



**RESOLUTION TO APPROVE AND AUTHORIZE A BALLOT ISSUE FOR THE APRIL 2022 ELECTION FOR THE PURPOSE OF PROPOSING AN ADDITIONAL TOWNWIDE SALES TAX ON RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITH THE TAX REVENUES TO BE USED TO FUND THE ADEQUATE ENFORCEMENT AND ADMINISTRATION OF REGULATIONS ON THE RETAIL MARIJUANA INDUSTRY AND OTHER GENERAL PURPOSES OF THE TOWN**

**WHEREAS**, C.R.S. § 29-2-101, *et seq.*, authorizes the Town to levy sales taxes upon the approval of a majority of the qualified registered electors of the Town voting on such proposal at an election conducted and held according to Colorado law; and

**WHEREAS**, the laws of Colorado permit the sale 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**, C.R.S. § 39-28.8-203 authorizes local governments to impose, levy and collect taxes on the sale of retail marijuana and retail marijuana products; and

**WHEREAS**, this Board finds that it is in the best interest of the present and future residents of the Town of Ordway to certify a ballot issue to the eligible voters of the Town at the April 2022 election requesting approval of the imposition of an additional town wide sales tax of a minimum of five and one-half percent (5.5%) to a maximum of fifteen percent (15%) on the sale of retail marijuana and retail marijuana products subject to the terms of this Resolution.

**NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Ordway, Colorado:**

**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 April, 2022 election, to enact, and therefore, levy and impose an additional town wide sales tax of a minimum of five and one-half percent (5.5%) and a maximum of fifteen percent (15%) upon the sale of “medical marijuana,” “medical marijuana products,” “retail marijuana,” and “retail marijuana products” as those products are defined in C.R.S. § 44-10-103, in accordance with the provision of Article 2 of Title 29, C.R.S., which provisions are incorporated herein by this reference.

**2. Effective Date of Sales and Use Tax Rate Increase:** If approved by a majority of the eligible electors voting thereon at the April 2022 election, the sales tax proposed in this Resolution and in the ballot issue shall become effective July 1, 2022.

**3. Statutory Definitions Incorporated/Specific Definition of Town:** The definitions of the words contained herein shall be as set forth in C.R.S. §§ 31-1-101, 31-1-102, 31-1-201, and 31-1-202, which definitions are incorporated by reference into this Resolution as if fully set forth herein. The term, "Town," as used in this Resolution includes all incorporated areas of the Town of Ordway, Colorado.

### **SPECIFIC PROVISIONS PERTAINING TO THE SALES TAX**

**4. Property Taxed:** Upon approval in the April 2022 election, there shall be enacted and, therefore, levied and imposed and there shall be collected and paid, a Town-wide sales tax of a minimum of five and one-half percent (5.5%) and a maximum of fifteen percent (15%) on the gross receipts upon the sale of "medical marijuana," "medical marijuana products," "retail marijuana," and "retail marijuana products" as those products are defined by C.R.S. § 44-10-103.

**5. Adoption of State Rules and Regulations:** The imposition of this tax on the sale of medical marijuana, medical marijuana products, retail marijuana, and retail marijuana products shall be in accordance with the rules and regulations of the Colorado Department of Revenue, and/or in accordance with any regulations of the Town of Ordway which have been or may be enacted by separate written resolution.

**6. Amounts Excluded:** The amounts subject to tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.

**7. Exemptions:** There shall be exempt from sales taxation under the provisions of this Resolution all of the tangible personal property and services which are exempt from Town sales taxation under the State Statute, "Sales and Use Tax Exemptions," C.R.S. § 39-26-701, *et seq.*, and the Ordway Municipal Code.

**8. Acknowledgement of Statutory Exemptions:** As the additional sales tax proposed by this Resolution applies only to medical marijuana, medical marijuana products, retail marijuana, and retail marijuana products and applies to no other tangible personal property, the exemptions for types of tangible personal property other than medical marijuana, medical marijuana products, retail marijuana, and retail marijuana products described in C.R.S. § 29-2-105 are not applicable to this additional sales tax proposal. It is specifically acknowledged that none of the tangible personal property covered by exemptions cited in C.R.S. § 29-2-105 shall be taxed by the additional sales tax proposed in this Resolution.

