

## **ORDINANCE NO. 350-2016**

### **AN ORDINANCE OF THE CITY OF HUBBARD REPEALING ORDINANCE 341-2014 AND IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER AND REFERRING ORDINANCE.**

#### **Findings**

- A. On September 29, 2014, the Hubbard City Council adopted Ordinance No. 341-2014 imposing a ten percent tax on the sale or transfer of marijuana and marijuana-infused products within the city.
- B. The Oregon state legislature subsequently passed ORS 475B.345, which purportedly preempts the City from imposing any tax or fee on the sale of marijuana items other than imposing up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city if such a tax is approved by the voters of the city.
- C. Under state law, a city that adopts an ordinance prohibiting the establishment of medical marijuana processors, medical marijuana dispensaries, or recreational marijuana producers, processors, wholesalers, or retailers may not impose a tax or fee on the sale of marijuana items by a licensed marijuana retailer.
- D. The Hubbard City Council adopted Ordinance No. 348-206 on June 14, 2016, prohibiting the establishment of marijuana facilities and, pursuant to ORS 475B.800, referred the ordinance to the electorate at the statewide general election in November 2016.
- E. Pursuant to ORS 475B.800, if the ballot measure prohibiting marijuana facilities in Hubbard does not pass by a majority of the votes in the November 2016 election, marijuana facilities will be allowed to establish in Hubbard.
- F. Consistent with ORS 475B.345, the Hubbard City Council wishes to impose a three percent tax on the sale of marijuana items by a marijuana retailer in the city if marijuana facilities are allowed to establish in the city.
- G. The City Council desires to repeal the previously adopted ten percent tax, which is now purportedly preempted by state law.

**Based on these findings, the City of Hubbard ordains as follows:**

**Section 1: Definitions.**

“Marijuana item” has the meaning given that term in ORS 475B.015(16).

“Marijuana retailer” means a person who holds a license under ORS 475B.110 and sells marijuana items to a consumer in this state.

“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.

**Section 2: Tax Imposed.** As authorized by ORS 475B.345, the City of Hubbard hereby imposes a tax of three percent on the retail sale price of all marijuana items sold by a marijuana retailer in the city.

**Section 3: 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. If approved by voters, the Council shall take actions necessary to implement the tax.

**Section 4: Referral.** This ordinance shall be referred to the electors of Hubbard at the next statewide general election on Tuesday, November 8, 2016.

**Section 5: Repeal.** Ordinance No. 341-2014 is hereby repealed.

**Section 6: Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause does not affect the validity of the remaining sections, subsections, paragraphs or clauses.

**Section 7: Savings.** Notwithstanding any amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, remain valid and in full force and effect for purposes of all cases filed or commenced during the times this ordinance or portions thereof were operative.

**Section 8. Effective date.** This ordinance shall be effective from and after 30 days following its adoption by the Council.

**WHEREUPON,** the Mayor declared the motion to be carried and the ordinance adopted. The foregoing ordinance was passed by the Hubbard City Council this 12<sup>th</sup> day of July 2016.

**AYES:** \_\_\_\_\_  
**NAYES:** \_\_\_\_\_  
**ABSENT:** \_\_\_\_\_

**CITY OF CITY OF HUBBARD, OREGON**

**By:** \_\_\_\_\_  
**Jim Yonally, Mayor**

**ATTEST:**

**By:** \_\_\_\_\_  
**Vickie L. Nogle, MMC**  
**Director of Administration/City Recorder**

**APPROVED BY CITY ATTORNEY:**

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**Beery Elsner and Hammond LLP**