



**City of Fort Lupton
City Council
SPECIAL MEETING**
Tuesday, July 30, 2024
6:00 PM
130 South McKinley Avenue

Zo Hubbard, Mayor
Valerie Blackston, Ward 1
Chris Ceretto, Ward 2
Carlos Barron, Ward 3
David Crespin, Ward 1
Claud Hanes, Ward 2
Bruce Fitzgerald, Ward 3

You may join in person or join remotely by clicking on:
<https://global.gotomeeting.com/join/353347597>

Call to Order

Pledge of Allegiance

Roll Call

Action Memorandum

- a. AM 2024-123 Approving a Resolution of the City Council of Fort Lupton Authorizing the Submittal of an Energy and Mineral Impact Assistance Grant with the Colorado Department of Local Affairs for Fort Lupton Wastewater System Improvements for a Project Cost Estimate of \$15,200,000.00.
- b. AM 2024-124 Consideration of an Ordinance to Allow for the Operation of Marijuana Cultivation Facilities, Products Manufacturing Facilities, Research and Development Facilities, Centralized Distribution Permits, and Off-Premises Storage Facility Permits
- c. AM 2024-125 Consideration of an Ordinance to Enact a New Wholesale Marijuana Excise Tax of 1.5%, Not to Exceed 4%, on the Sale or Transfer of Unprocessed Retail Marijuana by a Licensed Cultivation Facility
- d. AM 2024-126 An Ordinance of the City of Fort Lupton Approving the Submission of a Ballot Question to the Registered Voters Voting in the Coordinated Election to be Held November 5, 2024, a Ballot Question if the City Should Amend Ordinance No. 2021-1127 and the Official Code of the City of Fort Lupton, Colorado, to Allow for the Operation of a Limited Number of Licensed Marijuana Establishments Within Specific Zones in the City of Fort Lupton; Setting the Title and Content of the Ballot for the Election
- e. AM 2024-127 An Ordinance of the City of Fort Lupton Approving the Submission of a Ballot Issue to the Registered Voters Voting in the Coordinated Election to be Held November 5, 2024, a Ballot Issue Pertaining to a Wholesale Marijuana Excise Tax of 1.5% with the Rate of Taxation Not to Exceed 4%; Setting the Title and Content of the Ballot for the Election
- f. AM 2024-128 Approving a Resolution Submitting a Ballot Question at the November 5, 2024, Regular Election, Whether the City of Fort Lupton Should Eliminate the Requirements that Payments of Bills and Statements Concerning Contracts and Rebates be Published in the Newspaper

Adjourn



SUBJECT FOR DISCUSSION

Approving a Resolution of the City Council of Fort Lupton Authorizing the Submittal of an Energy and Mineral Impact Assistance Grant with the Colorado Department of Local Affairs for Fort Lupton Wastewater System Improvements for a Project Cost Estimate of \$15,200,000.00.

SUMMARY STATEMENT/BACKGROUND DISCUSSION

As a requirement of the Colorado Department of Local Affairs' (DOLA) grant application for Energy and Mineral Impact Assistance Grant funds, City Council must approve a resolution authorizing the City's application submission in order to be considered for the grant.

As part of our grant application for financial assistance for the Fort Lupton Elevated Water Storage Project, City Council must approve a resolution officially authorizing the submission of said application. The estimated total amount of the above-mentioned project is \$15,200,000.00. Of this amount, the City will commit to a ninety-three percent match of \$15,200,000.00 of which is pending submission to the State Revolving Fund (SRF).

The Energy Impact Assistance Fund (EIAF) grant request is a Tier 1 request for \$1,000,000.00 to help cover the City's required funds for the SRF loan.

FINANCIAL CONSIDERATIONS

Not Applicable.

LEGAL/POLITICAL CONSIDERATIONS

Not Applicable.

ALTERNATIVES/OPTIONS

- A. Proceed with a formal resolution authorizing the City's DOLA grant application submission.
- B. Do not proceed with a formal resolution authorizing the City's DOLA grant application submission.
- C. Consider applying for grant assistance at a later date.

STAFF RECOMMENDATIONS

Staff recommends approval of this resolution formally authorizing staff to apply for the aforementioned DOLA grant.

Attachments:

- a. Resolution
- b. Project Estimate / Summary

Certification of Council Approval:

Ordinance No. _____

Resolution No. _____

City Clerk

Date

RESOLUTION NO. 2024Rxx

A RESOLUTION OF THE CITY COUNCIL OF FORT LUPTON AUTHORIZING THE SUBMITTAL OF AN ENERGY AND MINERAL IMPACT ASSISTANCE GRANT WITH THE COLORADO DEPARTMENT OF LOCAL AFFAIRS FOR FORT LUPTON ELEVATED WATER STORAGE PROJECT FOR AN AMOUNT OF \$1,000,000.00.

WHEREAS, the City of Fort Lupton's Water Distribution System is in need of improvements to meet system technical requirements; and

WHEREAS, these types of projects qualify for the submission of an Energy and Mineral Impact Assistance Grant application; and

WHEREAS, the City has committed to a ninety-three percent monetary match of \$15,200,000.00, currently being applied for through the Colorado State Revolving Fund program.

NOW THEREFORE BE IT RESOLVED that the Fort Lupton City Council has determined that the Elevated Water Storage Project is needed to add resiliency and redundancy to the water distribution system and has directed staff to apply for an Energy and Mineral Impact Assistance Grant. Such matching funds are required as part of the grant and will be received by the State Revolving Fund application.

APPROVED AND ADOPTED BY THE FORT LUPTON CITY COUNCIL THIS 30th DAY OF JULY, 2024.

City of Fort Lupton, Colorado:

Zo Hubbard, Mayor

ATTEST:

Maricela Peña, City Clerk

Approved as to Form:

Andy Ausmus, City Attorney

Elevated Water Storage

Line Item	Quantity	Units	Cost/Item	<i>Est Costs</i>
1MG Elevated Tank	1	LS		\$ 4,500,000.00
Tower Height Required	160	Ft		
Booster Pump	1	LS		\$ 500,000.00
Fill Transmission line - 20"	16500	LF	\$ 300.00	\$ 4,950,000.00
24" Conx Distribution	5000	LF	\$ 300.00	\$ 1,500,000.00
24" BF Valve	2	Ea	\$ 12,000.00	\$ 24,000.00
Contingency @ 20%				\$ 2,294,800.00
Survey				\$ 12,000.00
Engineering CM				\$ 1,400,000.00
<i>TOTAL ESTIMATE COST</i>				<u>\$ 15,181,000.00</u>

Applicant:	City of Fort Lupton, CO
Project Name:	Fort Lupton Water Tower Project
Applicant Contact:	Chris Cross, City Administrator
Date:	7/22/24

EIAF Application Project Budget						
Project Expenses		Project Revenues & In-kind				
Budget Line Items (Examples: architect, engineering, construction, equipment items, contingency, etc.)	Total Cost	State Funds	Other Funds	In-Kind: <i>Must be approved by DOLA prior to application.</i>	Other Fund Source	Funding: Committed (C) or Pending (P)
Engineering - Preliminary Design	\$ 249,260			\$ 249,260	Local in-kind - Water Revenues - paid to date	C
Engineering - Design & Permitting	\$ 686,433			\$ 686,433	Local in-kind - Water Revenues - paid to date	C
Engineering - Construction Mgmt	\$ 1,400,000		\$ 1,400,000		CWSRF Loan (and loan forgiveness)	P
Construction Expenses (all combined)	\$ 12,281,000	\$ 1,000,000	\$ 9,781,000	\$ 1,500,000	CWSRF Loan / Local in-kind	P
Contingency: Enter amount in column B to the right <u>or</u> if no contingency, briefly explain here:	\$ 2,294,800		\$ 2,294,800		CWSRF Loan (and loan forgiveness)	P
14%						
Total/Sub-Total	\$ 16,662,233	\$ 1,000,000	\$ 13,475,800	\$ 2,186,433		
TOTAL	\$ 16,662,233	\$ 16,662,233	NOTE: Total Project Expenses <u>must equal</u> Total Revenues & In Kind			
			NOTE: Add/delete expense rows as necessary			
	% Match State	6%	% Match Local	94%		

Applicant Financials
In the column below labeled "Lead Applicant" provide the financial information for the municipality, county, school district or special district directly benefiting from the application. In the columns below labeled "Co-applicant", provide the financial information for any public entities on whose behalf the application is being submitted (if applicable).



SUBJECT FOR DISCUSSION

Consideration of an Ordinance to Allow for the Operation of Marijuana Cultivation Facilities, Products Manufacturing Facilities, Research and Development Facilities, Centralized Distribution Permits, and Off-Premises Storage Facility Permits.

