



**CITY CLERK'S OFFICE MEMORANDUM
#12-2018**

DATE: December 10, 2018
TO: Honorable Mayor Carol Dodge and City Council Members
THROUGH: Heather Geyer, City Manager 
FROM: Johanna Small, City Clerk 
SUBJECT: CB-1918 – Marijuana Sales Tax

PURPOSE

To consider an ordinance amending Chapter 5, Article 18 of the Municipal Code regarding the implementation of the City's special marijuana sales tax.

The proposed ordinance:

- increases the marijuana sales tax rate from 2% to the voter-approved 4%, effective January 1, 2019;
- adds language regarding the Council's ability to increase or decrease the marijuana sales tax by 1% per calendar year;
- sets the minimum (4%) and maximum (10%) tax rates that may be imposed by City Council without further voter approval; and
- amends the use of the tax revenue to include capital improvements and construction of public facilities.

BACKGROUND

Northglenn Ballot Issue 3E – Marijuana Sales Tax was approved by voters at the November 6, 2018 election. The ballot issue asked voters to set the City's special marijuana sales tax at 4% on the sale of retail and medical marijuana, and retail and medical marijuana products, with the revenue being used exclusively for capital improvements and public facilities. The question also asked voters to allow City Council to increase or decrease the sales tax no more than 1% per year without further voter approval so long as the tax rate does not exceed 10%. The ballot question passed with 58% approval.

BUDGET/TIME IMPLICATIONS

If adopted, CB-1918 will be effective January 1, 2019. A supplemental appropriation ordinance will be presented to Council at a future meeting to amend the 2019 Budget to include the additional sales tax revenue the City will collect in 2019. The Finance Department/Sales Tax Division has notified the City's marijuana businesses of the tax increase.

NEXT STEPS

If CB-1918 is approved on first reading, a public hearing on the proposed ordinance will be set for the special City Council meeting on December 17, 2018.

STAFF REFERENCE

Please contact Johanna Small, City Clerk at jsmall@northglenn.org or 303.450.8757 with any questions or comments.

CB-1918 – Marijuana Sales Tax

SPONSORED BY: MAYOR DODGE

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1918
Series of 2018

Series of 2018

A BILL FOR AN ORDINANCE AMENDING ARTICLE 18 OF CHAPTER 5 OF THE NORTHGLENN MUNICIPAL CODE REGARDING IMPLEMENTATION OF THE CITY'S MARIJUANA SALES TAX FOR THE PURPOSE OF CAPITAL IMPROVEMENTS AND PUBLIC FACILITIES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Article 18 of Chapter 5 of the Northglenn Municipal Code is hereby amended to read as follows:

ARTICLE 18

~~USE OF TWO PERCENT (2%) MARIJUANA SALES TAX USED EXCLUSIVELY FOR THE CONSTRUCTION OF~~ CAPITAL IMPROVEMENTS AND PUBLIC FACILITIES

Section 5-18-1. Purpose. It is the purpose of this Article to implement the ~~two percent (2%)~~ marijuana sales tax, ~~commencing January 1, 2015,~~ for the purpose of ~~construction of~~ CAPITAL IMPROVEMENTS AND public facilities as approved by the registered electors of the City of Northglenn. The revenues derived from the ~~two percent (2%)~~ marijuana sales tax are to be used solely for ~~the construction of~~ CAPITAL IMPROVEMENTS AND public facilities, which ~~public facilities~~ are more particularly described in this Article.

Section 5-18-2. Definitions. The following terms used in this Article shall have the meanings set forth below:

(A) CAPITAL IMPROVEMENTS MEANS AND INCLUDES A NON-RECURRING EXPENDITURE IN ASSOCIATION WITH THE ACQUISITION, CONSTRUCTION, OR PHYSICAL IMPROVEMENT OF LAND, BUILDINGS, OR INFRASTRUCTURE, WHEREBY SUCH EXPENDITURE RESULTS IN THE CREATION OF A NEW ASSET OR THE EXTENSION OF AN EXISTING ASSET'S USEFUL LIFE, VALUE, AND/OR OPERATIONAL CAPACITY. THE COSTS OF THE CAPITAL IMPROVEMENT IS ADDED TO THE BASIS OF THE ASSET, AND DEPRECIATED OVER TIME, IN CONTRAST TO REPAIRS AND MAINTENANCE EXPENDITURES WHICH ARE RECORDED AS OPERATING COSTS IN THE PERIOD IN WHICH THEY OCCUR.

~~(a)~~(B) *City Manager* means and includes the City Manager of the City of Northglenn, and any of the City Manager's designees.

~~(b)~~(C) *Construction of public facilities* means and includes the property acquisition, design, engineering, and construction of public facilities as defined hereinbelow in a manner

approved by the City Council.

~~(e)~~(D) *Director* means the Director of Finance of the City of Northglenn or such other person designated by the City in the enacting ordinance. Director shall also include such person's designee.

~~(d)~~(E) *Marijuana sales tax* means and includes the revenues received from the ~~two~~ FOUR percent (~~2~~ 4%) marijuana sales tax as set forth in this Article 18 of Chapter 5.

