

**RESOLUTION OF THE TOWN COUNCIL OF BASALT, COLORADO, TEMPORARILY
SUSPENDING COLLECTION OF THE TOWN'S TAX ON THE SALE OF
CIGARETTES AND OTHER TOBACCO AND NICOTINE PRODUCTS**

**Town of Basalt
Resolution No. 09
Series of 2019**

RECITALS

- A. Pursuant to Resolution No. 1, Series of 2018, the Town Council submitted to the electorate of the Town a ballot question seeking authority to increase taxes on the sale of cigarettes and other tobacco and nicotine products (the "Tobacco Tax"), and such tax was approved by the electorate of the Town on April 3, 2018.
- B. The Taxpayer's Bill of Rights, contained at Article X, Section 20 of the Colorado Constitution ("TABOR"), requires that the ballot question or notice for a new tax or tax increase contain "for the first full fiscal year of each proposed district tax increase, district estimates of the maximum dollar amount of each increase of district fiscal year spending without increase." See TABOR § (3)(b)(iii).
- C. Further, In the event revenues exceed the first full fiscal year maximum estimate, TABOR § 3(c) provides that "if a tax increase...exceeds any estimate in (b)(iii) for the same fiscal year, the tax increase is thereafter reduced up to 100% in proportion to the combined dollar excess, and the combined excess revenue refunded the next fiscal year."
- D. The Notice of Election for the Tobacco Tax estimated the maximum dollar amount of the Tobacco Tax for Fiscal Year 2019 (the first full fiscal year of the Tobacco Tax) as \$29,162.
- E. For fiscal years after Fiscal Year 2019, the Town electorate approved and authorized the Town to collect, retain and expend all of the revenues of the Tobacco Tax notwithstanding TABOR limits.
- F. It is expected that prior to the end of Fiscal Year 2019, the Town will collect the maximum dollar amount for the Tobacco Tax and, thus, rather than collect revenues in excess of the maximum dollar amount and pursue a refund in 2020 or voter approval to retain such revenues, the Town wishes to temporarily suspend collection of the Tobacco Tax beginning April 1, 2019 and ending December 31, 2019. In the event any additional refund is necessary, the Town will determine whether to extend the temporary suspension of the Tobacco Tax at the conclusion of Fiscal Year 2019.

- G. TABOR § 1 permits municipalities to use “any reasonable method” to effectuate a refund “including temporary tax credits or rate reductions.”
- H. The Town Council wishes to temporarily suspend the collection of the Tobacco Tax as set forth in this resolution and finds and determines that doing so is in the best interest of the public health, safety, and welfare of the residents of the Town of Basalt.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Basalt, Colorado as follows:

1. Recitals. The foregoing recitals are incorporated herein as findings of Town Council.
2. Temporary Suspension. The Town Council hereby temporarily suspends the collection of the Tobacco Tax from April 1, 2019 to and through December 31, 2019 for the purpose of complying with TABOR restrictions and avoiding collection of tax revenues in excess of the first full fiscal year maximum dollar amount estimate of the Tobacco Tax. Unless extended by Town Council, upon the temporary suspension period being completed, the Tobacco Tax shall be fully reinstated, and the Town shall be authorized to retain and expend all of the revenues of the Tobacco Tax.
3. The Town staff is hereby authorized and directed to take all action necessary and appropriate to effectuate the provisions of this resolution.
4. If any section, paragraph, clause or provision of this resolution shall be held to be invalid or unenforceable, the entire resolution shall be declared invalid and void.
5. This resolution shall take effect immediately upon passage.

READ AND ADOPTED on March 12, 2019, by a vote of 4 to 1.

TOWN OF BASALT, COLORADO

By: 
Jacque R. Whitsitt, Mayor

ATTEST

By: 
Pamela K. Schilling, Town Clerk

