

**RESOLUTION NO. 15-203**

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

**APPROVING AND AUTHORIZING A BALLOT ISSUE FOR THE NOVEMBER 2015  
COORDINATED ELECTION FOR THE PURPOSE OF PROPOSING A COUNTY EXCISE TAX  
ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A  
RETAIL MARIJUANA CULTIVATION FACILITY WITH THE TAX REVENUES TO BE USED  
TO FUND SCHOLARSHIPS AND INFRASTRUCTURE IMPROVEMENTS**

**WHEREAS**, C.R.S. § 29-2-114 authorizes Pueblo County to levy, collect, and enforce a county excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility authorized by the County; and

**WHEREAS**, the laws of Colorado permit the cultivation, sale, and transfer of retail marijuana and retail marijuana products under Article XVIII of the Colorado State Constitution and the Colorado Retail Marijuana Code (C.R.S. § 12-43.4-101, *et seq*); and

**WHEREAS**, the County, through the adoption of Resolution No. 13-216, amended Title 5, Chapter 5.12 of the Pueblo County Code by approving and adopting regulations allowing for the operation of retail marijuana cultivation facilities; and

**WHEREAS**, this Board believes that appropriate use of local taxing authority over the retail marijuana cultivation industry is essential to promote economic development, to fund scholarships for students, and to improve and maintain infrastructure throughout Pueblo County; and

**WHEREAS**, this Board finds that it is in the best interest of the present and future residents of the County to certify a ballot issue to the eligible voters of the County at the November 2015 Coordinated Election requesting approval of an excise tax of five percent (5%) on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility subject to the terms of this Resolution.

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

**I. DEFINITIONS**

As used in this Resolution, the terms listed below shall have the following meanings:

1. "Board" means the Board of County Commissioners of Pueblo County, Colorado.
2. "Clerk" means the Pueblo County Clerk and Recorder or his or her designee.
3. "County" means Pueblo County, Colorado.

4. "Marijuana Excise Tax" means a tax on the first sale or transfer of Unprocessed Retail Marijuana by a Retail Marijuana Cultivation Facility authorized by the County to any other Retail Marijuana Establishment as that term is defined in Section 5.12.040 of the Pueblo County Code.

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5. "Retail Marijuana Cultivation Facility" has the same meaning as defined in Section 5.12.040 of the Pueblo County Code.

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

## II. GENERAL PROVISIONS

1. Purpose of this Resolution: The purpose of this Resolution is, upon the approval of a majority of the eligible electors voting on such Proposal at the November 2015 Coordinated Election, to enact, and therefore, levy and impose a Marijuana Excise Tax.

2. Imposition and Effective Date of Marijuana Excise Tax: If a Marijuana Excise Tax is approved by a majority of the eligible electors voting thereon at the November 2015 Coordinated Election, a Marijuana Excise Tax levied throughout the County shall be imposed and become effective on January 1, 2016 pursuant to C.R.S. §§ 29-2-106(2) and 39-26-104(2)(e).

3. Rate and Calculation of Tax: The Marijuana Excise Tax shall be phased in from 2016 to 2020, with the final rate of the Marijuana Excise Tax being five percent (5%) of the average market rate of the Unprocessed Retail Marijuana. The rate shall begin at one percent (1%) on January 1, 2016, with the rate to increase to two percent (2%) on January 1, 2017, three percent (3%) on January 1, 2018, four percent (4%) on January 1, 2019, and five percent (5%) on January 1, 2020. Beginning on January 1, 2020, the Board shall have the authority to increase or decrease the rate so long as the maximum rate in no case exceeds five percent (5%). If revenues exceed the estimate for the final phased in year, the excess revenue shall either be retained, if approved by a vote of the electors, or, to the extent permitted by law, refunded to the Retail Marijuana Cultivation Facilities in proportion to the amount each Facility paid. For purposes of this Resolution, the average market rate is the same as determined by the State of Colorado pursuant to C.R.S. § 39-28.8-101(1). In determining how to apply the rate to different types of Unprocessed Retail Marijuana, the Retail Marijuana Cultivation Facility and County shall follow the methodology provided in Colorado Department of Revenue Regulations.

