

PALMER LAKE, COLORADO

ORDINANCE NO. 1 OF 2017

AN ORDINANCE ADOPTING A NEW CHAPTER 3.90 OF TITLE 3 (REVENUE AND FINANCE) OF THE PALMER LAKE MUNICIPAL CODE IMPOSING A RETAIL MARIJUANA EXCISE TAX OF 5% OF THE AVERAGE MARKET RATE OF THE UNPROCESSED RETAIL MARIJUANA AS DETERMINED BY THE COLORADO DEPARTMENT OF REVENUE WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY AND GOVERNING THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF THE SAME

WHEREAS, THE TOWN OF PALMER LAKE IS A STATUTORY TOWN; AND

WHEREAS, SECTION 29-2-114(2), C.R.S., AUTHORIZES MUNICIPALITIES TO LEVY, COLLECT AND ENFORCE A MUNICIPAL EXCISE TAX ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY, SUCH TAX NOT TO EXCEED 5% OF THE AVERAGE MARKET RATE AS DETERMINED BY THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 39-28.8-101(1), C.R.S.; AND

WHEREAS, UNDER THE TAXPAYER'S BILL OF RIGHTS, ARTICLE X, SECTION 20(4) OF THE COLORADO CONSTITUTION ("TABOR") AND SECTION 29-2-114(2)(B), GOVERNMENTAL ENTITIES ARE REQUIRED TO OBTAIN VOTER APPROVAL IN ADVANCE FOR ANY NEW EXCISE TAX; AND

WHEREAS, THERE ARE EXISTING LICENSED RETAIL MARIJUANA CULTIVATION FACILITIES LOCATED WITHIN TOWN; AND

WHEREAS, THE TOWN DOES NOT DIRECTLY RECEIVE ANY TAX REVENUE FROM THOSE ESTABLISHMENTS; AND

WHEREAS, THE TOWN BOARD OF TRUSTEES REFERRED, AND ON NOVEMBER 8, 2016, THE TOWN VOTERS APPROVED, A BALLOT ISSUE AUTHORIZING AN EXCISE TAX OF FIVE PERCENT (5%) (TO BE INCREASED TO UP TO 10% WITHOUT NEED FOR FURTHER VOTER APPROVAL) WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY, WITH THE RATE OF SUCH EXCISE TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF SUCH TAX DOES NOT EXCEED 10%; AND

WHEREAS, UNLESS AND UNTIL AMENDED, THE TOWN IS LIMITED TO IMPOSING A 5% EXCISE TAX RATE UNDER SECTION 29-2-114(2), C.R.S.; AND

WHEREAS, TITLE 3 OF THE PALMER LAKE MUNICIPAL CODE CONCERNS REVENUE AND FINANCE; AND

WHEREAS, THE TOWN BOARD OF TRUSTEES DESIRES TO AMEND TITLE 3 OF THE PALMER LAKE MUNICIPAL CODE TO IMPOSE AND GOVERN THE IMPOSITION, COLLECTION, ADMINISTRATION AND ENFORCEMENT OF THE VOTER-APPROVED EXCISE TAX.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, EL PASO COUNTY, COLORADO, AS FOLLOWS:

Section 1: **New Chapter 3.90 Added.** The Palmer Lake Municipal Code shall be amended by the addition of a new Chapter 3.90 of Title 3 to read as follows in its entirety:

TITLE 3

CHAPTER 3.90 RETAIL MARIJUANA EXCISE TAX

Sections:

- 3.90.010 Definitions
- 3.90.020 Imposition and Rate of Tax; Taxes Collected Held in Trust; Tax Constitutes Lien.
- 3.90.030 Local Excise Tax Collection License Required.
- 3.09.040 Books and Records to be Preserved and Furnished.
- 3.09.050 Returns and Remittance of Tax.
- 3.09.060 Administration, Enforcement, Collection and Interest.
- 3.09.070 Refunds.
- 3.09.080 Collection; Notice; Levy.
- 3.09.090 Penalties for Violation.
- 3.09.100 Maximum Rate for Retail Marijuana Excise Tax.

