

RESOLUTION NO. 2019 – 61

**BEFORE THE
BOARD OF COUNTY COMMISSIONERS OF
SUMMIT COUNTY, COLORADO**

A RESOLUTION PROVIDING FOR THE SUBMISSION OF A BALLOT ISSUE TO THE REGISTERED, QUALIFIED ELECTORS OF SUMMIT COUNTY, COLORADO, AUTHORIZING THE LEVY OF A COUNTY-WIDE SPECIAL SALES TAX ON CIGARETTES AND ALL OTHER TOBACCO AND NICOTINE PRODUCTS SOLD, INCLUDING E-CIGARETTES AND VAPING DEVICES, COMMENCING JANUARY 1, 2020; PRESCRIBING THE FORM OF THE BALLOT ISSUE FOR SUBMISSION AT SUCH ELECTION; AND PROVIDING FOR CERTIFICATION OF THE BALLOT ISSUE TO THE COUNTY CLERK AND RECORDER.

WHEREAS, House Bill No. 19-1033 (the "Act"), authorizes a county to levy, collect, enforce and administer a county-wide special sales tax upon all sales of cigarettes, tobacco products, or nicotine products within the unincorporated and incorporated areas of the county and further authorizes a county and the home rule or statutory towns within such county to contract and collaborate with each other in levying, collecting, enforcing and administering the special sales tax within the corporate limits of the contracting municipalities as provided in the Act; and

WHEREAS, tobacco and nicotine use is the leading cause of preventable death in Colorado and in the United States generally; and

WHEREAS, after decades of effective anti-smoking campaigns and decreasing smoking rates in the U.S., there has been a surprising upturn in youth tobacco use including teen's use of nicotine via electronic smoking devices ("vaping"); and

WHEREAS, based on a comprehensive review of evidence, the Surgeon General declared the use of e-cigarettes and vaping products by youth to be an epidemic and has called raising prices on cigarettes "one of the most effective tobacco control interventions" because increasing the price of these products is proven to reduce smoking and vaping, especially among teens; and

WHEREAS, studies have shown that for every 10% increase in pricing, the consumption of cigarettes, tobacco products, and nicotine products is reduced up to 15% in those persons under 18 and up to 7% in those 18 or older; and

WHEREAS, tobacco and nicotine products are unique among consumer goods because they kill a significant percentage of all regular users when used as intended and the Surgeon General has projected that without further action, 5.6 million youth who are 0-17 years old today will die prematurely from tobacco and nicotine use; and

WHEREAS, studies have shown that approximately 96% of smokers began smoking before the age of 21 with most beginning before the age of 16, due in part to the fact that youth brains are in a stage of development that makes it easier to become dependent on nicotine; and

WHEREAS, the Board of County Commissioners of Summit County (“Board”) is collaborating with the town governments in our community regarding the imposition of a County-wide special sales tax on cigarettes, nicotine products and tobacco products so that the County and towns may utilize the revenues from the special sales tax to promote the public health and welfare; and

WHEREAS, the Board desires to impose a County-wide special sales tax on the sales of cigarettes, tobacco products, and nicotine products throughout Summit County; and

WHEREAS, the proposal for approval of a County-wide special sales tax levy may be submitted at the election to be held on November 5, 2019 (“Election”) and the Board has determined that there should be submitted to the Summit County voters at the Election a question regarding the levying of a County-wide special sales tax as may be provided for by law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO THAT:

Section 1. Designated Election Official. The County’s Designated Election Official for the Election, who shall be responsible for conducting the Election in accordance with all applicable laws, rules and regulations, including the preparation of the notice required by Article 10, Section 20 of the Colorado Constitution, shall be Kathleen Neel, Summit County Clerk and Recorder.

