



# CITY OF EAGLE POINT

*"Gateway to the Lakes"*

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## OREGON

### EAGLE POINT CITY COUNCIL

Council Chambers  
17 Buchanan Ave. South, Eagle Point, Oregon  
October 13, 2015

### REGULAR MEETING AGENDA

1. CALL TO ORDER – 7:00 P.M.
2. FLAG SALUTE AND INVOCATION
3. AUDIENCE QUESTIONS OR COMMENTS CONCERNING ITEMS NOT ON THE AGENDA
4. PRESENTATIONS
  - 4.1 Presentation by Pauly, Rodgers, and Co., P.C., regarding 2014-2015 Annual Comprehensive Financial Report (CAFR) and Audit Report.
5. PUBLIC HEARINGS
  - 5.1 Public Hearing in the matter of declaring a ban on medical marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesales, and recreational marijuana retailers; referring Ordinance to the voters; and declaring an emergency.
  - 5.2 Public Hearing in the matter of referral to the Electors of the City of Eagle Point the question of imposing a three percent tax on the sale of marijuana items by a marijuana retailer within the City of Eagle Point.
  - 5.3 Public Hearing in the matter of amending Ordinance No. 2014-06, an Ordinance establishing a tax on the sale of marijuana and marijuana-infused products in the City of Eagle Point.

*If a physical accommodation is needed to participate in this meeting, please contact the City Recorder at 541-826-4212 ext. 106 or TTY/TDD 711 or 800-735-2900. Notification of at least 48 hours prior to the meeting will assist the City in providing reasonable accommodations. (28 CFR 35.102-35.104 ADA Title II).*

**City of Eagle Point Council Meeting Agenda**

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6. CONSENT CALENDAR

6.1 Presentation of Regular Meeting Minutes of September 22, 2015.

7. CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

8. PRESENTATION OF BILLS TO BE PAID

9. OLD BUSINESS

9.1 Examination of USDA Water Reservoir Alternatives, Part II – (Civil West Engineering).

10. NEW BUSINESS

10.1 Ordinance No. 2015-06. An Ordinance of the City of Eagle Point declaring a ban on medical marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesales, and recreational marijuana retailers; referring Ordinance; and declaring an emergency.

10.2 Resolution No. 2015-52. A Resolution referring Ordinance No. 2015-06, an Ordinance of the City of Eagle Point declaring a ban on medical marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesales, and recreational marijuana retailers; referring Ordinance to the voters; and declaring an emergency.

10.3 Ordinance No. 2015-07. An Ordinance of the City of Eagle Point imposing a three percent tax on the sale of marijuana items by a marijuana retailer within the City of Eagle Point.

10.4 Resolution No. 2015-53. A Resolution referring Ordinance No. 2015-07, an Ordinance of the City of Eagle Point imposing a three percent tax on the sale of marijuana items by a marijuana retailer within the City of Eagle Point.

10.5 Ordinance No. 2015-08, amending Ordinance No. 2014-06, an Ordinance establishing a tax on the sale of marijuana and marijuana-infused products in the City of Eagle Point.

10.6 Resolution No. 2015-54. A Resolution authorizing the installation of Eagle Point directional signs on Interstate 5.

**City of Eagle Point Council Meeting Agenda**

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11. REPORTS FROM CITY COUNCIL AND CITY COMMITTEE REPRESENTATIVES
12. STAFF REPORTS
13. INFORMATION
14. EXECUTIVE SESSION PURSUANT TO ORS 192.660(2)(i), To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.
15. ADJOURN

*AGENDA AND COUNCIL PACKETS ALSO AVAILABLE ON WEBSITE*

*[www.cityofeaglepoint.org](http://www.cityofeaglepoint.org)*

**BUSINESS OF THE CITY COUNCIL  
EAGLE POINT, OREGON**

**AGENDA STATEMENT**

**Item Number:** 5.1, 10.1 and 10.2  
**Meeting Date:** October 13, 2015

**ITEM TITLE:** Public Hearing in the matter of declaring a ban on medical marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesales, and recreational marijuana retailers; referring Ordinance to the voters; and declaring an emergency.

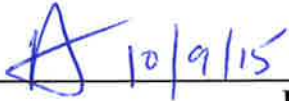
**Ordinance No. 2015-06.** An Ordinance of the City of Eagle Point declaring a ban on medical marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesales, and recreational marijuana retailers; referring Ordinance to the voters; and declaring an emergency.