3.90.010 Definitions. The following definitions shall apply to the words and phrases used in this Chapter:

- A. *Average market rate* means the amount determined by the State of Colorado pursuant to C.R.S. 39-28.8-101(1) as the average price of unprocessed retail marijuana that is sold or transferred from a retail marijuana cultivation facility to a retail marijuana products manufacturer or retail marijuana store.
- B. *Person* shall mean a natural person, partnership, sole-proprietorship, association, corporation, limited liability company, estate, receiver, trustee, assignee, lessee or any individual acting in a representative capacity or any other combination of individuals by whatever name known.
- C. *Retail marijuana* means all or parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every

compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. "Retail marijuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

- D. *Retail marijuana cultivation facility* has the same meaning as defined in Section 12-43.4-103(16), C.R.S.
- E. *Retail marijuana tax* means the excise tax imposed by this Chapter 3.90.
- F. *Sale* means any exchange or barter, in any manner or by any means whatsoever, for consideration.
- G. *Transfer* means to grant, convey, hand over, assign, sell, exchange, or barter, in any manner or by any means, with or without consideration, any retail marijuana or retail marijuana product from one (1) licensee to another or to a consumer. A transfer includes the movement of retail marijuana or retail marijuana product from one (1) licensed premises to another, even if both premises are contiguous, and even if both premises are owned by a single entity or individual or group of individuals and also includes a virtual transfer that is reflected on the Marijuana Inventory Tracking Solution ("MITS") system, even if no physical movement of the retail marijuana occurs.

3.90.020 Imposition and Rate of Tax; Taxes Collected Held in Trust; Tax Constitutes Lien.

- A. In accordance with the authority provided in Section 29-2-114, C.R.S., as may be amended, in addition to any other tax imposed by law including any sales and use tax levied, there is levied by the Town and shall be paid and collected an excise tax at the rate set forth in the table below on the average market rate of unprocessed retail marijuana upon its first sale or transfer from a retail marijuana cultivation facility located within the Town:

<u>Commencement Date</u>	<u>Rate</u>
July 1, 2017	1%
July 1, 2018	2%
July 1, 2019	3%
July 1, 2020	4%
July 1, 2021	5%

The excise tax shall be levied and owed irrespective of where delivery takes place. Each retail marijuana cultivation facility shall collect, remit and pay the excise tax on the first sale or transfer of unprocessed retail marijuana.

- B. All sums of money paid by a person as the excise tax on unprocessed retail marijuana imposed by this Chapter are public monies that are the property of the Town. The retail marijuana cultivation facility shall hold such monies in trust for the sole use and benefit of the Town until paying them to the Town.
- C. The tax imposed by this Chapter shall be a first and prior lien upon the goods and business fixtures of such person, or used by, any person with an obligation to remit tax under this Chapter under lease, title-retaining contract or other contract arrangement, excepting stock of goods sold or for sale in the ordinary course of business, and shall take precedence on all such property over other liens or claims of whatsoever kind or nature except as to pre-existing claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights shall have attached prior to the filing of the notice on property of the taxpayer, other than the goods, stock in trade and business fixtures of such taxpayer. Upon default of payment thereof, the Town after demand upon the person owing such tax may bring an action in attachment, and seize any property to secure the payment of said tax, interest and penalties.

3.90.030 Local Excise Tax Collection License Required.

- A. It is a violation of this Code for any person who operates a retail marijuana cultivation facility located within the Town to fail to obtain, and display in a conspicuous location within the retail marijuana cultivation facility, a Town issued Local Marijuana Excise Tax License, which shall be good for 12 months from the date of issue unless revoked, and such license shall be deemed automatically transferred to any new owner of the retail marijuana cultivation facility as with the state issued license for the retail marijuana cultivation facility. Such license shall be issued by the Town Administrator or in the event of a vacancy in such position, the Town Clerk. There shall be no fee for such license unless the Town Board of Trustees, by resolution, sets a fee.
- B. The Town Administrator or in the event of a vacancy in such position, the Town Clerk, may, following reasonable notice to the licensee and after hearing, revoke the license of any person, found by the Town Administrator or in the event of a vacancy in such position, the Town Clerk, to have violated any provision of this Chapter or to have violated the provisions of any ordinance or this Code or state law governing the operations of retail marijuana cultivation facilities. If the Local Marijuana Excise Tax License is revoked, the Town shall report such revocation to the Colorado Department of Revenue as a violation of local regulations governing the operation of retail marijuana cultivation facilities within the Town.
- C. Before a Local Marijuana Excise Tax License may be issued to a person whose license has been previously revoked, the violation shall have been cured and a cash bond in an amount equal to the licensee's estimated excise tax payable under this Chapter for a two-month period or a minimum of twenty-five dollars (\$25.00), whichever amount shall be the greater, must be posted with the Town. In the event that no violations occur within twelve (12) months after the issuance of the Local Marijuana Excise Tax License, and

upon the application for refund to the Town filed by the person, the bond shall be refunded to the licensee.

- D. Appeal from license revocation order. Any finding and order of the Town Administrator or in the event of a vacancy in such position, the Town Clerk, revoking the license of any person shall be subject to review by the District Court. The procedure for review shall be, as nearly as possible, the same as provided for the review of findings as provided by proceedings in the nature of certiorari.

3.09.040 Books and Records to be Preserved and Furnished.

- A. Every retail marijuana cultivation facility shall keep at each licensed place of business complete and accurate electronic records for that place of business, including itemized invoices of all retail marijuana grown, held, shipped, or otherwise transported or sold to retail marijuana product manufacturing facilities, retail marijuana stores, or other retail marijuana cultivation facilities.
- B. The records required by Subsection (A) of this Section shall include the names and addresses of retail marijuana product manufacturing facilities, retail marijuana stores, or other retail marijuana cultivation facilities to which unprocessed retail marijuana is sold or transferred, the inventory of all unprocessed retail marijuana on hand, and other pertinent papers and documents relating to the sale or transfer of unprocessed retail marijuana.
- C. A retail marijuana cultivation facility shall keep itemized invoices of all unprocessed marijuana transferred to retail marijuana stores owned or controlled by the owners of the retail marijuana cultivation facility.
- D. Subpoenas. If any person subject to the tax imposed by this Chapter shall refuse voluntarily to furnish any books and records, as required by Section 3.09.050(E), when requested by the Town Administrator or, in the event of a vacancy in the position of Town Administrator, the Town Clerk, the Town Administrator or, in the event of a vacancy in the position of Town Administrator, the Town Clerk, by subpoena issued under his or her hand, may require the attendance of the taxpayer and the production by him or her of any of the required information in his or her possession, and may administer an oath to him or her and take his or her testimony. If the taxpayer fails or refuses to respond to said subpoena and give testimony, the Town Administrator or, in the event of a vacancy in the position of Town Administrator, the Town Clerk, may apply to any Judge of the Municipal Court for an attachment against such taxpayer as for contempt. Said Judge may cause the arrest of such person and, upon hearing, said Judge shall have, for the purpose of enforcing obedience to the requirements of said subpoena, power to make such order as in his or her discretion he or she deems consistent with the law for punishment of contempts.

3.09.050 Returns and Remittance of Tax.

- A. Every retail marijuana cultivation facility shall file a return with the Town Administrator, or in the event of a vacancy in such position, the Town Clerk each month. The return shall consist of a copy of the State form used to remit the excise tax imposed pursuant to article 28.8 of title 39, C.R.S., or such other forms as prescribed and furnished by the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, and shall contain, among other things, the total amount of unprocessed retail marijuana sold or transferred during the preceding month and the tax due the Town thereon.
- B. Every retail marijuana cultivation facility shall file a return with the Town Administrator, or in the event of a vacancy in such position, the Town Clerk by the twentieth day of the month following the month reported and with the report shall remit the amount of tax due.

3.09.060 Administration, Enforcement, Collection and Interest. The tax imposed pursuant to this Chapter shall be administered and enforced as set forth in this Section.