SUMMARY STATEMENT/BACKGROUND DISCUSSION

On April 17, 2024, the City Clerk's Office received written notice submitting an initiative petition to amend Ordinance 2021-1127 of the Fort Lupton Municipal Code to Allow for the Operation of Marijuana Cultivation Facilities, Products Manufacturing Facilities, Research and Development Facilities, Centralized Distribution Permits, and Off-Premises Storage Facility Permits. The petition proponents are Kenneth Rosales, residing at 915 Fulton Ave. Fort Lupton, CO and Michael Sanchez, residing at 517 Grand Ave. Fort Lupton, CO.

On April 23, 2024, the petition was approved as to form and the proponents were notified they had 180 days to circulate the petition to obtain the required number of signatures. CRS 31-11-104 states the initiative petition shall be signed by at least (5) percent of the registered electors of the City. At this time, the City of Fort Lupton had 5,975 registered voters. A total of at least 299 valid signatures were required in order for the petition to be deemed sufficient to continue with the initiative process. On May 24, 2024, the petition with signatures was filed with the City Clerk's Office. The City Clerk's Office deemed 302 signatures to be verifiable. On June 10, 2024, a statement of sufficiency was mailed to the persons representing the petition, Kenneth Rosales and Michael Sanchez.

Pursuant to CRS 31-11-110 after the petition has been filed, a 40-day protest period is allotted. The petition was filed on May 24, 2024. During this time, any registered voter may submit a written under oath protest to the Clerk. The protest period ended on July 3, 2024 and no protests were received.

On July 16, 2024, the Council was presented the final determination of petition sufficiency.

The Ordinance may be adopted without change by Council. If the Ordinance is adopted, the initiative process concludes and the Ordinance shall go into effect.

If the Ordinance is not adopted by Council, the ballot question will be submitted at an election of the City, to be held as a coordinated election on November 5, 2024. The title and content of the ballot will be set by the attached Ordinance. The Ordinance shall not go into effect unless approved by the voters of the City of Fort Lupton at the November 5, 2024 election.

FINANCIAL CONSIDERATIONS

N/A

LEGAL/POLITICAL CONSIDERATIONS

N/A

Certification of Council Approval:

Ordinance No. _____

Resolution No. _____

City Clerk

Date

ALTERNATIVES/OPTIONS

1. Support approval of the Ordinance and allow for the Operation of Marijuana Cultivation Facilities, Products Manufacturing Facilities, Research and Development Facilities, Centralized Distribution Permits, and Off-Premises Storage Facility Permits.
2. Do not support approval of the Ordinance and allow for registered voters to approve or reject the Ordinance.

STAFF RECOMMENDATIONS

Staff seeks recommendation.

Attachments: a. Proposed Ordinance

PEOPLE’S ORDINANCE NO. _____

INTRODUCED BY: TBD

AN ORDINANCE OF THE CITY OF FORT LUPTON, COLORADO, AMENDING ARTICLE XII OF CHAPTER 6 AND ARTICLE IV OF CHAPTER 16 OF THE FORT LUPTON MUNICIPAL CODE REGARDING THE REGULATION AND LICENSING OF REGULATED MARIJUANA ESTABLISHMENTS AS AUTHORIZED BY THE COLORADO CONSTITUTION.

WHEREAS, on November 6, 2012, the registered electors of the State of Colorado (the “State”) approved Amendment 64, a constitutional amendment authorizing the legal consumption and possession of limited amounts of marijuana for those persons aged twenty-one years of age or older and permitting the licensing and regulation of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores.

WHEREAS Amendment 64 reserves for local governments the authority to regulate or prohibit such facilities.

WHEREAS, on September 7, 2021, the City Council for Fort Lupton passed Ordinance 2021-1127 (the “Ordinance”), which enacted a prohibition on certain marijuana license types, including marijuana cultivators, marijuana products manufacturers, and marijuana research and development facilities, as authorized by the Colorado Constitution, and added a new article XII of chapter 6 of the Fort Lupton Municipal Code.

WHEREAS, the Ordinance became effective November 12, 2021, there having been no successful referendum petition filed with the City Clerk within that time.

WHEREAS, the City of Fort Lupton, Weld County, Colorado (the “City”) is a statutory municipality and political subdivision of the State, duly organized and operating under the Constitution and laws of the State; and

WHEREAS, Article V Section 1 Subsection 9 of the Constitution of the State, further preserved inviolate in Article 11 of Title 31 of the Colorado Revised Statutes, permits a proposed ordinance to be submitted to the City Council by petition of municipal electors attached thereto and circulated therewith to be filed with the City Clerk and signed by Registered Electors equal in numbers to at least 5% of the total number of electors of the City registered on the date the petition is filed.

WHEREAS, Article XVIII, Section 16 of the Constitution of the State of Colorado authorizes the Personal Use and Regulations of Marijuana, and said amendment also grants a locality the authority to permit such cultivation and manufacturing of marijuana and marijuana products.

WHEREAS, the prohibition on operating legal marijuana facilities in the City deprives the City of local tax revenue and jobs due to the citizens of Fort Lupton traveling to other communities to operate or work in these marijuana establishments;

WHEREAS, the regulation of marijuana in the City will increase local tax revenue and provide additional job opportunities to the community;

NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF FORT LUPTON, COLORADO, AS FOLLOWS:

SECTION 1:

The following sections of Article XII of Chapter 6 of the Official Code of the City of Fort Lupton, Colorado, are hereby amended as follows:

Article XII – Regulated Marijuana Establishments

Sec. 6-352 – Definitions

Marijuana business means any of the following entities licensed pursuant to the Colorado Marijuana Code: A medical or retail marijuana store, a medical or retail marijuana cultivation facility, a medical or retail marijuana products manufacturer, a medical or retail marijuana testing facility, a marijuana research and development licensee, a medical or retail marijuana business operator, a medical or retail marijuana transporter, an off-premises storage facility, a centralized distribution permit, or a medical or retail marijuana business operator.

Co-located marijuana establishment means both a licensed retail marijuana store and a medical marijuana store, retail cultivation facility and medical cultivation facility, retail products manufacturing facility and medical products manufacturing facility, research and development facility, and off-premises storage facility operating contiguously and located within the same building, and under exclusive control of the same licensee.

Sec. 6-353 Prohibited Marijuana License Types

Except as to marijuana stores, cultivation facilities, products manufacturing facilities, research and development facilities, centralized distribution permits, and off-premises storage facility permits (“authorized marijuana establishments”) as permitted herein by this Article, it shall be unlawful for any person to operate, cause to be operated, or permit to be operated a marijuana testing facility, transporters, business operators, and deliveries.

Sec. 6-354 – License/bond Requirements

(a) It shall be unlawful for any person to operate a marijuana store, cultivation facility, products manufacturing facility, research and development facility, or off-premises storage facility without obtaining a license to operate such business in accordance with the requirements of this Article.

Sec. 6-355 – Application

(a) Prior to submitting an application for a local license, an applicant must obtain an approved zoning verification form from the Planning and Development Department which, based upon an applicant's submittal of an area map drawn to scale, demonstrates that the proposed marijuana establishment is in compliance with the location restrictions set forth in this Article. Applicants shall submit the approved zoning verification form to the City Clerk along with completed State Marijuana Enforcement Division forms, and all supplemental information required by the City.

(b) Applications for cultivation facilities, products manufacturing facilities, research and development facilities, and off-premises storage facilities shall only be available to those who hold an existing Fort

Lupton retail marijuana store license or dual operation marijuana store license or those whose applications have been conditionally approved for a retail marijuana store license or dual operation marijuana store license, as of the effective date of this ordinance. Nothing in this provision prohibits future transfers of ownership or changes of corporate structure pursuant to sections 6-363 and 6-364 of this chapter.

(c) The applicant shall also provide the following information to the City, which information shall be required for the applicant and, as applicable, the proposed manager of the authorized marijuana establishment, and all persons having any financial interest in the authorized marijuana establishment. To the extent that any of the following information has been included with the applicant's state license application, it may provide copies of such documents to the local licensing authority.

(1) Proof of insurance of workers' compensation insurance and public liability insurance, which at a minimum meets the current maximum liability amounts for injury to any single person, or for any injury to two (2) or more persons in any such occurrence, as set forth in the Colorado Governmental Immunity Act (C.R.S. Section 24-10-114), as same may be amended.

(2) Proof of lawful possession of the premises to be licensed, which proof may include, for example, property executed deeds of trust, leases or other written documentation acceptable to the licensing authority.

(3) If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a regulated marijuana establishment and authorizing the City to enter the property for inspections of the proposed licensed premises on a form approved by the City.

