

STATE OF COLORADO)
COUNTY OF ADAMS)

At a regular meeting of the Board of County Commissioners for Adams County, Colorado, held at the Government Center in Brighton, Colorado on the 2nd day of September, 2014 there were present:

Charles "Chaz" Tedesco _____ Chair
Eva J. Henry _____ Commissioner
Erik Hansen _____ Commissioner
Heidi Miller _____ County Attorney
Mark Moskowitz, Deputy _____ Clerk of the Board

RESOLUTION 2014-318

A RESOLUTION CALLING AN ELECTION ON NOVEMBER 4, 2014 TO AUTHORIZE THE IMPOSITION OF AN ADDITIONAL THREE PERCENT COUNTYWIDE SALES TAX ON RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITH THE REVENUE RECEIVED BY THE COUNTY FROM SUCH ADDITIONAL SALES TAX TO BE USED FOR EDUCATIONAL PROGRAMS IN THE COUNTY, FOR DIRECT AND INDIRECT COSTS INCURRED BY THE COUNTY RELATED TO THE LICENSING AND REGULATION OF THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, AND FOR OTHER GENERAL PURPOSES OF THE COUNTY; SETTING THE BALLOT TITLE AND TEXT OF THE BALLOT ISSUE FOR THE ELECTION; AND PROVIDING THE EFFECTIVE DATE OF SUCH RESOLUTION

WHEREAS, at the November 6, 2012, general election the voters of the State of Colorado adopted Amendment 64 of the Colorado Constitution ("Amendment 64"), which is codified as Section 16 of Article XVIII of the Colorado Constitution; and,

WHEREAS, following the adoption of Amendment 64, the Colorado General Assembly adopted Article 28.8 of Title 39, Colorado Revised Statutes, ("C.R.S."), imposing a retail marijuana excise tax and an additional retail marijuana sales tax by the State of Colorado, contingent upon the approval of a ballot question, which was approved, at the November 2013 statewide election authorizing such taxes; and,

WHEREAS, Amendment 64 provides, in part, for the establishment, licensing and regulation of retail marijuana stores and marijuana cultivation, product manufacturing and testing facilities (collectively, "retail marijuana establishments"); and,

WHEREAS, C.R.S. § 29-2-103, authorizes Adams County (the "County") to levy countywide sales taxes upon the approval of a majority of the registered electors of the County voting on such proposal; and,

WHEREAS, C.R.S. §§ 39-28.8-202, 203, provides authority for the County to impose, levy and collect an additional sales tax on the sale of retail marijuana and retail marijuana products; and,

WHEREAS, the sale of retail marijuana and retail marijuana products is currently taxed by the State of Colorado, with a small percentage of the tax being shared back among all of the communities from which the revenue is derived; and,

WHEREAS, the Board of County Commissioners of the County (the "Board") has determined that the current state sales and excise tax structure on retail marijuana and retail marijuana products is not

designed to provide an equitable share back of the tax revenue to the communities from which such revenue is derived; and,

WHEREAS, should the Board authorize the sale of retail marijuana and retail marijuana products in the County, there will likely be direct and indirect costs incurred by the County in licensing and regulating the operation of retail marijuana establishments in the County that are not paid for from fees that may be imposed on retail marijuana establishments; and,

WHEREAS, the Board, in order to tax the same transactions upon which an additional sales tax was authorized to be imposed by the State of Colorado by the November 2013 statewide ballot issue, desires to impose an additional sales tax upon the sale of retail marijuana and retail marijuana products within the County to pay for educational programs in the County, for direct and indirect costs incurred by the County related to the licensing and regulation of the sale of retail marijuana and retail marijuana products in the County, and for other general purposes of the County; and,

WHEREAS, the Board has determined to submit a ballot issue to the eligible electors of the County at the November 4, 2014 general election to impose an additional countywide sales tax of three percent on sales of retail marijuana and retail marijuana products in the County, in addition to the application of the County's existing sales taxes; and,

WHEREAS, the Board has determined to set the ballot title and ballot text for the ballot issue to be submitted at the election called by this Resolution.