~~(e)~~(F) *Medical Marijuana* means marijuana that is grown and sold pursuant to Article 11 of Title 44 of the Colorado Revised Statutes, and includes seeds and immature plants.

~~(f)~~(G) *Medical Marijuana Center* means an entity licensed by the Colorado Department of Revenue pursuant to Section 14 of Article XVIII of the Colorado Constitution and Article 11 of Title 44 of the Colorado Revised Statutes to sell marijuana and marijuana products, and licensed by the City of Northglenn to sell such products pursuant to Article 14 of Chapter 18 of the Northglenn Municipal Code.

~~(g)~~(H) *Medical Marijuana Product or Medical Marijuana-Infused Product* means a product infused with Medical Marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.

~~(h)~~(I) *Public Facility* means and includes by way of example, but not by limitation, the Northglenn Recreation Center, the Northglenn City Hall, the Northglenn Police Department, and the Northglenn Senior Center, and may also include other municipal buildings and facilities of the City of Northglenn.

~~(i)~~(J) *Retail Marijuana* means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. *Retail marijuana* does not include industrial hemp, nor does it include fiber produced from the stalks, oil, cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

~~(j)~~(K) *Retail Marijuana Products* means concentrated retail marijuana products and retail marijuana products that are comprised of retail marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

~~(k)~~(L) *Retail Marijuana Store* means an entity licensed to purchase Retail Marijuana from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product from a Retail Marijuana Products Manufacturing Facility and to sell Retail Marijuana and Retail Marijuana Products to consumers pursuant to Section 16 of Article XVIII of the Colorado Constitution and Article 12 of Title 44 of the Colorado Revised Statutes, and licensed by the City of Northglenn to sell such products pursuant to Article 16 of Chapter 18 of the Northglenn Municipal Code.

Section 5-18-3. Two Percent (2%) Marijuana Sales Tax Imposed.

(A) EFFECTIVE JANUARY 1, 2019, there shall be a ~~two~~ FOUR percent (2 4%) marijuana sales tax imposed for the purpose of ~~construction of~~ CAPITAL IMPROVEMENTS AND CONSTRUCTION OF public facilities as more particularly described in this Article. Such marijuana sales tax shall be imposed in addition to the municipal sales tax on such sales, and shall be imposed on the following transactions:

(a)(1) The sale of Medical Marijuana, Medical Marijuana Products, and Medical Marijuana Infused Products by any Medical Marijuana Center licensed by the City; and

(b)(2) The sale of Retail Marijuana, and Retail Marijuana Products by any Retail Marijuana Store licensed by the City.

(B) THE MINIMUM TAX RATE THAT MAY BE IMPOSED PURSUANT TO THIS SECTION IS FOUR PERCENT (4%).

(C) THE MAXIMUM TAX RATE THAT MAY BE IMPOSED PURSUANT TO THIS SECTION IS TEN PERCENT (10%).

(D) THE CITY COUNCIL MAY, BY ORDINANCE, INCREASE OR DECREASE THE MARIJUANA SALES TAX NO MORE THAN ONE PERCENT (1%) PER CALENDAR YEAR SO LONG AS THE RATE DOES NOT EXCEED TEN PERCENT (10%). ANY ORDINANCE TO INCREASE OR DECREASE THE MARIJUANA SALES TAX SHALL BE ADOPTED PRIOR TO THE ADOPTION OF THE FOLLOWING YEAR'S OPERATING AND CAPITAL IMPROVEMENT BUDGET AND SHALL TAKE EFFECT ON JANUARY 1 OF THE FOLLOWING YEAR.

Section 5-18-4. Marijuana Sales Tax Dedicated for ~~Construction of~~ CAPITAL IMPROVEMENTS AND CONSTRUCTION OF Public Facilities. The revenue received from the ~~two percent (2%)~~ marijuana sales tax shall be separately accounted for in a manner determined necessary by the City Manager in order to implement and administer the provisions of this Article.

Section 5-18-5. Use of Revenues Received from the ~~Two Percent (2%)~~ Marijuana Sales Tax.

(a) Expenditures of the revenues received from the marijuana sales tax shall be used only for ~~the construction of~~ CAPITAL IMPROVEMENTS AND CONSTRUCTION OF public facilities.

(b) The City may pledge revenues received from the marijuana sales tax and those anticipated to be collected to the retirement of the principal and interest of bonds issued by the City for financing any of the activities and improvements set forth in subsection (a) of this Section 5-18-5.

Section 5-18-6. Incorporation by Reference of Provisions of the Northglenn Municipal Code. To the extent required to implement and enforce the provisions of this Article 18 of

Chapter 5, the provisions of Articles 14 and 16 of Chapter 18 of the Northglenn Municipal Code and the applicable provisions of Chapter 5 are hereby incorporated herein. The powers and duties of the Director in implementing and enforcing the provisions of Article 18 of Chapter 5 shall specifically be those set forth in Section 5-2-4 of the Northglenn Municipal Code.

Section 2. Effective Date. This Ordinance shall go into effect on January 1, 2019.

INTRODUCED, READ AND ORDERED POSTED this ____ day of _____,
2018.

CAROL A. DODGE
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____,
2018.

CAROL A. DODGE
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney