

ORDINANCE NO. 893

AN EMERGENCY ORDINANCE INCREASING THE TOWN OF FIRESTONE'S SALES AND USE TAX RATE WITH THE REVENUES FROM SUCH INCREASE TO BE USED FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF THE FIRESTONE PUBLIC SAFETY FACILITY AND FOR THE PROVISION OF PUBLIC SAFETY SERVICES; AND PROVIDING FOR THE SUBMISSION OF THE TAX RATE INCREASE AND A PROPOSED INCREASE IN TOWN DEBT TO A VOTE OF THE REGISTERED ELECTORS AT A SPECIAL ELECTION TO BE HELD NOVEMBER 8, 2016

WHEREAS, the Town of Firestone (the "Town"), is a Colorado statutory town duly organized and existing under laws of the State of Colorado; and

WHEREAS, the members of the Board of Trustees of the Town (the "Board of Trustees") 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 applicable law, including but not limited to Article 2 of Title 29, Colorado Revised Statutes, the Town is authorized to adopt a municipal sales and use tax and has previously adopted upon voter approval a permanent municipal sales tax of three percent and a permanent municipal use tax of two percent; and

WHEREAS, pursuant to a resolution adopted by the Board of Trustees, the Town will hold a special election on November 8, 2016, as a coordinated election pursuant to the Uniform Election Code of 1992, as amended; and

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

WHEREAS, November 8, 2016, is one of the election dates at which TABOR ballot issues may be submitted to the registered electors of the Town pursuant to TABOR; and

WHEREAS, the Town Board of Trustees is of the opinion that it should refer to the voters at the November 8, 2016 election a TABOR ballot issue concerning the imposition of an additional temporary 0.6% sales and use tax for a period of twenty years and an additional permanent 0.25% sales and use tax for the purposes specified in this Ordinance and concerning the authorization of debt to fund the construction of the Firestone Public Safety Facility as set forth herein;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

**Section 1.** Section 3.08.040 of the Firestone Municipal Code, regarding the sales and use tax levy, is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

**3.08.040 Amount of tax.**

A. There is imposed on all sales of tangible personal property at retail or furnishing of services in the town except as provided herein, a tax equal to ~~three~~ 3.25 percent of the purchase price thereof.

[Subsections 1 and 2 to remain the same].

B. There is imposed a use tax on the use or consumption of any construction and building materials purchased at retail or for the privilege of storing, using or consuming in Firestone any motor or other vehicles, purchased at retail on which registration is required, of ~~two~~ 2.25 percent except as otherwise provided herein, but the amount subject to tax shall not include the amount of any sales or use tax imposed by C.R.S. Article 26 of Title 39.

C. For the twenty-year period beginning on January 1, 2017, there is hereby levied, and there shall be collected and paid, an additional sales and use tax of 0.6 percent on the transactions described in subsections A and B of this section.

**Section 2.** Section 3.08.080 of the Firestone Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

**3.08.080 Sales and Use Tax Capital Improvement Fund.**

A. Pursuant to C.R.S. § 29-2-111, there is established a special fund of the Town to be known as the “Sales and Use Tax Capital Improvement Fund.” Such Sales and Use Tax Capital Improvement Fund shall be kept separate from the general and other funds of the Town. There shall be deposited into the Sales and Use Tax Capital Improvement Fund such revenues derived from the Town sales and use tax as the Board of Trustees may determine necessary from year to year or in any ordinance approving bonds or other obligations payable from the Sales and Use Tax Capital Improvement Fund. The Sales and Use Tax Capital Improvement Fund shall be used to provide for capital improvements for the Town, for the payment of debt service on bonds and other obligations of the Town issued for the purpose of providing capital improvements, and for other purposes permitted by C.R.S. § 29-2-111.

B. Amounts deposited to the Sales and Use Tax Capital Improvement Fund shall not be available to be pledged or expended for any general municipal purpose.

C. Revenues from the one percent sales tax approved by the registered electors of the Town at the November 5, 2013 election shall be used exclusively for the purposes set forth in the Ballot Issue for such tax approved by the registered electors at said election.

D. Revenues from the 0.25 percent sales and use tax approved by the registered electors of the Town at the November 8, 2016 election shall be used exclusively for the purposes set forth in the Ballot Issue for such tax approved by the registered electors at said election.

E. Revenues from the temporary 0.6 percent sales and use tax imposed for the twenty-year period beginning on January 1, 2017 approved by the registered electors of the Town at the November 8, 2016 election shall be used exclusively for the purposes set forth in the Ballot Issue for such tax approved by the registered electors at said election.