4. All First Transfers Subject to Tax: For purposes of the Marijuana Excise Tax, the first sale or transfer of Unprocessed Retail Marijuana includes a transfer where no money or other valuable consideration is exchanged. Transfers subject to the Marijuana Excise Tax also include those where a Retail Marijuana Cultivation Facility first transfers Unprocessed Retail Marijuana to a commonly owned Retail Marijuana Establishment even when that Establishment is located on the same or adjacent premises as the original Retail Marijuana Cultivation Facility.

5. Statutory Definitions Incorporated: Except as specifically defined in this Resolution, the definitions of the words contained herein shall be as set forth in C.R.S. §§ 39-26-102, 39-26-201, 39-26-701, and 12-43.4-103 which definitions are incorporated by reference into this Resolution as if fully set forth herein.

6. Collection of Revenue: If approved by the electors, the Marijuana Excise Tax shall be remitted monthly to the County. The revenue will be placed within two funds in Pueblo County. The first fund shall be known as the "Pueblo County Scholarship Fund," and the second shall be known as the "Infrastructure and Community Development Fund." Beginning January 1, 2017, no less than fifty percent (50%) of the Marijuana Excise Tax revenue shall be committed to the Pueblo County Scholarship Fund. Portions of revenue not committed to the Pueblo County Scholarship Fund shall be committed to

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the Infrastructure and Community Development Fund.

7. Adoption of Rules and Regulations: The imposition of this Marijuana Excise Tax shall be in accordance with the rules and regulations of the Colorado Department of Revenue, and in accordance with any regulations of Pueblo County which may be enacted by separate written resolution.

8. Place of Sale or Transfer: For purposes of this Resolution, the first sale or transfer of Unprocessed Retail Marijuana shall be considered consummated at the Retail Marijuana Cultivation Facility from which the first transfer takes place. The gross receipts from such transfer shall include delivery charges, when such charges are subject to the sales and use tax of the State of Colorado imposed by Article 26 of Title 39, C.R.S., regardless of the place to which delivery is made.

9. Cultivator Records and Remittance of Tax: All Retail Marijuana Cultivation Facilities are charged with keeping appropriate records of the sales and transfers subject to the Marijuana Excise Tax, filing a return, and paying to the County the tax owed on a monthly basis. A Retail Marijuana Cultivation Facility that fails to pay the full amount the tax owed to the County shall be personally liable to the County for the amount of the tax and all interest and additional amounts imposed pursuant to this Resolution, the Enabling Legislation, or future regulations adopted by the County.

10. Administration of Tax: The Board is permitted to establish additional procedures necessary for the collection and administration of the Marijuana Excise Tax if approved by the electors at the November 2015 Coordinated Election.

11. Notice to State upon Approval. If a Marijuana Excise Tax is approved by the electorate at November 2015 Coordinated Election, the Clerk shall send notice of the adoption of a Marijuana Excise Tax to the Executive Director of the Department of Revenue. Such notice shall include:

- a. A copy of this Resolution, certified by the Clerk;
- b. Affidavits of Publication of this Resolution, as provided herein; and
- c. An abstract of election results, certified as to the approval of the Marijuana Excise Tax by a majority of the registered, qualified electors of Pueblo County voting thereon.

