

**CITY OF COOS BAY CITY COUNCIL**  
**Agenda Staff Report**

<b>MEETING DATE</b> <b>June 7, 2016</b>	<b>AGENDA ITEM NUMBER</b>
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TO: Mayor Shoji and City Councilors  
FROM: Rodger Craddock, City Manager  
ISSUE: November 2016 Marijuana Ballot Measures

**BACKGROUND:**

In November 1998, Oregon voters approved Ballot Measure 67, the Oregon Medical Marijuana Act (OMMA). Since that time, the Legislature has amended the OMMA on a number of occasions.

On August 5, 2014, the Council Enacted Ordinance 461 amending the City's business license ordinance to precluded issuance of a business license to any business which does not comply with local state or federal law. Currently, as marijuana remains a Schedule 1 controlled substance under the Federal Controlled Substances Act (CSA), marijuana related businesses are not eligible to obtain a city business license. In addition, the current iteration of the City's Development Code has largely been in effect since the 1980's with few changes. The commercial growing of marijuana, a form of agriculture, is not a permitted land-use within the City.

In November 2014, Oregon voters approved Ballot Measure 91, the Control and Regulation of Marijuana Act, legalizing the growing, distribution, possession, and use of marijuana in certain amounts for non-medical personal use.

In 2015, the State Legislature made comprehensive reforms to Measure 91 and addressed issues of local control. Specifically, the Legislature adopted and the Governor signed into law the following bills:

- HB 3400, omnibus bill that amends the Oregon Medical Marijuana Act and the Control and Regulation of Marijuana Act;
- HB 2014, which revises the state tax structure for recreational marijuana; and
- SB 460, which authorizes early sales of recreational marijuana by medical marijuana dispensaries.

In December 2015 and January 2016, the Council took public testimony and considered a number of options related to allowing state-registered and state licensed marijuana business to operate within the City. On January 19, 2016, it was the decision of the Council to refer the question of amending the City's business license ordinance to allow state-registered and state licensed marijuana businesses to operate within the City. In addition, the Council also approved referring the question of a 3% sales tax for the sale of marijuana items by a retail licensee.

Some of the required steps which will need to be taken in order to get these ballot measures on the November 2016 include the following:

- Council approval of ballot titles
- Formal filing of the ballot title (form SEL 801 Notice of Ballot Title)
- Council approval of the ballot question and ballot measure summary
- Formal filing of the ballot question and ballot measure summary (form SEL 802 Notice of Measure Election)

The City Attorney has drafted the following ballot title, ballot question, and ballot summary for the ballot measure involving the City's Business License Ordinance:

**Ballot Title:** Shall state licensed marijuana activities be allowed within the city.

**Ballot Question:** Should the business license ordinance be amended to allow state-registered and licensed marijuana activities to operate within the city?

**Ballot Summary:** Currently, the City's business license requirements prohibit any type of business which violates Federal, State, or local laws. While Oregon law allows for marijuana dispensaries and other marijuana related activities, the use and sale of marijuana remains illegal under Federal law. An affirmative vote on this measure would amend the City's business license requirements to permit the establishment of state – registered and licensed medical and recreational marijuana activities in the City, despite Federal law prohibiting the use and sale of marijuana.

The City Attorney has drafted the following ballot title, ballot question, and ballot summary for the ballot measure involving a possible sales tax on recreational marijuana sales:

**Ballot Title:** City tax on recreational marijuana retailers' sale of marijuana items.

**Ballot Question:** Shall Coos Bay impose a three percent tax on sales of marijuana items by recreational marijuana retailers in the city?

**Ballot Summary:** If adopted by the voters, this measure would impose a three percent sales tax on sales of marijuana items (including marijuana, marijuana products, and marijuana extracts) by recreational marijuana retailers licensed by the Oregon Liquor Control Commission and located within the City of Coos Bay. The tax would be collected by the recreational marijuana retailer at the point of sale. The recreational marijuana retailer would remit the three percent tax to the City. The three percent City tax would be imposed in addition to any state taxes on the sale of marijuana items by a recreational marijuana retailer. The three percent City tax would not be imposed on medical marijuana sales. The three percent City tax would not be imposed on sales of recreational marijuana to anyone other than a consumer.

**RECOMMENDATION:**

Provide staff approval on the draft language and/or revisions desired by the Council.