**9. Place of Sale:** For purposes of this Resolution, all sales of medical marijuana, medical marijuana products, retail marijuana, and retail marijuana products shall be considered consummated at the place of business of the seller, unless the medical marijuana, medical

marijuana products, retail marijuana, and retail marijuana product sold is delivered by the retailer or his agent to a destination outside the limits of the Town or to a common carrier for delivery to a destination outside the limits of the Town. The gross receipts from such sales shall include delivery charges, when such charges are subject to sales and use tax of the State of Colorado imposed by Article 10 of Title 44, C.R.S., regardless of the place to which delivery is made. If a retailer has no permanent place of business in the Town, or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of the sales tax imposed by this Resolution shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by the rules and regulations promulgated by the Colorado Department of Revenue.

**10. Sales Tax License:** No separate Town sales tax license shall be required. Any person engaging in the business of selling medical marijuana, medical marijuana products, retail marijuana, and retail marijuana products at retail shall annually obtain and hold a State license as required by C.R.S. § 39-26-103.

**11. Sales Tax Vendor's Fees:** As collection agent for the Town of Ordway, the vendor shall be entitled to withhold an amount equal to four percent (4%) of the total amount to be remitted by vendor to the Town Treasurer each month to cover vendor's expense in the collection and remittance of said Town sales tax on sales of retail marijuana and retail marijuana products except the retailer shall not retain more than \$1000 per month, § 39-26-105(d)(I). If any vendor is delinquent in remitting said tax, other than in unusual circumstances shown to the satisfaction of the Town Treasurer, the vendor shall not be allowed to retain any amounts to cover his or her expenses in collecting and remitting said tax, and an amount equivalent to the minimum of five and one-half percent (5.5%) and the maximum of fifteen percent (15%) shall be remitted to the Town Treasurer by any such delinquent vendor. If any vendor, during any reporting period, shall collect as a tax an amount in excess of the minimum of five and one-half percent (5.5%) of the maximum of fifteen percent (15%) of the total taxable sales, he or she shall remit to the Town Treasurer the full amount of the tax herein imposed and any such excess so collected.

**12. Collections, Administration and Enforcement:** The collection, administration and enforcement of the sales tax on sales of medical marijuana, medical marijuana products, retail marijuana and retail marijuana products imposed by this Resolution shall be performed by the employees of the Town of Ordway pursuant to regulations regarding collection, administration and enforcement of this additional sales tax on medical marijuana, medical marijuana products, retail marijuana and retail marijuana products to be passed by the Town of Ordway Board of Trustees prior to July 1, 2022.

If the sales and use tax increase proposed by this Resolution is approved by the electorate at the General Election in April, 2022, the Crowley County Clerk and Recorder, shall send notice of said adoption to the Executive Director of the Department of Revenue. Such notice shall include:

- a. A copy of this Resolution, certified by the Clerk and Recorder;

- b. Affidavits of Publication of this Resolution, as provided therein; and
- c. An abstract of election results, certified as to the approval of the sales tax by a majority of the registered, qualified electors of the Town of Ordway voting thereon.

### **USE OF TAX REVENUES**

**13. Distribution of Tax Revenues:** In order to carry out the purposes expressed in this Resolution and in the proposed ballot issue, and pursuant to C.R.S. § 29-2-104(2), the Town of Ordway shall retain all revenue generated by the additional sales tax imposed by this Resolution for the purposes described in paragraph 14 below and there shall be no distribution of revenues generated by this additional sales tax to any incorporated town or outside of the Town of Ordway, or to unincorporated Crowley County, Colorado.