### **III. USE OF TAX REVENUES**

1. Use by County: The Board shall direct the utilization of the revenues of the Marijuana Excise Tax proposed by this Resolution solely as described in the ballot measure referred to the voters of Pueblo County by this Resolution. Effective January 1, 2016, the County shall expend all revenue generated from the Marijuana Excise Tax for the purposes listed on the ballot language in Section V of this Resolution and for no other purposes. Revenue generated from the Marijuana Excise Tax shall be used as follows:

- a. Scholarship Fund: If the Marijuana Excise Tax is approved by the electors, the Pueblo County Scholarship Fund shall be used to award scholarships to students. Scholarships shall only be awarded beginning in 2017, and for that year shall be awarded to students graduating from high schools in Pueblo County who have been admitted to colleges and universities located within Pueblo County and will attend those institutions beginning no later than fall 2017. The Board may adopt eligibility criteria for students seeking awards at any time after the passage

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of the Marijuana Excise Tax, but may only expand the category of students eligible for awards beginning in 2018. The Board shall determine the manner in which candidates for scholarships are reviewed and selected.

b. Infrastructure and Community Development Fund: If the Marijuana Excise Tax is approved by the electors, the Infrastructure and Community Development Fund shall first be used to fund the specific projects listed below, to be undertaken in any order, and thereafter used only to fund (1) other infrastructure and public improvement projects or (2) the future incidental maintenance and operation of projects originally paid for in part by this Fund. The scope of each project to be undertaken and the criteria for determining its completion shall be further defined by resolution of the Board. At all times, no more than four percent of the revenue committed to this Fund may be used to pay associated administrative costs. The first projects to be undertaken shall be as follows:

- i. Colorado State Fair Streetscape Refurbishment;
- ii. Medical Marijuana Academic Research Grant;
- iii. Marijuana Community Impact Grant;
- iv. Feasibility study to extend Amtrak's Southwest Chief to Pueblo and other possible passenger rail expenditures;
- v. Safe Route to Schools – Improve student pedestrian access to North Mesa, South Mesa and Desert Sage Elementary and develop Trail Master Plan;
- vi. Pueblo Historic Courthouse Dome Refurbishment;
- vii. Confluence Park County Outdoor Recreation Pavilion;
- viii. U.S. Highway 50 economic impact study;
- ix. Arts Center funding for long term planning feasibility studies and the development of the atrium between Helen T. White and Buell Children's Museum;
- x. Replace golf carts and expand clubhouse at Desert Hawk Golf Course in Pueblo West;
- xi. Beulah Elementary School Playground enhancement;
- xii. Pueblo Reservoir bike and hiking trail repair, trail sign improvements;
- xiii. Establishment of a Pueblo County Energy Efficiency Department and installation of renewable energy improvements on County property; and

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- xiv. Study on Zinno Subdivision's water supply needs and possible related improvement expenditure.

2. Distribution of Proceeds of Marijuana Excise Tax: In order to carry out the purposes of expressed in Paragraph 1 of Section III, above the County shall retain all revenue generated by this Marijuana Excise Tax for the sole and exclusive use for the purposes described in Paragraph 1.

### IV. ELECTION REQUIREMENTS

1. Submission to Electors: The proposed Marijuana Excise Tax as set forth in this Resolution shall be referred to the eligible electors of Pueblo County at the November 2015 Coordinated Election to be held Tuesday, November 3, 2015. The ballot issue to be submitted to the eligible electors shall be substantially as set forth in Section V below.

2. Publication of Resolution: The Clerk is hereby authorized and directed to publish the text of this proposal for a Marijuana Excise Tax four separate times, a week apart, in The Pueblo Chieftain, a newspaper circulated in Pueblo County and on each city and incorporated town within the County.

3. Conduct of the Election: The election shall be held and conducted and the results thereof shall be determined, so far as practicable, in conformity with the provisions of the Colorado Uniform Election Code of 1992 as set forth in Articles 1 through 13, inclusive, of Title 1, C.R.S.

4. Ballot Title: For purposes of C.R.S. §1-11-203.5, the ballot title for the ballot issue contained in Section V of this Resolution is hereby determined to be the text of the ballot issue itself set forth in Section V below.

5. Authority to Effect Resolution: The officers, employees and agents of the County are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution in accordance with Colorado law.

