

AN ORDINANCE

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SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF LAKEWOOD AT THE REGULAR MUNICIPAL ELECTION TO BE HELD TUESDAY, NOVEMBER 1, 2005, A BALLOT ISSUE TO AUTHORIZE THE CITY TO INCREASE THE SALES AND USE TAX RATE FROM TWO PERCENT TO THREE PERCENT, EXEMPTING FOOD FROM THE INCREASED SALES AND USE TAX RATE, AND TO AUTHORIZE THE CITY TO COLLECT, RETAIN AND SPEND THE REVENUES FROM THE SALES AND USE TAX INCREASE AS A VOTER APPROVED REVENUE CHANGE; AND FURTHER AUTHORIZING A TEMPORARY WAIVER OF THE SALES TAX INCREASE WITHIN CERTAIN AREAS OF THE CITY AND PROVIDING FOR OTHER MATTERS RELATING THERETO

WHEREAS, the last sales and use tax rate increase for the City of Lakewood was approved by the voters on November 2, 1971, increasing the City's sales and use tax rate to two percent; and,

WHEREAS, City Council of the City of Lakewood has determined that it is necessary to increase the City's sales and use tax rate from two percent to three percent, provided that food shall be exempt from the additional one percent sales and use tax rate; and,

WHEREAS, Article X, Section 20, of the Colorado Constitution requires approval by the voters of a local government for any tax increase; and,

WHEREAS, Article X, Section 20, of the Colorado Constitution provides that the voters of a local government may authorize the local government to collect, retain and spend revenues above the local government's fiscal year spending or revenue limit; and,

WHEREAS, in full accordance with Article X, Section 20, of the Colorado Constitution, the City Council of the City of Lakewood seeks to obtain voter approval for an increase in the City's sales and use tax rate from two percent to three percent, provided that food shall be exempt from the additional one percent sales and use tax rate, and to collect, retain and spend revenues from said tax increase above the local government's fiscal year spending or revenue limit; and,

WHEREAS, at least fifty percent (50%) of the tax revenues collected from the additional one percent sales and use tax rate shall be used for public safety purposes, maintenance and construction of streets, and parks and recreation purposes and the balance of the additional one percent sales and use tax to be used to maintain City services and emergency fund balance. It is the declared intent of the City Council that "emergency fund balance" does not relate to, nor is intended to, be controlled by the emergency reserve provision which is set forth in Article X, Section 20 of the Colorado Constitution; and,

WHEREAS, three specific retail developments (the "Subject Properties") within the City have established a Public Improvements Fee to pay for infrastructure improvements. The Subject Properties are: (i) Colorado Mills, as such area is more fully described in Exhibit A; (ii) Belmar, as such area is more fully described in Exhibit B; and (iii) Wal-Mart, as such area is more fully described in Exhibit C, (said Exhibits A, B, and C are attached hereto and incorporated herein by reference). To assure that sales transactions at the Subject Properties do not place an undue burden on shoppers, the City Council desires to temporarily waive the additional one percent sales tax rate increase at the Subject Properties.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. There is hereby submitted to the registered electors of the City of Lakewood at the regular municipal election on November 1, 2005, a ballot issue to authorize the City to increase the sales and use tax rate from two percent to three percent, exempting food therefrom, and to authorize the City to collect, retain and spend the revenues from the sales and use tax increase as a voter approved revenue change.

SECTION 2. City of Lakewood Ballot Issue 2A shall read as follows:

SHALL THE CITY OF LAKEWOOD SALES AND USE TAX BE INCREASED BY \$16,696,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR COMMENCING JANUARY 1, 2006 AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY IN EACH SUBSEQUENT YEAR, PROVIDING FOR AN INCREASE IN THE CITY'S SALES AND USE TAX RATE FROM TWO PERCENT (2%) TO THREE PERCENT (3%), PROVIDED THAT:

- FOOD, AS DEFINED IN LAKEWOOD MUNICIPAL CODE SECTION 3.01.020, SHALL BE EXEMPT FROM SUCH ADDITIONAL ONE PERCENT SALES AND USE TAX,
- AT LEAST FIFTY PERCENT (50%) OF THE TAX REVENUES FROM SUCH ADDITIONAL ONE PERCENT TAX SHALL BE USED FOR:
 - PUBLIC SAFETY PURPOSES, WHICH SHALL BE DEFINED AS POLICE, MUNICIPAL COURTS, MUNICIPAL PROSECUTION AND RELATED SUPPORT SERVICES,
 - MAINTENANCE AND CONSTRUCTION OF STREETS,
 - AND PARKS AND RECREATION PURPOSES,

- AND THE BALANCE OF THE ADDITIONAL ONE PERCENT SALES AND USE TAX TO BE USED TO MAINTAIN CITY SERVICES AND EMERGENCY FUND BALANCE,

SUCH ADDITIONAL ONE PERCENT SALES AND USE TAX TO BE COLLECTED, RETAINED AND SPENT AS A VOTER APPROVED REVENUE CHANGE NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMIT CONTAINED WITHIN ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

YES _____

NO _____

SECTION 3. Subject to voter approval of the ballot issue set forth in Section 2 of this ordinance, Section 3.01.140 of the Lakewood Municipal Code shall be amended by the addition of a new subsection which shall read: "There is imposed upon all sales of commodities and services specified in Section 3.01.120, except food, as defined in Lakewood Municipal Code section 3.01.020, a tax, in addition to that tax imposed in section 3.01.140 B, at the rate of one percent of the amount of the sale, to be computed in accordance with the schedules or systems set forth in the rules and regulations prescribed therefor. Said schedules or systems shall be designed so that no such tax is charged on any sale of twenty-four cents or less. At least fifty percent (50%) of said one percent tax shall be utilized for public safety purposes, maintenance and construction of streets, and parks and recreation purposes and the balance of the additional one percent tax to be used to maintain City services and emergency fund balance. Section 3.01.080 of the Lakewood Municipal Code shall not apply to said one percent tax increase."

SECTION 4. Subject to voter approval of the ballot issue set forth in Section 2 of this ordinance, the City of Lakewood hereby temporarily waives the one percent sales tax increase set forth in said ballot issue for sales occurring at the Subject Properties. Said temporary waiver shall be for one year, commencing January 1, 2006, and shall automatically renew each year thereafter unless rescinded by City Council Resolution adopted at least sixty days prior to December 31st of any year or the first date upon which (i) any bonds or debt which are payable with revenues from the Public Improvement Fees are no longer outstanding and (ii), to the extent applicable, the developer, owner, or any district serving the Subject Properties has received the maximum amount of reimbursable costs.

SECTION 5. If the ballot issue is approved by a majority of those registered electors voting thereon, the City Council shall implement such proposal and the officers of the City shall be, and hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provision of such proposal and this Ordinance.

SECTION 6. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 7. This ordinance shall take effect thirty (30) days after final publication.