(4) An operating plan for the proposed authorized marijuana establishment, including the following information:

a. A description of the products and services to be undertaken, produced, or provided by the authorized marijuana establishment.

b. A dimensional floor plan, drawn to scale, clearly labeled, and showing:

1. The layout of the structure and the floor plan in which the authorized marijuana establishment is to be located;

2. The principal uses of the floor area depicted on the floor plan, including, but not limited to, the areas where the public will be permitted and all private, storage, retail, and restricted areas where marijuana will be located, as applicable;

3. Areas where any services other than the distribution, cultivation, processing, research and development, and storage of marijuana are proposed to occur in the premises.

(5) A plan for disposal of any marijuana waste product that is not sold in a manner that protects any portion thereof from being possessed or ingested by any person or animal.

(6) A plan for ventilation of the authorized marijuana establishment that fully describes the ventilation systems that will ensure the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the authorized marijuana establishment or at any adjoining property.

(7) Fingerprints and personal background information for all owners, managers, and financiers employed by or under contract to provide services to the authorized marijuana establishment, directly, or as a member, partner, or officer of a corporation, partnership, association, or company.

(8) All applications must include all documents and information required by the Colorado Marijuana Code, including its rules and any information that the City deems reasonably necessary for the investigation and review of the application.

(d) No application shall be considered which is not complete in every detail in the opinion of the City Clerk. Incomplete applications may be returned to the applicant for completion or correction without any further action. It is the applicant's responsibility to ensure the application and all supplemental materials are submitted in a timely manner.

(e) Upon receipt of a complete application, the City Clerk shall notify all affected departments of the City to determine whether the application is in full compliance with all state and local laws, rules and regulations. The City Clerk, upon review of all applicable information, shall prepare a report including all applicable documents to be submitted to the local licensing authority.

(f) In the event the criminal history of an owner, member, manager, financier, or other person named on the application contains information regarding conviction of a crime or previous denial or revocation of any medical or retail marijuana or professional license, that person may include with the license application any information regarding such conviction, denial, or revocation. Such information may include, but is not limited to, evidence of rehabilitation, character references, and educational achievements, especially documentation pertaining to the period of time between the applicant's last criminal conviction and the date of the application.

(g) Any application or renewal for an authorized marijuana establishment license shall include, as applicable, payment of a nonrefundable application, or renewal fee, and payment of an annual operating fee. If a license is not granted, the operating fee is refundable in full. All such fees shall be established by resolution of City Council.

(h) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the authorized marijuana establishment, including, without limitation, any State of Colorado license or any sales tax license, business registration, development approvals, or building permits required by the Code.

Sec. 6-356 – Co-location.

A licensee may operate co-located medical and retail authorized marijuana establishments as a “dual operation” provided they meet the requirements of the Colorado Marijuana Code and this Code.

Sec. 6-357 – Licensing Process

(a) Marijuana Store Licensing

(1) Applications for new retail marijuana stores filed alone or concurrently with medical marijuana stores pursuant to this Article shall be awarded via a three-phase process: initial review to ensure completeness of application and compliance with state and local requirements, a public random lottery to determine which applicants will be awarded the opportunity for approval of a license. Only one application per site will be allowed, unless the applicant is applying as a dual-operational licensee.

(2) Initial Review. The City Clerk will post notice of license availability on the City's website and in a local newspaper of general circulation opening a 30-day application period for filing and acceptance of new applications. The City Clerk will specify the start and end date and time of the application period. Upon receipt by the City Clerk of an application for a license under this Article, the City Clerk or designee shall:

(I) Verify the application is complete, pursuant to Section 6-355; and

(II) Screen the application for automatic grounds for denial set forth in Section 6-352(a).

(3) Reserved.

(4) Lottery. The applications identified by the City Clerk as meeting or exceeding the criteria required by this Article shall be entered into a lottery process. A public random lottery will be conducted from among the qualified applications to determine which applications will be awarded the opportunity for approval of a license.

(I) Public notice. The Clerk shall publish notice of the public lottery not less than ten (10) days prior to the lottery and publish in the newspaper of general circulation in the City.

(II) Conduct of the lottery. The local licensing authority shall conduct a drawing from among the qualified applicants, in a public forum, to determine which applicants shall be awarded the opportunity to obtain a license. The local licensing authority shall use a process by which the names of the applicants are shielded from view, and through which each qualified applicant has an equal chance of being selected.

(b) Other Marijuana Establishment Licensing

The Authority shall issue a license for cultivation facilities, products manufacturing facilities, research and development facilities, and off-premises storage facility permits upon submission of a completed application, subject to section (c) below.

(c) Public Hearing. The public hearing procedure shall apply to application for licensing of any regulated marijuana business and to any application for licensing renewal if the renewal application is referred to the authority by the City Clerk.

(1) Public notice of the hearing shall be given by posting a sign by the applicant on the premises for which an application has been made, not less than ten (10) days prior to the public hearing, stating the date of the application, the date of the hearing, the name and address of the applicant and such information as may be required to fully apprise the public of the nature of the application. The City Clerk shall provide the sign to the applicant for posting. If the building in which the regulated marijuana business is to be located is in existence at the time of the application, any sign posted shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post a sign at the premises upon which the building is to be constructed in such a manner that the notice is conspicuous and plainly visible to the general public.

(2) Publication of notice by the City Clerk not less than ten (10) days prior to the public hearing in a newspaper of general circulation. Notice given by publication shall contain the same information that is required for posting of signs in subsection (e)(1) of this Section.

(3) At the public hearing, the Authority:

a. Must make a finding and determination as to the good moral character of the applicant.

b. May deny the application to license any regulated marijuana business in the same location where any regulated marijuana business is or has been previously licensed if there is evidence that the previously licensed premise was operated in a manner that adversely affects the public health, welfare or safety of the residents of the City.

c. May allow any party in interest to present evidence relevant to the issuance of a license. The term party in interest means the applicant, an adult inhabitant, business owner or manager within the one thousand five hundred (1,500) foot radius of the proposed licensed premises. The Authority, in its discretion, may limit the presentation of evidence so as to prevent repetitive and cumulative evidence of examination.

d. Shall consider the facts and evidence adduced as a result of its investigation, as well as any other facts, and any other pertinent matters affecting the qualifications of the application for the conduct of the business proposed.

(4) No more than thirty (30) days after the date of the hearing, the City Clerk shall make known, in writing to the applicant the Authority's findings based upon its investigation. The Authority may approve a regulated marijuana business license with specific conditions. The Authority may issue a regulated marijuana business license if the inspection, background checks, and all other information available to the City verify that the applicant is in compliance with this Code and any other applicable law, rule, or regulation.

(5) The Authority may refuse to issue a regulated marijuana business license if the application does not meet the requirements of this Chapter or any other applicable law, rule, or regulation, or contains false or incomplete information.

(6) The Authority may refuse to issue a regulated marijuana business for good cause, as defined Section 6-352, subject to judicial review.

(d) Centralized distribution permits are authorized so long as all requirements of the Colorado code of regulations section 5-205(h) and section 6-205(i) are satisfied, as applicable.

Sec. 6-358 – Local Licensing Authority

The City Council shall serve as the local licensing authority and have and exercise all powers expressly granted and necessarily implied by the Colorado Marijuana Code, its rules, and as set forth in this Article to regulate marijuana stores, cultivation facilities, products manufacturing facilities, research and development facilities, and off-premises storage facilities within the City. The local licensing authority shall be responsible for all local duties and responsibilities, including but not limited to, the issuance, renewal, suspension, revocation, transfer of ownership, and change of location of a marijuana store, cultivation facility, products manufacturing facility, research and development facilities, and off-premises storage facilities.

(1) The local licensing authority shall have the power to promulgate rules and regulations as are reasonable and necessary to implement and administer the requirements of this Article.

(2) The local licensing authority may, after notice and hearing, suspend, revoke, or refuse to renew a license for "good cause." The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings. No portion of any application or operating fees previously paid shall be refunded in the event of any suspension or revocation of a license.

Sec. 6-361 – Location, Operational Restrictions and Requirements, Marijuana Establishments

(a) Marijuana stores are permitted only within the following zoning districts: the C-1 General Commercial District, C-2 Heavy Commercial District, I-1 Light Industrial Zone District, I-2 Heavy Industrial Zone District and PUD Planned Unit Development District, which specifically permits marijuana stores, and upon obtaining all land use approvals necessary for such use.

(b) Marijuana cultivators, products manufacturers, research and development facilities, off-premises storage facilities, and centralized distribution permits are only permitted within the following zoning districts: I-1 light industrial and I-2 heavy industrial, which specifically permits these establishments, and upon obtaining all land use approvals necessary for such use.