- A. Declaration of Purpose. The Town Board of Trustees hereby declares that the purpose of the levy of the taxes imposed by this Chapter is for the raising of funds for the payment of the expenses of operating the Town; and in accordance with this purpose, all of the proceeds of such tax shall be placed in and become a part of the general fund of the Town.
- B. Administration. The administration of the provisions of this Chapter is hereby vested in and shall be exercised by the Town Administrator, or in the event of a vacancy in such position, by the Town Clerk, who shall prescribe forms and reasonable rules and regulations in conformity with this Chapter for the making of returns, for the ascertainment, assessment and collection of the taxes imposed hereunder, and for the proper administration and enforcement hereof. The Town Administrator, or in the event of a vacancy in such position, the Town Clerk, shall appoint such persons to make such examinations, require such reports, make such investigations, make such expenditures and take such other action as he or she deems necessary or suitable to that end. The Town Administrator, or in the event of a vacancy in such position, the Town Clerk, shall determine his or her own organization and methods of procedure in accordance with the provisions of this Chapter. Subject to the provisions of this Chapter, the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, is authorized to appoint and prescribe the duties and powers of such officers, accountants, experts and other persons as may be necessary in the performance of his or her duty. The Town Administrator, or in the event of a vacancy in such position, the Town Clerk, may delegate to any such person so appointed, such power and authority as he or she deems reasonable and proper for the effective administration of this Chapter and shall bond in a sufficient amount any person handling money under this Chapter.

C. Rules and Regulations. The Town Administrator or, in the event of a vacancy in the position of Town Administrator, the Town Clerk, is hereby authorized to adopt rules and regulations not inconsistent with the provisions of this Chapter, regarding the payment, collection and remittance of retail marijuana excise taxes. A copy of all such rules and regulations shall be available for public inspection in the offices of the Town. Failure or refusal to comply with any such rules or regulations shall constitute a violation of this Chapter. Rules and regulations adopted or amended by the Town Administrator, or in the event of a vacancy in such position, by the Town Clerk, under the provisions of this Chapter may be rescinded by the Town Administrator, or in the event of a vacancy in such position, by the Town Clerk, and all such rules and regulations adopted, amended or rescinded shall be effective in the manner and at the time prescribed by the Town Administrator or in the event of a vacancy in such position, the Town Clerk.

D. Examination/Investigation of Return/Notice of Deficiency.

- (1) Examination of records. For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due from any person, the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, shall examine it and shall determine the correct amount of tax, and may hold investigations and hearings concerning any matters covered by this Chapter, and may request such reasonable proof from the taxpayer, and examine any relevant books, papers, records or memoranda of any such person and may require the attendance of such person or any officer or employee of such person, or of any person having knowledge of such transfers or sales, and may take testimony and require proof for his or her information. The Town Administrator, or in the event of a vacancy in such position, the Town Clerk, shall have power to issue subpoenas and administer oaths to such persons.
- (2) Depositions; power to take. The Town Administrator, or in the event of a vacancy in such position, the Town Clerk, or any party in an investigation or hearing before the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State, and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda.
- (3) Examination of returns. If the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, finds that tax due is greater than the amount theretofore assessed or paid, a notice of deficiency and demand for payment shall be mailed to the taxpayer as set forth in Subsection E of this Section 3.09.060.

E. Notices; mailing. Any notice required to be given to any person under this Chapter shall be sufficient if mailed, postage prepaid by first-class mail to the attention of such person at the address of the retail marijuana cultivation facility. The first-class mailing of any notice under the provisions of this Chapter creates a presumption that such notice was received if the Town maintains a record of the notice and maintains a certification that the notice was deposited in the United States mail by an employee of the Town. Evidence of the record of the notice mailed to the attention of such person at the address of the retail marijuana cultivation facility as shown by the records of the Town and a certification of mailing by first-class mail by an employee of the Town is prima facie proof that the notice was received by the person.

F. Limitations.

- (1) Except as otherwise provided in this Subsection (F), the taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this Chapter shall not be assessed, nor shall any notice of lien be filed, distraint warrant issued or suit for collection instituted, nor any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable; nor shall any lien continue after such period, except for taxes assessed before the expiration of such period, notice of lien with respect to which has been filed prior to the expiration of such period, in which cases such lien shall continue only for five (5) years after the filing of notice thereof.
- (2) In the case of failure to file a return or the filing of a false or fraudulent return with intent to evade tax, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be begun at any time.
- (3) Before the expiration of such period of limitation, the taxpayer and the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.
- (4) For purposes of this Subsection (F), a tax return filed before the last day prescribed by law or by regulation promulgated pursuant to law for the filing thereof shall be considered as filed on such last day.

