

ORDINANCE OF THE CITY OF LONE TREE

Series of 2008

Ordinance No. 08-10

AN ORDINANCE AMENDING THE CITY OF LONE TREE MUNICIPAL CODE TO INCREASE TEMPORARILY SALES AND USE TAXES BY AMOUNTS APPROVED BY THE REGISTERED ELECTORS OF THE CITY AT THE MAY 6, 2008 ELECTION.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LONE TREE,
COLORADO:**

ARTICLE 1 – AUTHORITY

The City of Lone Tree (the “City”) is a home rule municipality operating under a Charter adopted May 5, 1998. Pursuant to the Charter, the Lone Tree Municipal Code (the “Code”) and the authority given to home rule cities, the City may adopt and amend Ordinances.

ARTICLE 2 – DECLARATIONS OF POLICY

- A. A 2006 City of Lone Tree-sponsored survey of arts and recreation showed a desire by residents to improve cultural and recreational facilities in the City and to fund new cultural and recreational capital projects.
- B. The City Council determined that the best way to finance these capital improvements would be to increase the City’s bonded debt, to be repaid through the imposition of a temporary sales tax and use tax increase.
- C. The City may only levy and collect a tax when such tax has been approved by the majority of the electors of the City voting thereon pursuant to Article X, Section 20 of the Colorado Constitution, the Taxpayer’s Bill of Rights (TABOR), and Article XII, Section 4 of the City Charter.
- D. The City Council submitted ballot issues to the electorate of the City at the May 6, 2008 regular election, in conformity with TABOR and the City Charter, for the purpose of raising capital for cultural and recreational improvement projects in the City.

- E. At the May 6, 2008 City election, qualified and registered electors of the City voted to approve Ballot Issue 2A and Ballot Issue 2B to increase the City's bonded debt to fund these capital improvements, to be repaid by temporarily increasing the City's sales and use taxes. Ballot Issue 2A and Ballot Issue 2B are attached to this Ordinance as Exhibit A.
- F. The City Council, by and through this ordinance, wishes to effectuate the will of its citizens, as expressed by the May 6, 2008 election, and temporarily increase sales and use taxes to be used to pay debt incurred to fund these capital improvements.

ARTICLE 3 – ADOPTION

The Code is amended as follows:

- A. **Section 4-3-110. Sales tax.** The first paragraph is hereby deleted and replaced by the following:

“There is hereby levied and there shall be collected and paid a sales tax of one and one-half percent (1.5%), together with

- (i) an additional sales tax of three sixteenths of one percent (0.1875%) to finance the cultural facilities authorized in Ballot Issue 2A, as approved by the registered electors of the City at an election held May 6, 2008 (the “Cultural Facilities Sales Tax”),
- and
- (ii) an additional sales tax of two sixteenths of one percent (0.125%) to finance the park and recreation facilities authorized in Ballot Issue 2B, as approved by the registered electors of the City at an election held May 6, 2008 (the “Park and Recreation Facilities Sales Tax”).

The Cultural Facilities Sales Tax shall expire on December 31, 2023, or after the full payment of the debt authorized by Ballot Issue 2A, whichever comes first. The Park and Recreation Facilities Sales Tax shall expire on December 31, 2023, or after the full payment of the debt authorized by Ballot Issue 2B, whichever comes first. All sales taxes shall apply to the sale of tangible personal property and the furnishing of services as follows, subject to the exemptions specified in this Article:”

- B. **Section 4-3-120. Use tax.** The first paragraph is hereby deleted and replaced by the following:

“There is hereby levied and there shall be collected and paid a use tax of one and one-half percent (1.5%), together with

(i) an additional use tax of three sixteenths of one percent (0.1875%) to finance the cultural facilities authorized in Ballot Issue 2A, as approved by the registered electors of the City at an election held May 6, 2008 (the “Cultural Facilities Use Tax”), and (ii) an additional use tax of two sixteenths of one percent (0.125%) to finance the park and recreation facilities authorized in Ballot Issue 2B, as approved by the registered electors of the City at an election held May 6, 2008 (the “Park and Recreation Facilities Use Tax”).

