RESOLUTION R1617-02

A RESOLUTION CALLING AN ELECTION ON NOVEMBER 8, 2016, TO REFER TO THE VOTERS OF THE CITY OF GOLD BEACH, OREGON, A TAX ON RETAIL SALES OF RECREATIONAL MARIJUANA IN THE CITY OF GOLD BEACH AND ADOPTING A BALLOT TITLE AND EXPLANATORY STATEMENT

WHEREAS, Section 4 of the Gold Beach Charter of 1986 provides:

> The City has all powers that the constitutions, statutes, and common law of the United States and of this state expressly or impliedly grant or allow municipalities, as fully as though this charter specifically enumerated each of those powers; and

WHEREAS, ORS 475B.345 allows the City of Gold Beach to impose a city tax of up to 3% on retail sales of recreational marijuana items within the City if the city tax is approved by the voters of the City at general election; and

WHEREAS, the Gold Beach City Council desires to impose a tax on the sale of recreational marijuana items by marijuana retailers in the City;

NOW, THEREFORE, THE CITY OF GOLD BEACH RESOLVES AS FOLLOWS:

Section 1. A city election is called for the purpose of submitting to the qualified electors of the City of Gold Beach an ordinance imposing up to a three percent (3%) tax on sales of marijuana items by licensed recreational marijuana retailers within the City of Gold Beach, a copy of which is attached to this Resolution as Exhibit A and incorporated into this Resolution by reference.

Section 2. The ballot title for this measure shall be as follows:

CAPTION: City tax on recreational marijuana retailers' sale of marijuana items

QUESTION: Shall Gold Beach impose a tax on sales of marijuana items by recreational marijuana retailers in the city?

SUMMARY: If adopted by the voters, this measure would impose a city 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 Gold Beach. The City Council would have the authority to set the

amount of the tax, but under no circumstances would the tax exceed three percent of the retail sales price of a marijuana item. The tax would be collected from consumers by recreational marijuana retailers at the point of sale. Recreational marijuana retailers would remit the tax to the City. The city tax would be imposed in addition to any state taxes on the sale of marijuana items. The city tax would not be imposed on medical marijuana sales.

Section 3. The City Council orders this City election to be held in the City of Gold Beach, Oregon, concurrently with the general election, on the 8th day of November, 2016, in accordance with the provisions of Chapter 254 of the Oregon Revised Statutes. The ballots shall be counted and tabulated and the results certified as provided by law.

Section 4. The election shall be conducted by Curry County. The County Clerk for Curry County is hereby instructed to prepare ballots and to take other actions necessary to conduct the election.

Section 5. If a majority of the legal voters of the City voting on this measure approve this measure, the ordinance attached as Exhibit A to this Resolution shall take effect on January 1, 2017.

Section 6. The explanatory statement for this measure attached as Exhibit B to this Resolution is hereby approved by the Council.

Section 7. This Resolution, including the proposed ballot title and explanatory statement, shall be delivered to the City Recorder on the date of its adoption.

Section 8. The City Recorder shall give notice of this measure as required by law and take such other actions and otherwise proceed with the election as provided by law and so as to carry out the purposes of this Resolution.

Section 9. This Resolution shall become effective immediately upon its adoption.

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON, and EFFECTIVE THIS 11th DAY OF JULY, 2016.

APPROVED BY:

Karl Popoff, Mayor

ATTEST:

Jodi Fritts, City Administrator/City Recorder

ORDINANCE NO. 659

IMPOSING A TAX ON RETAIL SALES OF RECREATIONAL MARIJUANA WITHIN THE CITY OF GOLD BEACH

WHEREAS, Section 4 of the Gold Beach Charter of 1986 provides:

> The City has all powers that the constitutions, statutes, and common law of the United States and of this state expressly or impliedly grant or allow municipalities, as fully as though this charter specifically enumerated each of those powers; and

WHEREAS, ORS 475B.345 allows the City of Gold Beach to impose a local tax of up to 3% on retail sales of recreational marijuana items within the City if the local tax is approved by the voters of the City at a general election; and

WHEREAS, the City of Gold Beach desires to impose a tax on the sale of recreational marijuana items by marijuana retailers in the City;

NOW THEREFORE, THE CITY OF GOLD BEACH ORDAINS AS FOLLOWS:

SECTION 1. DEFINITIONS.
The following words and phrases as used in this Ordinance shall have the following meanings:

A. "City" means the City of Gold Beach.

B. "Tax Administrator" means the City Administrator of the City of Gold Beach, the City Administrator's designee, and/or another individual or entity designated by the City to collect the tax on behalf of the City.

C. "Consumer" means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.

D. "Marijuana item" means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts as defined in ORS 475B.015.

E. "Marijuana retailer" means a person licensed under ORS 475B.110 who sells marijuana items to a consumer in the State of Oregon.

F. "Person" means individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.

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

SECTION 2. TAX IMPOSED.

The City of Gold Beach hereby imposes a tax on each marijuana item sold to a consumer within the City of Gold Beach by a marijuana retailer. The Gold Beach City Council shall set the tax rate by resolution; however, the tax rate adopted by the City Council shall not exceed three percent (3%) of the retail sale price for each marijuana item sold. The tax constitutes a debt owed by the consumer to the City and shall be extinguished only by payment to the marijuana retailer or to the City.