**Resolution No. 2015-52.** A Resolution referring Ordinance No. 2015-06, an Ordinance of the City of Eagle Point declaring a ban on medical marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesales, and recreational marijuana retailers; referring Ordinance to the voters; and declaring an emergency.

**SUBMITTED BY:** Joe Kellerman, City Attorney.

**SUMMARY EXPLANATION:** House Bill 3400 allows cities to adopt an ordinance to refer to voters that would prohibit medical marijuana processors, medical marijuana dispensaries, recreational marijuana producers, processors, wholesalers, and retailers. If the ordinance is adopted, the State will not license any marijuana businesses until the next statewide general election (Fall 2016). Adoption of the ordinance is effectively a moratorium on state registration (medical) and licensing (recreational), which is a prerequisite to operation. If the voters reject the ordinance, then the State will resume registration and licensing. If the voters ratify the ordinance, then the marijuana businesses are prohibited locally and the State will not issue registrations or licenses.

**FINANCIAL IMPACT:** If the City adopts the ordinance, the City will be ineligible to receive statewide marijuana tax revenue shares and may be unable to tax local sales of marijuana. It is unknown how much lost revenue that would be.

<p><b>APPROVED FOR SUBMITTAL:</b>  10/9/15</p> <p style="text-align:right"><b>Henry Lawrence, City Administrator</b></p>
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**STAFF RECOMMENDATION:** Staff recommends adoption of this Ordinance. Following adoption, a Resolution is required by State law for the Ordinance to be referred to voters for the Fall 2016 election that would prohibit medical marijuana processors, medical marijuana dispensaries, recreational marijuana producers, processors, wholesalers, and retailers.

**ORDINANCE NO. 2015-06**

**AN ORDINANCE OF THE CITY OF EAGLE POINT DECLARING A BAN ON MEDICAL MARIJUANA PROCESSING SITES, MEDICAL MARIJUANA DISPENSARIES, RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND RECREATIONAL MARIJUANA RETAILERS; REFERRING ORDINANCE; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Oregon Medical Marijuana Act, as amended by House Bill 3400 (2015) provides that the Oregon Health Authority will register medical marijuana processing sites and medical marijuana dispensaries; and

**WHEREAS**, Measure 91, which the voters adopted in November 2014, directs the Oregon Liquor Control Commission to license the production, processing, wholesale, and retail sale of recreational marijuana; and

**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; and

**WHEREAS**, the city council desires to refer the question of whether to prohibit recreational marijuana producers, processors, wholesalers, and retailers, as well as medical marijuana processors and medical marijuana dispensaries to the voters of Eagle Point.

Now, therefore,

**BASED ON THE FOREGOING, THE CITY OF EAGLE POINT ORDAINS AS FOLLOWS:**

**DEFINITIONS.**

Marijuana means either of the following: 1) the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae; or 2) any plant meeting the definition of “marijuana” as defined in the Oregon Revised Statutes or any legislative enactment of the State of Oregon.

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 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 Eagle Point hereby prohibits the establishment and operation of the following in the City of Eagle Point:

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

REFERRAL. This ordinance shall be referred to the electors of the City of Eagle Point at the next statewide general election.

EMERGENCY. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect on passage.

ADOPTED by the City Council and signed in authentication of its adoption this 13th day of October, 2015.

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Robert E. Russell, Mayor

ATTEST:

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Cindy Hughes, City Recorder

**RESOLUTION NO. 2015-52**

**A RESOLUTION APPROVING REFERAL TO THE ELECTORS OF THE CITY OF EAGLE POINT THE QUESTION OF BANNING MEDICAL MARIJUANA PROCESSING SITES, MEDICAL MARIJUANA DISPENSARIES, RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND RECREATIONAL MARIJUANA RETAILERS WITHIN THE CITY OF EAGLE POINT.**

**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; and

**WHEREAS**, the City of Eagle Point City Council adopted Ordinance No. 2015-06, which prohibits the establishment of medical marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and recreational marijuana retailers in the City of Eagle Point.

