

CITY OF LAFAYETTE

ORDINANCE NO. 25, Series 2021

INTRODUCED BY: COUNCILOR CHELSEA BEHANNA

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE,
COLORADO, AMENDING CHAPTERS 44 AND 110 OF THE CODE OF
ORDINANCES ENACTING A SALES AND USE TAX INCREMENT FOR
PUBLIC SAFETY SERVICES, CONTINGENT UPON VOTER-APPROVAL**

WHEREAS, by Resolution 2021-54, adopted by the City Council on August 17, 2021, the City Council called a regular municipal election to be conducted on November 2, 2021; and

WHEREAS, at such regular election, the City Council referred to the registered electors of the City of Lafayette the question of whether the City should impose an additional sales and use tax of 0.27% or 2.7 cents on a ten-dollar purchase within the City for the purpose of funding public safety services provided by the City of Lafayette; and

WHEREAS, the City Council further desires to amend the Lafayette Code of Ordinances to implement the sales and use tax increment ballot issue, if approved by a majority of the registered electors voting thereon, consistent with the terms and conditions contained in the ballot issue.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AS FOLLOWS:

Section 1. That, subject to the approval of the voters as provided in Sections 4 and 5 of this ordinance, the Code of Ordinances, City of Lafayette, Colorado, is hereby amended by the adding a new Section 44-12 in Article I, Chapter 44, "Finance," of the Code, which section reads as follows:

Sec. 44-12. Public safety services fund.

- (a) *Fund established.* There is hereby created a public safety services fund for the purposes described in subsection (a) of section 110-172 of this Code.
- (b) *Revenue sources.* The public safety services fund shall be funded through revenues derived from collection of the twenty-seven one-hundredths of one percent (.27%) sales and use tax increment imposed pursuant to Division 6, Article III, Chapter 110 of this Code.
- (c) *Administrative costs.* Monies in the public safety services fund may be expended to pay the costs incurred by the city associated directly with the administration of the funds.
- (d) *Fund earnings.* Any interest earned on the balance of the fund accrues to the fund
- (e) *Administration of funds.* The director of the finance department will manage the public safety services fund.

- (f) *Permanency.* If the monies in the fund are not expended at the end of the fiscal year, such monies must remain in the fund to be expended in subsequent fiscal years.

Section 2. That, subject to the approval of the voters as provided in Sections 4 and 5 of this ordinance, the Code of Ordinances, City of Lafayette, Colorado, is hereby amended by adding a new Division 6 to Article III, Chapter 110, “Sales and Use Tax,” of the Code, which section reads as follows:

DIVISION 6. SALES AND USE TAX FOR PUBLIC SAFETY SERVICES

Sec. 110-170. - Levy of tax on sales of tangible personal property and services.

Effective January 1, 2022, in addition to the sales tax otherwise imposed by section 110-34 of this article, there is levied and there shall be collected and paid a tax of twenty-seven one-hundredths of one percent (.27%) on the purchase price paid or charged for all sales of tangible personal property and services as specified in Article III, Chapter 110 of this Code.

Sec. 110-171. - Levy of tax on privilege of storing, using, or consuming any articles of tangible personal property or taxable services.

Effective January 1, 2022, in addition to the use tax otherwise imposed by section 110-35 of this article, there is levied and there shall be collected and paid a tax a tax of twenty-seven one-hundredths of one percent (.27%) by every person, firm or corporation in the city exercising the taxable privilege of storing, using, or consuming in the city any article of tangible personal property or taxable services as specified in Article III, Chapter 110 of this Code.

Sec. 110-172 - Use of tax increase; authorization by electors.

- (a) Effective January 1, 2022, the amount of sales and use tax revenue attributable to the levy and collection of the twenty-seven one-hundredths of one percent (.27%) sales and use tax imposed by this Division shall be used only for funding, maintaining, and enhancing public safety services, including without limitation:
- (1) acquiring public safety personnel equipment;
 - (2) maintaining, replacing, and enhancing fire and police personnel and capital equipment;
 - (3) defraying operating expenses for fire and police equipment and capital facilities;
 - (4) providing mental health co-responder teams on calls involving persons experiencing behavioral health crises;
 - (5) providing the city’s fire and police departments with additional personnel to improve response times and response capabilities to emergencies throughout the city; and

- (6) providing resources for emergency management and resiliency planning, and recovery from environmental, climate, and human-caused disasters.
- (b) All revenues accruing to the city shall be set aside and placed in the public safety services fund established in section 44-12.
- (c) Expenditures of all revenues accruing to the city shall be spent exclusively for the purposes set forth in this section and appropriated as determined by the city council in its sole discretion.

Sec. 110-173. - Authorization by electors for collection, retention, and expenditure of increased tax revenues.

Notwithstanding any limitations on revenue, spending, or appropriations contained in Article X, Section 20 of the Colorado Constitution or any other provision of law, any revenues derived from or generated by the twenty-seven one-hundredths of one percent (.27%) sales and use tax imposed by this Division, as approved by the voters at the municipal election on November 2, 2021, may be collected, retained and spent as a voter-approved revenue change and exception to any spending limitations which might otherwise apply under Article X, Section 20 of the Colorado Constitution or any other provision of law, and shall not require further voter approval to collect, retain and spend any tax revenues derived from or generated by such twenty-seven one-hundredths of one percent (.27%) sales and use tax increment.

Sec. 110-174 - Administration; enforcement; collection; etc.

- (a) The twenty-seven one-hundredths of one percent (.27%) sales and use tax increment imposed by this division shall be collected, administered, and enforced in the same manner as all other sales and use taxes in accordance with division 1 of article III of chapter 110 of this Code.
- (b) The finance director is empowered to enforce this division and may cause a municipal summons and complaint to be issued against any person for violation of any provision of this division, in addition to any other remedies available at law.
- (c) To avoid collection of amounts that are fractions of pennies, taxpayers shall use a rounding procedure approved by the finance director or pursuant to a bracket schedule adopted by the finance director when computing the tax.

Section 3. In accordance with Article X, Section 20 of the Colorado Constitution, a ballot issue has been submitted to a vote of the registered electors of the City of Lafayette at a regular municipal election occurring on November 2, 2021. The form of the ballot title, designation, and submission clause established and referred is set forth in Resolution 2021-54.

Section 4. In the event a majority registered electors of the City of Lafayette voting on the ballot issue established and referred by Resolution 2021-54 vote in favor of the issue, as determined and certified by the election results, the Code amendments set forth in Sections 1 and 2 of this ordinance shall take effect as of January 1, 2022.

Section 5. It is the express intent of the City Council that, in the event a majority of the registered electors of the City of Lafayette voting on the ballot issue established and referred by Resolution 2021-54 vote against the issue, the Code amendments set forth in Sections 1 and 2 of this ordinance shall not take effect and shall be null and void.

Section 6. 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 hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 7. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 8. The repeal or modification of any provision of the Code of Ordinances, City of Lafayette, Colorado, 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. 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 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 9. This ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

Section 10. Violations of this ordinance shall be punishable in accordance with Section 1-10 of the Code of Ordinances, City of Lafayette, Colorado.

Section 11. This ordinance shall become effective upon the latter of the 10th day following enactment, or the day following final publication of the ordinance.

INTRODUCED AND PASSED ON FIRST READING THE 16th DAY OF NOVEMBER 2021.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THE 7th DAY OF DECEMBER 2021.

CITY OF LAFAYETTE, COLORADO

Jamie Harkins, Mayor

ATTEST:

Lynette Beck, CMC, City Clerk

APPROVED AS TO FORM:

Mary Lynn Macsalka, City Attorney