

STAFF MEMO

DATE OF STUDY SESSION: JUNE 14, 2021 / AGENDA ITEM NO. 7
JUNE 28, 2021 / AGENDA ITEM NO. 15

To: Mayor and City Council

From: Holly Björklund, Chief Financial Officer, 303-987-7601

Subject: **AN ORDINANCE TO CREATE A BALLOT QUESTION FOR THE NOVEMBER 2, 2021 ELECTION REGARDING A RETAIL MARIJUANA SPECIAL TAX AND EXCISE TAX**

This ordinance was approved on 1st Reading by a vote of 9 ayes 1 nays.

SUMMARY STATEMENT: This ordinance is being brought forward for City Council to determine whether to proceed with a ballot question for the November 2, 2021 election to impose an additional sales tax (“special tax”) and an excise tax on retail marijuana.

BACKGROUND INFORMATION: On November 3, 2020, the citizens of Lakewood approved Ballot Question 2B, allowing for the operation of retail marijuana stores and retail marijuana cultivation facilities in the City.

This ordinance would authorize the City to submit to the registered voters of the City of Lakewood a ballot question regarding the imposition of an additional sales tax (7%) on the sale of retail marijuana and retail infused marijuana products and an excise tax (7%) on the cultivation of retail marijuana. In addition, this ordinance would authorize the City Council to increase those rates up to 15% without further voter approval. Such revenue would be retained by the City (TABOR-exempt) to fund marijuana regulation and enforcement, education and public health programs associated with marijuana consumption, and other general expenses.

Members of the City Council should be aware of the following:

- Much of the language used within the ballot measure is established by law. Therefore, even though the phrasing often seems in need of wordsmithing very little of the phrasing may be changed.
- The fixing of a ballot title occurs “upon the final action of a local government legislative body to settle or decide the wording of the ballot title.” On that date upon which a Ballot Ordinance is submitted to the City Council for the purpose of having a title “fixed” the rules and limitations of the Campaign and Political Finance in Municipal Elections Code become applicable to that ballot measure (See L.M.C. 2.54.060 and C.R.S. 31-11-111). For the purposes of the City of Lakewood this generally occurs upon first reading of the ordinance.
- No agency, department, board, division, bureau, commission, or council of the City of Lakewood shall expend any moneys from any source, or make any contributions, to urge electors to vote in favor of or against any local ballot issue that has been submitted for the purpose of having a title fixed pursuant to Section 31-11-111 or that has had a title fixed pursuant to that section.
 - A member or employee of any such agency, department, board, division, bureau, commission, or council who has policy-making responsibilities may expend not more than \$50.00 of public

moneys in the form of letters, telephone calls, or other activities incidental to expressing his or her opinion on any such issue described in subparagraph (I) of this paragraph (a).

- An agency, department, board, division, bureau, commission, or council of the City of Lakewood from expending public moneys or making contributions to dispense a factual summary, which shall include arguments both for and against the proposal, on any issue of official concern before the electorate in the jurisdiction. Such summary shall not contain a conclusion or opinion in favor of or against any particular issue.
- Passing a resolution or taking a position of advocacy on any issue and reporting the passage of or distributing such resolution through established, customary means, other than paid advertising.

BUDGETARY IMPACTS: Revenue estimates are based on State and other municipal data: Special Tax \$3,570,000; Excise Tax \$500,000. Estimates assume that all 10 medical marijuana retailers will license to sell retail marijuana. There are many unknown factors; therefore, to remain in conformance with the requirements of TABOR, estimates are based on the high side of the estimated range of revenue.

STAFF RECOMMENDATIONS: Staff recommends City Council provide any specific questions in advance, so thoughtful answers may be researched and responded to suitably.

ALTERNATIVES: City Council could choose to make (limited) modifications to the ordinance language or choose not to move forward with this ballot question.

PUBLIC OUTREACH: This item was promoted through the regular communication channels for items that come before the City Council.

NEXT STEPS: If approved, work with the City Clerk to have issue placed on the November Coordinated Election Ballot.

ATTACHMENTS: Ordinance 2021-13

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenny Brown, City Attorney