

ORDINANCE NO. 5065

AN ORDINANCE TO AMEND TITLE 3 OF THE GRAND JUNCTION MUNICIPAL CODE TO INCLUDE A RETAIL MARIJUANA SALES AND USE TAX AND A MARIJUANA EXCISE TAX

RECITALS:

In October 2010, the City Council adopted Ordinance 4437 which 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 the passage of Ordinance 4437 was filed, found to be sufficient, and the Ordinance was suspended.

In December 2010 the City Council approved a ballot question referring Ordinance 4437 to the regular municipal election on April 5, 2011. Referred Measure A was approved by the voters, prohibiting the operation of medical marijuana businesses and amended the Grand Junction Municipal Code to prohibit certain uses relating to marijuana.

Colorado Amendment 64 was passed by the voters on November 6, 2012. Amendment 64 included an amendment to Article 18 of the Colorado Constitution by adding a new Section 16 regarding the personal use and regulation of marijuana. Amendment 64 allows retail marijuana stores and makes it legal for anyone 21 years or older to buy marijuana at those stores. The Amendment allows anyone over 21 years of age to legally possession and consume up to one ounce of marijuana. Amendment 64 required the State to develop and adopt laws, regulations, and processes concerning marijuana.

In February 2013, City Council approved Resolution 07-13, adopting marijuana policies for the City and restrictions for persons or entities from applying to function, do business, or hold itself out as a marijuana facility, business or operation in the City limits. Later that same year, City Council adopted Ordinance 4599 which prohibited the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores. It also amended Sections in Title 5, Article 15 of the Grand Junction Municipal Code that prohibit certain uses relating to marijuana.

In late 2015, the City, Mesa County and Colorado Mesa University, by and through the efforts of the Grand Junction Economic Partnership (GJEP), were successful in establishing the *Colorado Jumpstart* business development program. One business who was awarded the first *Jumpstart* incentive planned to develop a laboratory and deploy its advanced analytical processes for genetic research and its ability to mark/trace chemical properties of agricultural products, one of which was marijuana. In October 2016, City Council passed Ordinance 4722 which amended Ordinance 4599 and Section 21.04.010 of the Grand Junction Municipal Code to allow marijuana testing facilities in the City.

City staff and community members, including the Marijuana Working Group, have researched, reviewed and discussed various approaches to taxation, permitting and regulation of marijuana within the City and provided to City Council such information and recommendation for the moratorium to be lifted on marijuana businesses.

On January 20, 2021 the City Council approved Resolution 09-21, the adoption of which referred a ballot question to the regular municipal election on April 6, 2021 to repeal Referred Measure A contingent on and subject to voter approval of taxation of marijuana businesses. A majority of the votes cast at the election were in favor of repealing the moratorium on marijuana businesses and in favor of taxation of marijuana businesses.

City Council has determined to allow retail marijuana businesses within the City. On April 6, 2022, Ordinance No. 5065 was approved by City Council which developed rules and regulation for licensing and operating retail marijuana businesses.

There are indirect costs to the City regarding the use of marijuana that are not covered by the license and application fees paid by the retail marijuana business. Many of those costs are related to the fact that marijuana is illegal at the federal level and the state has not been able to fully fund enforcement of laws adopted at the state level, leaving enforcement of marijuana laws to the local municipalities. Further, there are not comprehensive substance abuse programs related to the legal use of marijuana.

Imposing both an excise tax and a special sales and use tax on marijuana and marijuana businesses would provide resources necessary for the City to be able to pay the indirect costs, including education and programs, related to the use of marijuana.

City Council requested that staff prepare an ordinance that approves a sales and use tax of six percent and an excise tax of five percent.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

Title 3 of the Grand Junction Municipal Code (GJMC) shall be amended as follows (additions shown in **bold print** and deletions shown with ~~strike-through~~):

3.12.020 Definitions.

***Marijuana* also known as *cannabis*, shall have the same meaning as the term “usable form of marijuana” as set forth in Article XVIII, Section 16(2) of the Colorado Constitution or as may be more fully defined in any applicable State law or regulation. “Marijuana” may alternatively be spelled “marihuana”.**

***Retail marijuana* has the same meaning as set forth in Section 16(2)(f) of Article XVIII of the Colorado Constitution.**

***Retail marijuana products* has the same meaning as set forth in Section 16(2)(k) of Article XVIII of the Colorado Constitution.**

Retail marijuana store is an entity licensed to purchase cannabis from cannabis cultivation facilities and to sell cannabis and cannabis products to consumers and retail cannabis testing facilities that are licensed to analyze and certify the safety and potency of cannabis.

3.12.030 Levied.

(d) In addition to the general sales and use tax of 3.25 percent levied in subsection (a) above, there is hereby levied a special sales and use tax of 6 percent on the full purchase price paid or charged for tangible personal property and taxable services purchased or sold at retail by any retail marijuana store exercising a taxable privilege in the City by the sale of such property or services. Each retail marijuana store shall collect tax on every sale or transfer of retail marijuana product(s). The 9.25 percent sales and use tax shall be collected by the vendor and remitted to the City.

All revenue derived through the general sales tax of 3.25 percent on retail marijuana sales shall be used for general municipal purposes and/or as restricted by previous voter action.

All revenue derived through the special sales and use tax of 6 percent on retail marijuana sales shall be used for the enforcement of regulations on the regulated marijuana industry and other costs related to the regulation of regulated marijuana and lawful utilization of marijuana, the building, operating and maintenance of the highest priorities of the adopted Parks and Recreation Open Space Plan which includes indoor and outdoor recreating and park facilities, capital improvements and enhancements to the City's Parks, trails and open space, public safety, enforcement and administrative purposes and for comprehensive substance abuse programs including, without limitation, prevention, treatment, education, responsible use, intervention, and monitoring of unlawful consumption of marijuana all as approved by voters in April 2019 with the passage of ballot measure 2A.

