

Full Text of Measure:

Be it enacted by the Town of Wellington, Colorado

Ordinance Concerning Retail Marijuana Sales Tax in the Town of Wellington, Colorado

WHEREAS, Article X, Section 20 of the Colorado Constitution, also referred to as the Taxpayer's Bill of Rights ("TABOR") requires voter approval for any new tax, any increase in any tax rate, the creation of any debt, extension of an expiring tax, and the spending of certain funds above limits established by TABOR; and

WHEREAS, November 3, 2020, is the coordinated general election for the State of Colorado and is one of the election dates at which ballot issues may be submitted to the eligible electors of the Town pursuant to TABOR; and

WHEREAS, if approved by a majority of the registered electors of the Town voting in the November 3, 2020 coordinated general election, Chapter 2 of the Wellington Municipal Code shall be amended to add a new Article 15, "Retail Marijuana Sales Tax," as provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE REGISTERED ELECTORS OF THE TOWN OF WELLINGTON, COLORADO THAT:

Section 1. A new Article 15 is hereby added to Chapter 2 of the Wellington Municipal Code entitled "Retail Marijuana Sales Tax," to read as follows:

Article 15 - RETAIL MARIJUANA SALES TAX

Sec. 15-10 Administration and Enforcement.

The Retail Marijuana Sales Tax imposed pursuant to this Article shall be administered and enforced in a manner consistent with the administration and enforcement of other Town sales taxes, including, without limitation, any penalties for failure to make any return or to collect or pay any tax.

Sec. 15-20 Definitions.

When used in this Article, the following words and phrases shall have the following meanings, unless from the context it clearly appears that a different meaning is indicated:

Consumer: A person twenty-one (21) years of age or older who purchases Retail Marijuana or Retail Marijuana Products for personal use by a person twenty-one (21) years of age or older.

Retail Marijuana: All parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. "Marijuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product. Retail Marijuana does not include Medical Marijuana as defined under the Colorado Medical Marijuana Code, C.R.S. §12-43.3-101, *et seq.*, and Chapter 2 of the Code.

Retail Marijuana Products: Concentrated Retail Marijuana Products that are comprised of Retail Marijuana and other ingredients and are intended for use or consumption, such as, but not

limited to, edible products, ointments, and tinctures.

Retail Marijuana Sales Tax: The tax imposed on the sale of Retail Marijuana and Retail Marijuana Products pursuant to this Chapter.

Retail Marijuana Store: An entity licensed by the Colorado Department of Revenue to sell Retail Marijuana and Retail Marijuana Products to Consumers pursuant to Section 16 of Article XVIII of the Colorado Constitution and the "Colorado Retail Marijuana Code," Article 43.4 of Title 12, C.R.S., and licensed by the Local Licensing Authority pursuant to the Code.

Sec. 15-30 Imposition of tax.

- A. In addition to the sales tax imposed by Article 4, Chapter 4 of the Code, there is imposed upon all sales of Retail Marijuana and Retail Marijuana Products to a Consumer by a Retail Marijuana Store a tax at the rate of three and one-half percent (3.5%) of the amount of the sale.
- B. The maximum tax rate that may be imposed pursuant to this Section is five percent (5%). At any time on or after January 1, 2022, the Town may, by ordinance:
 - 1. Establish another tax rate to be imposed pursuant to this Chapter that is equal to or less than the maximum five percent (5%) tax rate provided in this subsection; or
 - 2. After establishing a tax rate that is lower than five percent (5%), increase or decrease the tax rate to be imposed pursuant to this Chapter; except that in no event shall the Town increase the tax rate above five percent (5%) of the amount of the sale of Retail Marijuana or Retail Marijuana Products.
- C. Nothing in this section shall be construed to impose a tax on the sale of marijuana products to any person by a Medical Marijuana Center licensed by the Colorado Department of Revenue to sell Medical Marijuana pursuant to the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S., and licensed by the Town pursuant to this Chapter. To the extent any Retail Marijuana Establishment exists at the same location and under common ownership with a licensed Medical Marijuana Center, the retailer shall strictly segregate and account for sales of Retail Marijuana distinct from Medical Marijuana in accordance with all applicable state and city laws.

Sec. 15-40 Purpose of tax.

The Board of Trustees hereby declares that the purpose of the levy of the Retail Marijuana Sales Tax imposed by this Article is for raising funds for construction of a new community or recreation center, and/or other general operating expenses as may be designated instead by the Town on an annual basis.

Sec. 15-50 Revenue and spending limitations.

Notwithstanding any limitations on revenue, spending, or appropriations contained in Section 20 of Article X of the Colorado Constitution or any other provision of law, any revenues generated by the Retail Marijuana Sales Tax imposed pursuant to this Article, as approved by the voters at the general election on November 3, 2020, may be collected and spent as a voter-approved revenue change and shall not require further voter approval to modify the tax rate as provided in this Article.

Section 2. If any clause or provision of this ordinance is held to be invalid or unenforceable, the invalidity or unenforceability of the clause or provisions will not affect the validity of any of the remaining clauses or provisions of this ordinance.