**Section 3.** Town tax sales and use revenues are estimated to increase by up to \$1,900,000 in 2017, the first full year in which the sales and use tax provided for in this Ordinance are in effect. However, the revenues from said sales and use tax may be collected, retained and spent regardless of whether said revenues, in any year after the first full year in which said sales and use tax are 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 Town of Firestone, under Article X, Section 20 of the Colorado Constitution or any other law.

**Section 4.** Sections 1 and 2 of this Ordinance shall not take effect unless and until a majority of the registered voters voting at the special municipal election on November 8, 2016 vote "yes" in response to the following ballot title, which title is hereby set and referred to the ballot at said election:

BALLOT ISSUE 2 \_\_\_

SHALL TOWN OF FIRESTONE TAXES BE INCREASED \$1,900,000 IN 2017 (FIRST FULL FISCAL YEAR DOLLAR INCREASE) AND THEN ANNUALLY BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED THEREAFTER FROM THE LEVY OF AN ADDITIONAL SALES AND USE TAX OF 0.85 PERCENT AND SHALL TOWN OF FIRESTONE DEBT BE INCREASED \$10,500,000, WITH A MAXIMUM REPAYMENT COST OF \$16,850,000, SUBJECT TO THE FOLLOWING:

ALL OR ANY PORTION OF THE NET PROCEEDS OF SUCH ADDITIONAL SALES AND USE TAX, AS DETERMINED BY THE BOARD OF TRUSTEES, MAY BE DEPOSITED TO THE TOWN'S SALES TAX CAPITAL IMPROVEMENT FUND, WHICH IS HEREBY RENAMED THE SALES AND USE TAX CAPITAL IMPROVEMENT FUND, TO BE COLLECTED, RETAINED AND SPENT TO FINANCE THE CONSTRUCTION OF THE FIRESTONE PUBLIC SAFETY

FACILITY, TO INCLUDE ALL NECESSARY LAND, EQUIPMENT, FURNISHINGS, IMPROVEMENTS AND INCIDENTALS FOR SUCH FACILITY, OR TO PAY DEBT SERVICE ON DEBT ISSUED FOR SUCH PURPOSES, OR TO PAY THE COSTS OF OPERATING OR MAINTAINING THE FIRESTONE PUBLIC SAFETY FACILITY IMPROVEMENTS FINANCED FROM THE CAPITAL IMPROVEMENT FUND;

ANY PORTION OF THE NET PROCEEDS OF SUCH ADDITIONAL SALES AND USE TAX WHICH ARE NOT DEPOSITED TO THE CAPITAL IMPROVEMENT FUND SHALL BE COLLECTED, RETAINED AND SPENT FOR OPERATING OR MAINTAINING THE FIRESTONE PUBLIC SAFETY FACILITY AND FOR PROVIDING PUBLIC SAFETY SERVICES;

THE SALES AND USE TAX INCREASE SHALL COMMENCE JANUARY 1, 2017 WITH 0.6 PERCENT OF SAID SALES AND USE TAX TO BE IMPOSED FOR A PERIOD NOT TO EXCEED TWENTY YEARS AND WITH THE SALES TAX TO BE COLLECTED IN ADDITION TO THE TOWN'S SALES TAX OF 3.0 PERCENT UPON THE TOWN'S EXISTING SALES TAX BASE, SO THAT THERE CONTINUES TO BE NO TOWN SALES TAX UPON FOOD FOR DOMESTIC HOME CONSUMPTION, AND THE USE TAX TO BE COLLECTED IN ADDITION TO THE TOWN'S USE TAX OF 2.0 PERCENT UPON THE TOWN'S EXISTING USE TAX BASE;

ANY SUCH DEBT SHALL BE PAYABLE FROM THAT PORTION OF THE TOWN SALES AND USE TAX DEPOSITED TO THE TOWN'S SALES AND USE TAX CAPITAL IMPROVEMENT FUND;

ANY SUCH DEBT MAY BE SOLD IN ONE SERIES OR MORE, ON TERMS AND CONDITIONS AS THE BOARD OF TRUSTEES MAY DETERMINE, INCLUDING PROVISIONS FOR THE REDEMPTION OF THE BONDS PRIOR TO MATURITY WITH OR WITHOUT PREMIUM;

