

ORDINANCE NO. 2016-01

AN ORDINANCE OF THE CITY OF LA PINE DECLARING A BAN ON RECREATIONAL MARIJUANA RETAILERS; REFERRING ORDINANCE; AND DECLARING AN EMERGENCY.

WHEREAS, Measure 91, which the voters adopted in November 2014, directs the Oregon Liquor Control Commission (“OLCC”) to license the retail sale of recreational marijuana; and

WHEREAS, Section 134, Chapter 614, Oregon Laws 2015 (HB 3400) allows a city to adopt an ordinance to be referred to the electors of the city prohibiting activities relating to the retail sale of recreational marijuana; and

WHEREAS, the La Pine City Council (the “Council”) desires to refer the question of whether to prohibit (ban) recreational marijuana retailers to the voters of the City of La Pine (“City”) at the next statewide general election held on November 8, 2016.

NOW, THEREFORE, the City of La Pine ordains as follows:

1. Findings. The above-stated findings are hereby adopted.
2. Short Title. This Ordinance No. 2016-01 may be referred to as the “Marijuana Banning Ordinance” and will be cited and referred to herein as this “Ordinance.”
3. Purpose. The purpose of this Ordinance is to minimize any adverse public safety and health impacts that may result from allowing recreational marijuana retailers to operate in City’s jurisdictional limits. Nothing contained in this Ordinance will be construed to limit any authority City may have to prohibit, regulate, and/or control the establishment and/or operation of recreational marijuana related facilities and/or activities in any area subject to City’s jurisdiction.
4. Ban Declared; Prohibited Activities. City hereby prohibits (bans) the establishment and/or operation of marijuana retailers required to be licensed under Section 22, Chapter 1, Oregon Laws 2015 in any area subject to City’s jurisdiction (the “Ban”).
5. Ban Application. The Ban imposed under this Ordinance applies to all decisions, actions, and/or recommendations by City, including, without limitation, the issuance of building permits, land use permits, business and regulatory licenses, and/or any other form of approval. This Ban extends to any decision by OLCC acting under Section 22, Chapter 1, Oregon Laws 2015.
6. Enforcement; Penalties. The Ban and this Ordinance will be enforced by any sworn peace officer authorized to enforce the laws of City and any other City official authorized to administer City’s land use, development, nuisance, building, and/or other regulations. In addition, City may initiate appropriate suit or legal action in a court of competent jurisdiction to enforce this Ordinance. Any violation of this Ordinance is punishable by a fine not to exceed \$500.00 per violation. City will be entitled to collect from any person violating this Ordinance City’s attorney fees and other fees, costs, and expenses incurred by City to enforce this Ordinance. Each violation, and each day that a violation continues, constitutes a separate civil infraction. The remedies available under this Ordinance are not exclusive of any other remedies available under any applicable federal, state, and/or local laws,

regulations, and/or ordinances. It is within City's discretion to seek cumulative remedies for a violation of this Ordinance.

7. Notice to OLCC. City's city manager or city attorney will notify OLCC of City's adoption of this Ordinance and will provide the text of this Ordinance to OLCC in a manner prescribed by OLCC.

8. Referral. This Ordinance will be referred by council resolution to City's electors at the next statewide general election held on Tuesday, November 8, 2016.

9. Interpretation; Severability; Errors. This Ordinance supersedes all City ordinances, resolutions, and/or policies to the extent such ordinances, resolutions, and/or policies are in conflict with this Ordinance. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, rule, regulation, code, or ordinance includes the law, rule, regulation, code, or ordinance as now in force and which may hereafter be amended. The provisions of this Ordinance are hereby declared severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the Council to cure editorial and/or clerical errors.

10. Emergency Declaration. The Council finds that passage of this Ordinance is necessary for the immediate preservation of the peace, health, and safety of City's citizens. Therefore, an emergency is hereby declared to exist. This emergency Ordinance will be in full force and effect upon its passage and adoption by the Council and approval of the mayor.

This Ordinance was PASSED and ADOPTED by the La Pine City Council by a vote of ___ for and ___ against and APPROVED by the mayor on this ___ day of _____, 2016.

Ken Mulenex, Mayor

ATTEST:

Richard L. Allen, City Manager