The Cultural Facilities Use Tax shall expire on December 31, 2023, or after the full payment of the debt authorized by Ballot Issue 2A, whichever comes first. The Park and Recreation Facilities Use Tax shall expire on December 31, 2023, or after the full payment of the debt authorized by Ballot Issue 2B, whichever comes first. All use taxes shall apply to every person exercising the taxable privilege of using, storing, distributing or consuming in the City any article of tangible personal property or taxable service, purchased at retail, for said exercise of said privilege, as follows:”

C. **Section 4-3-130. General provisions and limitations.** The last sentence of subsection (c) is hereby deleted and replaced by the following:

“Every retailer or vendor shall, irrespective of this provision regarding the collection of the applicable tax from purchasers, be liable and responsible for the payment of the full amount of sales and use taxes that shall accrue upon gross taxable sales made by him or her of services and tangible personal property subject to the sales and use taxes imposed by this Article.”

ARTICLE 4 – APPLICABILITY

The provisions of this Ordinance shall go into effect on July 1, 2008.

ARTICLE 5 – PROVISIONS REMAIN EFFECTIVE

Except as expressly amended in Article 3 above, all other provisions of Chapter 4, Article III shall, and do hereby, remain in full force and effect.

ARTICLE 6 - SEVERABILITY

If any part or provision of this Ordinance, or its application to any person or circumstance is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision or application shall not affect any of the remaining parts, provisions or applications of this Ordinance which can be given the effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

ARTICLE 7 - EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days following publication after the first reading if no changes are made on second reading, or twenty (20) days after publication following second reading if changes are made upon second reading.

INTRODUCED READ AND ORDERED PUBLISHED ON MAY 20, 2008.

**PUBLISHED IN THE DOUGLAS COUNTY NEWS PRESS ON MAY 29, 2008,
LEGAL NOTICE NO. W08-0635.**

**APPROVED AND ADOPTED ON SECOND READING THIS 3rd DAY OF JUNE,
2008, TO BECOME EFFECTIVE ON JUNE 30, 2008.**

CITY OF LONE TREE:


James D. Gunning, Mayor

ATTEST:

(SEAL)


Jennifer Pettinger, CMC, City Clerk

EXHIBIT A

CITY OF LONE TREE CULTURAL FACILITIES BALLOT ISSUE 2A:

SHALL CITY OF LONE TREE DEBT BE INCREASED \$18.5 MILLION WITH A MAXIMUM REPAYMENT COST OF \$28.2 MILLION AND SHALL CITY SALES AND USE TAXES BE INCREASED UP TO \$2.65 MILLION ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY INCREASING THE RATE OF SALES AND USE TAX LEVIED BY THE CITY BY .1875 PERCENT (18.75 CENTS ON A \$100 PURCHASE) SUBJECT TO THE FOLLOWING LIMITATIONS:

- ◆ THE PROCEEDS OF THE DEBT AND THE TAXES SHALL BE USED TO FINANCE, WITHIN THE BOUNDARIES OF THE CITY, FOR THE BENEFIT OF CITY RESIDENTS, THE COSTS OF CULTURAL FACILITIES INCLUDING, BUT NOT LIMITED TO, PERFORMANCE THEATERS, EXHIBIT AREAS, MEETING ROOMS, GALLERIES AND OTHER IMPROVEMENTS, AND TO PAY THE COST OF ISSUANCE OF THE DEBT, INCLUDING ANY NECESSARY RESERVES;
- ◆ THE INCREASE IN THE SALES AND USE TAX RATE SHALL BEGIN ON JULY 1, 2008 AND END ON DECEMBER 31, 2023 OR AFTER THE FULL PAYMENT OF SUCH DEBT, WHICHEVER COMES FIRST;
- ◆ THE CITY MAY PLEDGE TO THE PAYMENT OF THE DEBT SUCH SALES AND USE TAX REVENUES, INVESTMENT INCOME, AND OTHER CITY REVENUES AS THE CITY COUNCIL MAY DETERMINE;
- ◆ THE SPECIFIC TERMS OF THE DEBT SHALL BE DETERMINED BY THE CITY COUNCIL AS NECESSARY AND PRUDENT AND MAY INCLUDE A PROVISION FOR EARLY REPAYMENT WITH OR WITHOUT A PREMIUM OF NOT MORE THAN 3%;

