

CITY OF GRAND JUNCTION, COLORADO

RESOLUTION 09-21

A RESOLUTION SETTING A TITLE AND SUBMITTING TO THE ELECTORATE ON APRIL 6, 2021 A MEASURE CONCERNING THE TAXATION OF THE SALE OF REGULATED MARIJUANA AND MARIJUANA PRODUCTS, REGULATED MARIJUANA PRODUCT MANUFACTURING AND CULTIVATION OF MARIJUANA FOR REGULATED SALE TO PAY FOR PARKS, RECREATION, OPEN SPACE, TRAILS AND ENFORCEMENT PURPOSES AND TO RETAIN AND SPEND REVENUES AS DEFINED BY ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION FOR PAYMENT THEREFOR AND PROVIDING OTHER DETAILS RELATING THERETO

RECITALS:

The City of Grand Junction, Colorado is a home rule municipal corporation duly organized and existing under the laws and Constitution of the State of Colorado and the City Charter. The City Council is duly authorized by the Charter and the Constitution to act for and on behalf of the City and the Council does hereby find and determine that it is in the public interest to propose the taxation of marijuana businesses in the City of Grand Junction, Colorado which businesses may or may not include (i) sale of marijuana and marijuana products, and/or (ii) marijuana product manufacturing and/or (iii) cultivation of marijuana for sale.

In 2010 the City Council prohibited the operation of medical marijuana businesses in the City limits and amended the Grand Junction Municipal Code by the addition of certain sections prohibiting specified uses relating to marijuana. A petition protesting those actions was filed, found to be sufficient, and the ordinance was suspended. The City Council referred a ballot question to the April 5, 2011 municipal election. That ballot question, known as Referred Measure A, prohibited the operation of medical marijuana businesses and amended the Grand Junction Municipal Code to prohibit certain uses relating to marijuana. Referred Measure A was approved with 7802 in favor and 5703 against.

On January 20, 2021 the City Council adopted Resolution 10-21, which referred a ballot question to the electorate to repeal the 2011 Measure A at the regular municipal election on April 6, 2021 (the "Repeal Measure.")

The Repeal Measure provides that it shall be contingent on and subject to voter approval of this resolution (the "Marijuana Tax Measure") which sets the ballot title for the taxation measure as required by the Colorado Constitution (Article X, Section 20 also known as "TABOR") to increase taxes and as otherwise provided by law.

With the referral of this Marijuana Tax Measure to the April 6, 2021 ballot the City Council is not sanctioning any type(s) of marijuana business(es) in Grand Junction but instead is only providing for a means to tax marijuana business(es) if the Repeal Measure is approved by voters and if the City Council approves by ordinance certain regulations allowing the conduct of marijuana business(es) in the City. The exact number, type and location, if any, of any marijuana business(es) will be determined by and in the sound discretion of the City Council with no greater than six stores allowed in the City.

If the voters approve both the Repeal Measure and this Marijuana Tax Measure and, further if the City Council, by separate ordinance(s) authorizes and approves marijuana business(es) in Grand Junction, then the tax revenue proposed with this ballot question will be used to fund the construction, operation and maintenance of the highest priority(ies) of the 2021 Parks and Recreation Open Space (PROS) master plan, which may include indoor and outdoor recreation and park facilities, capital improvements and enhancements to the City's parks, trails and open space system. As well, some of the tax revenue will be utilized for enforcement of the laws, rules, and regulations that apply to the marijuana industry with specific emphasis on enforcement and lawful consumption, as provided by the ordinances to be separately adopted by the City Council.

Approval of this Marijuana Tax Measure does not approve debt; any project(s) for which debt is required to complete will require separate voter approval as established by Article X, Section 20 of the Colorado Constitution ("TABOR").

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Grand Junction that:

1. All actions heretofore taken (not inconsistent with the provisions of this resolution) by the City and the officers thereof, directed towards the election and the objects and purposes herein stated are hereby ratified, approved and confirmed.
2. Pursuant to the Charter and all other applicable laws of the State of Colorado, the Council hereby determines that an election shall be held on April 6, 2021 at which there shall be submitted to the registered electors of the City the question set forth herein.
3. The Council hereby authorizes and directs the City Clerk to submit the following ballot title to the registered electors on Tuesday, April 6, 2021.

