

ORDINANCE NO. 5222

AN ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, THE 7TH DAY OF NOVEMBER, 1989, THE QUESTION OF ADOPTING AN ORDINANCE MAKING REVISIONS TO THE CITY'S SALES AND USE TAX WHICH WOULD INCREASE THE SALES AND USE TAX FROM 2.53 TO 2.86 PERCENT, WITH THE ADDITIONAL .33 PERCENT EXPIRING ON DECEMBER 31, 2004; DEDICATING THE SALES AND USE TAX INCREASE FOR THE ACQUISITION, MAINTENANCE, PRESERVATION, RETENTION, AND USE OF OPEN SPACE LANDS AS DEFINED IN SECTION 170 OF THE CHARTER, AND THE PAYMENT OF ANY INDEBTEDNESS AND TAX REFUNDS RELATED THERETO; SETTING FORTH SAID ORDINANCE IN FULL; SETTING FORTH THE BALLOT TITLE; PROVIDING OTHER DETAILS IN CONNECTION WITH THE ELECTION AND THE SUBMISSION OF THE QUESTION; AND PROVIDING FURTHER DETAILS IN RELATION TO THE FOREGOING.

WHEREAS, the qualified electors of the city, on June 2, 1964 under Ordinance No. 2803 (1964) approved a sales and use tax of one percent; and

WHEREAS, the qualified electors of the city, on November 7, 1967, under Ordinance No. 3288 (1967), approved an additional sales and use tax of one percent which was dedicated for certain purposes; and

WHEREAS, under Ordinance Nos. 4575 and 4593 (1981), the city council of the city inter alia, recodified and renumbered the city's sales and use tax provisions, effective January 1, 1982; and

WHEREAS, the qualified electors of the city, on November 3, 1981, under Ordinance No. 4594 (1981), approved an additional sales and use tax of 0.15 percent which was dedicated for certain purposes; and

WHEREAS, the qualified electors of the city, on November 3, 1987, under

Ordinance No. 5047 (1987), approved an additional sales and use tax of 0.38 percent which was dedicated for certain purposes; and

WHEREAS, the city council of the city desires to put the question of a 0.33 percent sales and use tax increase for open space purposes before the qualified electors:

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

Section 1. At the general election to be held in the various precincts and at the polling places of the city on Tuesday, the 7th day of November, 1989, between the hours of 7:00 o'clock a.m. and 7:00 o'clock p.m., there shall be submitted to the vote of the qualified electors of the city the question of the acquisition, maintenance, preservation, retention, and use of open space lands as defined in Section 170 of the Charter, and the payment of any indebtedness and tax refunds related thereto. Such election shall be conducted under the provisions of the charter and ordinances of the city, the Boulder Revised Code, 1981, and this ordinance, and all contrary provisions of the statutes of the State of Colorado are hereby superseded.

Section 2. At said election, there shall be submitted to the vote of the qualified electors the question of whether the following ordinance pertaining to changes in the city's sales and use tax structure shall be adopted:

AN ORDINANCE AMENDING ORDINANCE NO. 4575, AS AMENDED BY ORDINANCES NOS. 4593, 4594 (AN ORDINANCE REVISING CHAPTER 40, SALES AND USE TAX, OF THE REVISED CODE OF THE CITY OF BOULDER, 1965, AS AMENDED), AND 5047, TO ENACT AN ADDITIONAL SALES AND USE TAX AT THE RATE OF 0.33 PERCENT FROM JANUARY 1, 1990 THROUGH DECEMBER 31, 2004; DEDICATING THE SALES TAX INCREASE FOR THE ACQUISITION, MAINTENANCE, PRESERVATION, RETENTION, AND USE OF OPEN SPACE LANDS AS DEFINED IN SECTION 170 OF THE

5.

CHARTER, AND THE PAYMENT OF ANY INDEBTEDNESS AND TAX REFUNDS RELATED THERETO; AUTHORIZING THE CITY COUNCIL TO MAKE AMENDMENTS TO ADOPT A BRACKET SCHEDULE TO REFLECT THE TAX INCREASE AND TO MAKE SUCH OTHER AMENDMENTS AS WILL FURTHER THE INTENT AND PURPOSE OF THIS ORDINANCE; SETTING FORTH AN EFFECTIVE DATE; AND PROVIDING OTHER DETAILS IN RELATION TO THE FOREGOING.