AND SHALL THE CITY BE AUTHORIZED TO ISSUE DEBT TO REFUND THE DEBT AUTHORIZED IN THIS QUESTION, 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 CITY PURSUANT TO THIS QUESTION IS ISSUED ON TERMS THAT DO NOT EXCEED THE REPAYMENT COSTS AUTHORIZED IN THIS QUESTION; AND SHALL THE CITY BE AUTHORIZED TO USE THE PROCEEDS OF SUCH TAXES TO HONOR SALES AND USE TAX REVENUE SHARING CONTRACTUAL COMMITMENTS; AND SHALL THE REVENUES RAISED BY SUCH SALES AND USE TAX RATE INCREASE AND PROCEEDS OF SUCH DEBT, ANY OTHER REVENUE USED TO PAY SUCH DEBT, AND INVESTMENT INCOME THEREON, BE COLLECTED AND SPENT BY THE CITY AS A VOTER-APPROVED REVENUE CHANGE PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

YES _____

NO _____

CITY OF LONE TREE PARK AND RECREATION IMPROVEMENTS
BALLOT ISSUE 2B:

SHALL CITY OF LONE TREE DEBT BE INCREASED \$12.5 MILLION WITH A MAXIMUM REPAYMENT COST OF \$21.1 MILLION AND SHALL CITY SALES AND USE TAXES BE INCREASED UP TO \$1.75 MILLION ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY INCREASING THE RATE OF SALES AND USE TAX LEVIED BY THE CITY BY .125 PERCENT (12.5 CENTS ON A \$100 PURCHASE) SUBJECT TO THE FOLLOWING LIMITATIONS:

- ◆ THE PROCEEDS OF THE DEBT AND THE TAXES SHALL BE USED TO FINANCE, WITHIN THE BOUNDARIES OF THE CITY, FOR THE BENEFIT OF CITY RESIDENTS, PARK AND RECREATION FACILITIES, INCLUDING, BUT NOT LIMITED TO, COMMUNITY PARKS, BIKE PATHS AND PEDESTRIAN WAYS, , TRAILS, FIELDS, TOT LOTS, PLAYGROUNDS FOR CHILDREN, OPEN SPACE, COMMON AREAS, COMMUNITY RECREATION CENTERS, TENNIS COURTS, AND SWIMMING POOLS, AND TO PAY THE COST OF ISSUANCE OF THE DEBT, INCLUDING ANY NECESSARY RESERVES;
- ◆ THE INCREASE IN THE SALES AND USE TAX RATE SHALL BEGIN ON JULY 1, 2008 AND END ON DECEMBER 31, 2023 OR AFTER THE FULL PAYMENT OF SUCH DEBT, WHICHEVER COMES FIRST;
- ◆ THE CITY MAY PLEDGE TO THE PAYMENT OF THE DEBT SUCH SALES AND USE TAX REVENUES, INVESTMENT INCOME, AND OTHER CITY REVENUES AS THE CITY COUNCIL MAY DETERMINE;
- ◆ THE SPECIFIC TERMS OF THE DEBT SHALL BE DETERMINED BY THE CITY COUNCIL AS NECESSARY AND PRUDENT AND MAY INCLUDE A PROVISION FOR EARLY REPAYMENT WITH OR WITHOUT A PREMIUM OF NOT MORE THAN 3%;

AND SHALL THE CITY BE AUTHORIZED TO ISSUE DEBT TO REFUND THE DEBT AUTHORIZED IN THIS QUESTION, 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 CITY PURSUANT TO THIS QUESTION IS ISSUED ON TERMS THAT DO NOT EXCEED THE REPAYMENT COSTS AUTHORIZED IN THIS QUESTION; AND SHALL THE CITY BE AUTHORIZED TO USE THE PROCEEDS OF SUCH TAXES TO HONOR SALES AND USE TAX REVENUE SHARING CONTRACTUAL COMMITMENTS; AND SHALL THE REVENUES RAISED BY SUCH SALES AND USE TAX RATE INCREASE AND PROCEEDS OF SUCH DEBT, ANY OTHER REVENUE USED TO PAY SUCH DEBT, AND INVESTMENT INCOME THEREON, BE COLLECTED AND SPENT BY THE CITY AS A VOTER-APPROVED REVENUE CHANGE PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

YES _____

NO _____