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

1. An election shall be held on Tuesday, November 4, 2014, at which there shall be submitted to the eligible electors of the County a ballot issue regarding the imposition of an additional three percent countywide sales tax on the sale of retail marijuana and retail marijuana products in the County. The Ballot Title and Text of the Ballot Issue shall be in substantially the following form:

BALLOT TITLE AND TEXT OF BALLOT ISSUE:

SHALL ADAMS COUNTY TAXES BE INCREASED BY \$1,260,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR (2016) AND BY SUCH ADDITIONAL AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN ADDITIONAL SALES TAX OF THREE PERCENT (3%) ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITHIN THE COUNTY, ALL AS LEGALIZED BY ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION, WITH SUCH TAX TO COMMENCE JULY 1, 2015; AND WITH THE REVENUE RECEIVED BY THE COUNTY FROM SUCH ADDITIONAL SALES TAX TO BE USED FOR EDUCATIONAL PROGRAMS IN THE COUNTY, FOR DIRECT AND INDIRECT COSTS INCURRED BY THE COUNTY RELATED TO THE LICENSING AND REGULATION OF THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, AND FOR OTHER GENERAL PURPOSES OF THE COUNTY; AND WITH THE REVENUE FROM SUCH TAX AND ANY EARNINGS FROM THE INVESTMENT

THEREOF TO BE COLLECTED AND SPENT AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

YES _____

NO _____

2. The election shall be conducted by the Adams County Clerk and Recorder (“Clerk and Recorder”) in accordance with the Uniform Election Code, C.R.S. § 1-1-101, *et. seq.*, and other laws and regulations of the State of Colorado, including without limitation, the requirements of article X, section 20 of the Colorado Constitution (hereinafter “TABOR”).
3. All acts required or permitted by the Uniform Election Code relevant to conducting this election shall be performed by the Clerk and Recorder.
4. The Clerk and Recorder shall cause all notices of election to be provided in accordance with the laws of the State of Colorado, including but not limited to, the Uniform Election Code and TABOR.
5. Pursuant to C.R.S. § 29-2-104(5), the Clerk and Recorder is directed to publish the text of this Resolution four separate times, a week apart, in the official newspaper of the County and each city and incorporated town within the County.
6. If a majority of the votes cast on the ballot issue regarding the imposition of an additional three percent countywide sales tax on retail marijuana and retail marijuana products shall be in favor of such ballot issue, the sales tax shall be imposed and shall apply to all taxable transactions occurring on or after July 1, 2015, and shall be collected and administered in accordance with this Resolution; the requirements enumerated herein; any applicable Adams County resolution, rule or regulation; the laws of the State of Colorado and any applicable rules and regulations promulgated by the Colorado Department of Revenue.
 - (a) *Imposition of the Sales Tax.* Upon approval in the November 2014 General Election, there shall be imposed an additional countywide sales tax throughout the incorporated and unincorporated portions of the County of three percent on the gross receipts from the sale of “retail marijuana” and “retail marijuana products” as those terms are defined by C.R.S. § 39-28.8-101 (the “sales tax”).
 - (b) *Adoption of Rules and Regulations.* The imposition of this sales tax on the sale of retail marijuana and retail marijuana products shall be in accordance with the rules and regulations of the Colorado Department of Revenue, to the extent they are applicable, and in accordance with any rules and/or regulations of Adams County which may be enacted.
 - (c) *Determination of Place at Which Sales are Consummated.* For the purpose of this Resolution, all retail sales shall be considered consummated at the place of business of the retailer.
 - (I) To the extent the requirements of C.R.S. § 29-2-105(1)(b) apply to the imposition of a retail sales tax on retail marijuana and retail marijuana products,

and to the extent that the following activities are permitted under all applicable rules and regulations relating to the sale of such products, all retail sales shall be considered consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or its agent to a destination outside the County or to a common carrier for delivery to a destination outside the limits of the County, in such case the gross taxable sales shall include delivery charges, when such charges are subject to the state sales and use tax imposed by article 26 of title 39, C.R.S., regardless of the place to which delivery is made; and, if a retailer has no permanent place of business in the County, or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of this sales tax shall be determined by the provisions of article 26 of title 39, C.R.S., and by the rules and regulations promulgated by the Colorado Department of Revenue.

- (d) *Amounts Excluded.* The amounts subject to tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.
- (e) *Acknowledgement of Statutory Exemptions.* As the additional sales tax proposed by the Resolution applies only to retail marijuana and retail marijuana products and applies to no other tangible personal property, the imposition and exemptions of the sales tax for types of tangible personal property other than retail marijuana and retail marijuana products described in C.R.S. § 29-2-105 are not applicable to this additional sales tax proposal. It is specifically acknowledged that none of the tangible personal property covered by exemptions cited in C.R.S. § 29-2-105 shall be taxed by the additional sales tax proposed in this Resolution.
- (f) *Nonresident Exemption (when specific ownership tax has been paid).* To the extent the requirements of C.R.S. § 29-2-105 (1)(e) apply to the imposition of a retail sales tax on retail marijuana and retail marijuana products, all sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from the sales tax when such sales meet both of the following conditions:
 - (I) The purchaser is a nonresident of or has his or her principal place of business outside the County; and,
 - (II) Such personal property is registered or required to be registered outside the limits of the County under the laws of Colorado.
- (g) *Collection, Administration and Enforcement.* The collection, administration and enforcement of the sales tax on the sales of retail marijuana and retail marijuana products imposed by this Resolution shall be performed by the employees of Adams County pursuant to rules and/or regulations regarding collection, administration and enforcement of this additional sales tax on retail marijuana and retail marijuana products to be adopted by Adams County prior to July 1, 2015, and as may be amended thereafter.
- (h) *Sales Tax License.* Any person engaging in the business of selling retail marijuana or retail marijuana products shall annually obtain and hold a State license as required by C.R.S. § 39-26-103, in addition to any local sales tax license that may be required by Adams County.

- (i) *Vendor Fee.* As collection agent for Adams County, the vendor shall be entitled to withhold an amount equal to one percent (1%) of the total amount to be remitted by vendor to Adams County each month to cover vendor's expense in the collection and remittance of said County sales tax on sales of retail marijuana and retail marijuana products. If any vendor is delinquent in remitting said tax, other than in unusual circumstances shown to the satisfaction of the Adams County Finance Director or his/her designee, vendor shall not be allowed to retain any amounts to cover his or her expenses in collecting and remitting said tax.
- 7. If a majority of the votes cast on the issue of imposing the sales tax shall be in favor of such ballot issue, the Clerk and Recorder is hereby directed to provide a notice of adoption of this Resolution, together with a certified copy of this Resolution, to the Executive Director of the Colorado Department of Revenue at least forty-five (45) days prior to July 1, 2015.
- 8. For the purposes of C.R.S. § 1-11-203.5, this Resolution shall serve to set the ballot title for the ballot issue set forth herein, and the ballot title for such ballot issue shall be the text of the ballot issue itself.
- 9. The officers and employees of the County are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.
- 10. All actions not inconsistent with the provisions of this Resolution heretofore taken by the members of the Board and the officers and employees of the County and directed toward holding the election for the purposes stated herein are hereby ratified, approved and confirmed.
- 11. All prior acts, orders or resolutions, or parts thereof, by the County inconsistent or in conflict with this Resolution are hereby repealed to the extent only of such inconsistency or conflict.
- 12. If any section, paragraph, clause or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution, it being the intention that the various parts hereof are severable.
- 13. The cost of the election shall be paid from the County's general fund.
- 14. This Resolution shall take effect immediately upon its passage.

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

Henry _____ Aye
Tedesco _____ Aye
Hansen _____ Nay

Commissioners

STATE OF COLORADO)
County of Adams)

I, Karen Long, 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 Adams County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Brighton, Colorado this 2nd day of September, A.D. 2014.

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

Karen Long:



By:



Deputy