G. Interest on Underpayment, Nonpayment or Extensions of Time for Payment of Tax.

- (1) If any amount of the tax due under this Chapter is not paid on or before the last date prescribed for payment, interest on such amount at the rate imposed under Subsection (5) of this Subsection (G) shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined without regard to any extension of time for payment and shall be determined without regard to any notice and demand for payment issued, by

reason of jeopardy, prior to the last date otherwise prescribed for such payment. In the case of a tax in which the last date for payment is not otherwise prescribed, the last date for payment shall be deemed to be the date the liability for the tax arises, and in no event shall it be later than the date notice and demand for the tax is made by the Town Administrator, or in the event of a vacancy in such position, the Town Clerk.

- (2) Interest prescribed under this Subsection (G) shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as the tax to which it is applicable.
 - (3) If any portion of a tax is satisfied by credit of an overpayment, no interest shall be imposed under this Section on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowed with respect to such overpayment.
 - (5) Interest prescribed under this Subsection (G) on tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be assessed and collected.
 - (5) Computation of interest. Interest required or permitted to be charged on underpayment, nonpayment, extension of time for payment, shall be computed at the same annual rate as that imposed under Section 39-21-110.5, C.R.S., as amended.
- H. Petition; hearing; appeal. Any person who has received a notice of deficiency may request a hearing on the proposed tax by application to the Town Administrator, or in the event of a vacancy in such position, the Town Clerk within thirty (30) days of the mailing of a notice of deficiency. The request for hearing shall set forth the taxpayer's reasons for and the amount of the requested changes in the deficiency. The Town Administrator, or in the event of a vacancy in such position, the Town Clerk, shall notify the taxpayer in writing of the time and place for such hearing thirty (30) days prior thereto. Such local hearing and any further appeal shall be in accordance with the dispute resolution procedures set forth in Section 29-2-106.1, C.R.S., except that, pursuant to Section 29-2-114(3), C.R.S., the department of revenue has no enforcement authority or responsibility over the excise tax authorized by this Chapter, such that appeals may be had only to the District Court taken within thirty days after the exhaustion of local remedies as described in Section 29-2-106.1 (8), C.R.S. Unless an appeal is taken as provided herein, the tax, together with interest thereon and penalties, if any, shall be paid within thirty (30) days after mailing of the notice and demand for payment by the Town.
- I. Information confidential; limitation; destruction of records.
- (1) Except in accordance with judicial order or as otherwise herein provided, the Town Administrator, the Town Clerk, or any other agents, clerks and

employees of the Town shall not divulge any information gained from any return filed under the provisions of this Chapter.

- (2) The Town Administrator, or in the event of a vacancy in such position, the Town Clerk, or any other person charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in court, except on behalf of the Town in an action under the provisions of this Chapter to which the Town or such officer, agent, employee is a party, or on behalf of any party to an action or proceeding under the provisions of this Chapter or to punish a violator thereof when the report of facts shown by such report is directly involved in such action or proceeding, in any of which events the court may require the production of, and may admit in evidence, so much of such returns, or of the facts shown thereby, as are pertinent to the action or proceeding and no more.
- (3) Nothing contained in this Chapter shall be construed to prohibit the delivery to a person, or his or her duly authorized representative, of a copy of any return or report filed in connection with his or her tax, nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, nor to prohibit the inspection by the Town Attorney or any other legal representative of the Town of the report or return of any person who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding is contemplated or has been instituted under this Chapter.
- (4) Reports and returns shall be preserved for three (3) years and thereafter until the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, orders them destroyed.
- (5) Notwithstanding the provisions of this Subsection, the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, in his or her discretion may furnish to the taxing officials of any other state and its political subdivisions, to the State of Colorado and its political subdivisions, and to the United States any information contained in tax returns and related schedules and documents filed pursuant to this Chapter, or in a report of an audit or investigation made with respect thereto, provided that said jurisdiction enters into an agreement with the Town to grant similar privileges to the Town, and provided further that such information is to be used for tax purposes only.

