RESOLUTION NO. 1451

A RESOLUTION CALLING AN ELECTION ON NOVEMBER 8, 2016, TO REFER TO THE VOTERS OF THE CITY OF MT. ANGEL, OREGON, A BAN ON MEDICAL MARIJUANA PROCESSING SITES, MEDICAL MARIJUANA DISPENSARIES, RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND RECREATIONAL MARIJUANA RETAILERS WITHIN THE CITY; AND ADOPTING A BALLOT TITLE AND EXPLANATORY STATEMENT.

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;

WHEREAS, on December 7, 2015, the Mt. Angel City Council adopted Ordinance No. 745, which prohibits the establishment of marijuana processing sites, medical marijuana dispensaries, marijuana producers, marijuana processors, marijuana wholesalers, and marijuana retailers in the area subject to the jurisdiction of the city;

NOW, THEREFORE, THE CITY OF MT. ANGEL RESOLVES AS FOLLOWS:

Section 1. A city election is called for the purpose of submitting to the qualified electors of the city of Mt. Angel a ban on marijuana processing sites, medical marijuana dispensaries, marijuana producers, marijuana processors, marijuana wholesalers, and marijuana retailers within the city of Mt. Angel.

Section 2. If the measure is adopted by the voters of the city of Mt. Angel, the following language included in Ordinance No. 745, shall take effect on December 8, 2016:

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 marijuana 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.

BAN DECLARED. As described in section 134 of House Bill 3400 (2015), the City of Mt. Angel hereby prohibits the establishment of the following marijuana facilities in the area subject to the jurisdiction of the city:

(a) Marijuana processing sites;
(b) Medical marijuana dispensaries;
(c) Marijuana producers;
(d) Marijuana processors;
(e) Marijuana wholesalers;
(f) Marijuana retailers.

Section 3. The ballot title for this measure shall be as follows:

CAPTION: Prohibiting Certain Recreational and Medical Marijuana Facilities in Mt. Angel

QUESTION: Shall Mt. Angel prohibit medical marijuana processing sites, medical marijuana dispensaries, marijuana producers, marijuana processors, marijuana wholesalers and marijuana retailers?

SUMMARY: If adopted by the voters, this measure would prohibit the establishment of medical marijuana processing sites, medical marijuana dispensaries, marijuana producers, marijuana processors, marijuana wholesalers and marijuana retailers within the city of Mt. Angel. This measure would not prohibit medical marijuana grows within the city. If this measure is approved by the voters, under current state law the City of Mt. Angel would not be eligible to receive distributions of state marijuana tax revenues, or to adopt a city tax on recreational retail marijuana sales.

Section 4. The City Council orders this City election to be held in the city of Mt. Angel, 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 5. The election shall be conducted by Marion County. The County Clerk for Marion County is hereby instructed to prepare ballots and to take other actions necessary to conduct the election.

Section 6. If a majority of the legal voters of the city voting on this measure approve the the language of Section 2 of this Resolution shall take effect December 8, 2016.

Section 7. The explanatory statement for this measure attached as Exhibit A to this Resolution is hereby approved by the City Council.

Section 8. This Resolution, including the proposed ballot title and explanatory statement shall be delivered to the City Recorder on the date of its adoption in accordance with Section 23.05(E) of the Mt. Angel Municipal Code.

Section 9. 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.

Section 10. This Resolution shall become effective immediately upon its adoption.

FILING WITH COUNTY ELECTIONS OFFICE. The City Recorder shall deliver the Notice of Measure Election to the County Clerk for Marion County for inclusion on the ballot for the November 8, 2016 general election.

EFFECTIVE DATE. This resolution is effective upon adoption.

Passed by the City Council this 7th day of December, 2015, by the following vote:

AYES: 7 **NAYS: 0**

APPROVED BY THE MAYOR this 7th day of December, 2015.

Andrew Otte, Mayor

ATTESTED BY:

Eileen Stein, City Manager

EXHIBIT A

Explanatory Statement

The Oregon Medical Marijuana Act, as amended by the Legislature in 2015, provides that the Oregon Health Authority will register medical marijuana processing sites and medical marijuana dispensaries. Medical marijuana processing sites 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. Measure 91, approved by Oregon voters in 2014 and by the Legislature in 2015, provides that the Oregon Liquor Control Commission will license recreational marijuana producers (those who manufacture, plant, cultivate, grow or harvest marijuana), recreational marijuana processors, recreational marijuana wholesalers, and recreational marijuana retailers.

A city council may adopt an ordinance prohibiting the establishment of medical marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and recreational marijuana retailers within the city, but the council must refer the ordinance to the voters at a statewide general election. The Mt. Angel City Council has adopted an ordinance prohibiting the establishment of medical marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and recreational marijuana retailers within the city and, as a result, has referred this measure to the voters.

If approved, this measure would prohibit the establishment of medical marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and recreational marijuana retailers within the city. [Medical marijuana processors and medical marijuana dispensaries that were registered with the state before the city council adopted the ordinance, and medical marijuana dispensaries that had applied to be registered on or before July 1, 2015, can continue operating in the city even if this measure is approved, if those entities have successfully completed a local land use application process.]

Approval of this measure would impact City revenues. Ten percent of state marijuana tax revenues will be distributed to cities to assist local law enforcement in performing their duties under Measure 91. If approved, this measure would make the City of Mt. Angel ineligible to receive any distributions of state marijuana tax revenues.

In addition, cities may impose up to a three percent tax on retail sales of recreational marijuana in the city. However, a city that adopts an ordinance prohibiting the establishment of medical marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and recreational marijuana 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 of Mt. Angel city imposing the three percent city tax on recreational marijuana retail sales.