

THE CITY OF EVANS, COLORADO
ORDINANCE NO. 713-20

AN ORDINANCE AMENDING SECTIONS 3.04.200 and 3.04.300 AND ADDING SECTION 3.04.1050 OF THE EVANS MUNICIPAL CODE TO IMPLEMENT THE CITY OF EVANS BALLOT ISSUE 2A APPROVING A ONE PERCENT (1%) INCREASE IN CITYWIDE SALES AND USE TAX TO BE USED EXCLUSIVELY FOR MAINTAINING, INCREASING THE CAPACITY AND IMPROVING THE SAFETY OF EVANS STREETS

WHEREAS, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

WHEREAS, safe and efficient city streets are essential to Evans' quality of life and the health of its economy; and

WHEREAS, Evans is a growing city with an insufficient street maintenance budget to maintain and improve all arterial and neighborhood streets; and

WHEREAS, increased demands on the City's streets have resulted in poor road surface conditions, decreased safety, worsened traffic congestion, increased travel time, and deep frustration among those who live and work in the City of Evans; and

WHEREAS, the average pavement condition of city streets is only in the "fair" category and over 20% of the City's roads are in poor or very poor condition; and

WHEREAS, the City has identified \$99 million in much needed arterial widening projects that lack funding; and

WHEREAS, the past and current level of road maintenance funding each year is insufficient and, if continued, will result in further deteriorating road surface conditions, further escalating costs of repairs, and further vehicle damage and wear-and-tear; and

WHEREAS, without additional funding there will continue to be a growing lack of resources available to address critical traffic congestion, maintenance needs, and safety concerns; and,

WHEREAS, at the November 1992 general election, the citizens of Colorado adopted, as an amendment to the Colorado Constitution, the provisions of Article X, Section 20, also known as the Taxpayers' Bill of Rights or "TABOR", which, among other things, requires voter approval for certain exercises of state and local government powers relating to taxation, revenue raising, spending, and the incurrence of debt and other multiple-fiscal year financial obligations; and

WHEREAS, in order to seek voter approval of a one percent (1%) sales and use tax increase, the proceeds of which would be used exclusively for maintaining, operating and

improving the streets of the city, the Evans City Council caused the following Ballot Question 2A to be placed on the April 7, 2020, Evans General Election ballot:

SHALL CITY OF EVANS SALES AND USE TAXES BE INCREASED \$3.5 MILLION IN 2021 (THE FIRST FULL FISCAL YEAR OF THE TAX INCREASE) AND BY SUCH AMOUNTS AS MAY BE GENERATED ANNUALLY THEREAFTER THROUGH THE IMPOSITION OF AN ADDITIONAL CITY-WIDE SALES AND USE TAX OF 1.00% (FOR A TOTAL SALES AND USE TAX OF 4.5%) TO BE UTILIZED EXCLUSIVELY FOR MAINTAINING, OPERATING AND IMPROVING THE SAFETY OF THE STREETS OF THE CITY, INCLUDING RESURFACING, RECONSTRUCTION, PAVING DIRT ROADS, ARTERIAL CAPACITY EXPANSION, AND RELATED CONCRETE WORK IN THE PUBLIC RIGHTS OF WAY; SUCH TAX INCREASE TO COMMENCE JULY 1, 2020, AND SHALL TERMINATE ON JUNE 30, 2027, AND SHALL ALL REVENUES RECEIVED FROM SUCH TAX INCREASE AND ANY INVESTMENT INCOME THEREON BE A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

WHEREAS, on April 7, 2020, Evans voters overwhelmingly voted “Yes” on Ballot Issue 2A, which is expected to raise approximately \$3 million in its first full year--providing over three times more annual road maintenance funding and expediting the completion of high-priority roadway expansion and safety improvement projects by many years; and

WHEREAS, City Council desires to implement the will of the voters by amending the Evans Municipal Code to reflect Ballot Issue 2A, as approved.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO:

Section 1. Section 3.04.200 of the Evans Municipal Code, is hereby amended to read as follows:

3.04.200 - Imposition and rate of sales tax.

A. There is levied and shall be collected a sales tax under this Chapter at the rate of ~~three~~ four and one-half percent (~~3~~4.5%) on the purchase price paid upon the sale of tangible personal property at retail and the furnishing of taxable services, as provided herein.

B. Every retailer engaged in business in this City and making sales of tangible personal property for the storage, use, or consumption in the City which are not exempt from taxation as provided in this Section shall collect the tax imposed by this Section from the purchaser and give the purchaser a receipt therefor, which receipt shall identify the property taxed, the date that such property was sold or ordered, and the amount of tax collected and paid.

Section 2. Section 3.04.300 of the Evans Municipal Code is hereby amended to read as follows:

3.04.300 - Imposition and rate of use tax.

Unless otherwise exempted pursuant to Article II above, there is levied and there shall be paid a use tax at the rate of ~~three~~ four and one-half percent (~~34.5%~~), upon the privilege of using or consuming within the City any construction and building materials and upon the privilege of storing, using or consuming within the City any articles of tangible personal property or taxable services purchased at retail, from outside the corporate limits of the City.

Section 3. The Evans Municipal Code is amended by adding Section 3.04.1050 to read in its entirety as follows:

3.04.1050 – Allocation and administration of portions of sales and use taxes designated to be used for maintaining and improving streets and roadways.

A. On April 7, 2020, Evans electors approved Ballot Measure 2A, which authorized a one percent (1%) increase in sales and use taxes to be used exclusively for maintaining, operating and improving the safety of the streets of the City, including resurfacing, reconstruction, paving dirt roads, arterial capacity expansion, and related concrete work in the public rights of way (“the Authorized Uses”).

B. On an annual basis the City Manager shall present the City Council with a budget for the proposed Authorized Uses of the funds derived from Ballot Issue 2A during the regular budget process and shall earmark funds exclusively for the Authorized Uses.

C. The provisions of this Section 13.04.1050 shall commence with collection of sales and use taxes beginning on July 1, 2020 and shall terminate on June 30, 2027. Taxes, including penalties and interest, assessed or owed prior to June 30, 2027 may be collected and expended after June 30, 2027, pursuant to the provisions of this Section.

D. The Council hereby authorizes and approves creation and establishment of the Road Improvement Tax Fund for the purpose of accounting for the funds restricted for the Authorized Uses.

Section 4. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 5. The repeal or modification of any provision of the Municipal Code of the City of Evans by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

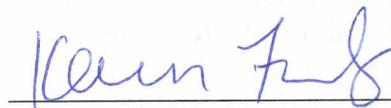
Section 6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 7. This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and City Clerk, and by the Certificate of Publication.

Section 8. Pursuant to Ballot Issue 2A, this Ordinance shall become effective on July 1, 2020 and shall terminate on July 1, 2027.

PASSED, APPROVED AND ADOPTED ON FIRST READING THIS 5TH DAY OF MAY 2020.

ATTEST:



City Clerk



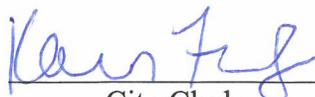
THE CITY OF EVANS, COLORADO:



Brian Rudy, Mayor

PASSED, APPROVED AND ADOPTED ON SECOND READING THIS 19TH DAY OF MAY 2020.

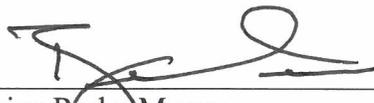
ATTEST:



City Clerk



THE CITY OF EVANS, COLORADO:



Brian Rudy, Mayor

