

RESOLUTION NO. 24-16

A RESOLUTION REGARDING INITIATED MEASURE 28

WHEREAS, Initiated Measure 28 was certified for the November 2024 General Election Ballot by the South Dakota Secretary of State; and

WHEREAS, Initiated Measure 28, if passed, would remove state, taxes on all items sold for human consumption except alcohol and prepared food; and

WHEREAS, “human consumption” is undefined in South Dakota Codified Law or the South Dakota Constitution. Black’s Law Dictionary defines “consumption” as the “act of destroying a thing by using it; the use of the thing in a way that exhausts it; and

WHEREAS, South Dakota Codified Law § 34-45-1(7) defines tobacco products as “any item made of tobacco intended for human consumption, including cigarettes, cigars, pipe tobacco, and smokeless tobacco, and vapor products as defined in § 34-46-20.”; and

WHEREAS, South Dakota Codified Law § 10-52-2 allows for municipalities to impose a tax on the sale, use, storage and consumption of items that conform in all respects to the state tax on such items up to two percent; and the validity of the imposition of the municipal sales tax on items intended for human consumption could be called into questions with the passage of IM 28; and

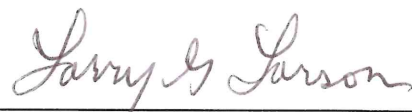
WHEREAS, the Attorney General’s explanation of the measure states legislative or judicial clarification would be needed if the measure passes; and

WHEREAS, The City of Box Elder levies a two-percent sales tax and collected \$4,201,881 in the 2023 fiscal year and \$2,478,672 year-to-date in the 2024 fiscal year; and

WHEREAS, The City of Box Elder estimates annual lost revenue of \$370,000 if Initiated Measure 28 is by voters in South Dakota and it is determined that the language of IM 28 prevents imposition of the City of Box Elder’s municipal sales tax on items sold for human consumption.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Box Elder, that Initiated Measure 28 would negatively impact the municipal budget in our community.

PASSED, APPROVED AND ADOPTED this 20 day of August, 2024.



Larry Larson, Mayor

ATTEST:



Nicole Schneider, Chief Financial Officer, City Administrator



ATTESTATION OF PUBLICATION

I, Chaz Kokesh, the City Clerk of the City of Box Elder, South Dakota, do hereby attest and state the above resolution was published on August 29, 2024 in the manner required by law and that all procedures required by the State of South Dakota law were complied with. This resolution shall become effective on the twentieth day after its publication, that date being: September 18, 2024.



Chaz Kokesh, City Clerk