

DIVISION 4. SPECIAL RETAIL MARIJUANA SALES TAX

Sec. 53-90. Administration and enforcement.

The special retail marijuana sales tax imposed pursuant to this division 4 shall be administered and enforced in accordance with the provisions articles I and II of this chapter, and in a manner consistent with the administration and enforcement of other city sales taxes, including, without limitation, any penalties for failure to make any return or to collect or pay any tax.

(Ord. No. 1305, § 2, 12-7-20)

Sec. 53-91. Definitions.

- (a) The following words and phrases when used in this division 4, unless the context otherwise requires, shall have the meanings given to them in this section:
- (1) "Consumer" means a person twenty-one (21) years of age or older who purchases retail marijuana or retail marijuana products for personal use by person twenty-one (21) years of age or older but not for resale to others.
 - (2) "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.
 - (3) "Retail marijuana products" means concentrated retail marijuana products and retail marijuana products that are comprised of retail marijuana and other ingredients and are intended for use or consumption, such as but not limited to, edible products, ointments, and tinctures.
 - (4) "Retail marijuana sales tax" means the tax imposed on the sale of retail marijuana and retail marijuana products pursuant to this division 4.
 - (5) "Retail marijuana store" means an entity licensed by the Colorado Department of Revenue to sell retail marijuana and retail marijuana products to consumers pursuant to section 16 of article XVIII of the Colorado Constitution and the "Colorado Retail Marijuana Code," Article 43.4 of Title 12, C.R.S., and licensed by the department of excise and license pursuant to article V of chapter 6 of the Code.

(Ord. No. 1305, § 2, 12-7-20)

Sec. 53-92. Imposition of tax.

- (a) (1) In addition to the sale tax imposed by division 1 of this article II, there is imposed upon all sales of retail marijuana and retail marijuana products to a consumer by a retail marijuana store a tax at the rate of three and one-half (3.5) percent of the amount of the sale.

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- (2) In addition to the sale tax imposed by division 1 of this Article 11 and the sale tax imposed by subsection (a)(1) of this section 53-85, beginning October 1, 2018, there is imposed upon all sales of retail marijuana and retail marijuana products to a consumer by a retail marijuana store a tax at the rate of two (2) percent of the amount of the sale. The two (2) percent tax described in this subsection 53-85(a)(2) shall be dedicated to the Affordable Housing Property Tax and Other Local Revenue Fund for affordable housing purposes.
- (b) The maximum tax rate that may be imposed pursuant to this section is fifteen (15) percent. At any time on or after January 1, 2014, the city may, by ordinance:
- (1) Establish another tax rate to be imposed pursuant to this division 4 that is equal to or less than the maximum fifteen (15) percent tax rate provided in this subsection; or
- (2) After establishing a tax rate that is lower than fifteen (15) percent, increase the tax rate to be imposed pursuant to this section; except that, in no event shall the city increase the tax rate above fifteen (15) percent of the sale of retail marijuana or retail marijuana products.
- (c) Nothing in this section shall be construed to impose a tax on the sale of marijuana or marijuana products to any person by a medical marijuana center licensed by the Colorado Department of Revenue to sell medical marijuana and medical marijuana-infused products pursuant to the Colorado Medical Marijuana Code, article 43.3 of Title 12, C.R.S., and licensed by the city pursuant to article XII of chapter 24, of the Code. To the extent any retail marijuana store exists at the same location and under common ownership with a licensed medical marijuana center, the retailer shall strictly segregate and account for sales of retail marijuana distinct from medical marijuana in accordance with all applicable state and city laws and regulations governing collocation of retail marijuana stores and medical marijuana centers.

(Ord. No. 1305, § 2, 12-7-20; Ord. No. 487-21, § 2, 6-7-21)

Sec. 53-93. Purpose of tax.

The council declares that the purpose of the levy of the tax imposed by this division 4 is for raising funds for the payment of direct and indirect expenses related to the licensing and regulation of the retail marijuana industry, enforcement of marijuana laws in general, educational and public health programs to mitigate any negative consequences associated with the consumption of marijuana and marijuana products, programs to prevent the illegal diversion of retail marijuana and retail marijuana products to persons under the age of twenty-one (21); and to otherwise pay the expenses of operating and improving the city and its facilities. In accordance with these purposes, the proceeds of the tax shall be placed in the unapportioned sales, use and lodger's tax account of the fund plan, section 20-18 of the Code, from which shall be allocated, apportioned and transferred as therein provided such sums to the respective funds and accounts of said fund plan as are therein indicated and for the purposes therein stated.

(Ord. No. 1305, § 2, 12-7-20)

Sec. 53-94. Revenue and spending limitations.

Notwithstanding any limitations on revenue, spending, or appropriations contained in Section 20 of Article X of the Colorado Constitution or any other provision of law, any revenues generated by the retail marijuana sales tax imposed pursuant to this division 4, as approved by the voters at the special municipal election on November 5, 2013, may be collected and spent as a voter-approved revenue change and shall not require further voter approval to modify the tax rate as provided in section 53-92 of the Code or to collect and spend any revenue derived from a modified tax rate.

(Ord. No. 1305, § 2, 12-7-20)

Secs. 53-95—53-99. Reserved.