a state licensed marijuana retailer. The proposed ordinance is available at the Office of County Counsel and can be viewed on the County's website at <http://www.clackamas.us/bcc/marijuanatax.html>. The tax would be collected at the point of sale and remitted by the marijuana retailer. "Marijuana items" means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts. Revenues from the tax will be directed towards code enforcement, law enforcement, juvenile and adult prevention, dependency and addiction, and public health and safety services.

EXPLANATORY STATEMENT

Approval of this measure would adopt an Ordinance that imposes a three percent tax on the sale of recreational marijuana items by a marijuana retailer within the unincorporated area of Clackamas County. The tax would apply only to unincorporated areas of Clackamas County. If approved, the annual revenues from this tax are estimated to be approximately \$180,000. The proposed ordinance is available at the Office of County Counsel and can also be viewed on the County's website at <http://www.clackamas.us/bcc/marijuanatax.html>.

There are no restrictions on how the county may use the revenues generated by this tax, but the County proposes to devote the revenues to those services potentially impacted by marijuana sales and usage such as County Code enforcement, law enforcement, juvenile and adult prevention, dependency and addiction, and public health and safety services.

Under Measure 91, adopted by Oregon voters in November 2014, codified in ORS chapter 475B and amended by the Legislature in 2015 and 2016, the Oregon Liquor Control Commission must license the retail sale of recreational marijuana. ORS 475B.345 provides that a county governing body 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 unincorporated areas of the County, but the Ordinance must be referred to the county voters at a statewide general election. If the measure is approved by the voters, the Ordinance imposing a three percent tax on the sale of marijuana items by a retail licensee in the unincorporated areas of the county will be adopted. The tax does not apply to medical marijuana. The tax will become effective 90 days after adoption of the Ordinance.

EXHIBIT B

AN ORDINANCE OF THE COUNTY OF CLACKAMAS IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER IN UNINCORPORATED AREAS, AND REFERRING ORDINANCE

Whereas, ORS 475B.345 provides that a county governing body 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 unincorporated area of the county; and

Whereas, the Clackamas County Board of County Commissioners wants to impose a tax on the sale of marijuana items by a marijuana retailer in the unincorporated area of Clackamas County;

NOW THEREFORE, BASED ON THE FOREGOING,

The People of Clackamas County ordain as follows:

Chapter 8.09 Marijuana Sales Tax

8.09.010 DEFINITIONS.

- A. Marijuana item has the meaning given that term in ORS 475B.015(16).
- B. Marijuana retailer means a person who sells marijuana items to a consumer in this state.
- C. 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.

8.09.020 TAX IMPOSED.

As described in ORS 475B.345 the County of Clackamas hereby imposes a tax of three percent on the retail sale price of marijuana items by a marijuana retailer in the unincorporated areas of Clackamas County.

8.09.030 COLLECTION.

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.

8.09.040 REFERRAL.

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