Now, therefore,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EAGLE POINT, OREGON, AS FOLLOWS:**

1. **MEASURE.** A measure election is hereby called for the purpose of submitting to the electors of the City of Eagle Point a measure prohibiting the establishment of certain marijuana activities in the City of Eagle Point, a copy of which is attached hereto as "Exhibit 1" and incorporated herein by reference.
2. **ELECTION CONDUCTED BY MAIL.** The measure election shall be held in the City of Eagle Point on November 8, 2016. As required by ORS 254.465, the measure election shall be conducted by mail by the County Clerk of Jackson County, according to the procedures adopted by the Oregon Secretary of State.
3. **DELEGATION.** The City of Eagle Point authorizes the City Manager, or designee, to act on behalf of the City and to take such further action as is necessary to carry out the intent and purposes set forth herein, in compliance with the applicable provisions of law.
4. **BALLOT TITLE.** The ballot title for the measure set forth in "Exhibit 2" to this Resolution is hereby adopted.
5. **NOTICE OF BALLOT TITLE AND RIGHT TO APPEAL.** Upon receiving the ballot title for this measure, the City Recorder shall publish in the next available edition of a newspaper of general circulation in the city a notice of receipt of the ballot title, including notice that an elector may file a petition for review of the ballot title.

6. EXPLANATORY STATEMENT. The explanatory statement for the measure, which is attached hereto as "Exhibit 3" and incorporated herein by reference, is hereby approved.
7. FILING WITH COUNTY ELECTIONS OFFICE. The City Recorder shall deliver the Notice of Measure Election to the county clerk for Jackson County for inclusion on the ballot for the November 8, 2016 election.
8. EFFECTIVE DATE. This resolution is effective upon passage.

Passed in open session on the 13th day of October, 2015.

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Robert E. Russell, Mayor

ATTEST:

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Cindy Hughes, City Recorder



# EXHIBIT 1

## ORDINANCE NO. 2015-06

**AN ORDINANCE OF THE CITY OF EAGLE POINT DECLARING A BAN ON MEDICAL MARIJUANA PROCESSING SITES, MEDICAL MARIJUANA DISPENSARIES, RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND RECREATIONAL MARIJUANA RETAILERS; REFERRING ORDINANCE; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Oregon Medical Marijuana Act, as amended by House Bill 3400 (2015) provides that the Oregon Health Authority will register medical marijuana processing sites and medical marijuana dispensaries; and

**WHEREAS**, Measure 91, which the voters adopted in November 2014, directs the Oregon Liquor Control Commission to license the production, processing, wholesale, and retail sale of recreational marijuana; and

**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; and

**WHEREAS**, the city council desires to refer the question of whether to prohibit recreational marijuana producers, processors, wholesalers, and retailers, as well as medical marijuana processors and medical marijuana dispensaries to the voters of Eagle Point.

Now, therefore,

**BASED ON THE FOREGOING, THE CITY OF EAGLE POINT ORDAINS AS FOLLOWS:**

DEFINITIONS.

Marijuana means either of the following: 1) the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae; or 2) any plant meeting the definition of “marijuana” as defined in the Oregon Revised Statutes or any legislative enactment of the State of Oregon.

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.

# EXHIBIT 1

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 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 Eagle Point hereby prohibits the establishment and operation of the following in the City of Eagle Point:

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

REFERRAL. This ordinance shall be referred to the electors of the City of Eagle Point at the next statewide general election.

EMERGENCY. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect on passage.

ADOPTED by the City Council and signed in authentication of its adoption this 13th day of October, 2015.

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Robert E. Russell, Mayor

ATTEST:

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Cindy Hughes, City Recorder

# EXHIBIT 2

## BALLOT TITLE

Prohibits certain marijuana registrants and licensees in Eagle Point.

## QUESTION

Shall Eagle Point prohibit medical marijuana processors, medical marijuana dispensaries, recreational marijuana producers, processors, wholesalers, and retailers?

## SUMMARY

State law allows operation of registered medical marijuana processors, medical marijuana dispensaries and licensed recreational marijuana producers, processors, wholesalers, and retailers. State law provides that a city council may adopt an ordinance to be referred to the voters to prohibit the establishment of any of those registered or licensed activities.

Approval of this measure would prohibit the establishment and operation of medical marijuana processors, medical marijuana dispensaries, recreational marijuana producers, processors, wholesalers, and retailers in the City of Eagle Point.

If this measure is approved, the City will be ineligible to receive distributions of state marijuana tax revenues and may be unable to impose a local tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated.

# EXHIBIT 3

## EXPLANATORY STATEMENT

Approval of this measure would prohibit the establishment and operation of certain marijuana activities within the city.

The Oregon Medical Marijuana Act, as amended by the Legislature in 2015, provides that the Oregon Health Authority will register medical marijuana processors and medical marijuana dispensaries. Medical marijuana processors 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), processors, wholesalers, and retailers.