(c) Authorized Marijuana establishments will not be permitted if, at the time of application for such license, such location is:

(1) Within or immediately adjacent to any Residential District, which includes R-1 Residential District—Low Density, R-1 A Residential District—Low Density, R-2 Residential District Medium Density, R-3 Residential District—High Density, M-H Mobile Home Community District, R-O Residential and Office District, and PUD Planned Unit Development District, which exclusively permits residential land uses;

(2) Within: Beginning at the west side of the Union Pacific Railroad right-of-way and 1st Street, thence north to 9th Street, thence west to the alley between Park Avenue and McKinley Avenue, thence south to 1st Street, thence east to the west side of the Union Pacific Railroad right-of-way;

(3) Within one thousand (1,000) feet of:

- a. Any school;
- b. Any child care center;
- c. Any juvenile or adult halfway house, correctional facility or substance abuse rehabilitation center;

(4) Within five hundred (500) feet of:

- a. Any park with playground equipment;

(d) The distance restrictions described above shall be computed by direct measurement from the nearest property line of the parcel of land on which the protected use is located to the nearest portion of the building or unit in which the proposed authorized marijuana establishment would be located, using a route of direct pedestrian access.

(1) The distance regulations described above shall not be applicable to the renewal of a license once granted.

(2) A previously licensed marijuana business that seeks to change locations and applies for and receives a marijuana business license is subject to the location requirements above.

(e) The maximum number of licensed marijuana store locations within the City shall not exceed four (4). This includes co-located medical and retail stores. marijuana cultivation, marijuana products manufacturer licenses, marijuana research and development licenses, and off-premises storage facilities shall not be limited in number and shall be available to those individuals or entities who hold a retail marijuana store license or dual operation marijuana store license or whose applications have been conditionally approved for a retail marijuana store license or dual operation marijuana store license, as of the effective date of this ordinance. nothing in this provision prohibits future transfers of ownership or changes of corporate structure pursuant to sections 6-363 and 6-364 of this chapter.

(f) All marijuana stores shall affix labels to all receptacles on the licensed premises that contain marijuana or marijuana products which labels shall clearly display potency profiles and contaminant results from a licensed marijuana testing facility.

(g) Business conducted within building. Any and all distribution, possession, storage, display, sales, or other distribution of marijuana shall occur only within the restricted area of a marijuana store. Marijuana shall not be visible from the exterior of any authorized marijuana establishment.

(h) Manager registration requirements. The Manager of an authorized marijuana establishment shall register with the state and the local licensing authority. Whenever a person ceases to be a registered Manager of an authorized marijuana establishment, the marijuana licensee shall notify the licensing authorities within five (5) days and shall designate a new registered Manager within thirty (30) days. Either the state or the local licensing authority may refuse to accept any person as a registered Manager unless the person is satisfactory to the respective licensing authorities as to character, record, and

reputation. In determining a registered Manager's character, record, and reputation, the state or local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency.

(i) Hours of operation. A marijuana store shall be closed to the public, and no sale or other distribution of marijuana shall occur upon the premises between the hours of 10:00 p.m., thru and including 8:00 a.m.

(j) Use of pesticides. No pesticides or insecticides that are prohibited by applicable law for fertilization or production of edible produce shall be used on any marijuana produced or distributed by an authorized marijuana establishment. An authorized marijuana establishment shall comply with all applicable laws regarding use of pesticides.

(k) Ventilation required. An authorized marijuana establishment shall be ventilated to ensure the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the authorized marijuana establishment or at any adjoining property.

(l) Wastewater requirements. All authorized marijuana establishments shall be operated in such a manner as to not permit, allow, or cause to be discharged any substance or material prohibited by the City into or upon any watercourse or City reclamation conduit, facility, or plant.

(m) Storage prohibitions of marijuana and marijuana product prohibited. No retail marijuana transporter may store any marijuana or marijuana product within the City.

(n) Reporting requirements. An authorized marijuana establishment shall report to the local licensing authority each of the following events within the time specified. If no time is specified, the report shall be provided within seventy-two (72) hours of the event.

(1) Transfer or change of financial interest, business Manager, or financier in the license to the City at least thirty (30) days before the transfer or change.

(2) Taxable transactions and sales and use tax reports and remits to the City monthly.

(3) A violation of any law by any licensee or applicant of a marijuana business.

(4) Each licensee shall post and keep at all times visible to the public, in a conspicuous place on the premises, a sign to be furnished by the City Clerk's office, which sign shall be in the following form: "WARNING: THE FORT LUPTON POLICE DEPARTMENT MUST BE NOTIFIED IMMEDIATELY OF ALL UNLAWFUL ACTS AND DISTURBANCES IN THIS ESTABLISHMENT." Licensees' shall immediately report to the police department any unlawful act, conduct, or disturbance committed upon the premises.

(o) Respond to inquiry. An owner or manager of an authorized marijuana establishment is required to respond by phone or email within twenty-four (24) hours of contact by a City official concerning its marijuana facility at the phone number or email address provided to the City as the contact for the business. Each twenty-four-hour period during which an owner or manager does not respond to the City official shall be considered a separate violation.

(p) Signs and advertising. In addition to the items listed, all licensees shall comply with all City ordinances regulating signs.

(1) Any person or premises licensed as an authorized marijuana establishment shall comply with all City ordinances regulating signs and advertising. In addition, no licensed authorized marijuana establishment shall use any advertising material that is misleading, deceptive, false, or that, as evidenced either by the content of the advertising material or the medium or the manner in which the advertising is disseminated, is designed to appeal to persons under twenty-one (21) years of age.

(2) Except as otherwise provided in this subsection (2), it shall be unlawful for any person licensed under this Article or any other person to advertise any retail marijuana or retail marijuana product anywhere in the City where the advertisement is visible to members of the public from any street, sidewalk, park, or other public place, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the zoning code; any sign mounted on a vehicle, any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property without the consent of the property owner. The prohibition set forth in this section shall not apply to:

a. Any sign located on the same zone lot as an authorized marijuana establishment which exists solely for the purpose of identifying the location of the authorized marijuana establishment and which otherwise complies with the City's zoning requirements and any other applicable City laws and regulations; or

b. Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the City; or

c. Advertising which is purely incidental to sponsorship of a charitable event by a retail marijuana establishment.

(3) For purposes of this subsection(s), the terms "advertise," "advertising," or "advertisement," means the act of drawing the public's attention to a retail marijuana establishment in order to promote the sale of retail marijuana goods or products by the establishment, or another establishment on the licensee's behalf.

Sec. 6-363 – Transfer of Ownership

(a) An authorized marijuana establishment license is not transferable or assignable, in whole or in part, including, without limitation, to a different premises, to a different type of business, or to a different owner or licensee. An authorized marijuana establishment license is valid only for the owner named thereon, the type of business disclosed on the application for the license and the location for which the license is issued. The licensee of an authorized marijuana establishment are only those persons disclosed in the application or subsequently disclosed to the City in accordance with this chapter. A transfer of a licensed authorized marijuana establishment shall be permitted in the following circumstances:

(1) The new owner and all licensees of the business have submitted completed applications and passed a background check by the City;

(2) The new owner is not making any changes to any of the plans or conditions that are part of the license; and

(3) The license transfer is an arms-length third party transaction to one hundred percent new owners and managers.

(b) Full transfer or partial transfer of ownership of authorized marijuana establishment license issued pursuant to this Chapter shall be governed by the standards and procedures set forth in the Colorado Marijuana Code and any regulations adopted pursuant thereto and the Authority shall administer transfers of local licenses in the same manner as the state licensing authority administers transfers of state licenses. The public hearing requirement set forth in Section 6-357 of this Chapter shall apply to all applications for full or partial transfer of ownership of any retail marijuana or co-located retail and medical marijuana business license.

(c) The submission or pendency of an application for full or partial transfer of ownership does not relieve the license holder from the obligation to properly apply to renew such license in accordance with Section 6-359 of this Chapter.

Sec. 6-364 – Change of corporate structure.

A change of corporate structure of any authorized marijuana establishment that results in any of the changes in subsection (1) through (3) below shall require the filing of an application and payment of the requisite fees and shall be subject to all requirements of the post-award licensing process. A change of corporate structure shall be heard and approved or denied by the Authority.

(1) Any transfer or assignment of ten percent (10%) or more of the capital stock of any corporation, or ten percent (10%) or more of the ownership interests of any limited partnership interest in any year, or transfer of a controlling interest regardless of size.

(2) Any change of officer or directors of a corporation that involves the addition or substitution of individual(s) who was not previously an officer or director of the corporation during a period of time that the corporation held the license.

