

**MISSION STATEMENT: TO PROVIDE A SAFE, HEALTHFUL AND SOUND ECONOMIC ENVIRONMENT,
PROGRESSIVELY ENHANCING OUR QUALITY OF LIFE**



**COUNCIL MEETING AGENDA
CITY COUNCIL – CITY OF ONTARIO OREGON
TUESDAY, AUGUST 7, 2018, 5:30 PM, MT**

Pursuant to the Public Meetings Laws and Rules within the Oregon Revised Statutes, the City Council has the authority, ability, and standing to take action on any items on the Agenda, or add items to the Agenda, during the Study Session or Regular Meeting, as long as all public meeting notice requirements have been met.

1) CALL TO ORDER

Roll Call: Tessa Winebarger ____ Dan Capron ____ Marty Justus ____ Ramon Palomo ____
Betty Carter ____ Norm Crume ____ Mayor Ron Verini ____

2) PLEDGE OF ALLEGIANCE

This Agenda was posted on Monday, August 6, 2018. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website at www.ontariooregon.org.

3) MOTION TO ADOPT THE AGENDA

4) PUBLIC COMMENTS Citizens may address the Council; however, Council may not be able to provide an immediate answer or response. Our of respect to the Council and others in attendance, please limit your comment to three (3) minutes. Please state your name and city of residence for the record.

5) NEW BUSINESS

A) Resolution #2018-132: A Resolution Rejecting Initiative #11-2018-2-I so as to Allow City of Ontario Voters to Vote on the Initiative at the November 6, 2018, General Election

6) CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS

7) ADJOURN



**AGENDA REPORT
NEW BUSINESS
August 7, 2018**

To: Mayor and City Council

FROM: Larry Sullivan, City Attorney

THROUGH: Adam J. Brown, City Manager

SUBJECT: **RESOLUTION #2018-132: A RESOLUTION REJECTING INITIATIVE #11-2018-2-I SO AS TO ALLOW CITY OF ONTARIO VOTERS TO VOTE ON THE INITIATIVE AT THE NOVEMBER 6, 2018, GENERAL ELECTION**

DATE: August 6, 2018

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE RESOLUTION 2018-132, A RESOLUTION REJECTING INITIATIVE 11-2018-2-I SO AS TO ALLOW CITY OF ONTARIO VOTERS TO VOTE ON THE INITIATIVE AT THE NOVEMBER 6, 2018, GENERAL ELECTION.

SUMMARY:

The City Recorder has determined that the petitioners of Initiative Petition 11-2018-2-I have gathered enough qualified signatures of Ontario electors to allow the Initiative to be filed with the City Council for its review under ORS 250.325, which is discussed more fully below.

Initiative 11-2018-2-I proposes to do the following if approved by the voters:

1) It allows marijuana-related businesses in Ontario that are currently banned. Title 3, Chapter 23 of the Ontario Municipal Code currently bans a number of marijuana-related businesses. It amends Chapter 23 to allow State-licensed medical marijuana dispensaries, recreational marijuana retailers, and recreational marijuana producers, processors and wholesalers.

2) It creates a mandatory annual business licensing and registration program with various license requirements for all marijuana-related businesses;

3) It imposes a 3% local sales tax on all marijuana items sold by marijuana retailers, to be used for general government purposes; and

4) It includes provisions for the City to enforce the marijuana business licensing program and the collection of the 3% tax.

BACKGROUND:

See Summary

CURRENT SITUATION:

Now that Initiative Petition 11-2018-2-I has gathered sufficient signatures to be placed on the ballot, it is the City Recorder's obligation under ORS 250.325(1) to file the initiative with the City Council for its deliberation under ORS 250.325(2) and (3), which provide:

(2) The governing body, not later than the 30th day after the measure is filed with it, may adopt or reject the measure unless the measure is required to be submitted to city electors under the city charter or state law. If the measure is not adopted, or the measure is required to be submitted to city electors under the city charter or state law, it shall be submitted to city electors on the next available election date in ORS 221.230 held not sooner than the 90th day after the measure was filed with the city governing body.

