

**TOWN OF RED CLIFF, COLORADO
ORDINANCE 6, SERIES 2013**

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE TOWN OF RED CLIFF AT A TOWN ELECTION TO BE HELD ON NOVEMBER 5 2013 THE QUESTION OF WHETHER, COMMENCING JANUARY 1, 2014, THE TOWN OF RED CLIFF SHOULD IMPOSE A SALES TAX OF UP TO FIVE PERCENT (5%) ON THE RETAIL SALE OF MARIJUANA, MARIJUANA PRODUCTS AND MARIJUANA ACCESSORIES BY LICENSED MARIJUANA ESTABLISHMENTS AND AN EXCISE TAX OF UP TO FIFTEEN PERCENT (15%) ON THE SALE OF MARIJUANA BY A MARIJUANA CULTIVATION FACILITY TO ANOTHER LICENSED MARIJUANA ESTABLISHMENT AS NEW TAXES PURSUANT TO SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION.

WHEREAS, the Town of Red Cliff ("Town") is a municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority and privileges to which it is entitled under Colorado law;

WHEREAS, pursuant to § 31-20-101, C.R.S., the Town has the power to levy taxes, the same kinds and classes, upon taxable property, real, personal and mixed, within its municipal limit as are subject to taxation for state or county purposes;

WHEREAS, pursuant to Section 20 of Article X of the Colorado Constitution, the Town must have voter approval in advance for any new tax;

WHEREAS, pursuant to Section 20 of Article X of the Colorado Constitution, the Town is required to refund revenues to the extent they exceed the prior calendar year's fiscal year spending plus inflation and annual local growth unless voters approve a revenue change as an offset;

WHEREAS, pursuant to § 1-41-103, C.R.S., local elections concerning local government matters arising under Section 20 of Article X of the Colorado Constitution, including voter approval of any new tax or revenue change, are to be held on the first Tuesday of November in each odd-numbered year;

WHEREAS, on November 6, 2012, the voters of the State of Colorado approved the addition of Section 16 to Article VIII of the Colorado Constitution concerning personal use and regulation of marijuana;

WHEREAS, pursuant to § 12-43.4-101, *et seq.*, C.R.S., otherwise known as the Colorado Retail Marijuana Code, a state licensing authority is authorized to issue licenses for the lawful sale of marijuana, marijuana products and marijuana accessories by licensed marijuana establishments;

WHEREAS, the Town anticipates that on or about January 1, 2014, marijuana, marijuana products and marijuana accessories will be sold within its municipal limits by licensed marijuana establishments;

WHEREAS, the Town presently imposes a sales tax of three percent (3%) on all retail sales of tangible property pursuant to Article 4 of Chapter 4 of the Town of Red Cliff Municipal Code but does not impose a separate and additional sales tax on the retail sale of marijuana, marijuana products and marijuana accessories within its municipal limits;

WHEREAS, the Town, through the Board of Trustees, finds and determines that the imposition of a separate and additional sales tax on the retail sale of marijuana, marijuana products and marijuana accessories within its municipal limits is necessary to protect the public health, safety and welfare of the Town and its inhabitants and that revenues from the new sales tax proposed through this ordinance should be used for the Town's general purposes in order to better serve its residents and fund necessary maintenance and improvements within the Town;

WHEREAS, the Town does not presently impose an excise tax on the wholesale of tangible personal property, including marijuana, within Town limits, ;

WHEREAS, the Town, through the Board of Trustees, finds and determines that the imposition of an excise tax on the wholesale sale of marijuana by a licensed marijuana cultivation facility to another licensed marijuana establishment within its municipal limits is necessary to protect the public health, safety and welfare of the Town and its inhabitants and that revenues from the new excise tax proposed through this ordinance should be used for the Town's general purposes in order to better serve its residents and fund necessary maintenance and improvements within the Town.

NOW, THEREFORE, THE TOWN OF RED CLIFF ORDAINS:

Section 1: Addition to Municipal Code. A new Article 6 is added to Chapter 4 of the Town of Red Cliff Municipal Code providing in its entirety the following:

ARTICLE 6

Marijuana Sales and Excise Taxes

Sec. 4-6-10 Purpose.

The purpose of this Article is to impose a separate and additional sales tax on the lawful retail sale of marijuana, marijuana products and marijuana accessories within the Town and impose an excise tax on the lawful wholesale sale of marijuana within the Town.