(3) Any transfer of the capital stock of any corporation, or transfer of any limited partnership interest in any general partnership of a limited partnership, or transfer of any limited liability company interest in a limited liability company of any kind, joint venture or business entity that results in any individual owning more than ten percent (10%) of an ownership interest in the business entity if that individual's ownership interest did not exceed ten percent (10%) prior to the transfer.

(4) A change of corporate structure that results in any transfer or assignment of less than ten percent (10%) of the capital stock of any corporation or less than ten percent (10%) of the ownership interests of any limited partnership interest in any year to a person who currently has an interest in the business, and that does not result in a change of controlling interest, shall not require an application for change of corporate structure.

(5) No application for transfer of ownership or change in corporate structure may be approved by the Authority until all City and state occupational taxes, City and state sales and use taxes, excise

taxes, any fines, penalties, and interest assessed against or imposed upon such licensee in relation to operation of the licensed business are paid in full.

(6) In determining whether to permit a transfer of ownership, the Authority may consider the requirements of state statute and the Colorado Marijuana Rules. In addition, no application for transfer of ownership will be considered by the Authority if, at the time of such application, the licensee is under a notice of violation or other unlawful acts issued by either the Authority or the state licensing authority.

(7) A licensee of a license issued pursuant to this Chapter shall report each transfer or change of financial interest in the license and/or the licensee to the Authority prior to any such transfer or change pursuant to and in accordance with the provisions of state statutes and the Colorado Marijuana Rules. A report shall be required for transfer of capital stock of any corporation regardless of the size, for transfers of member interests of any limited liability company regardless of size, and for any transfer of an interest in a partnership or other entity or association regardless of size.

Sec. 6-365 – Unlawful acts of licensees and persons.

- (a) It shall be unlawful for any licensee to:
 - (1) Violate or fail to comply with any provision, term, condition, or requirement of the Colorado Marijuana Code, including its rules.
 - (2) Allow marijuana or marijuana products to be consumed upon its licensed premises.
 - (3) Use advertising material that is misleading, deceptive, false, or designed to appeal to persons under twenty-one (21) years of age.
 - (4) Sell marijuana or marijuana products to a person under twenty-one (21) years of age or to a person who does not present a government-issued identification at the time of purchase.
 - (5) Refuse to allow inspection of a marijuana store upon request of an authorized City employee. Any licensee, owner, business manager, operator of a marijuana store, or owner of the property where a marijuana store is located may be charged with violation of this requirement.
 - (6) Advertise or publish materials or display signs that are in violation of this Article.
 - (7) Violate any provision of this Article or any condition of an approval granted pursuant to this Article, or any law, rule, or regulation applicable to the use of retail marijuana or the operation of a retail marijuana store.
 - (8) Distribute marijuana or marijuana product within a marijuana store to any person who shows visible signs of intoxication from alcohol, marijuana, or other drugs.
- (b) It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution, testing, or consumption of marijuana other than those forms of business and commerce that are expressly permitted by Section 14 of Article XVIII of the Colorado Constitution, Section 16 of Article XVIII of the Colorado Constitution, the Colorado Marijuana Code including its rules, and this Article, which permits only marijuana stores, cultivation facilities, products manufacturing facilities, research and development facilities, centralized distribution permits, and off-premises storage facility permits.

Sec. 6-367 – Violations and penalties

(b) In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Chapter, any person, including but not limited to, any licensee, manager or employee of an authorized marijuana establishment, or any customer of such business, who violates any of the provisions of this Chapter, shall be guilty of a misdemeanor offense punishable in accordance with Section 1-72 and 10-289 of this Code. A person committing a violation shall be guilty of a separate offense for each and every day during which the offense is committed or continued to be permitted by such person and shall be punished accordingly.

(i) If a license is suspended for any period of time, the licensee must post signage that states the license is under suspension or revocation due to violations of this Chapter, and that all sales and transfers of marijuana products are prohibited for the period of the suspension. The signage shall be prominently displayed at all entrances on the premises for the entirety of the suspension or revocation.

Sec. 6-368 – No City liability; indemnification.

- (a) By accepting a license issued pursuant to this Article, the licensee waives and releases the City, its officers, elected and appointed officials, employees, attorneys, agents, and authorized volunteers from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of the owners, operators, employees, clients, or customers of the authorized marijuana establishment for a violation of state or federal laws, rules, and regulations.
- (b) By accepting a license issued pursuant to this Article, all licensees, jointly and severally, if more than one, agree to indemnify, defend, and hold harmless the City, its officers, elected and appointed officials, employees, attorneys, agents, authorized volunteers, insurers, and self-insurance pool, against all liability, claims, and demands on account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the authorized marijuana establishment that is the subject of the license.

SECTION 2:

The following sections of Article VI of Chapter 16 of the Official Code of the City of Fort Lupton, Colorado, are hereby amended as follows:

Article IV – Zoning District and Uses

Section 16-4-02 – Allowed Uses

Adding the following uses to Table 4-2: Allowed Uses - Industrial:

- Marijuana – Medical Cultivation: I-1 Light Industrial and I-2 Heavy Industrial
- Marijuana – Adult-Use Cultivation: I-1 Light Industrial and I-2 Heavy Industrial
- Marijuana – Medical Product Manufacturing: I-1 Light Industrial and I-2 Heavy Industrial
- Marijuana – Adult-Use Product Manufacturing: I-1 Light Industrial and I-2 Heavy Industrial

- Marijuana – Research and Development: I-1 Light Industrial and I-2 Heavy Industrial
- Marijuana – Off-Premises Storage: I-1 Light Industrial and I-2 Heavy Industrial

Section 16-4.04 Use-specific Standards

(5) *Marijuana Uses*. In districts where Marijuana—Medical Stores, Marijuana—Retail Stores, Marijuana – Medical Cultivation, Marijuana – Adult-Use Cultivation, Marijuana – Medical Product Manufacturing, Marijuana – Adult-Use Product Manufacturing, Marijuana – Research and Development, or Marijuana – Off-Premises Storage are permitted uses, all uses shall also comply with all business licensing requirements, standards and location limitations in Chapter 6, Article XII of the Municipal Code.

SECTION 3:

This Ordinance shall not go into effect unless approved by the voters of the City of Fort Lupton at the November 5, 2024 election.

INTRODUCED, READ AND PASSED ON FIRST READING, AND ORDERED PUBLISHED this 30th day of July, 2024.

PUBLISHED in the Fort Lupton Press this __st day of August 2024.

FINALLY READ BY TITLE ONLY, PASSED AND ORDERED FINALLY PUBLISHED by title only this __th day of August 2024.

PUBLISHED in the Fort Lupton Press the __th day of August 2024.

EFFECTIVE (after publication) the __th day of September 2024.

City of Fort Lupton, Colorado

Zo Hubbard, Mayor

Attest:

Maricela Peña, City Clerk

Approved to Form:

Andy Ausmus, City Attorney



SUBJECT FOR DISCUSSION

Consideration of an Ordinance to Enact a New Wholesale Marijuana Excise Tax of 1.5%, Not to Exceed 4%, on the Sale or Transfer of Unprocessed Retail Marijuana by a Licensed Cultivation Facility

SUMMARY STATEMENT/BACKGROUND DISCUSSION

On April 17, 2024, the City Clerk's Office received written notice submitting an initiative petition to amend Ordinance 2021-1116 of the Fort Lupton Municipal Code to enact an excise tax of (1.5) percent on the sale or transfer of unprocessed retail marijuana by a licensed cultivation facility. The petition proponents are Kenneth Rosales, residing at 915 Fulton Ave. Fort Lupton, CO and Michael Sanchez, residing at 517 Grand Ave. Fort Lupton, CO.

At this time, there is no ordinance to allow for cultivation facilities. However, another initiative petition has been filed with the City Clerk's Office to amend Ordinance 2021-1127 to allow for cultivation facilities.

On April 23, 2024, the petition was approved as to form and the proponents were notified they had 180 days to circulate the petition to obtain the required number of signatures. CRS 31-11-104 states the initiative petition shall be signed by at least (5) percent of the registered electors of the city. At this time, the city of Fort Lupton had 5,975 registered voters. A total of at least 299 valid signatures were required in order for the petition to be deemed sufficient to continue with the initiative process. On May 24, 2024, the petition with signatures was filed with the City Clerk's Office. The City Clerk's Office deemed 306 signatures to be verifiable. On June 10, 2024, a statement of sufficiency was mailed to the persons representing the petition, Kenneth Rosales and Michael Sanchez.

Pursuant to CRS 31-11-110 after the petition has been filed, a 40-day protest period is allotted. The petition was filed on May 24, 2024. During this time, any registered voter may submit a written under oath protest to the Clerk. The protest period ended on July 3, 2024 and no protests were received.

On July 16, 2024, the Council was presented the final determination of petition sufficiency.