(3) The governing body may refer a competing measure to city electors at the same election at which the initiated measure is submitted. If the governing body refers a competing measure to city electors, it must prepare the measure not later than the 30th day after the initiated measure is filed with it. The mayor shall not have the power to veto an initiated measure or a competing measure.

To summarize ORS 250.325(2) and (3), these provisions give the City Council the options of 1) adopting the initiative, or 2) rejecting the initiative, or 3) rejecting the initiative and referring a competing measure to city electors. Those options are analyzed below under "Policy/Legal".

ANALYSIS:

- A. **FINANCIAL** Financial implications depend on the outcome of the election. If the voters reject the initiative, this will maintain the status quo and preserve the Municipal Code sections banning marijuana businesses, with no new financial implications for the City. If the voters approve the Initiative, the City would collect a 3% sales tax on recreational marijuana sales in the city limits. In addition to being able to collect the 3% sales tax, the City would also be eligible for a share of State of Oregon marijuana tax revenues arising from the 17% state tax on recreational marijuana sales. Oregon distributes 10% of those revenues to cities that allow recreational marijuana sales, with a particular city's prorated share determined by population and the number of licensed recreational marijuana retail outlets. Voter approval could also cause indirect financial effects by increasing the workload of various City departments, such as law enforcement. None of those effects can be quantified at this time.

- B. **TIMING** To place Initiative 11-2018-2-I on the ballot for the November 6, 2018, election, the City Council must pass Resolution 2018-132 by August 7, 2018, in order to provide the County election officials with the ability to schedule it as a November 6, 2018, ballot measure.
- C. **POLICY/LEGAL** As stated above, ORS 250.325(2) gives the Council the option of adopting or rejecting the initiative. "Adopting the initiative" under ORS 250.325(2) means that the Council accepts the initiative and agrees to have the Initiative language become part of the Municipal Code, without holding an election. This is normally what would happen if a city council adopts an initiative. However, this is in conflict with ORS 475B.491, which does not allow a city in Oregon to "adopt" a measure imposing a 3% sales tax on marijuana sales without referring it to the voters for an election. Because ORS 475B.491 specifically deals with the procedure to be followed by cities to adopt a 3% sales tax on marijuana items, adopting this particular initiative would not avoid an election on the 3% tax. It is not possible for the Council to choose to adopt this initiative without having an election on the 3% tax issue.

The alternative is to reject the initiative, which will place the entire initiative on the ballot for a straight "yes" or "no" vote on allowing marijuana businesses in Ontario with a 3% sales tax on recreational marijuana items. If the voters approve the initiative, this will also result in approval of the 3% tax.

If the City Council rejects the initiative, it may also place a competing referral measure on the ballot under ORS 250.325(3). City staff is preparing an ordinance for consideration by the Council for the August 9, 2018, work session, which deals only with the 3% sales tax. This would be a competing measure under ORS 250.325(3), whose only purpose would be to insure that the sales tax complies with the measure referral language of ORS 475B.491. To be on the November 6, 2018, ballot, any competing measure would have to be approved by the Council by August 17, 2018, to get on the same ballot as Initiative 11-2018-2-I.

ALTERNATIVES:

- 1) Vote to adopt the Initiative by Motion. Instead of approving Resolution 11-2018-2-I rejecting the initiative, the Council has the option under ORS 350.325(2) of passing a motion to adopt the initiative instead. Staff has not prepared a separate resolution with this option because of the obvious negative consequence of doing so; namely, immediately overturning the City's ban on marijuana businesses, but without imposing the 3% tax on recreational sales of marijuana items.

2. Table the Resolution. ORS 325.250(2) does not give a city council the option of taking no action when it is reviewing an initiative with enough signatures to qualify for the ballot. The Council would have to take some affirmative action with respect to Initiative 11-2018-2-I. As discussed above, the options under ORS 325.250(2) are to either adopt the reject the initiative. This does not prevent the Council from tabling the resolution for up to 30 days. The effect of tabling the resolution would be to prevent the Initiative from being on the November 6, 2018, ballot.