Sec. 4-6-20 Definitions.

For purposes of this Article, the following words shall have the following meanings:

(a) "Consumer" shall have the meaning attributed to it section (2)(b) of Section 16 of Article VIII of the Colorado Constitution;

(b) "Lawful retail sale of marijuana, marijuana products and marijuana accessories" shall mean the sale of marijuana, marijuana products and marijuana accessories by a licensed retail marijuana store to a consumer in compliance with Section 16 of Article VIII of the Colorado Constitution and § 12-43.4-101, *et seq.*, C.R.S.;

(c) "Lawful wholesale sale of marijuana" shall mean the sale of marijuana by a licensed marijuana cultivation facility to another licensed marijuana establishment;

(d) "Marijuana" shall have the meaning attributed to it in section (2)(f) of Section 16 of Article VIII of the Colorado Constitution;

(e) “Marijuana Accessories” shall have the meaning attributed to it in section 2)(g) of Section 16 of Article VIII of the Colorado Constitution;

(f) “Marijuana Cultivation Facility” shall have the meaning attributed to it in section 2)(h) of Section 16 of Article VIII of the Colorado Constitution;

(g) “Marijuana Establishment” shall have the meaning attributed to it in section 2)(i) of Section 16 of Article VIII of the Colorado Constitution;

(h) “Marijuana Products” shall have the meaning attributed to it in section 2)(k) of Section 16 of Article VIII of the Colorado Constitution; and

(i) “Retail marijuana store” shall have the meaning attributed to it in section 2)(n) of Section 16 of Article VIII of the Colorado Constitution.

Sec. 4-6-30 Taxes Imposed.

(a) A tax is levied and shall be collected upon the lawful retail sale of marijuana, marijuana products and marijuana accessories within the Town at a rate of up to five percent (5%) of the price paid by the consumer thereof rounded off to the nearest penny.

(b) A tax is levied and shall be collected upon the lawful wholesale of marijuana within the Town at a rate of up to fifteen percent (15%) of the price paid by the purchaser thereof rounded off the nearest penny.

(c) The Board shall establish the rate of taxation authorized by this section applicable to the following calendar year by resolution no later than December 15 of the preceding year. If the Board fails to establish the rate of taxation in accordance with this subsection (c), the rates in effect for the preceding year shall continue to be in effect.

(d) The sale and excise taxes imposed by this section shall be in addition to and not in lieu of the sales tax imposed on the retail sale of tangible personal property pursuant to Article 4 of this Chapter.

Sec. 4-6-40 Collections, administration and enforcement.

The collection, administration and enforcement of the sales tax and excise taxes imposed by this Article shall be performed by the Director of Revenue of the State of Colorado in the same manner as the collection, administration and enforcement of the state sales tax as provided in Article 26 of Title 39 of the Colorado Revised Statutes and in the same manner as the collection, administration and enforcement of the sales tax imposed by Article 4 of Chapter 4 of this Code.

Section 2: Election. A Town election will be held on Tuesday, November 5, 2013.

Section 3: Ballot Question. At the election authorized by this ordinance, the following ballot question will be submitted to the registered electors of the Town:

SHALL TOWN OF RED CLIFF TAXES BE INCREASED BY \$100,000.00 IN THE FISCAL YEAR COMMENCING JANUARY 1, 2014 AND ENDING DECEMBER 31, 2014 AND BY SUCH AMOUNTS AS MAY BE COLLECTED ANNUALLY THEREAFTER BY THE IMPOSITION ON JANUARY 1, 2014 OF A NEW SALES TAX ON THE RETAIL SALE OF MARIJUANA, MARIJUANA PRODUCTS AND MARIJUANA ACCESSORIES BY LICENSED MARIJUANA ESTABLISHMENTS AT A RATE OF UP TO FIVE PERCENT (5%) AND BY THE IMPOSITION ON JANUARY 1, 2014 OF A NEW EXCISE TAX ON THE SALE OF MARIJUANA BY A MARIJUANA CULTIVATION FACILITY TO ANOTHER LICENSED MARIJUANA ESTABLISHMENT AT A RATE OF UP TO 15 PERCENT (15%), WITH SUCH ADDITIONAL REVENUES AS ARE GENERATED BY THE NEW TAX TO BE COLLECTED, RETAINED AND SPENT FOR THE PURPOSE OF FUNDING MUNICIPAL SERVICES AND OPERATIONS AND/OR OTHER LAWFUL GENERAL MUNICIPAL PURPOSES, AS A VOTER APPROVED REVENUE CHANGE, OFFSET AND EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY UNDER SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

