

ORDINANCE NO. 1617  
SERIES 2012

AN ORDINANCE IMPOSING FOR AN ADDITIONAL TEN-YEAR PERIOD THE CITY'S THREEEIGHTHS OF ONE PERCENT (¾%) SALES TAX FOR OPEN SPACE ACQUISITION, DEVELOPMENT, MAINTENANCE AND RELATED PURPOSES; AND PROVIDING FOR THE SUBMISSION OF THE ORDINANCE TO A VOTE OF THE REGISTERED ELECTORS AT A SPECIAL ELECTION TO BE HELD NOVEMBER 6, 2012

Section 1. The following ordinance of the City of Louisville, Colorado, is hereby adopted to read:

WHEREAS, the City of Louisville (the "City"), is a Colorado home rule municipal corporation duly organized and existing under laws of the State of Colorado and the City Charter (the "City Charter"); and

WHEREAS, the members of the City Council of the City (the "City Council") have been duly elected and qualified; and

WHEREAS, Article X, Section 20 of the Colorado Constitution, also referred to as the Taxpayer's Bill of Rights ("TABOR") requires voter approval for any new tax, any increase in any tax rate, the creation of any debt, extension of an expiring tax, and the spending of certain funds above limits established by TABOR; and

WHEREAS, pursuant to Article 12 and Section 4.3 of the City Charter, the City may authorize the issuance of bonds, the imposition of new taxes and the increase of a tax rate by ordinance and upon approval of the registered electors of the City; and

WHEREAS, pursuant to resolution adopted by the City Council, the City will hold a special election on November 6, 2012, as a coordinated election pursuant to the Uniform Election Code of 1992, as amended; and

WHEREAS, TABOR requires that the City submit ballot issues, as defined in TABOR, to the City's registered electors on specified election days before action can be taken on such ballot issues; and

WHEREAS, November 6, 2012, is one of the election dates at which TABOR ballot issues may be submitted to the registered electors of the City pursuant to TABOR; and

WHEREAS, pursuant to Ordinance No. 1119, Series 1993, the City Council referred to the voters a TABOR ballot issue concerning imposition for a ten-year period of a temporary ¾% sales and use tax increase for the acquisition of land in and around the City of Louisville for open space buffer zones, trails, wildlife habitats, wetlands preservation and future parks, and such

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ballot issue was approved by a majority of the City's voters; and

WHEREAS, pursuant to Ordinance No. 1395, Series 2002, the City Council referred to the voters a TABOR ballot issue for the continuation of such sales and use tax for an additional ten-year period for the acquisition of land in and around the City of Louisville for open space buffer zones, trails, wildlife habitats, wetlands preservation and future parks; and for the development, construction, operation and maintenance of such open space zones, trails, wildlife habitats, wetlands and parks, and such ballot issue was approved by a majority of the City's voters; and

WHEREAS, pursuant to Ordinance No. 1575, Series 2010, the City Council referred to the voters a TABOR ballot issue for the imposition of a permanent City use tax at a rate of 3.50% to supersede the City's then-current use tax, with revenues from a  $\frac{3}{4}$  % percent rate of use tax to be used exclusively for the acquisition of land in and around the City of Louisville for open space buffer zones, trails, wildlife habitats, wetlands preservation and future parks; and for the development, construction, operation and maintenance of such open space zones, trails, wildlife habitats, wetlands and parks, and such ballot issue was approved by a majority of the City's voters; and

WHEREAS, the temporary  $\frac{3}{4}$  % sales tax will expire on December 31, 2013, unless it is continued by approval of the City's voters; and

WHEREAS, the City Council is of the opinion that it should refer to the voters at the November 6, 2012 election a TABOR ballot issue concerning continuation of the City's temporary sales tax, as further stated in this ordinance

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

A. Subsection A of Section 3.20.200 of the Louisville Municipal Code, regarding the sales tax levy, is hereby amended to read as follows (words added are underlined; words deleted are stricken through):