ANY SUCH DEBT MAY BE REFUNDED BY THE TOWN, PROVIDED THAT AFTER THE ISSUANCE OF SUCH REFUNDING DEBT THE TOTAL OUTSTANDING PRINCIPAL AMOUNT OF ALL DEBT ISSUED PURSUANT TO THIS QUESTION DOES NOT EXCEED THE MAXIMUM PRINCIPAL AMOUNT SET FORTH ABOVE, AND PROVIDED FURTHER THAT ALL DEBT ISSUED BY THE TOWN PURSUANT TO THIS QUESTION IS ISSUED ON TERMS THAT DO NOT EXCEED THE REPAYMENT COSTS AUTHORIZED IN THIS QUESTION;

AND SHALL THE PROCEEDS OF SUCH DEBT AND TAXES AND THE EARNINGS THEREON OR ON THE INVESTMENT OF SUCH DEBT PROCEEDS (REGARDLESS OF AMOUNT) CONSTITUTE A VOTER-APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

**Section 5.** If a majority of the votes cast on the question authorize the issuance of bonds and levy of an additional sales and use tax as described in the question set forth in Section 4 above, the Town intends to issue such bonds in the approximate aggregate principal amount of \$10,500,000 to pay the costs of the project described in the election question (the "Project"), including the reimbursement of certain costs incurred by the Town prior to the execution and delivery of such bonds, upon terms acceptable to the Town, as authorized in an ordinance to be hereafter adopted and to take all further action which is necessary or desirable in connection therewith. The officers, employees and agents of the Town shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby and shall take all action necessary or desirable to finance the Project and to otherwise carry out the transactions contemplated by the ordinance. The Town shall not use reimbursed moneys for purposes prohibited by Treasury Regulation §1.150-2(h). This Ordinance is intended to be a declaration of "official intent" to reimburse expenditures within the meaning of Treasury Regulation §1.150-2.

**Section 6.** The provisions of Sections 1 and 2 of this Ordinance shall take effect, following passage and approval thereof as provided herein, on January 1, 2017.

**Section 7.** The number/letter designations of the ballot title herein referred shall be as finally determined by the election officials in accordance with law.

**Section 8.** The Board of Trustees may submit additional ballot issues or other measures to appear on the ballot of the election by the adoption of appropriate resolutions or ordinances as required by law.

**Section 9.** The election shall be conducted as a part of a coordinated election. Pursuant to C.R.S. Section 31-10-102.7, the Town will utilize the requirements and procedures of the Uniform Election Code of 1992, articles 1 to 13 of title 1, C.R.S., as amended, in lieu of the Colorado Municipal Code of 1965, article 10 of title 31, C.R.S., as amended. The Town Clerk is hereby appointed as the designated election official of the Town for purposes of performing acts required or permitted by law in connection with the election.

**Section 10.** Because the election will be held as part of the coordinated election, the Board of Trustees hereby determines that the Weld County Clerk and Recorder shall conduct the election on behalf of the Town, to the extent and as provided in the Uniform Election Code, as amended. The officers of the Town are hereby authorized to enter into one or more intergovernmental agreements with the County Clerk pursuant to Section 1-7-116 and/or Article 7.5, Title 1, C.R.S. Any such intergovernmental agreement heretofore entered into in connection with the election is hereby ratified, approved and confirmed.

**Section 11.** Notice of the election shall be given in the manner prescribed by Article X, Section 20 of the Colorado Constitution, the Uniform Election Code and other applicable laws.

**Section 12.** The officers and employees of the Town are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance

and the conduct of the November 8, 2016 election.

**Section 13.** All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the Town, directed towards the election and the objects and purposes herein stated, are hereby ratified, approved and confirmed.

**Section 14.** 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 Town Board of Trustees and the registered voters of the Town hereby declare that they would have passed and approved this Ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

**Section 15.** The repeal or modification of any provision of the Municipal Code of the Town of Firestone 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 16.** 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.

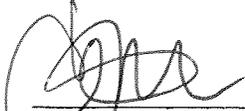
**Section 17.** The Board of Trustees herewith finds, determines, and declares that this Ordinance is necessary to the immediate preservation of public property, health, welfare, peace, or safety because there is an urgent need for the revenues from the tax proposed by this Ordinance, the Board of Trustees desires to submit the foregoing TABOR ballot issue to the registered electors of the Town at the special election on November 8, 2016, and there are several immediate deadlines related to the conduct of said election that must be met. Therefore, pursuant to C.R.S. § 31-16-105, the Board of Trustees herewith further finds, determines and declares that it is necessary for this Ordinance to take effect immediately upon adoption.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED IN FULL this 31st day of August, 2016.

TOWN OF FIRESTONE, COLORADO

  
Paul Sorensen, Mayor

ATTEST:



Carissa Medina, Town Clerk