### V. PROPOSED BALLOT LANGUAGE

Ballot Issue \_\_\_\_

SHALL PUEBLO COUNTY TAXES BE INCREASED BY \$3,500,000.00 (FINAL PHASED IN FULL FISCAL YEAR DOLLAR INCREASE) ANNUALLY AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN EXCISE TAX OF FIVE PERCENT (5%) ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY WITH THE RATE TO BE PHASED IN BY STARTING AT ONE PERCENT (1%) IN 2016 AND INCREASING TO TWO PERCENT (2%) IN 2017, THREE PERCENT (3%) IN 2018, FOUR PERCENT (4%) IN 2019, AND FIVE PERCENT (5%) IN 2020 WITH THE BOARD OF COUNTY COMMISSIONERS HAVING THE AUTHORITY TO INCREASE OR DECREASE THE RATE BEGINNING IN 2020 SO LONG AS THE MAXIMUM RATE IN NO CASE EXCEEDS FIVE PERCENT (5%) AND WITH, STARTING IN 2017, AT LEAST HALF OF SUCH REVENUE TO BE SPENT ON SCHOLARSHIPS FOR RESIDENTS OF PUEBLO COUNTY TO ATTEND COLLEGES AND UNIVERSITIES AND WITH REMAINING PORTIONS TO BE SPENT FIRST TO REFURBISH THE COLORADO STATE FAIR GROUNDS STREETSCAPE, TO BUILD SAFE ROUTES TO SCHOOL FOR NORTH MESA, SOUTH MESA, AND DESERT SAGE ELEMENTARY SCHOOLS AND TO DEVELOP A TRAIL MASTER PLAN, TO FUND A

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RESEARCH GRANT FOR THE STUDY OF MEDICAL MARIJUANA, TO FUND A MARIJUANA COMMUNITY IMPACT, TO FUND A FEASIBILITY STUDY ON EXTENDING AMTRAK'S SOUTHWEST CHIEF TO PUEBLO AND OTHER PASSENGER RAIL EXPENDITURES, TO REFURBISH THE DOME AT THE HISTORIC PUEBLO COUNTY COURTHOUSE, TO BUILD AN OUTDOOR RECREATION PAVILION AT CONFLUENCE PARK, TO FUND A U.S. HIGHWAY 50 ECONOMIC IMPACT STUDY, TO FUND LONG TERM PLANNING STUDIES AND CONSTRUCT AN ATRIUM FOR THE ARTS CENTER, TO REPLACE GOLF CARTS AND EXPAND THE CLUBHOUSE AT DESERT HAWK GOLF COURSE, TO ENHANCE THE PLAYGROUND AT BEULAH ELEMENTARY SCHOOL, TO REPAIR PUEBLO RESERVOIR BIKE AND HIKING TRAILS AND IMPROVE TRAIL SIGNS, TO ESTABLISH A PUEBLO COUNTY ENERGY EFFICIENCY DEPARTMENT, TO INSTALL RENEWABLE ENERGY IMPROVEMENTS ON COUNTY PROPERTY, AND TO STUDY THE ZINNO SUBDIVISION'S WATER SUPPLY NEEDS AND PURSUE POSSIBLE RELATED IMPROVEMENTS, AND SUCH PORTIONS TO BE SPENT THEREAFTER ON OTHER INFRASTRUCTURE AND PUBLIC IMPROVEMENT PROJECTS, AND THE MAINTENANCE AND OPERATION OF EXISTING PROJECTS, AND SHALL PUEBLO COUNTY BE ENTITLED TO COLLECT, RETAIN, AND SPEND THE FULL REVENUES FROM SUCH TAX INCREASE WITHOUT STATUTORY OR CONSTITUTIONAL LIMITATION OR CONDITION, INCLUDING ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

YES \_\_\_\_\_

NO \_\_\_\_\_

**PASSED AND ADOPTED** this 2<sup>nd</sup> day of September, 2015, in Pueblo County, Colorado.

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

By: \_\_\_\_\_

Liane "Buffie" McFadyen, Chair

**ATTEST:**

By: \_\_\_\_\_

Gilbert Ortiz, County Clerk