Section 2. Form of Ballot Measure. The following ballot issue (the “Ballot Measure”) shall be presented to a vote of the registered, qualified electors of Summit County at the Election:

SUMMIT COUNTY REFERRED MEASURE ____ - AUTHORIZING A SPECIAL SALES TAX ON CIGARETTES, TOBACCO PRODUCTS AND NICOTINE PRODUCTS, INCLUDING E-CIGARETTES AND VAPING DEVICES, FOR PUBLIC HEALTH, EDUCATION, AND OTHER PUBLIC PURPOSES

SHALL SUMMIT COUNTY TAXES BE INCREASED THREE MILLION EIGHT HUNDRED SIXTY THOUSAND DOLLARS ANNUALLY, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, FROM A SPECIAL COUNTY-WIDE SALES TAX OF FOUR DOLLARS PER PACK OF TWENTY CIGARETTES SOLD (OR TWENTY CENTS PER CIGARETTE) AND A FORTY PERCENT SPECIAL SALES TAX RATE ON ALL OTHER TOBACCO AND NICOTINE PRODUCTS SOLD, INCLUDING E-CIGARETTES AND VAPING DEVICES, COMMENCING JANUARY 1, 2020, TO BE USED FOR THE PROTECTION AND IMPROVEMENT OF THE PUBLIC HEALTH AND WELFARE

INCLUDING, BUT NOT LIMITED TO:

- REDUCING TEEN VAPING THROUGH EDUCATION ABOUT THE HARMFUL CONTENTS OF FLAVORED NICOTINE PRODUCTS THAT APPEAL TO CHILDREN;
- IMPROVING THE HEALTH OF THE CITIZENS OF SUMMIT COUNTY AND LESSENING THE PUBLIC HEALTH CONSEQUENCES THAT STEM FROM THE USE OF CIGARETTES, TOBACCO PRODUCTS, AND NICOTINE PRODUCTS;
- PROVIDING ADDICTION PREVENTION AND INTERVENTION PROGRAMS AND REFERRAL SERVICES THAT EDUCATE AND SUPPORT CHILDREN, INDIVIDUALS AND FAMILIES TO LEAD HEALTHY LIVES;
- PROVIDING LOCAL ENFORCEMENT OF LAWS, RULES, REGULATIONS AND ORDINANCES THAT PROHIBIT THE SALE OF CIGARETTES, TOBACCO PRODUCTS, AND NICOTINE PRODUCTS, INCLUDING VAPING DEVICES AND E-CIGARETTES, TO UNDERAGE PERSONS; AND
- IMPROVING THE AVAILABILITY OF AFFORDABLE PUBLIC HEALTH CARE SERVICES IN SUMMIT COUNTY, INCLUDING SERVICES AT THE COMMUNITY HEALTH CLINIC AND SCHOOL-BASED CLINICS,

WITH THE SPECIAL SALES TAX RATE ON ALL TOBACCO AND NICOTINE PRODUCTS OTHER THAN CIGARETTES TO AUTOMATICALLY INCREASE BY TEN PERCENTAGE POINTS PER YEAR FOR FOUR YEARS COMMENCING JANUARY 1, 2021, WITH ALL EXPENDITURES SUBJECT TO ANNUAL FINANCIAL AUDIT, AND SHALL THE REVENUES BE RETAINED AND SPENT AS A VOTER-APPROVED REVENUE CHANGE WITHOUT LIMITATION OR CONDITION UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Section 3. Certification of Ballot Issue to Clerk and Recorder for Election. The Ballot Measure set forth in Section 2 hereof shall be certified to the Summit County Clerk and Recorder and a copy of this Resolution shall be immediately filed with the Summit County Clerk and Recorder. The registered, qualified electors of the County shall vote at the Election, to be conducted by the County Clerk and Recorder in accordance with the Colorado Election Code and all other applicable laws, rules and regulations.

Section 4. Continuing Authority to Levy Tax. If a majority of all the votes cast on the Ballot Measure to be submitted at the Election shall be in favor of a County-wide special sales tax levy for the purposes stated in said question, it shall then be lawful for the County to

authorize the proper officials to make a County-wide special sales tax levy effective 12:01 a.m. on January 1, 2020, in accordance with the Ballot Measure so approved at the Election. If approved at the Election, the County-wide special sales tax levy shall also increase by ten percentage points per year for a period of four calendar years effective 12:01 a.m. on January 1, 2021, and increasing each January 1st thereafter for three additional years until January 1, 2024. The authority to impose any or all of the special sales tax levy authorized in the ballot issue, if conferred at the Election by the registered, qualified electors authorized to vote thereon, shall be deemed and considered a continuing authority to increase the special sales tax levy as specified in the Ballot Measure and neither the partial exercise of the authority so conferred nor any lapse of time shall be considered as exhausting or limiting the full authority so conferred by the electors voting in favor of said measure.

