

FIRST READING: August 6, 2024

SECOND READING: August 20, 2024

ORDINANCE NO. 6725 B

AN ORDINANCE OF THE LOVELAND CITY COUNCIL AUTHORIZING A TABOR ELECTION ON NOVEMBER 5, 2024, FIXING THE BALLOT TITLES AND QUESTIONS PERMITTING THE OPERATION OF A LIMITED NUMBER OF MEDICAL AND RETAIL MARIJUANA BUSINESSES IN THE CITY AND IMPOSING AN EXCISE TAX ON THE SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS SOLD WITHIN THE CITY, AND SETTING FORTH OTHER DETAILS RELATING THERETO

WHEREAS, the City of Loveland (the “City”), is a duly organized and existing home rule municipality of the State of Colorado (the “State”), created and operating pursuant to Article XX of the Constitution of the State of Colorado and the home rule charter of the City (the “Charter”); and

WHEREAS, the members of the City Council of the City (the “Council”) have been duly elected and qualified; and

WHEREAS, Chapters 7.60 and 7.65 of the Loveland Municipal Code currently prohibit the establishment of medical and retail marijuana businesses in the City; and

WHEREAS, the Council has determined to allow the citizens of the City to decide whether to allow medical and retail marijuana businesses in the City and to call a special election to be held on November 5, 2024, for the purpose of submitting a ballot question to eligible electors of the City regarding whether a limited number of medical and retail marijuana businesses shall be allowed to operate in the City, subject to, and commencing upon the adoption by Council of local regulations governing the time, place, manner, and number of retail and medical marijuana stores and local licensing requirements, which shall include provisions permitting those licensees established in the City prior to the City prohibiting all marijuana business 90 days to submit an application for a marijuana business license prior to the City accepting applications for a marijuana business license from new applicants, as may be amended from time to time; and

WHEREAS, Article X, Section 20 of the Colorado Constitution (“TABOR”) requires voter approval for any new tax, the creation of any debt, and for spending certain moneys above limits established by TABOR; and

WHEREAS, TABOR requires the City to submit ballot issues (as defined in TABOR) to the City’s electors on limited election days before action can be taken on such ballot issues; and

WHEREAS, November 5, 2024, is one of the dates at which ballot issues may be submitted to the eligible electors of the City pursuant to TABOR; and

WHEREAS, the Council has determined to call a special election to be held on November 5, 2024, for the purpose of submitting ballot issues under TABOR and proposed Charter amendments to the eligible electors of the City; and

WHEREAS, the Council hereby determines that it is necessary to submit to the City's electors, at the special election to be held on November 5, 2024, the question of whether the City shall be authorized to impose an excise tax on the sale of retail marijuana and retail marijuana products sold within the City, with the tax revenues received from such tax to be spent on any lawful municipal purpose, including enforcement of regulations on the retail marijuana industry, other costs related to enforcement of marijuana laws, affordable housing, and homelessness response; and

WHEREAS, pursuant to Section 6.1 of the Charter, elections of the City are governed by the Colorado Municipal Election Code, constituting Title 31, Article 10, C.R.S., as amended (the "Municipal Election Code"), except as otherwise provided by the Charter or by ordinance; and

WHEREAS, Section 31-10-102.7, C.R.S., contained within the Municipal Election Code, permits any municipality to elect by ordinance or resolution to utilize the requirements and procedures of the Uniform Election Code of 1992, Title 1, Articles 1 through 13, C.R.S., as amended (the "Uniform Election Code"), which will thereby permit the City to participate in the coordinated election being conducted by Larimer County (the "County") on November 5, 2024; and

WHEREAS, on July 16, 2024, the Council adopted Resolution #R-75-2024 authorizing the City Clerk to notify the Larimer County Clerk and Recorder of the City's intention to participate in the Election (defined below) and on August 6, 2024, adopted Ordinance No. 6721 providing that the City's special election be conducted as a coordinated election with the Larimer County Clerk and Recorder and governed by the Uniform Election Code to the extent necessary to conduct the election as a coordinated election; and

WHEREAS, the Council now determines that it is necessary to submit to the electors of the City, at the election that will be held as a coordinated election with the County on November 5, 2024 (the "Election"), (i) a ballot question to authorize a limited number of medical and retail marijuana businesses to operate in the City, subject to, and commencing upon the adoption by Council of local regulations governing the time, place, manner, and number of retail and medical marijuana stores and local licensing requirements and (ii) a ballot issue to authorize the City to impose an excise tax on the sale of retail marijuana and retail marijuana products sold within the City, with the tax revenues received from such tax to be spent on any lawful municipal purpose, including enforcement of regulations on the retail marijuana industry, other costs related to enforcement of marijuana laws, affordable housing, and homelessness response; and

WHEREAS, it is necessary to set forth certain procedures concerning the conduct of the Election.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That all action heretofore taken (not inconsistent with the provisions of this ordinance) by the City and the officers and agents thereof, directed towards the Election and the objects and purposes herein stated, is hereby ratified, approved, and confirmed.

