



**TOWN OF PALMER LAKE
BOARD OF TRUSTEES - AGENDA MEMO**

DATE: February 23, 2023	ITEM NO.	SUBJECT: Ordinance to Affirm Wholesale MJ Excise Tax at 5%
Presented by: Town Administrator /Clerk		

The 2016 election resulted in voters approving an excise tax on marijuana cultivation operations for retail sale. It was laid forth, as noted below in town code, that the rate increases annually by one percent. The question on the ballot read and passed as follows:

Shall Town of Palmer Lake taxes be increased, commencing January 1, 2017, by \$150,000 annually in the first fiscal year ending December 31, 2017, and by whatever additional amounts are raised annually thereafter, by imposing a new excise tax of 5% of the average market rate for unprocessed marijuana as determined by the Colorado Department of Revenue when unprocessed retail marijuana is first sold or transferred by a marijuana cultivation facility located within the limits of the Town of Palmer Lake; with the rate of such excise tax being allowed to be decreased or increased by the Town Board without further voter approval so long as the rate of such tax does not exceed 10%, and shall all revenues derived from such excise tax be collected and spent, as a voter approved revenue change, notwithstanding any revenue or expenditure limitations contained in Article X, Section 20 of the Colorado Constitution, Article 1 of Title 29, Colorado Revised Statutes, or any other law?

The ordinance was subsequently adopted in 2017, current code found here - [https://library.municode.com/co/palmer lake/codes/code of ordinances?nodeId=COOR TIT3REFI CH3.24REMAEXTA](https://library.municode.com/co/palmer%20lake/codes/code_of_ordinances?nodeId=COOR_TIT3REFI_CH3_24REMAEXTA)

Although C.R.S. limits the wholesale tax to 5%, the question was written to allow the Town Board latitude to modify, if the statute allows any time in the future, up to 10%. This does not mean the Board can increase the tax to conflict with C.R.S. but, if statute changes, the Town is not required to bring it back for a vote of electors, to consider an increase up to 10%. Attorney Krob included a memo on this.

At the 2/9 meeting, the Board inquired about standard rates within the MJ industry of a 5% excise tax as well as quantity of municipalities that adopted a retail MJ cultivation tax. Of 64 licensed establishments, 49 have adopted code language for the excise tax at an average rate of 5% (a couple below and a few above the 5%). Note enclosed CML data.

Staff recommendation is to affirm the rate as laid forth in the table at a tax rate of 5% for retail cultivation beginning 3/1/2023. Execution of this ordinance will be distributed to licensed establishments.