

CITY OF LEADVILLE, COLORADO
RESOLUTION 12
Series of 2015

A RESOLUTION OF THE CITY OF LEADVILLE SETTING THE BALLOT TITLE FOR A BALLOT ISSUE TO IMPOSE A NEW EXCISE TAX OF 5% OF THE AVERAGE MARKET RATE AS DETERMINED BY THE COLORADO DEPARTMENT OF REVENUE WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY COMMENCING JANUARY 1, 2018, WITH THE RATE OF SUCH EXCISE TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF SUCH TAX DOES NOT EXCEED 10%; AND DIRECTING THAT THE BALLOT ISSUE BE SUBMITTED AT THE COORDINATED ELECTION TO BE HELD NOVEMBER 3, 2015

WHEREAS, the City of Leadville, Colorado (the "City"), is a municipal corporation duly organized and operating as a statutory municipality under the Constitution and laws of the State of Colorado; and

WHEREAS, on November 6, 2012, the voters of Colorado approved the adoption of Amendment 64, *Personal Use and Regulation of Marijuana*, of the Colorado Constitution which added Section 16 to Article XVIII of the Colo. Constitution; and

WHEREAS, the Colorado legislature passed and the governor signed into law HB13-1317, which has come to be known as the "Colorado Retail Marijuana Code," codified at Article 43.4 of Title 12 of the Colorado Revised Statutes; and

WHEREAS, pursuant to the Taxpayer's Bill of Rights, Article X, Section 20 of the Colorado Constitution (known as the "TABOR Amendment") the City may not adopt a new tax until and unless the question has been approved by a majority of the voters at a City election; and

WHEREAS, Section 1-41-103, C.R.S., provides that a local government question involving a matter arising under the TABOR Amendment, including but not limited to approval of a new tax, may be submitted to the voters of the municipality at a local election to be held on the first Tuesday of November of each year; and

WHEREAS, the City Council finds and determines that there should be submitted to the registered electors of the City, at a regular City election to be held on November 3, 2015, in conjunction with the coordinated election to be held on that date, the question of whether, effective January 1, 2018, the City should levy and collect an excise tax upon the sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facilities, at the rate of five percent (5%) of the average market rate of the unprocessed retail marijuana, with approval to increase such rate up to ten percent (10%) by ordinance without need for additional voter approval, pursuant to the authority provided in the Colorado Retail Marijuana Code, the revenues from such new excise tax to be exempt from the revenue and spending limitations of TABOR; and

WHEREAS, Section 31-11-111(2), C.R.S., provides that the City Council or its designee shall fix a ballot title for the referred measure set forth in Section 1 of this ordinance; and

WHEREAS, the City Council has determined that it should fix the ballot title for the referred measure set forth in Section 1 of this ordinance.

WHEREAS, in accordance with TABOR, governmental entities are limited in the amount of revenue that they can collect, retain and spend from year to year based generally on the limitation from the prior year multiplied by a factor that includes annual inflation plus the percentage increase in real property valuation within the jurisdiction (this limitation on revenue and spending is hereinafter referred to as the "TABOR Revenue Cap"); and

WHEREAS, nothing contained in this Resolution is intended to alter any currently effective voter approval to collect, retain and spend excess revenues over the TABOR Revenue Cap, such that a failure of this ballot issue will not result in a reversal of any previously obtained voter approval; and

WHEREAS, pursuant to the criteria for ballot titles set forth in Section 31-11-111, C.R.S., in fixing this ballot title the City Council finds that the titles set forth herein are not misleading, clearly identify the effect of a "yes" or "no" vote, do not conflict with the title of any other measure that will appear on the ballot, and correctly and fairly express the true intent and meaning of the measures.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LEADVILLE, COLORADO, THAT:

Section 1. Submission of Ballot Issue. An election shall be held as part of the coordinated state-wide election on Tuesday, November 3, 2015, at which there shall be submitted to the eligible electors of the City, a ballot issue authorizing a City excise tax, which ballot issue shall be in substantially the following form:

SHALL CITY OF LEADVILLE TAXES BE INCREASED, COMMENCING JANUARY 1, 2018, BY \$150,000 ANNUALLY IN THE FIRST FISCAL YEAR ENDING DECEMBER 31, 2018, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING A NEW EXCISE TAX OF 5% OF THE AVERAGE MARKET RATE AS DETERMINED BY THE COLORADO DEPARTMENT OF REVENUE WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY; WITH THE RATE OF SUCH EXCISE TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF SUCH TAX DOES NOT EXCEED 10%, AND SHALL ALL REVENUES DERIVED FROM SUCH EXCISE TAX BE COLLECTED AND SPENT, AS A VOTER APPROVED REVENUE CHANGE, NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION, ARTICLE 1 OF TITLE 29, COLORADO REVISED STATUTES, OR ANY OTHER LAW?

___ YES

___ NO

Section 2. Prior Approvals Unaffected. Nothing in this Resolution or the ballot titles or question shall amend, alter, impair, or affect the prior voter approvals of, and permanent exemptions approved for, the City's revenues.

Section 3. Ballot Title. For purposes of C.R.S. § 31-11-111, this Resolution shall serve to set the title and content for the ballot questions set forth herein and the ballot titles for such questions shall be the text of the questions themselves.

Section 4. Uniform Election Code. The City Council approves the utilization of the provisions of the Uniform Election Code for the election on the proposed excise tax to be held on November 3, 2015, in coordination with Lake County.

Section 5. Certification of Ballot Question. Consistent with this Ordinance, the City Clerk shall certify the ballot issue to the County Clerk and Recorder for inclusion on the ballot to be voted by the registered electors of the City of Leadville, Colorado. The City Clerk is authorized to correct typographical errors and omissions and to cause to be entered into the blanks of the ballot issue the appropriate ballot question number or letter upon designation of the ballot number or letter by the appropriate election official.

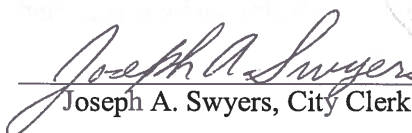
Section 6. Necessary Acts to Effect Resolution. The Mayor, City Attorney, and City Clerk are hereby authorized and directed to take all necessary and appropriate action to effectuate the provisions of this Resolution including all reasonable and necessary action to cause such approved ballot issues to be printed and placed on the ballot for the election.

Section 7. Severability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining issues of this Resolution. All other resolutions or parts of resolutions in conflict with the provisions of this resolution are hereby superseded

Section 8. Effective Date. This Resolution shall be effective upon its adoption

ADOPTED the 18th day of August, 2015 by a vote of 5 in favor, 0 against, 0 abstaining, and 2 absent.

ATTEST:


Joseph A. Swyers, City Clerk

CITY OF LEADVILLE, COLORADO

By 
Jaime Stuever, Mayor