

**CITY OF LAFAYETTE**

**ORDINANCE NO. 26, Series 2021**

**INTRODUCED BY: COUNCILOR JD MANGAT**

**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  
MENTAL HEALTH AND HUMAN SERVICES, CONTINGENT UPON VOTER-  
APPROVAL**

**WHEREAS**, by Resolution 2021-55, 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 0.1% or 1.0 cents on a ten-dollar purchase within the City for the purpose of funding support for mental health and human services provided through contractual partnerships with non-profit agencies that provide critical safety net services and other mental health and human supports or programs to individuals, families and children; 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 adding a new Section 44-13 in Article I, Chapter 44, "Finance," of the Code, which section reads as follows:

**Sec. 44-13. Mental health and human services fund.**

- (a) *Fund established.* There is hereby created a mental health and human services fund for the purposes described in subsection (a) of section 110-182 of this Code.
- (b) *Revenue sources.* The mental health and human services fund shall be funded through revenues derived from collection of the one-hundredth of one percent (.10%) sales and use tax increment imposed pursuant to Division 7, Article III, Chapter 110 of this Code.
- (c) *Administrative costs.* Monies in the mental health and human 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 fund.* The director of the finance department will manage the mental health and human 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.
- (g) *Rulemaking.* The director of the finance department may promulgate any rules necessary for the proper administration of this section, including procedures for the application, consideration and determination of distribution of monies from the fund.
- (h) *Criteria for selection of recipient.* The finance director shall create criteria by which the finance department shall use for the selection of organizations to receive disbursements or grant awards pursuant to a grant agreement for the purposes described in subsection 110-182(a) of this Code. At a minimum, selection criteria shall include the following:
  - (1) The contractual partner shall be a non-profit organization or corporation in good standing under the Colorado Revised Nonprofit Corporation Act and that has a determination letter in effect from the U.S. Internal Revenue Service confirming the organization meets the requirements of 26 USC 501(c)(3);
  - (2) The contractual partner shall have the authority to contract in its own name and to hire its own employees who shall not be considered officers or employees of the city; and
  - (3) The contractual partner must actually conduct qualifying programmatic activities within the city that principally benefit the residents of the city.

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 7 to Article III, Chapter 110, "Sales and Use Tax," of the Code, which section reads as follows:

**DIVISION 7. SALES AND USE TAX FOR MENTAL HEALTH AND HUMAN SERVICES**

**Sec. 110-180. - 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 one-hundredth of one percent (.10%) 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. 110-181. - 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 one-hundredth of one percent (.10%) 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. 110-182 - 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 one-hundredth of one percent (.10%) sales and use tax imposed by this Division shall be used only for funding support for mental health and human services through contractual partnerships with non-profit agencies providing such services for individuals, families and children in the City of Lafayette, including without limitation:
  - (1) funding to support human services for emergency food, shelter and other critical safety net services, such as housing costs, utilities, rental assistance, childcare and medical care;
  - (2) funding to support housing, shelter, and related services for those experiencing or having exited from homelessness;
  - (3) funding to support mental health and substance use disorder prevention, treatment, recovery, and harm reduction services;
  - (4) funding to support hands-on experiential education and public health programs associated with farming, gardening, cooking, home economics, and healthy eating; and
  - (5) funding to support services and related programs available for victims of domestic violence.
- (b) All revenues accruing to the city shall be set aside and placed in the mental health and human services fund established in section 44-13.
- (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. 110-183. - 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 one-hundredth of one percent (.10%) 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 one-hundredth of one percent (.10%) sales and use tax increment.

**Sec. 110-184 - Administration; enforcement; collection, etc.**

- (a) The one-hundredth of one percent (.10%) 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 2021-55.

Section \_\_\_\_\_ 4. In the event a majority registered electors of the City of Lafayette voting on the ballot issue established and referred by Resolution 2021-55 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 2021-55 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 10<sup>th</sup> 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:

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Lynette Beck, CMC, City Clerk

APPROVED AS TO FORM:

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Mary Lynn Macsalka, City Attorney