3.09.070 Refunds.

- A. If the Town Administrator, or in the event of a vacancy in such position, the Town Clerk discovers from the examination of a return within the time periods provided for the filing of refunds, or upon claim duly filed by the taxpayer, or upon final judgment that the

tax, penalty or interest paid by any taxpayer is in excess of the amount due, or has been illegally or erroneously collected, the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, shall issue in favor of the taxpayer a refund of such over-collected tax, penalty or interest, regardless of whether or not such sum was paid under protest, together with interest as provided in subsection (C) of this Section.

- B. Whenever it is established that any taxpayer has, for any period open under this Chapter, overpaid the tax and that there is an unpaid balance of tax and interest accrued, according to the records of the Town, owing by such taxpayer for any other period, or that there is any unpaid debt owing to the Town by such taxpayer, so much of the overpayment of tax plus interest allowable thereon as does not exceed the amount of such unpaid balance or unpaid debt shall be credited first to the unpaid balance of tax and interest accrued and then to the unpaid debt, and any excess of the overpayment shall be refunded.
- C. Interest shall be allowed and paid upon any overpayment in respect to any tax imposed by this Chapter at the rate imposed under 3.09.060(G). Such interest shall be allowed and paid as follows:
- (1) In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken;
 - (2) In the case of a refund, from the date of the overpayment to a date, to be determined by the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, preceding the date of the refund by not more than thirty (30) days, whether or not such refund is accepted by the taxpayer after tender of such refund to the taxpayer. The acceptance of such refund shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.
- D. If any overpayment of tax imposed by this Chapter is refunded within ninety (90) days after the last date prescribed for filing the return of such tax, determined without regard to any extension of time for filing the return, no interest shall be allowed under Subsection (c) of this Section on such overpayment.
- E. The right of any person to a refund under this Chapter shall not be assignable and such application for refund must be made by the same person who paid the tax thereon.
- F. Any applicant for refund under the provisions of this Chapter, or any other person who makes any false statement in connection with an application for a refund of any tax shall be deemed guilty of a violation of this Code. If any person is convicted under the provisions of this subsection, such conviction shall be prima facie evidence that all refunds received by such person during the current year were obtained unlawfully, and the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, is hereby empowered and directed to bring appropriate action for recovery of such refunds.

3.09.080 Collection; Notice; Levy.

- A. If any taxes, penalty or interest imposed by this Chapter shown due by returns filed by the taxpayer, or as shown by assessments duly made as provided herein, are not paid within five (5) days after the same are due, the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, shall issue a notice, setting forth the name of the taxpayer, the amount of the tax, penalties and interest, the date of the accrual thereof, and that the Town claims a first and prior lien therefor on the real and tangible personal property of the taxpayer except as to pre-existing claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights shall have attached prior to the filing of the notice as herein provided on property of the taxpayer, other than the goods, stock in trade and business fixtures of such taxpayer. Such notice shall be verified by the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, or her or his duly qualified deputy or designee, and may be filed in the office of the Clerk and Recorder of any county in this State in which the taxpayer owns real or tangible personal property, and the filing of such notice shall create such lien on such property in that county and constitute a notice thereof.
- B. After such notice has been filed, concurrently therewith, or at any time when taxes due are unpaid, whether such notice is filed or not, the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, may distraint, levy upon, seize and sell sufficient of the real estate and personal property of the tax debtor wherever found for the payment of the amount due, together with interest, penalties and costs, as now or hereafter provided by this Chapter, subject to valid pre-existing claims or liens, with like effect and in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record.
- C. If the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, finds that collection of the tax will be jeopardized by delay, in his or her discretion he or she may declare the taxable period immediately terminated, determine the tax and issue notice and demand for payment thereof; and, having done so, the tax shall be due and payable forthwith, and the Town Administrator or in the event of a vacancy in such position, the Town Clerk, may proceed immediately to collect such tax as provided in this Section regardless of provision for hearing and appeal contained in this Chapter.
- D. Collection under this Section may be stayed if the taxpayer gives such security for payment as shall be satisfactory to the Town Administrator, or in the event of a vacancy in such position, the Town Clerk.
- E. The Town Administrator, or in the event of a vacancy in such position, the Town Clerk, may summons to the Municipal Court any person who may be in violation of the Chapter as set forth elsewhere herein.
- F. Any lien for taxes as shown on the records of the county clerks and recorders as herein provided shall, upon the payment of all taxes, penalties and interest covered thereby, be