SHALL CITY OF GRAND JUNCTION TAXES BE INCREASED BY TWO MILLION NINE HUNDRED THOUSAND DOLLARS (\$2,900,000) IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY INCREASING THE CITY SALES AND USE TAX ON THE RETAIL SALE OF REGULATED MARIJUANA AND MARIJUANA PRODUCTS FROM 3.25% TO 8.25% (WITH AUTHORIZATION THAT THE SPECIAL SALES AND USE TAX OF 5% COULD BE INCREASED IN THE FUTURE ABOVE 5% WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF THE SPECIAL SALES AND USE TAXATION DOES NOT EXCEED 15%) AND THE IMPOSITION OF AN EXCISE TAX OF 3% (WITH

AUTHORIZATION THAT THE EXCISE TAX OF 3% COULD BE INCREASED IN THE FUTURE ABOVE 3% WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF THE EXCISE TAX DOES NOT EXCEED 10%) WHEN UNPROCESSED REGULATED MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A REGULATED MARIJUANA CULTIVATION FACILITY AND IF THE TRANSFER OR SALE IS BETWEEN AFFILIATED REGULATED MARIJUANA BUSINESS LICENSEES THE TAX SHALL BE BASED ON THE AVERAGE MARKET RATE OF UNPROCESSED MARIJUANA, AND IF THE TRANSFER OR SALE IS BETWEEN UNAFFILIATED REGULATED MARIJUANA BUSINESS LICENSEES THE TAX SHALL BE BASED ON THE CONTRACT PRICE, WITH THE REVENUES FROM EXCISE AND THE SPECIAL SALES AND USE TAXES BEING USED FOR THE IMPROVEMENT AND PROTECTION OF THE COMMUNITY AND HEALTH AND WELFARE OF ITS CITIZENS AS FOLLOWS:

- THE ENFORCEMENT OF REGULATIONS ON THE REGULATED MARIJUANA INDUSTRY AND OTHER COSTS RELATED TO THE IMPLEMENTATION OF THE USE AND REGULATION OF REGULATED MARIJUANA AND LAWFUL UTILIZATION OF MARIJUANA; AND
- BUILDING, OPERATING AND MAINTAINING THE HIGHEST PRIORITY(IES) OF THE ADOPTED PARKS AND RECREATION OPEN SPACE (PROS) PLAN WHICH INCLUDE INDOOR AND OUTDOOR RECREATION AND PARK FACILITIES, CAPITAL IMPROVEMENTS AND ENHANCEMENTS TO THE CITY'S PARKS, TRAILS AND OPEN SPACE SYSTEM;

WITH ALL EXPENDITURES SUBJECT TO ANNUAL FINANCIAL AUDIT, AND MAY THE CITY COLLECT, RETAIN AND EXPEND ALL OF THE REVENUES OF ALL OF SUCH TAXES AND THE EARNINGS THEREON 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

4. Pursuant to Article XX of the State Constitution and the Charter, all State statutes that might otherwise apply in connection with the provisions hereof (including, without limitation, § 31-11-111, C.R.S.) are hereby superseded to the extent of any inconsistencies or conflicts between the provisions of this ordinance and such statutes. Any such inconsistency or conflict is intended by the City Council and shall be deemed made pursuant to the authority of Article XX of the State Constitution and the Charter.

5. The ballot title is set based upon the requirements of the Colorado Constitution and the City Charter and, pursuant to Section 31-11-102, C.R.S., is an alternative to the provisions of Section 31-11-111, C.R.S. regarding both a title and a submission clause. Pursuant to Section 31-10-1308, C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set.

6. The officers of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this resolution.

7. 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 in no manner affect any remaining provisions of this resolution, the intent being that the same are severable.

INTRODUCED, READ AND APPROVED this 20th day of January, 2021.

C.E. "Duke" Wortmann

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Mayor and President of the City Council



ATTEST:

W Winkelmann

Wanda Winkelmann

City Clerk