

**THE CITY OF EVANS, COLORADO  
ORDINANCE NO. 716-20**

**AN EMERGENCY ORDINANCE AMENDING SECTION 3.04.400 TO IMPLEMENT  
THE CITY OF EVANS BALLOT ISSUE 2A APPROVING A ONE PERCENT (1% )  
INCREASE IN CITYWIDE SALES AND USE TAX ON MOTOR VEHICLE SALES 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; and

**WHEREAS**, on May 19, 2020, the City Council approved Ordinance 713-20, implementing the increased sales tax on retail sales, and the use tax on construction and building materials; and

**WHEREAS**, the City Council wishes to implement the use tax increase on the sale of motor vehicles, as approved by the voters, to take effect on the July 1, 2020, the same date as the tax increases implemented by Ordinance 713-20, in order to facilitate proper administration of the tax increases and to ensure the increases are applied equally to retail sales, construction and building materials, and to motor vehicle sales, as approved by the voters.

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

**Section 1.** Section 3.04.400 of the Evans Municipal Code, is hereby amended to read as follows:

3.04.400 - Imposition and rate of sales and use tax on motor vehicles.

Unless otherwise exempted, there is levied and there shall be paid a sales or use tax at the rate of ~~three~~ four and one-half percent (~~3.5~~ 4.5%), upon the sale, storage,

use, or consumption within the City of any motor vehicle and other vehicle purchased at retail on which registration is required under state law.

**Section 2.** Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 3.** Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

**Section 4.** This Ordinance, after its passage on final reading, shall be 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 5.** Publication and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of the City of Evans for the reasons described above, including the need to implement the tax increases as approved by the voters, and the need to administer the sales and use tax increases on an equitable manner during the same time period, as approved by the voters, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

**Section 6.** Pursuant to Ballot Issue 2A, this Ordinance shall become effective on July 1, 2020 and shall terminate on July 1, 2027.

**INTRODUCED, PASSED, AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 16th DAY OF JUNE, 2020.**

ATTEST:

  
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City Clerk



THE CITY OF EVANS, COLORADO:

  
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Brian Rudy, Mayor