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

If approved, this measure would prohibit medical marijuana processors, medical marijuana dispensaries, and recreational marijuana producers, processors, wholesalers, and retailers within the City.

Approval of this measure has revenue impacts. Currently, 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 ineligible to receive distributions of state marijuana tax revenues.

Under the 2015 legislation, a city may impose up to a three percent tax on the sale of marijuana items by a marijuana retailer in the city. However, 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 the 3% local tax on the production, processing or sale of marijuana or any product into which marijuana has been incorporated. Approval of this measure may also prevent the City from imposing its preexisting local tax on those activities.

**BUSINESS OF THE CITY COUNCIL  
EAGLE POINT, OREGON**

**AGENDA STATEMENT**

**Item Number:** 5.2, 10.3 and 10.4  
**Meeting Date:** October 13, 2015

**ITEM TITLE:** Public Hearing in the matter of referral to the Electors of the City of Eagle Point the question of imposing a three percent tax on the sale of marijuana items by a marijuana retailer within the City of Eagle Point.

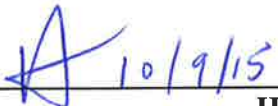
**Ordinance No. 2015-07.** An Ordinance of the City of Eagle Point imposing a three percent tax on the sale of marijuana items by a marijuana retailer and referring Ordinance.

**Resolution No. 2015-53.** A Resolution approving referral of Ordinance No. 2015-07 to the electors of the City of Eagle Point the question of imposing a three percent tax on the sale of marijuana items by a marijuana retailer within the City of Eagle Point.

**SUBMITTED BY:** Joe Kellerman, City Attorney.

**SUMMARY EXPLANATION:** House Bill 3400 (2015) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the City of Eagle Point. Ordinance No. 2015-07 follows, and if passed by the City Council, will impose the three percent tax. Resolution No. 2015-53 is the companion document sending Ordinance No. 2015-07 to the voters, if the Council passes the Ordinance. The ballot item would go to the voters at the next general statewide election in November 2016.

**FINANCIAL IMPACT:** unknown

**APPROVED FOR SUBMITTAL:**  10/9/15  
Henry Lawrence, City Administrator

**STAFF RECOMMENDATION:** Staff recommends adoption of this Ordinance. Following adoption, a Resolution is required by State law for the Ordinance to be referred to voters for the Fall 2016 election that would impose a three percent tax on the sale of marijuana items by a marijuana retailer and referring Ordinance.

**ORDINANCE NO. 2015-07**

**AN ORDINANCE OF THE CITY OF EAGLE POINT IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER AND REFERRING ORDINANCE.**

**WHEREAS**, section 34a of House Bill 3400 (2015) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the City of Eagle Point; and

**WHEREAS**, the City Council desires to impose a tax on the sale of marijuana items by a marijuana retailer in the City of Eagle Point.

Now, therefore,

**BASED ON THE FOREGOING, THE CITY OF EAGLE POINT ORDAINS AS FOLLOWS:**

**DEFINITIONS.**

Marijuana item has the meaning given that term in Oregon Laws 2015, chapter 614, section 1.

Marijuana retailer means a person who 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.

**TAX IMPOSED.** As described in section 34a of House Bill 3400 (2015), the City of Eagle Point hereby imposes a tax of three percent on the retail sale price of marijuana items by a marijuana retailer in the City of Eagle Point. The foregoing tax shall only be imposed if the electors of the City of Eagle Point do not vote to prohibit marijuana retailers at the next statewide general election.

**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.

**REFERRAL.** This ordinance shall be referred to the electors of the City of Eagle Point at the next statewide general election—Tuesday, November 8, 2016.

ADOPTED by the City Council and signed in authentication of its adoption this 13th day of October, 2015.

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Robert E. Russell, Mayor

ATTEST:

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Cindy Hughes, City Recorder

**RESOLUTION NO. 2015-53**

**A RESOLUTION APPROVING REFERAL TO THE ELECTORS OF THE CITY OF EAGLE POINT THE QUESTION OF IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER WITHIN THE CITY OF EAGLE POINT**

**WHEREAS**, section 34a of House Bill 3400 (2015) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the City of Eagle Point; and

**WHEREAS**, the City of Eagle Point City Council adopted Ordinance No. 2015-07, which imposes a tax of up to three percent on the sale of marijuana items by a marijuana retailer in the City of Eagle Point.