Pursuant to C.R.S § 29-2-102, because the question of whether to enact an excise tax of (1.5) percent on the sale or transfer of unprocessed retail marijuana by a licensed cultivation facility is an increase in sales and use tax, it must be directed to the registered voters.

The ballot issue will be submitted at an election of the City, to be held as a coordinated election on November 5, 2024. The title and content of the ballot will be set by the attached Ordinance.

This Ordinance shall not go into effect unless approved by the voters of the City of Fort Lupton at the November 5, 2024 election.

FINANCIAL CONSIDERATIONS

As a statutory City, Fort Lupton sales tax is collected and audited by the State of Colorado. However, marijuana tax collection and enforcement is left to Cities regardless of statutory designation.

Certification of Council Approval:

Ordinance No. _____

Resolution No. _____

City Clerk

Date

LEGAL/POLITICAL CONSIDERATIONS

At the November 1992 general election, the citizens of Colorado adopted a constitutional amendment establishing Article X, Section 20 of the Colorado Constitution, (TABOR) which, among other things, require voter approval for certain exercises of state and local government powers relating to taxation, revenue-raising, spending and the incurrence of debt and other multiple-fiscal year financial obligations. This issue is required to be addressed in this manner by the Taxpayer's Bill of Right's (TABOR)

ALTERNATIVES/OPTIONS

1. Support approval of the Ordinance and allow for registered voters to approve or reject the tax.
2. Do not support approval of the Ordinance and allow for registered voters to approve or reject the tax.

STAFF RECOMMENDATIONS

Staff seeks recommendation.

Attachments: a. Proposed Ordinance

PEOPLE'S ORDINANCE NO. _____

INTRODUCED BY:

AN ORDINANCE OF THE CITY OF FORT LUPTON, COLORADO, AMENDING ARTICLE VIII OF CHAPTER 4 OF THE FORT LUPTON MUNICIPAL CODE REGARDING THE TAXATION OF REGULATED MARIJUANA ESTABLISHMENTS.

WHEREAS, on November 6, 2012, the registered electors of the State of Colorado approved Amendment 64, a constitutional amendment authorizing the legal consumption and possession of limited amounts of marijuana for those persons aged twenty-one years of age or older and permitting the licensing and regulation of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores.

WHEREAS, Amendment 64 reserves for local governments the authority to regulate or prohibit such facilities.

WHEREAS, on May 18, 2021, the City Council for Fort Lupton passed Ordinance 2021-1116 (the "Ordinance"), which imposed a sales tax for each sales transaction by any marijuana store on the sales of any retail marijuana and retail marijuana products within the City of Fort Lupton.

WHEREAS, the Ordinance became effective on July 23, 2021, there having been no successful referendum petition filed with the City Clerk within that time.

WHEREAS, the City of Fort Lupton, Weld County, Colorado (the "City") is a statutory municipality and political subdivision of the State of Colorado (the "State"), duly organized and operating under the Constitution and laws of the State; and

WHEREAS, Article V Section 1 Subsection 9 of the Constitution of the State of Colorado, further preserved inviolate in Article 11 of Title 31 of the Colorado Revised Statutes, permits a proposed ordinance to be submitted to the City Council by petition of municipal electors attached thereto and circulated therewith to be filed with the City Clerk and signed by Registered Electors equal in numbers to at least 5% of the total number of electors of the City of Fort Lupton registered on the date the petition is filed.

WHEREAS, Section 31-15-501(1)(c), C.R.S., § 29-2-114, and other applicable law authorizes the City to license, regulate, and tax the owners of businesses on the privilege of conducting various classes of businesses within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF FORT LUPTON, COLORADO, AS FOLLOWS:

SECTION 1:

The following sections of Article VIII of the Official Code of the City of Fort Lupton, Colorado, are hereby amended as follows:

Article VIII Retail Marijuana Sales and Excise Tax

Sec. 4-163 – Purpose

The purpose of this article is to impose, in addition to the city's existing sales and use tax: A sales tax on the sale of marijuana and marijuana products in the City and an excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility.

Sec. 4-165 – Tax Imposed

- (a) A sales tax is imposed and shall be collected upon the lawful sale of retail marijuana and retail marijuana products by a retailer within the City at the rate of three point one percent (3.1%) of the purchase price paid by the purchaser thereof rounded off to the nearest penny. The tax shall be collected by the licensed vendor and paid to the City. The tax imposed by this Section is in addition to, and not in lieu of, the sales tax owed and payable to the City in connection by the State related to the sale of retail marijuana. No amount of the tax collected pursuant to this Section may be retained by the retailer to cover the expenses of collecting and remitting the tax.
- (b) An excise tax of one point five percent (1.5%) is imposed and shall be collected upon the lawful sale or transfer of unprocessed retail marijuana when first sold or transferred by a retail marijuana cultivation facility in the City. The tax shall be collected by the licensed vendor and paid to the City. The tax imposed by this section is in addition to, and not in lieu of, any other taxes owed and payable to the City in connection by the state related to the cultivation and sale of retail marijuana. No amount of the tax collected pursuant to this section may be retained by the licensee to cover the expenses of collecting and remitting the tax.

Sec. 4-166 – Maximum Authorized Tax Rate

(a) The maximum sales tax rate that may be imposed pursuant to this Chapter is ten percent (10%). At any time on and after January 1, 2021, the local licensing authority may, by ordinance:

- (1) Establish a tax rate that may be imposed pursuant to the Chapter that is not to exceed ten percent (10%); or
- (2) After establishing a tax rate that does not exceed ten percent (10%), increase the tax rate to be imposed pursuant to this Chapter, except that in no event shall the rate be increased above ten percent (10%). Notwithstanding any other provision of law, an increase in the tax rate pursuant to this subsection shall not require voter approval such approval having been provided at the November 3, 2020, election.

(b) The maximum excise tax rate that may be imposed pursuant to this Chapter is four percent (4%). At any time on and after January 1, 2025, the local licensing authority may, by ordinance:

- (1) Establish a tax rate that may be imposed pursuant to the Chapter that is not to exceed four percent (4%); or
- (2) After establishing a tax rate that does not exceed four percent (4%), increase the tax rate to be imposed pursuant to this Chapter, except that in no event shall the rate be increased above four percent (4%). Notwithstanding any other provision of law, an increase in the tax rate pursuant to this subsection shall not require voter approval such approval having been provided at the November 3, 2020, election.

Sec. 4-167 Collection and Enforcement Procedures

Except for those provisions that by their terms cannot apply, the City shall administer, collect and enforce the City's marijuana sales and excise tax imposed under this Article in similar manner as to the administration, collection and enforcement of taxes provided in Chapter 4, Section 4-78 of this Code, except that the State Director of Revenue's obligations referred to therein shall be obligations of the City Finance Director pertaining to administering, collecting and enforcement of the marijuana sales and excise tax, which shall be consistent with the obligations set forth in this Code and applicable Colorado statutory law.

Sec. 4-168 – Use of Collected Tax Revenues

The revenues collected from the Marijuana Sales Tax and excise tax imposed hereunder shall be used to pay or reimburse the City for direct and indirect costs incurred for:

- (1) Adequate training, enforcement, and administration of the City's medical and retail marijuana regulations not otherwise covered by the fees collected by the City under the Colorado Marijuana Code and the City's ordinances;
- (2) Other general purposes of the City.

SECTION 2:

This Ordinance shall not go into effect unless approved by the voters of the City of Fort Lupton at the November 5, 2024 election.

INTRODUCED, READ AND PASSED ON FIRST READING, AND ORDERED PUBLISHED this 30th day of July, 2024.

PUBLISHED in the Fort Lupton Press this _st day of August 2024.

FINALLY READ BY TITLE ONLY, PASSED AND ORDERED FINALLY PUBLISHED by title only this _th day of August 2024.

PUBLISHED in the Fort Lupton Press the _th day of August 2024.

EFFECTIVE (after publication) the _th day of September 2024.

City of Fort Lupton, Colorado

Zo Hubbard, Mayor

Attest:

Maricela Peña, City Clerk

Approved to Form:

Andy Ausmus, City Attorney



SUBJECT FOR DISCUSSION

An Ordinance of the City of Fort Lupton Approving the Submission of a Ballot Question to the Registered Voters Voting in the Coordinated Election to be Held November 5, 2024, a Ballot Question if the City Should Amend Ordinance No. 2021-1127 and the Official Code of the City of Fort Lupton, Colorado, to Allow for the Operation of a Limited Number of Licensed Marijuana Establishments Within Specific Zones in the City of Fort Lupton; Setting the Title and Content of the Ballot for the Election

SUMMARY STATEMENT/BACKGROUND DISCUSSION

On July 16, 2024, the Council was presented with the final determination of petition sufficiency on an Initiative. Pursuant to Statute, within 20 days following the final determination of petition sufficiency, the ordinance may be adopted without change by the governing body. If the governing body adopts the ordinance, the initiative process concludes and no election is conducted. If the ordinance is not adopted by the governing body, the governing body shall publish the ordinance as other ordinances are published and set the matter for a regular or special election which shall be held not less than 60 nor more than 150 days after the final determination of petition sufficiency.

