



City of  
Golden

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## Council Memorandum

**To:** The Honorable Mayor and City Council  
**From:** Steve Glueck, Assistant to the City Manager  
**Through:** Jason T Slowinski, City Manager  
**Date:** July 29, 2021  
**Re:** Resolution 2801, Referring Two Ballot Questions for the November 2021 Election

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**Purpose of Agenda Item:** This item appears before Council as the final step in referring two ballot questions to the Golden electorate regarding a potential change to allow limited sales of “retail marijuana” in the City of Golden and to impose a six percent (6%) excise tax on such sales, in addition to city sales tax and other applicable state taxes. The ballot questions listed in the attached resolution are both conditioned on the passage of the other, such that the City would only proceed if the Golden voters pass both. The ballot questions in the resolution have two very minor wording changes from the language discussed a few weeks ago. Both changes add a little specificity, and will be noted in the staff presentation.

Upon enactment of the Resolution referring the specific ballot questions, the actions of the City and City Council will be governed by the Fair Campaign Practices Act, and further Council action will await the outcome of the November election.

**Summary of Recent Council Discussion:** During the course of the prior discussions, Council discussed a number of options, but landed on a proposal to ask Golden voters whether to allow a limited expansion from the one medical marijuana dispensary business in Golden today to allow retail sales of marijuana at that location and a small number of additional locations.

- If the ballot questions pass on the November 2021 election and authorize City Council to adopt new regulations permitting retail sales of marijuana to adults within parameters of Amendment 64 and to impose a 6% excise tax on such commercial sales, Council would consider an ordinance allowing such retail sales, subject to the following:
  - The maximum number of retail outlets would be limited by means of a numerical cap, or practically limited by zoning and spacing requirements. Location could be co-located with a medical dispensary, according to state and local requirements.
  - New locations would be limited to commercial or industrial zoned properties located a minimum distance from schools, day care centers, perhaps parks, and any other authorized marijuana sales business locations.

- Detailed licensing requirements would be incorporated into an update of Chapter 4.94 of the Municipal Code which currently addresses medical marijuana dispensaries.
- Revenue proceeds from the city sales and use tax, as well as any share of the state excise tax on marijuana sales would accrue to the City General Fund.
- Revenue proceeds from the voter authorized 6% excise tax could be directed to specific purposes, including public health programs.
- The ballot question would be structured that it would go into effect upon the effective date of the new regulations to be adopted into City code, by ordinance.

**Updated Discussion of the Use of Excise Tax funds:** On July 27<sup>th</sup>, City Council again reviewed the desired list of uses for the Excise Tax and determined that new revenues from the 6% local excise tax would be directed to projects and programs addressing:

- Overall efforts to ensure the physical and mental health of Golden residents
- Substance abuse education and counseling
- Regulatory enforcement of substances that harm health
- Address harmful health impacts of food and housing insecurity

**Next Steps if the Ballot Questions Both Pass:** If both ballot questions were to pass, implementation discussions would begin with Council. The anticipated implementation steps would include:

- A review and amendment of Chapter 4.94 of the Municipal Code to update the medical marijuana regulations and implement licensing and operating regulations for retail marijuana sales.
- Enactment of an ordinance enacting the 6% excise tax, likely within Title 3 of the Municipal Code.
- Adoption of a 2022 Budget Amendment indicating the initial year revenues, expenses, and investments within the parameters discussed above.
- Incorporation of criteria and procedures in the 2023 annual operating and/or capital budgeting process to address annual expenditures and investments going forward.

**Recommendation:** Staff recommends that City Council consider Resolution 2801 on August 10<sup>th</sup> and take action as appropriate.

Attachment: Resolution 2801

## **RESOLUTION NO. 2801**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO, REFERRING TO THE REGISTERED ELECTORS OF THE CITY OF GOLDEN AT THE NOVEMBER 2, 2021 COORDINATED MUNICIPAL ELECTION THE FOLLOWING: A BALLOT QUESTION REGARDING WHETHER THE CITY COUNCIL SHALL AUTHORIZE AND REGULATE RETAIL MARIJUANA STORES WITHIN THE CITY CONDITIONED ON VOTER APPROVAL OF A SIX PERCENT (6%) EXCISE TAX ON RETAIL SALES OF MARIJUANA, RETAIL MARIJUANA PRODUCTS, AND RETAIL MARIJUANA ACCESSORIES; AND A BALLOT ISSUE IMPOSING A SIX PERCENT (6%) EXCISE TAX ON RETAIL SALES OF MARIJUANA, RETAIL MARIJUANA PRODUCTS, AND RETAIL MARIJUANA ACCESSORIES CONDITIONED ON THE CITY COUNCIL TAKING SEPARATE ACTION TO AUTHORIZE AND REGULATE RETAIL MARIJUANA STORES, AND SETTING THE TITLES FOR THE BALLOT QUESTION AND BALLOT ISSUE**