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

Section 1. The following section of Title 3, Revenue and Taxation, Chapter 2, Sales and Use Tax, of B.R.C. 1981, as adopted by Ordinance No. 4574 on July 21, 1981, and effective on January 1, 1982, and as amended by Ordinances Nos. 4593 on August 18, 1981, 4594 on November 3, 1981, and 5047 on November 3, 1987, is amended to read as follows (Note - the language which has been lined out would be omitted from the sections if this ordinance is approved by the electors. The language in bold letters which is not lined out does not appear in the present sections but would appear in the sections if this ordinance is approved by the electors. The remaining language appears in the present sections and would continue to appear if this ordinance is approved by the electors.):

3-2-5 Rate of Tax.

- (a) The amount of the tax hereby levied is ~~2.53~~ 2.86 percent of the purchase price of tangible personal property or taxable services sold or purchased at retail.
- (b) The amount of the tax hereby levied on food sold in or by a food service establishment, required to be licensed under Subsection 4-9-3(a), B.R.C. 1981, shall be ~~2.68~~ 3.01 percent of the purchase price of such food. Cover charges, admission or entrance fees, and mandatory service or service-related charges shall be included as part of the purchase price of such food.
- (c) Of said amount, 0.15 percent shall be deemed a park and recreation tax, which tax shall expire at midnight on December

31, 1992, and 0.38 percent shall be deemed a library bond tax, which tax shall expire at midnight on December 31, 2011, and 0.33 percent shall be deemed an open space tax, which tax shall expire at midnight on December 31, 2004.

Section 2. Subsection (c) of Section 5, Earmarked Revenues, of Title 3, Revenue and Taxation, Chapter 2, Sales and Use Tax, of B.R.C. 1981, as adopted by Ordinance No. 4575 on July 21, 1981, and effective on January 1, 1982, and as amended by Ordinances Nos. 4593 on August 18, 1981, 4594 on November 3, 1981, and 5047 on November 3, 1987, is amended to read as follows:

- (c) Pledged sales and use tax revenue, as defined in Ordinance No. 4711, shall be deposited into the Boulder Urban Renewal Tax Increment Fund established by such ordinance, is committed to the Boulder Urban Renewal Authority for the uses described in such ordinance, and may be disbursed only as prescribed in such ordinance. Pledged sales and use tax revenue means all of the proceeds of the sales and use tax collected within the Boulder Urban Renewal Authority Project Area, defined in Ordinance No. 4951, after deduction of the following amounts:
- (1) The proportional share of the reasonable and necessary costs and expenses of collecting and enforcing collection of said sales and use tax attributable to the project area;
 - (2) The refunds required or permitted under Section 3-2-22, B.R.C. 1981, that are attributable to the project area;
 - (3) An amount equal to the proceeds of the sales and use tax revenue derived from the collection of sales and use tax within the project area during the fiscal year ending December 31, 1978;

- (4) The 0.15 percent of sales and use tax allocated to the "Parks and Recreation Fund" by subsection (d) of this section;
- (5) The additional 0.15 percent of sales and use tax imposed on restaurants by Subsection 3-2-5(b), B.R.C. 1981;
- (6) The 0.38 percent of sales and use tax allocated to the "Library Bond Fund" by subsection (e) of this sections; and
- (7) The 0.33 percent of sales and use tax allocated to the "Open Space Fund" by subsection (f) of this section; and
- (78) One-half of the amount remaining after excluding therefrom the deductions set forth in paragraphs (c)(1), (2), (3), (4), (5), and (6) and (7) of this section, shall be set aside in the open space and street fund, except that, with respect to Authority Bonds, defined in Ordinance No. 4951, issued for expenditures in the public interest related to transportation or for related or appurtenant to transportation services or facilities within the project area, sixty percent of the amount so set aside in the open space and street fund under this subsection shall constitute a separate sub-account said open space and street fund to be known as the "Boulder Urban Renewal Transportation Services Account", and said account shall also constitute pledged sales tax revenues.