FINANCIAL CONSIDERATIONS

N/A

LEGAL/POLITICAL CONSIDERATIONS

ALTERNATIVES/OPTIONS

1. Set the title and content of the Ballot for the November 5, 2024 Election

STAFF RECOMMENDATIONS

Staff seeks direction.

Attachments: a. Ordinance

Certification of Council Approval:

Ordinance No. _____

Resolution No. _____

City Clerk

Date

ORDINANCE 2024-1171

INTRODUCED BY: —

AN ORDINANCE OF THE CITY OF FORT LUPTON APPROVING THE SUBMISSION OF A BALLOT QUESTION TO THE REGISTERED VOTERS VOTING IN THE COORDINATED ELECTION TO BE HELD NOVEMBER 5, 2024, A BALLOT QUESTION IF THE CITY SHOULD AMEND ORDINANCE NO. 2021-1127 AND THE OFFICIAL CODE OF THE CITY OF FORT LUPTON, COLORADO, TO ALLOW FOR THE OPERATION OF A LIMITED NUMBER OF LICENSED MARIJUANA ESTABLISHMENTS WITHIN SPECIFIC ZONES IN THE CITY OF FORT LUPTON; SETTING THE TITLE AND CONTENT OF THE BALLOT FOR THE ELECTION

WHEREAS, the City of Fort Lupton, Weld County, Colorado (the “City”) is a statutory municipality and political subdivision of the State of Colorado (the “State”), duly organized and operating under the Constitution and laws of the State; and

WHEREAS, on July 16, 2024, the Council was presented with the final determination of petition sufficiency on an Initiative; and

WHEREAS, within 20 days following the final determination of petition sufficiency, the ordinance may be adopted without change by the governing body. If the governing body adopts the ordinance, the initiative process concludes and no election is conducted; and

WHEREAS, at a Special Meeting held July 30, 2024, the Fort Lupton City Council voted to not adopt the People’s Ordinance 2024-1169 for the operation of Marijuana Cultivation Facilities, Products Manufacturing Facilities, Research and Development Facilities, Centralized Distribution Permits, and Off-Premises Storage Facility Permits; and

WHEREAS, because the City Council did not adopt the Ordinance, the matter must be set for a regular or special election which shall be held not less than 60 nor more than 150 days after the final determination of petition sufficiency; and

WHEREAS, the General Election will be held November 5, 2024, meeting the above requirement to hold an election within the time frame; and

WHEREAS, the question of whether to amend Ordinance 2021-1127 and the Municipal Code of the City of Fort Lupton must be directed to the registered voters; and

WHEREAS, the form of “Ballot Question” below is hereby approved and ordered submitted to the voters on November 5, 2024; and

WHEREAS, upon approval of the “Ballot Question” by the majority of the registered electors voting thereon, the Council shall enact an implementing ordinance consistent with all of the terms and conditions contained in the Ballot question; and

WHEREAS, the Council finds and determines that it is necessary and desirable to submit to the electors of the City voting at the Coordinated Election to be held on November 5, 2024, the question of whether to allow or not allow for the operation of licensed marijuana establishments for a limited number of qualified applicants within specific zones in the City of Fort Lupton.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT LUPTON, COLORADO, AS FOLLOWS:

Section 1. An election shall be held on Tuesday, November 5, 2024, at which there shall be submitted to the eligible electors of the City the question on whether to allow for the operation of licensed marijuana establishments for a limited number of qualified applicants within specific zones in the City of Fort Lupton which question shall be in substantial form attached hereto as Exhibit A.

Section 2. The election shall be conducted as a coordinated election in Weld County in accordance with articles 1 to 13 of title 1, C.R.S. (the "Uniform Election Code"), and Intergovernmental Agreements (collectively, the "Intergovernmental Agreement") between the Board of County Commissioners of the County of Weld, the Weld County Clerk and Recorder (the "County Clerk") and the City of Fort Lupton.

Section 3. For purposes of C.R.S. § 31-11-111, this Ordinance shall serve to set the title and content for the ballot issues set forth herein and the ballot titles for such questions shall be the text of the questions themselves. Any protest to the ballot titles shall be filed in writing with the City Clerk within five (5) business days following the date of adoption of this Ordinance and shall be resolved thereafter by the City Council following a hearing with published notice.

Section 4. Publication and Ballot Form. In addition to the notice of election required to be published by the Colorado State Statutes, the City Clerk shall also cause to be published a notice stating that written comments for or against the ballot issue, may be filed with the City Clerk on or before 12:00 P.M. (noon) on September 20, 2024, and that a summary of such comments will be distributed to registered voters in accordance with law. The City Clerk is directed to prepare and mail to registered electors, notice concerning the Ballot Issue in accordance with Article X, Section 20, of the Colorado Constitution and other applicable law.

Section 5. Effective Date. Subject to voter approval of the ballot issue at the November 5, 2024 coordinated election.

INTRODUCED, READ AND PASSED ON FIRST READING, AND ORDERED PUBLISHED this 30th day of July, 2024.

PUBLISHED in the Fort Lupton Press this _st day of August 2024.

FINALLY READ BY TITLE ONLY, PASSED AND ORDERED FINALLY PUBLISHED by title only this _th day of August 2024.

PUBLISHED in the Fort Lupton Press the _th day of August 2024.

EFFECTIVE (after publication) the _th day of September 2024.

City of Fort Lupton, Colorado

Zo Hubbard, Mayor

Attest:

Maricela Peña, City Clerk

Approved to Form:

Andy Ausmus, City Attorney

EXHIBIT 'A'

Marijuana Facilities:

Shall the City of Fort Lupton adopt Ordinance 2024-1169 allowing for the operation of a limited number of licensed marijuana establishments including Cultivation Facilities, Products Manufacturing Facilities, Research and Development Facilities, Centralized Distribution Permits, and Off-Premises Storage Facility Permits within the specific zoning districts in the City of Fort Lupton?

YES__

NO__



SUBJECT FOR DISCUSSION

An Ordinance of the City of Fort Lupton Approving the Submission of a Ballot Issue to the Registered Voters Voting in the Coordinated Election to be Held November 5, 2024, a Ballot Issue Pertaining to a Wholesale Marijuana Excise Tax of 1.5% with the Rate of Taxation Not to Exceed 4%; Setting the Title and Content of the Ballot for the Election

SUMMARY STATEMENT/BACKGROUND DISCUSSION

On July 16, 2024, the Council was presented with the final determination of petition sufficiency on an Initiative. Pursuant to Statute, within 20 days following the final determination of petition sufficiency, the ordinance may be adopted without change by the governing body. If the governing body adopts the ordinance, the initiative process concludes and no election is conducted.

If the ordinance is not adopted by the governing body, the governing body shall publish the ordinance as other ordinances are published and set the matter for a regular or special election which shall be held not less than 60 nor more than 150 days after the final determination of petition sufficiency.

Because the questions is related to a tax, it is considered a TABOR issue and therefore must be directed to the registered voters.

FINANCIAL CONSIDERATIONS

N/A

LEGAL/POLITICAL CONSIDERATIONS

ALTERNATIVES/OPTIONS

1. Set the title and content of the ballot for the November 5, 2024, election.

STAFF RECOMMENDATIONS

Staff seeks direction.