WHEREAS, pursuant to Section 14 of Article XVIII of the Colorado Constitution and Colorado law, Chapter 4.94 of the Golden Municipal Code (“Code”), the City of Golden (“City”) currently authorizes and regulates medical marijuana stores within the boundaries of the City; and

WHEREAS, pursuant to Chapter 4.98 of the Code, the City currently prohibits retail marijuana cultivation facilities, marijuana products manufacturers, marijuana testing facilities, and retail marijuana stores within the City; and

WHEREAS, Section 16 of Article XVIII of the Colorado Constitution and Article 10, Title 44 of the Colorado Revised Statutes authorize the sale of marijuana, marijuana products, and marijuana accessories at retail for personal use by persons twenty-one years of age or older, subject to state and local regulations; and

WHEREAS, City Council seeks to determine whether the registered electors of the City desire that City Council authorize and regulate retail marijuana stores and the sale of retail marijuana, retail marijuana products, retail marijuana concentrate, and retail marijuana accessories at such stores in accordance with Colorado law; and

WHEREAS, City Council finds that the adoption of a system of licensing and regulating retail marijuana stores will impose an administrative and financial burden on the City, and that a new excise tax on the sale of retail marijuana, retail marijuana products, retail marijuana concentrate, and retail marijuana accessories within the City is warranted to offset that burden; and

WHEREAS, City Council seeks to determine whether the registered electors of the City will approve a six percent (6%) excise tax upon the sale of retail marijuana, retail marijuana products, retail marijuana concentrate, and retail marijuana accessories; and

WHEREAS, pursuant to Section 6.7 of the City's Home Rule Charter ("Charter"), the City Council may, on its own motion, submit at a general election any proposed question to a vote of the people in the manner provided by the Charter; and

WHEREAS, pursuant to Section 14.1 of the Charter, City Council may levy and collect taxes for municipal purposes, including excise taxes, provided that no excise tax shall be levied until such tax shall have been approved by a majority of the electors voting at a regular or special election; and

WHEREAS, pursuant to the Taxpayer's Bill of Rights, Article X, Section 20 of the Colorado Constitution ("TABOR"), the City may not enact a new tax unless and until such tax has received advance voter approval via a ballot issue presented at an election on specified intervals, including elections on the first Tuesday in November of odd-numbered years; and

WHEREAS, November 2, 2021 is a designated coordinated election date under state law; and

WHEREAS, a regular election of the City will be held on Tuesday, November 2, 2021, which election shall be held as a coordinated election with Jefferson County pursuant to the Uniform Election Code of 1992, as amended; and

WHEREAS, pursuant to Resolution No. 2803 dated August 10, 2010, the City Council determined to conduct the City's regular election as a coordinated election with Jefferson County and approved the Intergovernmental Agreement between the City and the Jefferson County Clerk and Recorder regarding the conduct of the November 2, 2021 coordinated election; and

WHEREAS, the City Council has determined that it is in the best interest of the City and its citizens to refer a ballot question to its registered electors regarding whether the City Council shall authorize and regulate retail marijuana stores and the sale of retail sales of marijuana, retail marijuana products, and retail marijuana accessories within the City, conditioned on voter approval of a six percent (6%) excise tax on the sale of such products; and

WHEREAS, the City Council has determined that it is in the best interest of the City and its citizens to refer a ballot issue to its registered electors regarding the imposition of a six percent (6%) excise tax on retail sales of marijuana, retail marijuana products, and retail marijuana accessories conditioned on the City Council taking separate action to authorize and regulate retail marijuana stores and the sale of such items within the City; and

WHEREAS, it is the intent of the City Council that ballot question and ballot issue are conditioned upon one another, and that any approval of the ballot question referred herein is contingent upon voter approval of the ballot issue authorizing the imposition of the excise tax referred herein, that any approval of the ballot issue referred herein is contingent upon City Council taking separate action to authorize and regulate retail marijuana stores pursuant to approval of the ballot question referred herein, and therefore, that the failure of either the ballot question or the ballot issue shall result in the failure of both the ballot question and the ballot issue; and