YES _____

NO _____

Section 4: Conduct of Election: The election authorized by this ordinance will be conducted in accordance with the Town of Red Cliff Municipal Code, the Colorado Municipal Election Law and all other applicable laws, rules and regulations. The election will be conducted as a coordinated election with Eagle County. The Town Clerk is authorized to enter into such agreements on behalf of the Town with Eagle County regarding conduct of the election and the preparation and mailing of notices required by Section 20 of Article X of the Colorado Constitution as necessary to ensure that the election is conducted in accordance with all applicable rules, laws and regulations. The Town designates the Town Clerk to serve as its designated election official for the purpose of performing acts permitted or required by law in connection with the election.

Section 5: Effect of Election: If a majority of the votes cast at the election authorized by this ordinance are in favor of the ballot question set forth in Section 3, the additions to the Town of Red Cliff Municipal Code set forth in Section 1 will be deemed to have been adopted and shall become effective on January 1, 2014 and on such date the Town will be authorized to collect, retain and expend the full amount of revenues collected by the Town as a result of the imposition of the new sales and excise taxes approved by the ballot question. If a majority of the votes cast at the election authorized by this ordinance are opposed to the ballot question set forth in Section 3, the additions to the Town of Red Cliff Municipal Code set forth in Section 1 shall not go into effect and will be deemed to be null and void in all respects.

Section 6: Declaration. The Town's Board of Trustees finds, determines and declares that this ordinance is necessary to protect the public health, safety and welfare of the Town and its inhabitants and pertains to a matter of local concern.

Section 7: Authorization. The Town's Board of Trustees, Mayor, Administrator, Clerk, Treasurer and Attorney are authorized and directed to take such further action as necessary and appropriate to effectuate the provisions of this ordinance and ensure that the ballot question set forth in Section 3 is lawfully and properly submitted to the Town's registered electors on November 5, 2013.

Section 8: Severability. If any section, paragraph, clause, provision or part of this ordinance is for any reason held to be invalid or unenforceable, the remainder of this ordinance shall continue in full force and effect, it being the legislative intent that this ordinance would have been adopted even if such invalid or unenforceable matter had not been included therein. It is further declared that if any section, provision or part of this ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of the ordinance and the application thereof to other persons shall not be affected thereby.

Section 9: Effective Date. This ordinance shall become effective thirty (30) days after publication following final passage and upon approval by the Town's registered electors at the November 5, 2013 election.

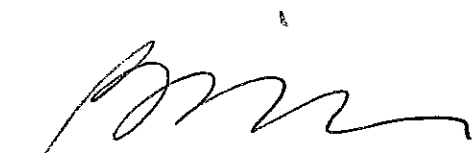
INTRODUCED, TITLE READ IN FULL, APPROVED ON THE FIRST READING, APPROVED AND ORDERED POSTED IN FULL THIS 20th DAY OF AUGUST, 2013. A public hearing on the SECOND READING of this Ordinance shall be held at the regular meeting of the Board of Trustees of the Town of Red Cliff, Colorado, on the 3rd day of September, 2013 at 7:00 p.m. in the Town Hall of the Town of Red Cliff, Colorado.

TOWN OF RED CLIFF, COLORADO



Scott Burgess, Mayor

ATTEST:



Barb Smith, Town Clerk/Administrator

ADOPTED AND ORDERED PUBLISHED on this 3rd day of September, 2013.

TOWN OF RED CLIFF, COLORADO

A handwritten signature in black ink, appearing to read 'MSB', written over a horizontal line.

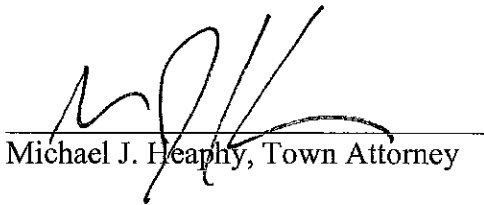
Scott Burgess, Mayor

ATTEST:

A handwritten signature in black ink, appearing to read 'BS', written over a horizontal line.

Barb Smith, Town Clerk

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read 'MJH', written over a horizontal line.

Michael J. Heaphy, Town Attorney