Section 3. Section 29, Earmarked Revenues of Title 3, Revenue and Taxation, Chapter 2, Sales and Use Tax, of B.R.C. 1981, as adopted by

Ordinance No. 4574 on July 21, 1981, and effective on January 1, 1982, and as amended by Ordinances Nos. 4593 on August 18, 1981, 4594 on November 3, 1981, and 5047 on November 3, 1987, is amended by the addition of a new subsection (f) to read:

- (f) From January 1, 1990 through December 31, 2004, the amount of the sales and use tax revenue attributable to the levy and collection of 0.33 percent of sales and use tax shall be set aside in an Open Space fund for the acquisition, maintenance, preservation, retention, and use of open space lands as defined in Section 170 of the charter, and the payment of any indebtedness and tax refunds related thereto.

Section 4. It is the intention of the qualified electors of the City of Boulder that this ordinance, or any part or provision hereof, shall be considered severable; any invalidity of any part, section, provision, clause, sentence, or fragment of this ordinance shall not affect the validity of any other portion of this ordinance; the qualified electors would have adopted the provisions of this ordinance, or any part or provision hereof, regardless of the validity of any part, section, provision, clause, sentence, or fragment hereof.

Section 5. The qualified electors of the City of Boulder hereby authorize the Boulder City Council to adopt a bracket schedule to reflect the tax rate adopted by this ordinance so as to avoid collection of fractions of pennies. The qualified electors further authorize the Boulder City Council to make such other amendments to Ordinance No. 4575 and to Chapter 3-2, B.R.C. 1981, and to adopt such other ordinances as may be necessary to further the intent and purpose of this ordinance.

Section 6. The effective date of this ordinance shall be the date of its adoption by the electors.

Section 5. The official ballot punch card and the official absentee ballot shall state the substance of the sales and use tax and tax dedication measure to be voted on and so stated shall constitute the ballot title, designation, and submission clause, and each qualified elector voting at said election shall indicate his or her choice on the measures submitted, which shall be as follows:

Shall the City of Boulder sales and use tax be increased by an additional 0.33 cents per dollar, which increase shall take effect on January 1, 1990 and expire on December 31, 2004, to provide additional revenues for the acquisition, maintenance, preservation, retention and use of open space lands as defined in Section 170 of the Charter of the City of Boulder, Colorado, and the payment of any indebtedness and tax refunds related thereto.

FOR the measure _____ AGAINST the measure _____

Section 6. If a majority of all the votes cast at the election on the measure submitted shall be for the measure, the measure shall be deemed to have passed and the ordinance referred to therein shall be deemed to have been adopted.

Section 7. The city clerk of the City of Boulder shall give public notice of the election on such measure:

(a) By causing a notice to be published in the Boulder Daily Camera, a daily newspaper of general circulation and published in the city, three times, a week apart, the first publication to be at least twenty days before election day; and

(b) By causing the notice also to be published in the Boulder Daily Camera for five successive days just prior to election day.

Section 8. The notice of the election on such measure shall include the ballot title, as well as the full text of the ordinance making revisions to the city's sales and use tax.

Section 9. The officers of the city are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance.

Section 10. All ordinances and resolutions, or parts thereof, in conflict with this ordinance are hereby repealed. This repeal shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

Section 11. If any section, paragraph, clause, or provision of this ordinance shall for

any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

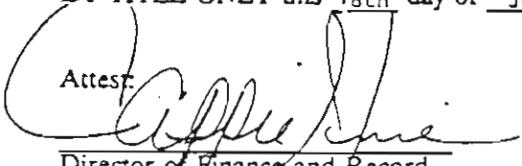
Section 12. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city and covers matters of local concern.

Section 13. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED

BY-TITLE ONLY this 18th day of July, 1989

Attest:

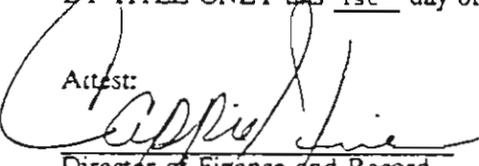

Director of Finance and Record
Ex-Officio City Clerk

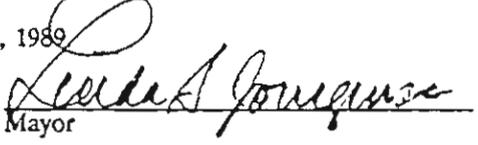

Mayor

READ ON SECOND READING, ADOPTED, AND ORDERED PUBLISHED

BY-TITLE ONLY this 1st day of August, 1989

Attest:


Director of Finance and Record
Ex-Officio City Clerk


Mayor

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