Sec. 3.20.200. Levy of tax; rate

A. There is hereby levied, and there shall be collected and paid, a sales tax equal to three percent of the purchase price of tangible personal property at retail or the furnishing of services, except that (1) for the ten-year period beginning on January 1, 2014 ~~2004~~, there is hereby levied, and there shall be collected and paid, an additional sales tax of three-eighths of one percent of the purchase price of tangible personal property at retail or the furnishing of services, as authorized at the November 6, 2012 ~~November 5, 2002~~ election, and (2) for the ten-year period beginning on January 1, 2009, there is hereby levied, and there shall be collected and paid, an additional sales tax of on ~~one~~ eighth of one percent of the purchase price of tangible personal property at retail or the furnishing of

services, as authorized at the November 4, 2008 election

**B.** Subsection D of Section 3.20.600 of the Louisville Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

**Sec. 3.20.600. Sales tax—Capital improvement fund.**

**D.** Revenues from the temporary  $\frac{3}{4}$  percent sales tax imposed for the ten-year period beginning on January 1, 2014 ~~2004~~ shall be used exclusively for the acquisition of land in and around the city for open space buffer zones, trails, wildlife habitats, wetlands preservation and future parks; and for the development, construction, operation and maintenance of such open space zones, trails, wildlife habitats, wetlands and parks.

**Section 2.** Total City tax revenues are estimated to increase by up to \$1,300,000 in the first full year in which the sales tax provided for in this ordinance is in effect. However, the revenues from said sales tax may be collected and spent, regardless of whether said revenues, in any year after the first full year in which said sales tax is in effect, exceed the estimated dollar amount stated above, and without any other limitation or condition, and without limiting the collection or spending of any other revenues or funds by the City of Louisville, under Article X, Section 20 of the Colorado Constitution or any other law.

**Section 3.** This ordinance shall not take effect unless and until a majority of the registered voters voting at the special municipal election on November 6, 2012 vote "yes" in response to the following ballot title:

SHALL CITY OF LOUISVILLE TAXES BE INCREASED \$1,500,000 IN 2014 AND THEN ANNUALLY BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED THEREAFTER FROM THE CONTINUATION OF THE SALES TAX OF 0.375 PERCENT BEGINNING JANUARY 1, 2014 AND EXPIRING TEN YEARS AFTER SUCH DATE; WITH THE NET PROCEEDS OF SUCH SALES TAX TO BE COLLECTED, RETAINED AND SPENT EXCLUSIVELY FOR THE ACQUISITION OF LAND IN AND AROUND THE CITY OF LOUISVILLE FOR OPEN SPACE BUFFER ZONES, TRAILS, WILDLIFE HABITATS, WETLANDS PRESERVATION AND FUTURE PARKS; AND FOR THE DEVELOPMENT, CONSTRUCTION, OPERATION AND MAINTENANCE OF SUCH OPEN SPACE ZONES, TRAILS, WILDLIFE HABITATS, WETLANDS AND PARKS; AND SHALL THE CITY BE PERMITTED TO COLLECT, RETAIN AND EXPEND ALL REVENUES DERIVED FROM SUCH SALES TAX AS A VOTER-APPROVED REVENUE CHANGE AND AN EXCEPTION TO LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

YES

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Section 4. The provisions of this ordinance shall take effect, following passage and approval thereof as provided in Section 3, on January 1, 2014.

Section 5. 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 and the registered voters of the City hereby declare that they would have passed and approved this ordinance and each part thereof irrespective of the fact that any one part be declared invalid.

Section 6. The repeal or modification of any provision of the Municipal Code of the City of Louisville 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 7. 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.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED  
PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Robert P. Muckle, Mayor

ATTEST:

\_\_\_\_\_  
Nancy Varra, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Light, Kelly & Dawes, P.C.  
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Robert P. Muckle, Mayor

ATTEST:

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Nancy Varra, City Clerk