Section 5. General Provisions.

- a. The special sales tax, if approved by a majority of the registered, qualified electors, shall be imposed County-wide on the sale of cigarettes, tobacco products and nicotine, throughout the unincorporated and incorporated areas of Summit County, as provided for in the Act and subject to the following provisions.
- b. For the purpose of this Resolution and special sales tax proposed herein, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to a destination outside the limits of Summit County or to a common carrier for delivery to a destination outside the limits of Summit County. The gross receipts from such sales shall include delivery charges when such charges are subject to the state sales and use tax imposed by article 26 of title 39, C.R.S., regardless of the place to which delivery is made. If a retailer has no permanent place of business in Summit County, or has more than one place of business, the place at which the retail sales are consummated for the purpose of this sales tax shall be determined by (i) the provisions of article 26 of title 39, C.R.S., (ii) by rules and regulations promulgated by the Colorado Department of Revenue, (iii) the purchaser's address when the taxable product is delivered to the consumer (destination sourcing) to the maximum extent authorized by law, and (iv) to the extent authorized by law, any rules and regulations promulgated by Summit County. The amount subject to tax pursuant to this Resolution shall not include the amount of any sales or use tax imposed by article 26, title 39, C.R.S.
- c. The collection, administration, and enforcement of the special sales tax adopted pursuant to this article shall be performed by the Summit County Finance Office or a designee of the Finance Office in the same manner as the collection, administration, and enforcement of the Colorado State sales tax. Unless otherwise provided in this Resolution, the provisions of Articles 21 and 26 of Title 39, C.R.S., Article 2 of Title 29, C.R.S., and the Act shall govern the collection, administration, and enforcement of sales taxes authorized under this Resolution.

d. Every retailer, also called a vendor, shall be entitled to retain three and one-third percent of the tax as a vendor's fee under the same terms and conditions as provided in section 39-26-105, C.R.S.

e. The terms "cigarettes" "tobacco products" and "nicotine products" as used herein shall have the same meanings as set forth in the laws, rules and regulations of the State of Colorado including but not limited to Section 18-13-121(5) and Section 39-28-202, C.R.S., unless the context otherwise requires.

Section 6. Partial Invalidity. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph clause or provisions of this Resolution shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution.

Section 7. Authorize Officials and Employees. The officials, employees and representatives of the County are hereby authorized and directed to take all actions necessary or appropriate to effect the provisions of this Resolution.

Section 8. Effective Date: Repeal of Inconsistent Resolutions. This Resolution is necessary for the immediate preservation of the public health, safety and welfare due to the adverse effects of cigarettes, tobacco products and nicotine products in Summit County as noted above and therefore shall take effect immediately upon its adoption. All resolutions or parts thereof in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed to revive any resolution, or part thereof, heretofore repealed.

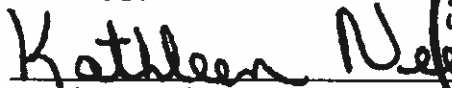
ADOPTED this 13th day of AUGUST 2019.

**COUNTY OF SUMMIT
STATE OF COLORADO
BY AND THROUGH ITS
BOARD OF COUNTY COMMISSIONERS**



Thomas C. Davidson, Chair

ATTEST:



Kathleen Neel, Summit Clerk and Recorder



EXHIBIT A

NICOTINE TAX BALLOT MEASURE

SUMMIT COUNTY REFERRED MEASURE ____ - AUTHORIZING A SPECIAL SALES TAX ON CIGARETTES, TOBACCO PRODUCTS AND NICOTINE PRODUCTS, INCLUDING E-CIGARETTES AND VAPING DEVICES, FOR PUBLIC HEALTH, EDUCATION, AND OTHER PUBLIC PURPOSES

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