

**TOWN OF ORCHARD CITY
RESOLUTION NO. 2018-02**

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF ORCHARD CITY, COLORADO, SUBMITTING A BALLOT ISSUE TO THE REGISTERED ELECTORS OF THE TOWN OF ORCHARD CITY, COLORADO, AT THE MUNICIPAL ELECTION TO BE HELD ON APRIL 3, 2018, CONCERNING WHETHER THE TOWN OF ORCHARD CITY SHOULD LEVY MUNICIPAL SALES, EXCISE, AND OCCUPATION TAXES ON MARIJUANA-RELATED SALES, SHOULD SUCH SALES BE LICENSED.

WHEREAS, subsection (1)(a) of Section 29-2-115, C.R.S., finds and declares that statutory municipalities may enact an additional “special sales tax” specific to the sale of retail marijuana and retail marijuana products;

WHEREAS, subsection (1)(a) of Section 29-2-115, C.R.S requires that any additional special sales tax obtain voter approval;

WHEREAS, any special sales tax cannot be collected, administered or enforced by the Colorado Department of Revenue, but shall instead be collected, administered, and enforced by the municipality imposing the tax; and

WHEREAS, subsection (2)(a) of Section 29-2-114, C.R.S., provides that in addition to any sales tax imposed pursuant to Section 29-2-102, C.R.S. and Articles 26 and 28.8 of Title 39, C.R.S., and in addition to the excise tax imposed pursuant to Article 28.8 of Title 39, C.R.S., each municipality in the state is authorized to levy, collect and enforce a municipal excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility; and

WHEREAS, said municipal excise tax is imposed at the time when the retail marijuana cultivation facility first sells or transfers unprocessed retail marijuana from the retail cultivation facility to a retail store or a retail products manufacturing facility; and

WHEREAS, said municipal excise tax imposed by any statutory municipality may not exceed five percent (5%) of the average market rate, as determined by the Colorado Department of Revenue pursuant to Section 39-28.8-101(1), C.R.S. of the unprocessed retail marijuana; and

WHEREAS, any municipal excise tax cannot be collected, administered or enforced by the Colorado Department of Revenue, but shall instead be collected, administered, and enforced by the municipality imposing the tax; and

WHEREAS, no municipal excise tax shall be levied pursuant to the provisions of subsection (2)(a) of Section 29-2-114, C.R.S. until the proposal has been referred to and approved by the eligible electors of the municipality in accordance with the provisions of Article 10 of Title 31, C.R.S.; and

WHEREAS, subsection (1)(c) of Section 31-15-501, C.R.S., provides that each municipality in the state has the power to license, regulate, and tax any and all lawful occupations and places of business; and

WHEREAS, subsection (1)(c) of Section 31-15-501, C.R.S., authorizes each municipality to levy occupational taxes for the privilege of conducting certain types of business and to fix the amount, terms, and manner of such occupational tax; and

WHEREAS, said occupational privilege tax may be imposed on any licensed medical and/or retail marijuana establishments operating within the municipality; and

WHEREAS, the Board of Trustees finds that is it necessary and appropriate to submit a ballot issue to a vote of the registered electors of the Town of Orchard City at the municipal election to be held on April 3, 2018, concerning the imposition of a municipal sales tax on the sale of retail marijuana and retail marijuana products; a municipal excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility; and an occupation tax on sales transactions by any retail marijuana store, cultivation facility, and any retail product manufacturing facility.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ORCHARD CITY, COLORADO:

Section 1. The following ballot issue, or something substantially similar, shall be submitted to a vote of the registered electors of the Town of Orchard City at the municipal election to be held on April 3, 2018:

"Municipal sales tax on retail marijuana, excise tax on the first sale or transfer of retail marijuana by a retail marijuana cultivation facility, and an occupation tax on marijuana":

SHALL THE TOWN OF ORCHARD CITY TAXES BE INCREASED \$130,000.00 ANNUALLY COMMENCING JANUARY 1, 2019, AND BY SUCH OTHER AMOUNT AS MAY BE RAISED ANNUALLY IN EACH YEAR THEREAFTER, BY THE IMPOSITION OF: (1) IMPOSITION OF A SALES TAX OF UP TO FIVE PERCENT (5.0%) ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WHICH SHALL BE IN ADDITION TO ANY MUNICIPAL SALES TAX ON SUCH SALES, (2) AN EXCISE TAX ON THE SALE OR TRANSFER OF RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY TO ANOTHER LICENSED RETAIL MARIJUANA ESTABLISHMENT AT A RATE OF UP TO FIVE 5 PERCENT (5%), AND (3) AN OCCUPATION TAX UP TO \$10.00 FOR EACH SALES TRANSACTION BY ANY MEDICAL MARIJUANA ESTABLISHMENT, RETAIL MARIJUANA STORE, ANY RETAIL MARIJUANA CULTIVATION FACILITY AND ANY RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY WITHIN THE TOWN ORCHARD CITY;

WITH SUCH TAXES BEING CONTINGENT ON THE TOWN OF ORCHARD CITY LICENSING THE ASSOCIATED MARIJUANA-RELATED ACTIVITY, AND WITH THE

REVENUES OF SUCH TAXES DIRECTED TO A PUBLIC HEALTH AND SAFETY FUND FOR THE FOLLOWING PURPOSES:

- 1) FUNDING ROAD CONSTRUCTION, OPERATION, MAINTENANCE, REPAIR, REPLACEMENT, EXPANSION, REHABILITATION AND RENOVATION OF EXISTING AND PLANNED STREETS, INCLUDING BUT NOT LIMITED TO ARTERIAL, COLLECTOR AND LOCAL STREETS, CURBS, GUTTERS, SIDEWALKS, SHOULDERS, AND MEDIAN, AND FOR PUBLIC WORKS OPERATIONS EQUIPMENT, AND
- 2) FUNDING LAW ENFORCEMENT SERVICES, SUCH AS CONTRACTING WITH A SEPARATE AGENCY FOR LAW ENFORCEMENT SERVICES (INCLUDING BUT NOT LIMITED TO THE DELTA COUNTY SHERIFF'S DEPARTMENT), AS WELL AS LAW ENFORCEMENT OPERATIONAL EXPENSES, SUPPLIES, EQUIPMENT AND CAPITAL EXPENDITURES RELATING TO PUBLIC SAFETY;

AND SHALL SUCH TAX REVENUES BE COLLECTED, RETAINED, AND SPENT AS A VOTER APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Yes:

No:"

Section 2. All actions heretofore taken (not inconsistent with the provisions of this resolution) by the Town and officers thereof, directed toward the election and the objects and purposes herein stated are hereby ratified, approved, and confirmed.

Section 3. The officers and employees of the Town are hereby authorized and directed to take all other actions necessary or appropriate to effectuate the provisions of this resolution. As applicable, the Board hereby appoints Melissa Oelke, the Town Administrator, as the Designated Election Official, and she is hereby authorized and directed to proceed with any action necessary or appropriate to effectuate the provisions of this resolution and of Colorado statutory law, constitutional law, or other applicable laws.

READ AND ADOPTED at a regular meeting of the Board of Trustees of the Town of Orchard City, Colorado, the 10th of January 2018.

Ken Volgamore, Mayor

Melissa Oelke, Town Clerk