Now, therefore,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EAGLE POINT, OREGON, AS FOLLOWS:**

1. MEASURE. A measure election is hereby called for the purpose of submitting to the electors of the City of Eagle Point a measure imposing a three percent tax on the sale of marijuana items by a marijuana retailer in the City of Eagle Point, a copy of which is attached hereto as "Exhibit 1," and incorporated herein by reference.
2. ELECTION CONDUCTED BY MAIL. The measure election shall be held in the City of Eagle Point on November 8, 2016. As required by ORS 254.465, the measure election shall be conducted by mail by the County Clerk of Jackson County, according to the procedures adopted by the Oregon Secretary of State.
3. DELEGATION. The City of Eagle Point authorizes the City Manager, or the City Manager's designee, to act on behalf of the city and to take such further action as is necessary to carry out the intent and purposes set forth herein, in compliance with the applicable provisions of law.
4. PREPARATION OF BALLOT TITLE. The ballot title for the measure set forth in "Exhibit 2" to this Resolution is hereby adopted.
5. NOTICE OF BALLOT TITLE AND RIGHT TO APPEAL. Upon receiving the ballot title for this measure, the City Recorder shall publish in the next available edition of a newspaper of general circulation in the city a notice of receipt of the ballot title, including notice that an elector may file a petition for review of the ballot title.
6. EXPLANATORY STATEMENT. The explanatory statement for the measure, which is attached hereto as "Exhibit 3" and incorporated herein by reference, is hereby approved.

7. FILING WITH COUNTY ELECTIONS OFFICE. The City Recorder shall deliver the Notice of Measure Election to the county clerk for Jackson County for inclusion on the ballot for the November 8, 2016 election.
8. EFFECTIVE DATE. This resolution is effective upon passage.

Passed in open session on the 13th day of October, 2015.

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Robert E. Russell, Mayor

ATTEST:

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Cindy Hughes, City Recorder



# EXHIBIT 1

## ORDINANCE NO. 2015-07

### AN ORDINANCE OF THE CITY OF EAGLE POINT IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER AND REFERRING ORDINANCE.

**WHEREAS**, section 34a of House Bill 3400 (2015) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the City of Eagle Point; and

**WHEREAS**, the City Council desires to impose a tax on the sale of marijuana items by a marijuana retailer in the City of Eagle Point.

Now, therefore,

**BASED ON THE FOREGOING, THE CITY OF EAGLE POINT ORDAINS AS FOLLOWS:**

#### DEFINITIONS.

Marijuana item has the meaning given that term in Oregon Laws 2015, chapter 614, section 1.

Marijuana retailer means a person who 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.

**TAX IMPOSED.** As described in section 34a of House Bill 3400 (2015), the City of Eagle Point hereby imposes a tax of three percent on the retail sale price of marijuana items by a marijuana retailer in the City of Eagle Point. The foregoing tax shall only be imposed if the electors of the City of Eagle Point do not vote to prohibit marijuana retailers at the next statewide general election.

**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.

**REFERRAL.** This ordinance shall be referred to the electors of the City of Eagle Point at the next statewide general election—Tuesday, November 8, 2016.

ADOPTED by the City Council and signed in authentication of its adoption this 13th day of October, 2015.

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Robert E. Russell, Mayor

ATTEST:

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Cindy Hughes, City Recorder

# EXHIBIT 2

## BALLOT TITLE

Imposes tax on marijuana retailer's sale of marijuana items.

## QUESTION

Shall City of Eagle Point impose a three percent tax on the sale of marijuana items by a marijuana retailer?

## SUMMARY

Under state law, a city council may adopt an ordinance to be referred to voters of the city imposing up to a three percent tax on the sale of marijuana items in the city by a licensed marijuana retailer.

Approval of this measure would impose a three percent tax on the sale of marijuana items in the city by a licensed marijuana retailer. The tax would be collected at the point of sale and remitted by the marijuana retailer.

The city would not impose the tax if marijuana retailers are otherwise prohibited in the city.

# EXHIBIT 3

## EXPLANATORY STATEMENT

Approval of this measure would impose a three percent tax on the sale of marijuana items by a marijuana retailer within the city. If approved, the revenues from this tax are currently unknown. There are no restrictions on how the city may use the revenues generated by this tax.

Under Measure 91, adopted by Oregon voters in November 2014 and amended by the Legislature in 2015, the Oregon Liquor Control Commission must license the retail sale of recreational marijuana. The 2015 Legislation provides that a city council may adopt an ordinance imposing up to a three percent tax on the sale of marijuana items (which include marijuana concentrates, extracts, edibles, and other products intended for human consumption and use) by retail licensees in the city, but the council must refer that ordinance to the voters at a statewide general election. The City of Eagle Point City Council has adopted an ordinance imposing a three percent tax on the sale of marijuana items by a retail licensee in the City, and, as a result, has referred this measure to the voters.