released by the Town Administrator, or in the event of a vacancy in such position, the Town Clerk, in the same manner as mortgages or judgments are released.

3.09.090 Penalties for Violation.

- A. It is unlawful and a municipal offense for any retail marijuana cultivation facility to sell or transfer retail marijuana without a license as required by law.
- B. It is unlawful and a municipal offense for any person to fail or refuse to make any return provided to be made in this Chapter, to make any false or fraudulent return or any false statement in any return, to fail or refuse to make payment to the Town of any taxes collected or due the Town, or in any manner to evade the collection and payment of the tax of any part thereof imposed by this Chapter.
- C. It is unlawful and a municipal offense for any person or purchaser to fail or refuse to pay such tax or evade the payment thereof, or to aid or abet another in any attempt to evade the payment of the tax imposed by this Chapter.
- D. It is unlawful and a municipal offense for any person to violate any provision of this Chapter.
- E. Any person who violates any provision of this Chapter shall, upon conviction, be punished by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment not exceeding one (1) year, or by both such fine and imprisonment, in addition to any civil remedies or penalties which may otherwise be applicable.

3.09.100 Maximum Rate for Retail Marijuana Excise Tax. In accordance with the Town voter approval provided at the election held November 8, 2016, the initial retail marijuana excise tax rate imposed pursuant to this Chapter is one percent (1%) increasing annually until it reaches five percent (5%), and the maximum retail marijuana excise tax rate that may be imposed pursuant to such voter approval is ten percent (10%) if Section 29-2-114(2) (a), C.R.S., is amended to so permit. If Section 29-2-114(2) (a), C.R.S., is amended to so allow, the Town Board of Trustees may, by ordinance:

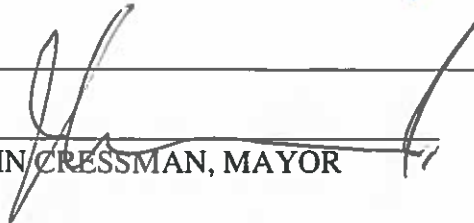

- (1) Establish another retail marijuana excise tax rate to be imposed pursuant to this Chapter that is equal to or less than the maximum ten percent (10%) tax rate provided in this Chapter; or
- (2) After establishing a retail marijuana excise tax rate that is lower than ten percent (10%), increase the tax rate to be imposed pursuant to this Section.

Section 2. Severability. It is hereby declared to be the intention of the Board of Trustees of the Town of Palmer Lake that the sentences, clauses and phrases of this ordinance are severable, and if any sentence, clause or phrase of this ordinance be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining sentences, clauses or

phrases of this ordinance which shall be severable and severed since the same would have been enacted by the Board of Trustees without the incorporation of any unconstitutional or invalid sentence, clause or phrase.

Section 3. Publication and Effective Date. This Ordinance shall become effective thirty (30) days after the date of its publication by title only in a newspaper of general circulation within the Town and its posting in full on Town web site.

ORDINANCE PASSED, APPROVED AND ADOPTED ON THIS 12th DAY OF JANUARY, 2017 BY A VOTE OF 7 FOR AND 0 AGAINST.

