

**RESOLUTION NO. 16-038**

**BOARD OF COUNTY COMMISSIONERS  
OF PUEBLO COUNTY, COLORADO**

**APPROVING REGULATIONS GOVERNING THE COLLECTION,  
ADMINISTRATION AND ENFORCEMENT OF PUEBLO COUNTY'S COUNTYWIDE  
MARIJUANA SALES AND EXCISE TAX**

**WHEREAS**, the Board of County Commissioners of Pueblo County submitted the question of levying a countywide sales tax on retail marijuana to the electors of Pueblo County by adopting Resolution No. 13-186; and

**WHEREAS**, the electors of Pueblo County voted in November 2013 to impose a tax on the sale of retail marijuana throughout Pueblo County that went into effect January 1, 2014; and

**WHEREAS**, paragraph 13 of Resolution No. 13-186 and section 39-28.8-203(1)(a)(III), C.R.S., provide that Pueblo County may establish regulations governing the collection, administration and enforcement of the countywide retail marijuana sales tax; and

**WHEREAS**, the Board submitted the question of levying a countywide excise tax on the first transfer of unprocessed retail marijuana from a retail marijuana cultivation facility to any other facility to the electors of Pueblo County by adopting Resolution No. 15-203; and

**WHEREAS**, the electors of Pueblo County voted in November 2015 to impose a countywide excise tax on the first transfer of unprocessed retail marijuana and such tax will go into effect on January 1, 2016; and

**WHEREAS**, paragraph 10 of Resolution No. 15-203 and section 29-3-101(3), C.R.S., provide that the Board is empowered to adopt additional procedures for the collection and administration of the countywide excise tax.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Pueblo County, Colorado:

**I. PURPOSE.** The purpose of this Resolution is to clarify the collection, administration, and enforcement procedures imposed by Pueblo County in relation to the countywide Sales Tax and Excise Tax proposed by the Pueblo County Board of County Commissioners and approved by vote of the electors of Pueblo County. No provision of this Resolution shall be construed as conflicting with any provision of Pueblo County Resolution Nos. 13-186 or 15-203. If any

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conflict is found to exist, the terms of Resolutions Nos. 13-186 and 15-203 shall control over the terms of this Resolution.

**II. DEFINITIONS.** Unless otherwise provided herein, the definitions from Section 5.12.040 of the Pueblo County Code are incorporated into this Resolution. In addition, the following words or terms shall have the following meanings:

1. "Average Market Rate" as the same meaning as defined in C.R.S. § 39-28.8-101(1).
2. "County" means Pueblo County, Colorado.
3. "Cultivation" means a Retail Marijuana Cultivation Facility as defined in Section 5.12.040(26) of the Pueblo County Code.
4. "Deficiency Notice" means a notice sent from Pueblo County by certified mail to a Taxpayer notifying the Taxpayer that the Taxpayer is in default of a monthly Tax payment.
5. "Designated Agent" means the director or officer of Pueblo County designated under Section III.2. of this Resolution to facilitate the collection of the Sales or Excise Tax, or his or her agent.
6. "Establishment" means a Cultivation or a Store.
7. "Excise Tax" means the countywide excise tax on the first transfer of unprocessed retail marijuana from a licensed retail marijuana cultivation facility to any other facility as described more fully in Resolution No. 15-203.
8. "Final Assessment" means the County's final assessment of the money owed to the County by the Taxpayer and includes the amount unpaid tax owed, interest accrued as of the date the assessment is issued, the cost of an audit, if applicable, and any penalties that may be owed in connection to the nonpayment of the Sales Tax or Excise Tax. A Final Assessment shall clearly state that the total amount listed represents a debt owed by the Taxpayer to the County.
9. "Sales Tax" means the countywide tax on the sale of retail marijuana as described more fully in Resolution No. 13-186.
10. "Store" means a Retail Marijuana Store as defined in Section 5.12.040(29) of the Pueblo County Code.

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11. "Taxpayer" means the Cultivation or person paying either the Excise Tax or Sales Tax.

12. "Unprocessed Retail Marijuana" has the same meaning as defined in C.R.S. § 39-28.8-101(15).

**III. COLLECTION AND ADMINISTRATION.**

1. **Designated Agent.** The Director of the Pueblo County Department of Budget and Finance shall serve as the Designated Agent, charged with administering the collection of the Sales Tax and Excise Tax on behalf of the County. The officer or director serving as the Designated Agent may be changed by future resolution of the Pueblo County Board of County Commissioners. The Designated Agent shall collect monthly payments from all Establishments and deposit all revenue generated from those payments into the County Treasury as directed by Resolutions Nos. 13-186 and 15-203.

2. **Collection from Stores.** Pursuant to Section 12 of Resolution 13-186, Stores are required to collect and remit to the County the revenue raised by the Sales Tax through sales in their establishments. On a monthly basis as determined by the Designated Agent, all Stores shall pay the amount of the Sales Tax they have collected for an entire month to the County. Stores shall ensure that the County receives each payment no later than the third Tuesday of the month following the month for which the Sales Tax is collected. Payment for the Sales Tax must be accompanied by a return prepared by the Taxpayer in the form provided by the Designated Agent.

3. **Collection from Cultivations.** Every month, a Cultivation shall calculate and record the total amount of Unprocessed Retail Marijuana, by category and pound, that the Cultivation transfers to any other licensed facility. The Cultivation shall determine the amount of Excise Tax it owes by applying the Average Market Rate to the total amount of Unprocessed Retail Marijuana the Cultivation has transferred in a single month. If the Average Market Rate of a specific form of Unprocessed Retail Marijuana is unclear, the Cultivation shall promptly report the issue to the Designated Agent who may delay payment until the Designated Agent can determine the Average Market Rate. Cultivations shall ensure the County receives each payment by a date, as determined by the Designated Agent, in the month following the month for which the Excise Tax is collected. Payment for the Excise Tax must be accompanied by a return prepared by the Taxpayer in the form provided by the Designated Agent.