RECOMMENDATION:

Staff recommends Staff recommends that the City Council approve Resolution #2018-132.

ATTACHMENTS:

1. Resolution #2018-132 Rejecting Initiative 11-2018-2-I
2. SEL802 - Initiative 11-2018-2-I 08-07-2018



RESOLUTION #2018-132

A RESOLUTION REJECTING INITIATIVE 11-2018-2-I SO AS TO ALLOW CITY OF ONTARIO VOTERS TO VOTE ON THE INITIATIVE AT THE NOVEMBER 6, 2018, GENERAL ELECTION

- WHEREAS,** The City Recorder and City Attorney have determined that the petitioners of Initiative Petition 11-2018-2-I have met the requirements of Oregon law to circulate Initiative Petition 11-2018-2-1 for the signatures of Ontario residents who are qualified electors; and
- WHEREAS,** The petitioners have done so, and the City Recorder has determined that Initiative 11-2018-2-I has received enough qualified signatures of Ontario electors to be filed with the City Council for its review under ORS 250.325; and
- WHEREAS,** ORS 250.325 provides the City Council with the options of adopting Initiative 11-2018-2-I, rejecting the Initiative, or referring to the voters a competing measure; and
- WHEREAS,** In order for Initiative 11-2018-2-1 to be placed on the November 6, 2018, ballot, the City Council must act on the Initiative by no later than August 7, 2018; and
- WHEREAS,** A special meeting was called for August 7, 2018, for the City Council to review Initiative 11-2018-2-1; and
- WHEREAS,** The City Council finds that it is in the best interest of the City to allow the voters of the City to vote on whether to approve Initiative 11-2018-2-1, which can be done only if the City Council rejects Initiative 11-2018-2-1 under ORS 250.325; and
- WHEREAS,** It should be the responsibility of the voters to approve or disapprove Initiative 11-2018-2-I, therefore the City Council takes no formal position with respect to the Initiative.

NOW, THEREFORE, BE IT RESOLVED by the Ontario City Council:

1. The City Council hereby rejects Initiative 11-2018-2-I so that it may be placed on the ballot at the election on November 6, 2018.
2. The City Council approves the ballot title for Initiative 11-2018-2-I in form SEL 802 "Notice of Measure Election" attached hereto as Exhibit 1.
2. The City Council directs city staff, the City Recorder and the City Attorney to do all things necessary to allow Initiative 11-2018-2-I at said election.

PASSED AND ADOPTED by the Ontario City Council this 7th day of August, 2018, by the following vote:

Ayes:

Nays:

Absent:

APPROVED by the Mayor this 7th day of August, 2018.

ATTEST:

Ronald Verini, Mayor

Tori Barnett, MMC, City Recorder

Notice of Measure Election City

SEL 802rev 01/18 ORS 250.035, 250.041,
250.275, 250.285, 254.095, 254.465**Notice****Date of Notice****Name of City or Cities****Date of Election**

Final Ballot Title The following is the final ballot title of the measure to be submitted to the city's voters. The ballot title notice has been published and the ballot title challenge process has been completed.

Caption 10 words which reasonably identifies the subject of the measure.

Question 20 words which plainly phrases the chief purpose of the measure.

Summary 175 words which concisely and impartially summarizes the measure and its major effect.

Explanatory Statement 500 words that impartially explains the measure and its effect.

If the county is producing a voters' pamphlet an explanatory statement must be drafted and attached to this form for:

→ any measure referred by the city governing body; **or**

→ any initiative or referendum, if required by local ordinance.

Explanatory Statement Attached?

☐ Yes

☐ No

Authorized City Official Not required to be notarized.

Name**Title****Mailing Address****Contact Phone**

By signing this document:

→ I hereby state that I am authorized by the city to submit this Notice of Measure Election; **and**

→ I certify that notice of receipt of ballot title has been published and the ballot title challenge process for this measure completed.

Signature**Date Signed**