WHEREAS, upon approval of both the ballot question and the ballot issue referred herein by the majority of registered electors voting thereon at the November 2, 2021 election, the City Council may authorize and regulate marijuana stores and the sale retail sales of marijuana, retail

marijuana products, and retail marijuana accessories within the City and adopt an ordinance implementing the authorized excise tax.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO, THAT:**

**Section 1.** The City Council hereby approves and refers the following ballot question for submission to the voters to appear on the ballot for the regular election to be held on November 2, 2021:

“BALLOT QUESTION [REDACTED]:

Shall the City of Golden authorize a limited number of retail marijuana stores within the City and authorize such stores to sell retail marijuana, retail marijuana products, retail marijuana concentrate, and marijuana accessories, as defined in the Colorado Marijuana Code and Colorado Marijuana Rules, subject to all requirements of state law, as may be amended from time to time and subject to, and commencing upon the adoption by City Council of, local regulations governing the time, place, manner, and number of retail marijuana stores and local licensing requirements, as may be amended from time to time, conditioned on the voters approving a six percent (6%) excise tax on the price paid by the purchaser on the sale of retail marijuana, retail marijuana products, retail marijuana concentrate, and marijuana accessories in the November 2, 2021 election?

YES \_\_\_\_\_

NO \_\_\_\_\_”

**Section 2.** The City Council hereby approves and refers the following ballot issue for submission to the voters to appear on the ballot for the regular election to be held on November 2, 2021:

“BALLOT ISSUE [REDACTED]:

“SHALL THE CITY OF GOLDEN TAXES BE INCREASED UP TO \$900,000.00 ANNUALLY IN 2022, THE FIRST FULL FISCAL YEAR OF COLLECTION, AND BY WHATEVER AMOUNT IS RAISED ANNUALLY THEREAFTER, THROUGH THE ADOPTION OF AN EXCISE TAX AT THE RATE OF SIX PERCENT (6%) OF THE PRICE PAID BY THE PURCHASER ON THE SALE OF RETAIL MARIJUANA, RETAIL MARIJUANA PRODUCTS, RETAIL MARIJUANA CONCENTRATE, AND MARIJUANA ACCESSORIES, AS DEFINED IN THE COLORADO MARIJUANA CODE, COLORADO MARIJUANA RULES, AND APPLICABLE CITY ORDINANCES, CONDITIONED ON THE CITY COUNCIL TAKING SEPARATE ACTION TO AUTHORIZE RETAIL MARIJUANA STORES TO SELL SUCH ITEMS, AND COMMENCING UPON THE ADOPTION BY CITY COUNCIL, AND IMPLEMENTATION BY THE CITY, OF LOCAL REGULATIONS AND LICENSING REQUIREMENTS, AS MAY BE AMENDED FROM TIME TO TIME, WITH THE REVENUES RECEIVED FROM SUCH TAX TO BE SPENT ON ANY LAWFUL MUNICIPAL PURPOSE, INCLUDING PUBLIC HEALTH PROGRAMS AND PROJECTS,

AND SHALL ALL REVENUES FROM SUCH TAX AND ANY EARNINGS THEREON BE COLLECTED, RETAINED, AND SPENT AS A VOTER-APPROVED REVENUE CHANGE WITHOUT LIMITATION OR CONDITION, AND NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

YES \_\_\_\_\_

NO \_\_\_\_\_”

**Section 3.** This resolution shall serve to set the titles and content for the ballot question and ballot issue set forth herein and the ballot titles for such question and issue shall be the text of the question and issue themselves.

**Section 4.** The City Clerk is authorized to correct typographical errors and omissions and to cause to be entered into any blanks of the ballot question and ballot issue the appropriate ballot question number or letter and ballot issue number or letter upon designation of the same by the appropriate election official. The City Clerk shall certify the ballot content for the election, including the ballot question and ballot issue set forth above, to the Jefferson County Clerk no later than 60 days before the election, pursuant to C.R.S. § 1-5-203(3)(a).

**Section 5.** The City Manager, City Attorney and City Clerk are hereby authorized and directed to take all necessary and appropriate action to effectuate the provisions of this resolution including the taking of all reasonable and necessary action to cause such approved ballot question and ballot issue to be printed and placed on the ballot for the coordinated election.

**Section 6.** If any article, section, paragraph, sentence, clause, or phrase of this resolution is held to be unconstitutional or invalid for any reasons, such decision shall not affect the validity of constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 7.** This resolution shall take effect immediately its approval by the City Council.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

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Laura M. Weinberg, Mayor

ATTEST:

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Monica S. Mendoza, CMC, City Clerk

APPROVED AS TO FORM:

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Kathie Guckenberger, City Attorney