

STATE OF COLORADO }
 } SS.
 County of Grand }

At a regular meeting of the Board of County Commissioners for Grand County, Colorado, held at the Grand County Administration Building in Hot Sulphur Springs on Tuesday, the 21st day of August, 2018, there were present:

Merrit Linke _____, Commissioner Chairman
Kristen Manguso _____, Commissioner
Richard D. Cimino _____, Commissioner
Robert Franek _____, County Attorney
Lee A. Staab _____, County Manager
Sara L. Rosene _____, Clerk of the Board

when the following proceedings, among others, were had and done, to wit:

RESOLUTION NO. 2018-8-22

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO REFERRING TO THE REGISTERED ELECTORS OF GRAND COUNTY, COLORADO, A BALLOT QUESTION REGARDING WHETHER THE COUNTY MAY IMPOSE AN EXCISE TAX ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY LOCATED IN GRAND COUNTY

WHEREAS, Article X, Section 20 of the Colorado Constitution requires any proposed increase in taxes to be approved by the voters; and

WHEREAS, Article XVIII, Section 16 of the Colorado Constitution and the Colorado Retail Marijuana Code, C.R.S. 12-43.4-101, et seq. authorize the licensing and regulation of retail marijuana businesses and affords local government the option to determine whether or not to allow marijuana businesses within their respective jurisdictions, and to adopt licensing requirements that are supplemental to or more restrictive than the requirements set forth in state law and regulations; and

WHEREAS, the Board of County Commissioners of the County of Grand, State of Colorado (the "Board") may adopt future ordinances and/or regulations allowing and establishing licensing requirements for marijuana businesses in Grand County; and

WHEREAS, C.R.S. § 29-2-114 (1)(a) provides, in part, that:

In addition to any sales tax imposed pursuant to section 29-2-103 and articles 26 and 28.8 of title 39, and in addition to the excise tax imposed pursuant to article 28.8 of title 39, each county in the state is authorized to levy, collect, and enforce a county excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility authorized by the county; except that a county is not authorized to levy, collect, and enforce a county excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility pursuant to this subsection (1) within any municipality that levies such an excise tax pursuant to subsection (2) of this section. Such excise tax must be calculated based on the average market rate of the unprocessed retail marijuana. The tax shall be imposed at the time when the retail marijuana cultivation facility first sells or transfers unprocessed retail marijuana from the retail marijuana cultivation facility to a retail marijuana product manufacturing facility, a retail marijuana store, or another retail marijuana cultivation facility...; and

WHEREAS, C.R.S. § 29-2-114 (1)(b) provides, in part, that "No excise tax shall be levied pursuant to the provisions of paragraph (a) of this subsection (1) until the proposal has been referred to and approved by the eligible electors of the county..."; and

WHEREAS, the Board finds that the eligible voters of Grand County should be given the opportunity to determine whether Grand County should levy, collect and enforce an excise tax pursuant to C.R.S. § 29-2-114 at the next scheduled general election, with the revenues collected from such tax to be placed in the general fund and in the road and bridge fund, and used for public safety, road construction, general government purposes, and any other lawful purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO, THAT:

1. Purpose of this Resolution: The purpose of this Resolution is, upon the approval of a majority of the eligible electors voting on such Proposal at the November, 2018 General Election, to enact, and therefore, levy and impose a Marijuana Excise Tax.
2. Imposition and Effective Date of Marijuana Excise Tax: If a Marijuana Excise Tax is approved by a majority of the eligible electors voting thereon at the November, 2018 General Election, a Marijuana Excise Tax levied throughout the County shall be imposed and become effective on January 1, 2019, pursuant to C.R.S. §§29-2-106(2) and 39-26-104(2)(c).
3. Rate and Calculation of Tax: The Marijuana Excise Tax shall be five percent (5%) of the average market rate on the first sale or transfer of Unprocessed Retail Marijuana by a retail marijuana cultivation facility located within unincorporated Grand County. If revenues exceed the estimate, the excess revenue shall be retained. For purposes of this Resolution, the average market rate is the same as determined by the State of Colorado Department of Revenue.
4. All First Transfers Subject to Tax: For purposes of the Marijuana Excise Tax, the first sale or transfer of Unprocessed Retail Marijuana includes a transfer where no money or other valuable consideration is exchanged. Transfers subject to the Marijuana Excise Tax also include those where a Retail Marijuana Cultivation Facility first transfers Unprocessed Retail Marijuana to a commonly owned Retail Marijuana Establishment even when that Establishment is located on the same or adjacent premises as the original Retail Marijuana Cultivation Facility.
5. Statutory Definitions Incorporated: Except as specifically defined in this Resolution, the definitions of the words contained herein shall be as set forth in C.R.S. §§ 39-26-102, 39-26-201, 39-26- 701, and 12-43.4-103, which definitions are incorporated by reference into this Resolution as if fully set forth herein.
6. Collection of Revenue: If approved by the electors, the Marijuana Excise Tax shall be remitted monthly to the County. The revenue will be placed within the general fund and the road and bridge fund.
7. Adoption of Rules and Regulations: The imposition of this Marijuana Excise Tax shall be in accordance with the rules and regulations of the Colorado Department of Revenue, and in accordance with any regulations of Grand County, which may be enacted by separate written resolution or ordinance.
8. Place of Sale or Transfer: For purposes of this Resolution, the first sale or transfer of Unprocessed Retail Marijuana shall be considered consummated at the Retail Marijuana Cultivation Facility from which the first transfer takes place. The gross receipts from such transfer shall include delivery charges, when such charges are subject to the sales and use tax of the State of Colorado imposed by article 26 of title 39, C.R.S., regardless of the place to which delivery is made.
9. Cultivator Records and Remittance of Tax: All Retail Marijuana Cultivation Facilities are charged with keeping appropriate records of the sales and transfers subject to