3.12.070 Exemptions from sales tax.

Wholesale sales means a sale by a wholesaler to retailers, jobbers, dealers or other wholesalers for resale and does not include a sale by wholesalers to users or consumers not for resale; latter types of sales shall be deemed to be retail sales and shall be subject to the provisions of this chapter. **Wholesale sales of retail marijuana are subject to an excise tax under the provisions of this Chapter.**

Chapter 3.16 Retail Marijuana Excise Tax

3.16.010 Purpose and legislative intent.

The City Council intends that an excise tax be imposed on the first sale or transfer of unprocessed retail marijuana by a retail cultivation facility within the City.

Revenue derived through the retail marijuana excise tax shall be used for 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, the building, operating and maintenance of the highest priorities of the adopted Parks and Recreation Open Space Plan which includes indoor and outdoor recreating and park facilities, capital improvements and enhancements to the City's Parks, trails and open space, public safety, enforcement and administrative purposes and for comprehensive substance abuse programs including, without limitation, prevention, treatment, education, responsible use, intervention, and monitoring of unlawful consumption of marijuana all as approved by voters in April 2019 with the passage of ballot measure 2A.

3.16.020 Definitions.

As used in this Chapter, *average market rate* means the amount determined by the State pursuant to Section 39-28.8-101(1), C.R.S., as the average price of unprocessed retail marijuana that is sold or transferred from a retail marijuana cultivation facility to a retail marijuana store or retail marijuana products manufacturer. All other terms in this Chapter shall have the same meaning as set forth in Title 5 Chapter 13 of this Code.

3.16.030 Imposition and rate of tax.

There is hereby levied an excise tax of 5 percent upon the average market rate of unprocessed retail marijuana that is sold or transferred from a retail marijuana cultivation facility to a retail marijuana store or retail marijuana products manufacturer.

3.16.040 Vendor liable for tax.

Each retail marijuana cultivation facility shall collect the tax imposed in Section 3.16.030 above upon every sale or transfer of unprocessed retail marijuana from the cultivation facility. The person charged with the duty to collect taxes also has the burden of proving that any transaction is not subject to the tax imposed by this Article.

3.16.050 Taxes collected held in trust.

All sums of money paid by any person or facility to a cultivation facility as excise taxes pursuant to this Article are public monies that are the property of the City. The person required to collect and remit retail marijuana excise taxes shall hold such monies in trust for the sole use and benefit of the City until paying them to the Finance Director.

3.16.060 Licensing and reporting.

(a) Every person with a duty to collect the excise tax imposed by this Article shall obtain a tax license pursuant to Title 5 Chapter 13 of this Code, report such taxes collected on forms and remit such taxes to the City as prescribed by the Finance Director. A tax license shall be valid so long as:

- (1) the business remains in continuous operation**
- (2) the license is not canceled by the licensee or revoked by the City; and**
- (3) the business holds a valid retail marijuana license from the City pursuant to Title 5 Chapter 13 of this Code.**

(b) The tax license may be canceled or revoked by the City as provided in Chapter 12 Section 250 of this Title.

(c) Whenever a business entity that is required to be licensed under this Article is sold, purchased or transferred, so that the ownership interest of the purchaser or seller changes in any respect, the purchaser shall obtain a new tax license.

(d) Every person engaged in the retail marijuana cultivation business in the City shall keep books and records according to the standards of the Finance Director and subject to the Finance Director's right to audit set forth in GJMC Section 3.12.270.

(e) The provisions set forth in Sections 3.12.260, 3.12.270, 3.12.290, 3.12.300, 3.12.330 thru 3.12.580 of this Code shall all apply to retail marijuana excise taxation by the City.

3.16.070 Duties and powers of the Finance Director.

The Finance Director is authorized to administer the provisions of this Chapter.

3.16.080 Prohibited acts.

It is unlawful and a violation of this Code for any retail marijuana business to sell or transfer unprocessed retail marijuana without the tax license required by this Article, the retail marijuana license required by Title 5 Chapter 13 of this Code and any other license(s) required by law, to willfully make any false or fraudulent return or false statement on any return, or to willfully evade the payment of the tax, or any part thereof, as imposed by this Chapter.

ALL OTHER PROVISIONS OF TITLE 3 SHALL REMAIN IN FULL FORCE AND EFFECT.

Introduced on first reading the 16th day of March 2022 and ordered published in pamphlet form.

Adopted on second reading this 6th day of April 2022 and ordered published in pamphlet form.

ATTEST:


C.B. McDaniel
President of City Council



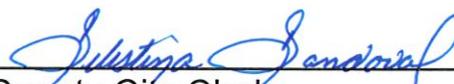
Laura Bauer
Interim City Clerk



I HEREBY CERTIFY THAT the foregoing Ordinance, being Ordinance No. 5065 was introduced by the City Council of the City of Grand Junction, Colorado at a regular meeting of said body held on the 16th day of March 2022 and the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, in pamphlet form, at least ten days before its final passage.

I FURTHER CERTIFY THAT a Public Hearing was held on the 6th day of April 2022, at which Ordinance No. 5065 was read, considered, adopted and ordered published in pamphlet form by the Grand Junction City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 8th day of April 2022.



Deputy City Clerk

Published: March 18, 2022
Published: April 8, 2022
Effective: May 8, 2022