SECTION 3. COLLECTION.

The consumer shall pay the tax to the marijuana retailer at the time of the purchase or sale of the marijuana item. Every marijuana retailer shall collect the tax from the consumer at the time of the sale of a marijuana item. The tax collected by the marijuana retailer shall be held in trust by the marijuana retailer for payment to the City. The marijuana retailer shall remit the tax to the Tax Administrator. The Tax Administrator is authorized to exercise all supervisory and administrative powers with regard to the administration, collection and enforcement of the tax authorized by this Ordinance.

SECTION 4. ACCOUNTING AND RECORDS.

A. Every marijuana retailer must keep and preserve, in a generally accepted accounting format used for reporting revenue and taxes due on business activity, detailed records of all sales made and all taxes collected. Every marijuana retailer must keep and preserve such records for a period of six (6) years. The Tax Administrator shall have the right to inspect all such records at reasonable times.

B. For purposes of determining the accuracy of any tax return or for the purpose of an estimate of taxes due, the Tax Administrator may examine any books, papers, records, or memoranda bearing upon the marijuana retailer's tax returns, including

copies of the marijuana retailer's state and federal income tax returns and copies of the marijuana retailer's state marijuana tax returns. All books, invoices and other records shall be made available within the City for examination by the Tax Administrator during regular business hours.

SECTION 5. PENALTIES AND INTEREST

A. Any marijuana retailer who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Ordinance prior to delinquency shall pay a penalty of ten percent of the amount of the tax due in addition to the amount of the tax.

B. Any marijuana retailer who has not been granted an extension of time for remittance of tax due, and who fails to pay any delinquent remittance on or before a period of thirty days following the date on which the remittance first becomes delinquent shall pay a second delinquency penalty of fifteen percent of the amount of the tax due plus the amount of the tax and the ten percent penalty first imposed.

C. If the Tax Administrator determines that the nonpayment of any remittance due under this Ordinance is due to fraud or intent to evade the provisions of this Ordinance, a penalty of twenty-five percent of the amount of the tax shall be added the amount of the remittance due, in addition to the penalties stated in subsections A and B of this section.

D. In addition to the penalties imposed, any marijuana retailer who fails to remit any tax imposed by this Ordinance shall pay interest at the rate of one-half of one percent per month or fraction thereof, without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first becomes delinquent, until paid.

E. Every penalty imposed and any interest that accrues under the provisions of this Ordinance shall be merged with, and become a part of, the tax required to be paid.

SECTION 6. APPEAL

A. Any person aggrieved by any decision of the Tax Administrator may appeal to the City Administrator by filing a notice of appeal with the Tax Administrator within ten days of the date the notice of the decision is served or mailed. The Tax Administrator shall fix a time and place for hearing the appeal and shall give the appellant ten days' written notice of the time and place of the hearing.

B. Any person aggrieved by any decision of the City Administrator under subsection A of this Section may appeal to the Council by filing a notice of appeal with the Tax Administrator within ten days of the date the City Administrator's decision is served or mailed. The Tax Administrator shall transmit the notice, together with the file of the appealed matter, to the Council, who shall fix a time and place for hearing the appeal. The Council shall give the appellant not less than ten days written notice of the time and place of hearing the appeal.

SECTION 7. REFUND

Whenever the amount of any tax imposed under this Ordinance has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within three years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the Tax Administrator approves the claim, the excess amount collected or paid may be refunded to, or may be credited on any amounts then due and payable from, the marijuana retailer from whom it was collected or by whom it was paid, and the balance may be refunded to the marijuana retailer or the marijuana retailer's administrators, executors or assignees.

SECTION 8. SEVERABILITY. Any provision of this Ordinance which proves to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision of this Ordinance, and the remaining provisions of this Ordinance shall remain in full force and effect.

SECTION 9. CODIFICATION. If this Ordinance becomes effective as provided by Section 10 below, the City Recorder is hereby authorized and directed to codify Sections 1 through 8 of this ordinance in an appropriate Title of the Gold Beach Municipal Code and to change the word "Ordinance" to "Chapter" as appropriate when codified.

SECTION 10. EFFECTIVE DATE. If approved by a majority of the voters of the City of Gold Beach at the statewide general election held on Tuesday, November 8, 2016, this ordinance shall take effect on **January 1, 2017**.

Explanatory Statement

If this measure is approved by the voters of the City of Gold Beach, the City will impose a tax on sales of marijuana items (including marijuana flowers, marijuana concentrates, marijuana edibles and marijuana extracts) by recreational marijuana retailers licensed by the Oregon Liquor Control Commission (OLCC) and located within the City of Gold Beach. The City Council would have the authority to set the amount of the city tax, but the city tax could not exceed three percent of the retail sales price of a marijuana item.

The city tax would be collected from consumers by the recreational marijuana retailer at the point of sale. The recreational marijuana retailer would then remit the tax to the City.

The City would be able to use the revenues generated by this tax for any city purpose.

If approved, this city tax would be imposed in addition to any state marijuana taxes. This city tax would not be imposed on medical marijuana sales.