

**CITY OF FLORENCE  
RESOLUTION NO. 16, SERIES 2016**

**A Resolution calling an election on November 8, 2016, to refer to the voters of the City of Florence, Oregon, tax on retail sales of recreational marijuana in the City of Florence and adopting a ballot title and explanatory statement.**

RECITALS:

1. Section 4, of the Charter of the City of Florence provides:

*The City shall have all powers that the constitutions, statutes and common law of the United States and the State of Oregon expressly or impliedly grant or allow municipalities as through this Charter specifically enumerated each of these powers.*

2. ORS 475B.345 allows the City of Florence 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 general election.
3. The Florence City Council desires to impose a tax on the sale of recreational marijuana items by marijuana retailers in the City.

Based on these findings,


THE CITY COUNCIL OF THE CITY OF FLORENCE RESOLVES AS FOLLOWS:

1. A city election is called for the purpose of submitting to the qualified electors of the City of Florence an ordinance imposing a tax on sales of marijuana items by licensed recreational marijuana retailers within the City of Florence. A copy of the proposed tax implementation ordinance is attached to this resolution as Exhibit 1, and includes implementing code (Exhibit A). This Ordinance is incorporated into this Resolution by reference.
2. The proposed ballot title prepared by the City Council for the measure is attached as Exhibit 2.
3. The City Council orders this City election to be held in the City of Florence, Oregon, concurrently with the general election, on the 8<sup>th</sup> 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.
4. The election shall be conducted by Lane County. The County Clerk for Lane County is hereby instructed to prepare ballots and to take other actions necessary to conduct the election.

5. If a majority of the legal voters of the City voting on this measure approve this measure, the ordinance attached as Exhibit 1 to this Resolution, shall take effect on January 1, 2017.
6. If the Lane County Clerk publishes a voters' pamphlet for the election, the explanatory statement for this measure attached as Exhibit 2 to this Resolution is hereby approved by the Council.
7. This Resolution, including the proposed ballot title and explanatory statement, shall be delivered to the City Recorder on the date of its adoption.
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.
9. This Resolution takes effect immediately upon adoption.

ADOPTION:

This Resolution is passed and adopted on the 11<sup>th</sup> day of July, 2016.

  
\_\_\_\_\_  
Joe Henry, Mayor

Attest:

  
\_\_\_\_\_  
Kelli Weese, City Recorder

**Resolution No. 16, Series 2016 - Exhibit 1**

**CITY OF FLORENCE  
ORDINANCE NO. 10, SERIES 2016**

**An Ordinance establishing a tax on retail sales of recreational marijuana in the  
City of Florence and amending Title 3, Chapter 11 of the  
Florence City Code.**

**RECITALS:**

1. Section 4, of the Charter of the City of Florence provides:

*The City shall have all powers that the constitutions, statutes and common law of the United States and the State of Oregon expressly or impliedly grant or allow municipalities as through this Charter specifically enumerated each of those powers.*

2. ORS 475B.345 allows the City of Florence to impose a local tax 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.
3. The City of Florence desires to impose a tax on the sale of recreational marijuana items by marijuana retailers in the City.

Based on these findings,

**THE CITY OF FLORENCE ORDAINS AS FOLLOWS:**

1. The Florence City Code Chapter 11 of Title 3, is amended as shown in Exhibit A.
2. If approved by a majority of the voters of the City of Florence at the statewide general election held on Tuesday, November 8, 2016, this ordinance shall take effect on January 1, 2017.
3. The City Recorder is authorized to administratively correct any reference errors contained herein or in other provisions of the Florence City Code to the provisions added, amended, or repealed herein.
4. Severability: Any provision of this Ordinance which provides 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.

**Exhibit A**  
**ORDINANCE NO. 10, SERIES 2016**

*Additions are shown in double underline and deletions are shown as strike-out.*  
**[Change Directions are shown in Bold within Brackets]**

TITLE 3  
CHAPTER 11

**RETAIL TAX ON MARIJUANA ITEMS**

SECTION:

- 3-1-1: Definitions
- 3-1-2: Tax Imposed
- 3-1-3: Collection
- 3-1-4: Accounting and Records
- 3-1-5: Penalties and Interest
- 3-1-6: Appeal
- 3-1-7: Refund

**3-1-1: DEFINITIONS:** For the purpose of this Chapter, certain words, terms and phrases are defined as follows:

CITY	The City of Florence
TAX ADMINISTRATOR	City Manager of the City of Florence, the City Manager's designee, and/or another individual or entity designated by the City to collect tax on behalf of the City.
CONSUMER	A person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.
MARIJUANA ITEM	Marijuana, cannabinoid product, cannabinoid concentrates and cannabinoid extracts as defined in ORS 475B.015.
MARIJUANA RETAILER	A person licensed under ORS 475B.110 who sells marijuana items to a consumer in the State of Oregon.
PERSON	Individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.
RETAIL SALE PRICE	The total consideration paid to a marijuana retailer for a marijuana item by or on behalf of a consumer, excluding any tax.

**3-11-2: TAX IMPOSED:** The City of Florence hereby imposes a tax on each marijuana item sold to a consumer within the City of Florence by a marijuana retailer. The Florence City Council shall set the tax rate by resolution; however, the tax rate adopted by the City Council shall not exceed the maximum rate allowed under state law. Until such time as the City Council may lower the tax rate by resolution, the initial tax rate shall be three percent (3%) of the retail sale price for each marijuana item sold. The tax constitutes a debt owned by the consumer to the City and shall be extinguished only by payment to the marijuana retailer or to the City.

**3-11-3: 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 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.

**3-11-4: 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 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.

**3-11-5: 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 Chapter prior to delinquency shall pay a penalty of ten percent of this 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 Chapter is due to fraud of intent to evade the provisions of this Chapter, a penalty of twenty-five percent of the amount of the tax shall be added to 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 Chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof, without proration for portions of a month, or 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 Chapter shall be merged with, and become a part of, the tax required to be paid.

**3-11-6: APPEAL:**

- A. Any person aggrieved by any decision of the Tax Administrator may appeal to the City Manager 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 Manager 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 City Manager'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.

**3-11-7:**       **REFUND:** Whenever the amount of any tax imposed under this Chapter 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.

**Exhibit 2**  
**RESOLUTION No. 16, SERIES 2016**

**BALLOT MEASURE TITLE AND EXPLANATORY STATEMENT**

CAPTION:

City tax on recreational marijuana retailers' sale of marijuana items

QUESTION:

Shall Florence 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 Florence. The City Council would have the authority to set the amount of the tax, but under no circumstances would the tax exceed the amount allowed by state law which is currently 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. Revenue collected from the tax would be available for the City to use for any City purpose.

EXPLANATORY STATEMENT:

If this measure is approved by the voters of the City of Florence, 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 Florence. The City Council would have the authority to set the amount of the city tax, but the city tax could not exceed the amount allowed by state law which is currently set at 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.

Revenue raised by the tax will be deposited in the City General Fund and may be used for any City purpose.

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