<p> _____ JOHN CRESSMAN, MAYOR</p> <p>ATTEST:</p> <p> _____ TARA BERRETH, TOWN CLERK</p>	<p>Approved as to Form:</p> <p>_____ MAUREEN JURAN, TOWN ATTORNEY</p>
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AFFIDAVIT OF PUBLICATION

**STATE OF COLORADO
COUNTY OF EL PASO**

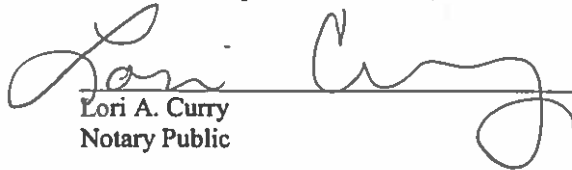
I, Mary Heifner, being first duly sworn, deposes and says that she is the Legal Sales Representative of THE COLORADO SPRINGS GAZETTE, LLC., a corporation, the publishers of a daily public newspaper, which is printed and published daily in whole at the city of Colorado Springs in the County of El Paso, and the State of Colorado, and which is called The Gazette; that a notice of which the annexed is an exact copy, cut from said newspaper, was published in the regular and entire editions of said newspaper **1 time(s) to wit, February 7, 2017**

That said newspaper has been published continuously and uninterruptedly in said County of El Paso for a period of at least six consecutive months next prior to the first issue thereof containing this notice; that said newspaper has a general circulation and that it has been admitted to the United States mails as second-class matter under the provisions of the Act of March 3, 1879 and any amendment thereof, and is a newspaper duly qualified for the printing of legal notices and advertisement within the meaning of the laws of the State of Colorado.



Mary Heifner
Legal Sales Representative

Subscribed and sworn to me this February 7, 2017, at said City of Colorado Springs, El Paso County, Colorado. My commission expires **October 24, 2020.**



Lori A. Curry
Notary Public

The Gazette

**PALMER LAKE, COLORADO
ORDINANCE NO. 1 OF 2017**

AN ORDINANCE ADOPTING A NEW CHAPTER 3.90 OF TITLE 3 (REVENUE AND FINANCE) OF THE PALMER LAKE MUNICIPAL CODE IMPOSING A RETAIL MARIJUANA EXCISE TAX OF 5% OF THE AVERAGE MARKET RATE OF THE UNPROCESSED RETAIL MARIJUANA AS DETERMINED BY THE COLORADO DEPARTMENT OF REVENUE WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY AND GOVERNING THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF THE SAME

For a complete copy of this Ordinance, please contact the Palmer Lake Town Office at 719-481-2953

Published in Colorado Springs Gazette
February 7, 2017

**LORI CURRY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20164040549
MY COMMISSION EXPIRES 10/24/2020**

AFFIDAVIT OF PUBLICATION

**STATE OF COLORADO
COUNTY OF EL PASO**

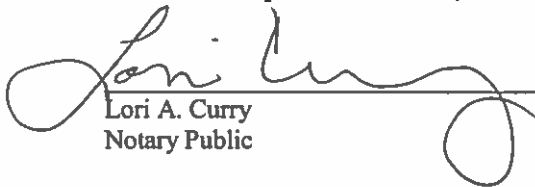
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That said newspaper has been published continuously and uninterruptedly in said County of El Paso for a period of at least six consecutive months next prior to the first issue thereof containing this notice; that said newspaper has a general circulation and that it has been admitted to the United States mails as second-class matter under the provisions of the Act of March 3, 1879 and any amendment thereof, and is a newspaper duly qualified for the printing of legal notices and advertisement within the meaning of the laws of the State of Colorado.



Mary Heifner
Legal Sales Representative

Subscribed and sworn to me this January 25, 2017, at said City of Colorado Springs, El Paso County, Colorado. My commission expires October 24, 2020.



Lori A. Curry
Notary Public

The Gazette

ORDINANCE NO. 1 OF 2017
AN ORDINANCE ADOPTING A NEW CHAPTER 3.90 OF TITLE 3 (REVENUE AND FINANCE) OF THE PALMER LAKE MUNICIPAL CODE IMPOSING A RETAIL MARIJUANA EXCISE TAX OF 5% OF THE AVERAGE MARKET RATE OF THE UNPROCESSED RETAIL MARIJUANA AS DETERMINED BY THE COLORADO DEPARTMENT OF REVENUE WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY AND GOVERNING THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF THE SAME
Published in CS Gazette January 25, 2017

LORI CURRY
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