4. **Licensee as Establishment Responsible for Tax.** The Sales Tax shall only be collected and remitted, and the Excise Tax paid, by the person or entity licensed by the Local Licensing Authority to operate the Store or Cultivation remitting or paying the tax.

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5. **Establishment to Maintain Records.** It shall be the duty of every Establishment to keep and preserve suitable records, including returns for the Sales Tax or Excise Tax, logs from the statewide tracking system, and returns for any state taxes on retail marijuana, of all sales and transfers made by the Establishment and such other books or accounts as may be required by the Designated Agent in order to determine the amount of the tax for the collection or payment of which the Establishment is liable under this Resolution.

6. **Audits.** The County shall have the right to perform audits on all Establishments to ensure compliance with this Resolution and Resolutions No. 13-186 and No. 15-203. In the event of an audit, all books, invoices, accounts, returns for any state taxes on retail marijuana, and other records shall be made available and be open at any time during regular business hours for examination by the Designated Agent. The County may conduct an audit at any time and for any reason; evidence or allegations of nonpayment or evasion of the Sales Tax or Excise Tax is not required. If an Establishment has refused to allow an audit under this Section III.6. or under Section IV.3. for ten (10) days or more, the Designated Agent may issue a report of the same and seek from the Local Licensing Authority revocation or other sanctions related to the Establishment's Retail Marijuana Establishment license.

**IV. ENFORCEMENT.**

1. **Failure to Pay Tax.** An Establishment that fails to submit all or a portion of the monthly payment due to the County, as well as all members, partners, shareholders, or other owners who comprise the Establishment, shall be personally liable for the amount of the Sales Tax or Excise Tax and interest outstanding. Interest shall be determined pursuant to C.R.S. § 39-21-110.5(2), as amended, and shall begin accruing the day after the payment is due.

2. **Dispute Resolution.** Dispute resolution procedures for the Sales Tax and Excise Tax shall be governed as closely as possible by subsections (2) and (8) of C.R.S. § 29-2-106.1 (2015) except to the extent those subsections provide for any involvement by Colorado Department of Revenue. Any appeal from the Designated Agent's final decision shall be made to district court. A Final Assessment shall be issued at the close of proceedings under this Section IV.2.

3. **Penalties.** If the Designated Agent determines that any deficiency is due to negligence or intentional disregard of authorized rules and regulations there shall be a penalty of ten percent (10%) of the unpaid Sales Tax or Excise Tax added to the County's Final Assessment. If the Designated Agent determines that any part of the deficiency is due to fraud with the intent to evade the Sales Tax or Excise Tax, there shall be a penalty of fifty percent (50%) of the unpaid Sales Tax or Excise Tax added to the County's Final Assessment. The Designated Agent will provide the Establishment with notice of the penalty in the Deficiency

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Notice or at such later point when the Designated Agent determines that a penalty applies. The Establishment may attempt to show that the Designated Agent's finding of a penalty was improper though through the submission of additional information as provided in this Resolution.

4. **Action on Debt.** If an Establishment refuses pay the debt owed to the County as determined through Section IV.2., the County may file an action in court seeking to recover at law the amount owed to the County. The County may also seek to recover reasonable attorney fees and costs. Such actions may be actions in attachment, and writs of attachment may be issued to the police or sheriff, as the case may be, and in any such proceeding no bond shall be required of the County, nor shall any police officer or sheriff require of the County an indemnifying bond for execution of the writ of attachment or writ of execution upon any judgment entered in such proceedings. The County may prosecute appeals in such cases without the necessity of providing a bond. It shall be the duty of the County Attorney, when requested by the Designated Agent, to commence action under this Section.

**V. EFFECT ON RETAIL MARIJUANA ESTABLISHMENT LICENSE.** Assent to and compliance with the conditions of this Resolution, including the collection and payment of the Sales Tax and Excise Tax and the keeping and sharing of all relevant records, is a condition of the license issued to the Store or Cultivation by the Local Licensing Authority pursuant to Chapter 12 of Title 5 of the Pueblo County Code. Failure to comply with any provision of this Resolution, including nonpayment or late payment of any portion of the Sales Tax or Excise Tax and failure to comply with an audit or request for inspection of records, is a licensing violation and grounds for sanctions against an Establishment's Marijuana Establishment License. Evidence to that effect may be introduced in a hearing before the Local Licensing Authority to suspend or revoke such license. Any hearing to revoke or suspend an Establishment's License shall be distinct from the procedures to assess and collect the debt owed by an Establishment under this Resolution. A Final Assessment shall not be required to establish a violation of this Resolution before the Local Licensing Authority, but a Final Assessment, if presented at the hearing, shall constitute presumptive evidence of a violation.

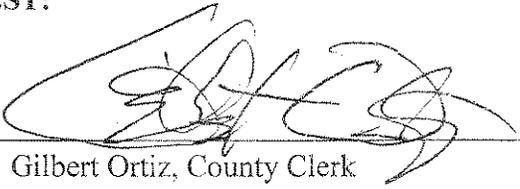
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PASSED AND ADOPTED this 27<sup>th</sup> day of January 2016, in Pueblo County, Colorado.

THE BOARD OF COUNTY COMMISSIONERS  
OF PUEBLO COUNTY, COLORADO

BY:   
Liane "Buffie" McFadyen, Chair

ATTEST:

BY:   
Gilbert Ortiz, County Clerk