the Marijuana Excise Tax, filing a return, and paying to the County the tax owed on a monthly basis. A Retail Marijuana Cultivation Facility that fails to pay the full amount the tax owed to the County shall be personally liable to the County for the amount of the tax and all interest and additional amounts imposed pursuant to this Resolution, the Enabling Legislation, or future regulations adopted by the County.

10. Administration of Tax: The Board is permitted to establish additional procedures necessary for the collection and administration of the Marijuana Excise Tax.

11. Notice to State upon Approval: If a Marijuana Excise Tax is approved by the electorate at November, 2018 General Election, the Clerk shall send notice of the adoption of a Marijuana Excise Tax to the Executive Director of the Department of Revenue. Such notice shall include:

- a. A copy of this Resolution, certified by the Clerk;
- b. Affidavits of Publication of this Resolution, as provided herein; and
- c. An abstract of election results, certified as to the approval of the Marijuana Excise Tax by a majority of the registered, qualified electors of Grand County voting thereon.

12. Use by County: The Board shall direct the utilization of the revenues of the Marijuana Excise Tax proposed by this Resolution solely as described in the ballot measure referred to the voters of Grand County by this Resolution. Effective January 1, 2019, the County shall expend all revenue generated from the Marijuana Excise Tax for the purposes listed on the ballot language in the attached Exhibit A of this Resolution and for no other purposes. Revenue generated from the Marijuana Excise Tax shall be used as follows:

Public safety, road construction, general government purposes, and any other lawful purpose.

13. Distribution of Proceeds of Marijuana Excise Tax: In order to carry out the purposes expressed in Paragraph 12 above the County shall retain all revenue generated by this Marijuana Excise Tax for the sole and exclusive use for the purposes described in Paragraph 12.

14. Submission to Electors: The proposed Marijuana Excise Tax as set forth in this Resolution shall be referred to the eligible electors of Grand County at the November, 2018 General Election to be held Tuesday, November 6, 2018. The ballot issue to be submitted to the eligible electors shall be substantially as set forth in the attached Exhibit A.

15. Publication of Resolution: The Clerk is hereby authorized and directed to publish the text of this proposal for a Marijuana Excise Tax four separate times, a week apart, in the Middle Park Times, a newspaper circulated in Grand County and in each incorporated town within the County.

16. Conduct of the Election: The election shall be held and conducted and the results thereof shall be determined, so far as practicable, in conformity with the provisions of the Colorado Uniform Election Code of 1992 as set forth in Articles 1 through 13, inclusive, of Title 1, C.R.S.

17. Ballot Title: For purposes of C.R.S. §1-11-203.5, the ballot title for the ballot issue contained in the attached Exhibit A of this Resolution is hereby determined to be the text of the ballot issue itself set forth in the attached Exhibit A.

18. Authority to Effect Resolution: The officers, employees and agents of the County are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution in accordance with Colorado law.

19. Severability. If any part or provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provisions or application, it being the intent of the Board of County Commissioners of the County of Grand, State of Colorado that the provisions of this Resolution are severable.

EXHIBIT A: BALLOT QUESTION

The following ballot question shall be submitted to a vote of the registered electorate of Grand County at a general election to be held on November 6, 2018:

SHALL GRAND COUNTY, COMMENCING JANUARY 1, 2019, INCREASE TAXES BY \$155,000.00 ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED THEREAFTER AS AUTHORIZED BY COLORADO REVISED STATUTES 29-2-114 THROUGH THE IMPOSITION OF AN EXCISE TAX OF 5% OF THE AVERAGE MARKET RATE, AS DETERMINED BY THE COLORADO DEPARTMENT OF REVENUE, ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY LOCATED WITHIN UNINCORPORATED GRAND COUNTY, WITH SUCH REVENUES TO BE DEPOSITED INTO THE GENERAL FUND AND THE ROAD AND BRIDGE FUND AND BE USED AS DETERMINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO TO FUND PUBLIC SAFETY, ROAD CONSTRUCTION, GENERAL GOVERNMENT PURPOSES, AND ANY OTHER LAWFUL PURPOSE; AND SHALL SUCH EARNINGS THEREON BE COLLECTED, RETAINED, AND EXPENDED AS A VOTER-APPROVED REVENUE CHANGE WITHOUT LIMITATION OR CONDITION UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, OR ANY OTHER LAW?

_____ YES _____ NO

Upon motion duly made the foregoing resolution was adopted by the following vote:

M. Paul Aye
Kristen Mangus Aye
M. [Signature] Aye

Commissioners

STATE OF COLORADO }
 } SS.
 County of Grand }

I,, County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Order is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Grand County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Hot Sulphur Springs, this day of A.D. 20.....

County Clerk and ex-officio Clerk of the Board of Commissioners.

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