Section 2. That unless otherwise defined herein, all terms used herein have the meanings defined in the Uniform Election Code.

Section 3. That pursuant to TABOR, the Charter, the Municipal Election Code, and the Uniform Election Code, and all laws amendatory thereof and supplemental thereto, the City hereby determines that the Election shall be held as a special election within the City on November 5, 2024, and that there shall be submitted to the eligible electors of the City the questions set forth herein. Because the Election will be held as part of the coordinated election, the Council hereby determines that the County Clerk of the County shall conduct the Election on behalf of the City. The officers of the City are hereby authorized to enter into one or more intergovernmental agreements with the County Clerk pursuant to Section 1-7-116, C.R.S. Any such intergovernmental agreement heretofore entered into in connection with the Election is hereby ratified, approved, and confirmed.

Section 4. That the Council hereby authorizes and directs the designated election official of the City to certify to the County Clerk on or before September 6, 2024, the following ballot titles and questions in substantially the form hereinafter set forth. Such questions shall be submitted to the eligible electors of the City at the Election:

AUTHORIZING THE CITY OF LOVELAND TO IMPOSE AN EXCISE TAX OF 5% ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITHIN THE CITY, WITH THE REVENUES FROM SUCH TAX TO BE USED FOR MUNICIPAL PURPOSES

SHALL CITY OF LOVELAND TAXES BE INCREASED \$5 MILLION ANNUALLY IN 2025 (THE FIRST FULL FISCAL YEAR) AND BY WHATEVER ADDITIONAL AMOUNTS AS ARE GENERATED ANNUALLY THEREAFTER FROM THE IMPOSITION OF AN EXCISE TAX AT THE RATE OF 5.00% ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS SOLD WITHIN THE CITY, WITH THE TAX REVENUES RECEIVED FROM SUCH TAX TO BE SPENT ON ANY LAWFUL MUNICIPAL PURPOSE; AND SHALL THE CITY BE AUTHORIZED TO COLLECT, RETAIN, AND SPEND ALL REVENUES FROM SUCH TAXES AND THE EARNINGS FROM THE INVESTMENT OF SUCH REVENUE AS A VOTER-APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

AUTHORIZING THE OPERATION OF A LIMITED NUMBER OF MEDICAL AND RETAIL MARIJUANA BUSINESSES IN THE CITY OF LOVELAND

Shall the City of Loveland, Colorado allow the operation of a limited number of medical and retail marijuana businesses in the City and amend the Loveland Municipal Code by the addition

of new sections permitting, subject to regulations to be adopted by ordinances of the City, certain activities relating to marijuana, and repeal Chapters 7.60 and 7.65 which prohibit the establishment of medical and retail marijuana businesses, or other sections of the Loveland Municipal Code, to the extent that they are inconsistent with such authorization, subject to, and commencing upon the adoption by City Council of, local regulations governing the time, place, manner, and number of retail and medical marijuana stores and local licensing requirements, which shall include provisions permitting those licensees established in the City prior to the City prohibiting all marijuana business 120 days to submit an application for a marijuana business license prior to the City accepting applications for a marijuana business license from new applicants, as well as provisions prohibiting retail and medical marijuana stores in residentially zoned areas, as may be amended from time to time, and shall the authorization in this question be expressly contingent upon voter approval of a 5.00% excise tax on the price paid by the purchaser on the sale of retail marijuana and retail marijuana products at the November 5, 2024 election?

Section 5. That the Loveland Interim City Clerk is hereby appointed as the designated election official of the City for purposes of performing acts required or permitted by law in connection with the Election.

Section 6. That pursuant to Section 1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set.

Section 7. That the officers of the City are hereby authorized and directed to take all action necessary and appropriate to effectuate the provisions of this ordinance.

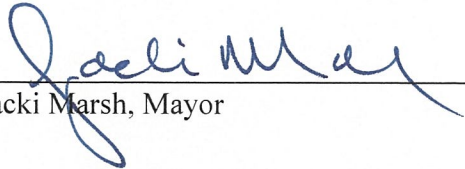
Section 8. That if any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall in no manner affect any remaining provisions of this ordinance.

Section 9. That all ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or part of any ordinance heretofore repealed.

Section 10. That in accordance with Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full, or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in Charter Section 4-8(b).


ADOPTED this 20th day of August, 2024.

CITY OF LOVELAND, COLORADO



Jacki Marsh, Mayor

ATTEST:



Angie Sprang, Interim City Clerk

APPROVED AS TO FORM:



Acting City Attorney



Ordinance 6725 B

I, Angie Sprang, Interim City Clerk of the City of Loveland, Colorado, hereby certify that the above and foregoing Ordinance was introduced at a regular meeting of the City Council, held on August 6, 2024, and was initially published in the Loveland Reporter-Herald, a newspaper published within the City limits, in full on August 10, 2024, and by title except for parts thereof which were amended after such initial publication which parts were published in full in said newspaper on August 24, 2024.



Angie Sprang, Interim City Clerk

Effective Date: September 3, 2024