Attachments: a. Ordinance

Certification of Council Approval:

Ordinance No. _____

Resolution No. _____

City Clerk

Date

ORDINANCE NO. 2024-1172

INTRODUCED BY:

AN ORDINANCE OF THE CITY OF FORT LUPTON APPROVING THE SUBMISSION OF A BALLOT ISSUE ON THE NOVEMBER 5, 2024, COORDINATED ELECTION, PERTAINING TO A WHOLESALE MARIJUANA EXCISE TAX OF 1.5% WITH THE RATE OF TAXATION NOT TO EXCEED 4%; SETTING THE TITLE AND CONTENT OF THE BALLOT FOR THE ELECTION

WHEREAS, the City of Fort Lupton, Weld County, Colorado (the “City”) is a statutory municipality and political subdivision of the State of Colorado (the “State”), duly organized and operating under the Constitution and laws of the State; and

WHEREAS, on July 16, 2024, the Council was presented with the final determination of petition sufficiency on an Initiative; and

WHEREAS, within 20 days following the final determination of petition sufficiency, the ordinance may be adopted without change by the governing body. If the governing body adopts the ordinance, the initiative process concludes and no election is conducted; and

WHEREAS, at a Special Meeting held July 30, 2024, the Fort Lupton City Council voted to **not/support** the People’s Ordinance 2024-1170 for the enactment of a new wholesale marijuana excise tax on the sale or transfer of unprocessed retail marijuana by a licensed cultivation facility; and

WHEREAS, because the measure is considered a TABOR issue, the question of whether to impose a wholesale marijuana excise tax must be placed on the ballot and directed to the registered voters; and

WHEREAS, § 29-2-114 C.R.S. authorizes each municipality in the state to levy, collect, and enforce a municipal excise tax; and

WHEREAS, § 29-2-114 C.R.S. the excise tax shall be imposed on the sale or transfer of unprocessed retail marijuana by a cultivation facility; and

WHEREAS, any excise tax imposed by the municipality shall be administered, collected, or enforced by the municipality; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT LUPTON, COLORADO, AS FOLLOWS:

Section 1: An election shall be held on Tuesday, November 5, 2024 at which there shall be submitted to the eligible electors of the City the question on whether to impose a wholesale marijuana excise tax within the City, which question shall be in substantially form attached hereto as ‘Exhibit A’.

Section 2: The election shall be conducted as a coordinated election in Weld County in accordance with articles 1 to 13 of title 1, C.R.S. (the “Uniform Election Code”), and Intergovernmental Agreements (collectively, the “Intergovernmental Agreement”) between the Board of County Commissioners of the County of Weld, the Weld County Clerk and Recorder (the “County Clerk”) and the City of Fort Lupton.

Section 3: For purposes of C.R.S. § 31-11-111, this Ordinance shall serve to set the title and content for the ballot issues set forth herein and the ballot titles for such questions shall be the text of the questions themselves. Any protest to the ballot titles shall be filed in writing with the City Clerk within five (5) business days following the date of adoption of this Ordinance and shall be resolved thereafter by the City Council following a hearing with published notice.

Section 4: The City Clerk and other City officials and employees are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance.

Section 5: All actions not inconsistent with the provisions of this Ordinance heretofore taken by the members of the City Council and the officers and employees of the City and directed toward holding the election for the purposes stated herein are hereby ratified, approved and confirmed.

Section 6: All prior acts, orders or resolutions, or parts thereof, by the City in conflict with this Ordinance are hereby repealed, except that this repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 7: If any section, paragraph, clause or provision of this Ordinance shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Ordinance, it being the intention that the various parts hereof are severable.

INTRODUCED, READ AND PASSED ON FIRST READING, AND ORDERED PUBLISHED this 30th day of July, 2024.

PUBLISHED in the Fort Lupton Press this __st day of August 2024.

FINALLY READ BY TITLE ONLY, PASSED AND ORDERED FINALLY PUBLISHED by title only this __th day of August 2024.

PUBLISHED in the Fort Lupton Press the __th day of August 2024.

EFFECTIVE (after publication) the __th day of September 2024.

CITY OF FORT LUPTON, COLORADO

Zo Hubbard, Mayor

ATTEST:

Maricela Pena, City Clerk

Approved as to Form:

Andy Ausmus, City Attorney

Exhibit A

MARIJUANA EXCISE TAX

SHALL THE CITY OF FORT LUPTON TAXES BE INCREASED BY ONE HUNDRED THOUSAND DOLLARS (\$100,000) ANNUALLY IN THE FIRST FISCAL YEAR (2025), AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING, EFFECTIVE JANUARY 1, 2025, A NEW EXCISE TAX OF 1.5% WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A LICENSED CULTIVATION FACILITY WITH THE TAX REVENUES BEING USED TO FUND GENERAL GOVERNMENT EXPENSES AS DETERMINED BY THE CITY COUNCIL, WITH THE RATE OF THE TAX BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED 4%, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT AS A VOTER APPROVED REVENUE CHANGE WITHOUT REGARD TO ANY EXPENDITURE, REVENUE RAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, § 20 (TABOR), OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Yes:_____ No:_____

RESOLUTION 2024Rxxx

A RESOLUTION OF THE CITY OF FORT LUPTON APPROVING THE SUBMISSION OF A BALLOT QUESTION TO THE REGISTERED VOTERS VOTING IN THE COORDINATED ELECTION TO BE HELD NOVEMBER 5, 2024 A BALLOT QUESTION CONCERNING WHETHER THE CITY OF FORT LUPTON SHOULD ELIMINATE THE REQUIREMENT THAT PAYMENTS OF BILLS AND STATEMENTS CONCERNING CONTRACTS AND REBATES BE PUBLISHED IN THE NEWSPAPER

WHEREAS, the City of Fort Lupton, Weld County, Colorado (the “City”) is a statutory municipality and political subdivision of the State of Colorado (the “State”), duly organized and operating under the Constitution and laws of the State; and

WHEREAS, C.R.S. § 31-20-202(1) requires that the City publish its proceedings related to the payment of bills and publish a statement concerning all contracts awarded and rebates allowed; and

WHEREAS, C.R.S. § 31-20-202(1.5) provides that the requirement of publication of the proceedings related to the payment of bills and a statement concerning all contracts awarded and rebates allowed is not required if approved by the electorate of the City at the regular or special election; and

WHEREAS, the approval of a ballot question eliminating the requirements of publishing proceedings related to the payment of bills and statements concerning all contracts awarded and rebates allowed will reduce publishing costs and expenses to the City; and

WHEREAS, the City Council finds and determines that it is necessary and desirable to submit to the electors of the City voting at the Coordinated Election to be held on November 5, 2024.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT LUPTON, COLORADO, AS FOLLOWS:

Section 1. At the regular municipal election of November 5, 2024, the following question shall be submitted to the voters:

In order to save publication costs to the City, shall the City of Fort Lupton, Colorado, provide all required information on its website regarding proceedings relating to payment of bills and statements concerning all contracts awarded and rebates allowed, rather than publishing the information in the newspaper?

Yes _____

No _____

Section 2. If the question is approved, the Finance Director shall publish proceedings relating to the payment of bills and statements concerning all contracts awarded and rebates allowed not in the newspaper but on the City’s website, in accordance with C.R.S. § 31-20-202.

Section 3: The election shall be conducted as a coordinated election in Weld County in accordance with articles 1 to 13 of title 1, C.R.S. (the “Uniform Election Code”), and Intergovernmental

Agreements (collectively, the “Intergovernmental Agreement”) between the Board of County Commissioners of the County of Weld, the Weld County Clerk and Recorder (the “County Clerk”) and the City of Fort Lupton.

Section 3: For purposes of C.R.S. § 31-11-111, this Resolution shall serve to set the title and content for the ballot question set forth herein and the ballot titles for such questions shall be the text of the questions themselves. Any protest to the ballot titles shall be filed in writing with the City Clerk within five (5) business days following the date of adoption of this Resolution and shall be resolved thereafter by the City Council following a hearing with published notice.

INTRODUCED, READ, PASSED, AND ADOPTED THIS 30th DAY OF JULY 2024.

City of Fort Lupton, Colorado

Zo Hubbard, Mayor

Attest:

Maricela Peña, City Clerk

Approved to Form:

Andy Ausmus, City Attorney



SUBJECT FOR DISCUSSION

Approving a Resolution Submitting a Ballot Question at the November 5, 2024, Regular Election, Whether the City of Fort Lupton Should Eliminate the Requirements that Payments of Bills and Statements Concerning Contracts and Rebates be Published in the Newspaper

SUMMARY STATEMENT/BACKGROUND DISCUSSION

Pursuant to C.R.S. § 31-20-202(1) the City is required to publish in a newspaper of general circulation, its proceedings related to the payment of bills and publish a statement concerning all contracts awarded and rebates allowed.

C.R.S. § 31-20-202(1.5) provides that the requirement of publication of the proceedings related to the payment of bills and a statement concerning all contracts awarded and rebates allowed is not required if approved by the electorate of the City at the regular or special election.

The approval of a ballot question eliminating this requirement will reduce publishing costs and expenses to the City. If the registered voters approve the question, the publications would be on the City's webpage.

FINANCIAL CONSIDERATIONS

The current cost of publications for 2023 was approximately \$3,000.00

LEGAL/POLITICAL CONSIDERATIONS

N/A

ALTERNATIVES/OPTIONS

1. Approve the Resolution.
2. Do not approve the Resolution and continue publication in the newspaper.

STAFF RECOMMENDATIONS

Staff seeks recommendation.

Attachments: a. Resolution

Certification of Council Approval:

Ordinance No. _____

Resolution No. _____

City Clerk

Date