However, this measure will become operative only if the ballot measure prohibiting the establishment of certain marijuana registrants and licensees fails. Under state law, a city that adopts an ordinance that prohibits the establishment in the area subject to the jurisdiction of the city of a medical marijuana processor, medical marijuana dispensary, or recreational marijuana producer, processor, wholesaler, or retailer may not impose a tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated. As a result, if the voters pass a prohibition ordinance, this tax measure will not become operative, even if it also receives a majority of votes.

**BUSINESS OF THE CITY COUNCIL  
EAGLE POINT, OREGON**

**AGENDA STATEMENT**

**Item Number:** 5.3, 10.5  
**Meeting Date:** October 13, 2015

**ITEM TITLE:** Public Hearing in the matter of Amending Ordinance No. 2014-06, an Ordinance establishing a tax on the sale of marijuana and marijuana-infused products in the City of Eagle Point.

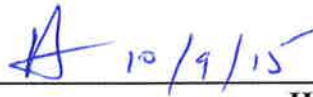
**Ordinance No. 2015-08.** An Ordinance amending Ordinance No. 2014-06, an Ordinance establishing a tax on the sale of marijuana and marijuana-infused products in the City of Eagle Point.

**SUBMITTED BY:** Joe Kellerman, City Attorney.

**SUMMARY EXPLANATION:** The City Council adopted Ordinance No. 2014-06 on September 23, 2014, which established a tax on the sale of marijuana and marijuana-infused products in the City of Eagle Point. Since that time, Council has been advised to amend the existing Ordinance and Municipal Code to include the words “or the maximum amount allowed under Oregon Law” to allow the City to collect related taxes at the maximum amount allowed by law. Presently, there are no sales or taxes being collected for marijuana or marijuana-infused products in the City of Eagle Point.

**FINANCIAL IMPACT:** Unknown.

**APPROVED FOR SUBMITTAL:**

 10/9/15

**Henry Lawrence, City Administrator**

**STAFF RECOMMENDATION:** Staff recommends adoption of this Ordinance.

**ORDINANCE NO. 2015-08**

**AMENDING ORDINANCE NO. 2014-06, AN ORDINANCE ESTABLISHING A TAX ON THE SALE OF MARIJUANA AND MARIJUANA-INFUSED PRODUCTS IN THE CITY OF EAGLE POINT.**

**WHEREAS**, the City Council adopted Ordinance No. 2014-06 on September 23, 2014; and

**WHEREAS**, the City Council desires to amend Ordinance No. 2014-06 to revise the language in Section 3.30.030 Levy of Tax, to allow taxes to be levied at the rate defined in the Municipal Code or the maximum amount allowed under Oregon law.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EAGLE POINT, OREGON, THAT:**

Ordinance No. 2014-06 and Eagle Point Municipal Code, Chapter 3.30, Section 3.30.030 Levy of Tax establishing a tax on the sale of marijuana and marijuana-infused products, shall be amended as shown below in italics and bold font to include the words “or the maximum amount allowed under Oregon Law”:

- A. There is hereby levied and shall be paid a tax by every seller exercising taxable privilege of selling marijuana and marijuana-infused products as defined in this chapter.
- B. The amount of tax levied is as follows:
  - 1. Five percent of the gross sale amount paid to the seller by a registry identification cardholder *(or the maximum amount allowed under Oregon law)*.
  - 2. Ten percent of the gross sale amount paid to the seller of marijuana and marijuana-infused products by individuals or entities who are not purchasing marijuana under the Oregon Medical Marijuana Program *(or the maximum amount allowed under Oregon law)*.
- C. The purchaser shall pay the tax to the seller at the time of the purchase or sale of marijuana.
- D. Upon the city council’s resolution or ordinance, the amount of the tax levied may be increased up to 25 percent *(or the maximum amount allowed under Oregon law)* of the gross sale of the amount paid to a seller by a registry identification cardholder, and also by individuals or entities not purchasing under the Oregon Medical Marijuana Program.

**ADOPTED** by Council and signed by me in authentication of its adoption this 13th day of October, 2015.

CITY OF EAGLE POINT

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Robert E. Russell, Mayor

ATTEST:

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Cindy Hughes, City Recorder