**14. Use by Town:** The Board shall direct the utilization of the revenues of the additional sales tax on medical marijuana, medical marijuana products, retail marijuana and retail marijuana products proposed by this Resolution solely as described in the ballot measure referred to the voters of the Town of Ordway by this Resolution.

a. Effective July 1, 2022, the Town of Ordway shall expend revenue generated from this additional sales tax on medical marijuana, medical marijuana products, retail marijuana and retail marijuana products for the purposes listed on Attached Exhibit A (Ballot Issue A) and for no other purposes.

b. Revenue generated from this additional sales tax on medical marijuana, medical marijuana products, retail marijuana and retail marijuana products shall be used to fund the adequate enforcement and administration of regulations on the retail marijuana industry and other general purposes of the Town.

### **ELECTION REQUIREMENTS**

**15. Submission to Electors:** Pursuant to C.R.S. § 29-2-104(3), this sales and use tax increase proposal as set forth in this Resolution shall be referred to the eligible electors of the Town of Ordway at the General Election to be held April 5, 2022, and being referred to herein as the April, 2022, election. The ballot issue to be submitted to the eligible electors shall be substantially as set forth on attached Exhibit A, which Exhibit A is incorporated by reference into this Resolution as if fully set forth herein.

**16. Publication of Resolution:** The Town Clerk is hereby authorized and directed to publish the text of this proposal for a sales and use tax increase three separate times, a week apart, in a newspaper circulated in the Town.

**17. 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.

**18. Ballot Title:** For purposes of C.R.S. § 1-11-203.5, the ballot title for the ballot issue contained in Exhibit A attached to this Resolution is hereby determined to be the text of the ballot issue itself set forth on attached Exhibit A.

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

#### MISCELLANEOUS

**20. Effective Date-Applicability:** Upon approval at the April, 2022, election, this proposal shall become effective and in force immediately, subject to the terms and conditions as set forth in this Resolution, and shall remain effective unless otherwise repealed according to Colorado law; provided, however, that the provisions of this Resolution calling for an election on the ballot issue set forth in Exhibit A shall take effect immediately upon the passage of the resolution by the Board.

**21. Statutory Reference:** All statutory citations in this Resolution shall be construed to refer to the Colorado Revised Statutes, 2017 referred to above as C.R.S., and as the same may be from time to time amended.

**22. Amendments:** Unless otherwise required by Colorado law, the provision of this Resolution may be amended by resolution of the Board of Trustees.

**23. Severability:** If any section, paragraph, clause, or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution. It is the intention of the Board that the various parts of this Resolution are severable.

ADOPTED AND APPROVED THIS 3rd DAY OF February, 2022, BY THE BOARD OF TRUSTEES OF THE TOWN OF ORDWAY, COLORADO.



Gerald Barber, Mayor  
Town of Ordway



Karen Gates, Town Clerk  
Town of Ordway

## **EXHIBIT A**

### **Ballot Issue A**

SHALL TOWN OF ORDWAY TAXES BE INCREASED BY \$9,000.00 ANNUALLY IN THE FIRST FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN ADDITIONAL SALES TAX OF A MINIMUM OF FIVE AND ONE-HALF PERCENT (5.5%) AND A MAXIMUM OF FIFTEEN PERCENT (15%) ON THE SALE OF MEDICAL MARIJUANA, MEDICAL MARIJUANA PRODUCTS, RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WITH THE TAX REVENUE BEING USED TO FUND THE ADEQUATE ENFORCEMENT AND ADMINISTRATION OF REGULATIONS ON THE MEDICAL AND RETAIL MARIJUANA INDUSTRY AND OTHER GENERAL PURPOSES OF THE TOWN, AND SHALL THE TOWN OF ORDWAY BE ENTITLED TO COLLECT, RETAIN, AND SPEND THE FULL REVENUES FROM SUCH TAX INCREASE AS A VOTER-APPROVED REVENUE CHANGE NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATION CONTAINED IN ARTICLE X, SECTION 20 OF THE STATE CONSTITUTION, C.R.S. SECTION 29-1-301, OR ANY OTHER LAW?