

CITY OF ENGLEWOOD

**NOTICE OF APPROVAL
OF A BILL FOR AN ORDINANCE**

On the 17th day of December 2018, the City Council of the City of Englewood, Colorado, approved on first reading the following Council Bill:

**BY AUTHORITY
COUNCIL BILL NO. 52
INTRODUCED BY
COUNCIL MEMBER MARTINEZ**

A BILL FOR AN ORDINANCE
ADOPTING TITLE 4, CHAPTER 4,
SECTION 4-2B, REGARDING ANNUAL
SALES TAX INCREASE FOR RETAIL
MARIJUANA, ALL WITHIN THE CITY
OF ENGLEWOOD, COLORADO.

Copies of the aforesaid council bill are available for public inspection in the office of the City Clerk, City of Englewood, Civic Center, 1000 Englewood Parkway, Englewood, Colorado 80110 or it can be found at <http://www.englewoodco.gov>, Government, Legal/Public Notices.

Published: December 19, 2018 Official
Website of the
City of Englewood, Colorado



COUNCIL COMMUNICATION

TO:	Mayor and Council
FROM:	Maria Sobota
DEPARTMENT:	Finance & Administrative Services
DATE:	December 17, 2018
SUBJECT:	CB 52 - Implementation of Annual Marijuana Sales Tax Increase

DESCRIPTION:

CB 52 - Implementation of Annual Marijuana Sales Tax Increase

RECOMMENDATION:

Staff is recommending that Council approve Council Bill #52, directing staff to include a one and one-half percent (1.5%) increase in additional sales tax imposed upon the sale of retail marijuana in the annual budget, up to a maximum of fifteen percent, unless otherwise directed by the City Council.

PREVIOUS COUNCIL ACTION:

None.

SUMMARY:

On November 8, 2016, the voters of the City of Englewood, passed an initiated ordinance providing for an additional sales tax rate to be imposed upon the sale of retail marijuana within the City. The language of the initiated ordinance is permissive, rather than mandatory, authorizing the City Council to determine the additional annual sales tax rate to be imposed upon the sale of retail marijuana within the City of Englewood. For directive purposes, staff is requesting that the City Council adopt an ordinance establishing the procedure for implementing the annual increase.

ANALYSIS:

Permissive annual tax increases preauthorized by the voters are unusual in Colorado. Englewood Municipal Charter, Section 38, provides that taxes shall be levied by ordinance. The voters initiated and approved an ordinance to levy a tax of up to fifteen percent (15%) to be enacted incrementally, however, the initiative ordinance did not specify the manner by which the annual increase would be determined or implemented. The 3.5% increase approved within that initiative ordinance was adopted by the City Council through the annual budgeting process. Subsequently, the 2019 budgeting process also included a one and one-half percent sales tax increase for marijuana retail sales pursuant to that initiated ordinance.

FINANCIAL IMPLICATIONS:

The 1.5% increase in taxes is estimated to generate approximately \$150,000 in additional revenue for the City of Englewood in 2019. The revenues associated with the marijuana tax increase and a narrative stating the inclusion of the 1.5% tax increase were outlined in the 2019

Proposed Budget as adopted by Council. The total 2019 retail marijuana tax rate assumption in the 2019 adopted budget is 8.5%.

ALTERNATIVES:

Staff is not recommending any alternatives.

CONCLUSION:

Staff is recommending that Council approve Council Bill #52, directing staff to include a one and one-half percent (1.5%) increase in additional sales tax imposed upon the sale of retail marijuana in the annual budget, up to a maximum of fifteen percent, unless otherwise directed by the City Council. Establishing the tax rate for retail marijuana as part of the budgeting process provides an opportunity for the public to comment on the tax rate during the public hearing for the budget.

ATTACHMENTS:

1. CB 52 - An Ordinance adopting an annual sales tax increase for retail marijuana
2. 2016 abstract

OFFICIAL
ABSTRACT OF VOTES CAST
IN THE CITY OF ENGLEWOOD, COLORADO COORDINATED ELECTION
NOVEMBER 8, 2016

Referred
Ballot Issue No. 2B

SHALL CITY OF ENGLEWOOD TAXES BE INCREASED BY \$512,500 ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THERE AFTER BY IMPOSING AN ADDITIONAL SALES TAX OF 3.5% ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WITH THE TAX REVENUES BEING USED TO FUND ANY LAWFUL GOVERNMENTAL PURPOSE 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 15%, AND THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT NOTWITHSTANDING ANY LIMITATIONS PROVIDED BY LAW?

YES 7,376

NO 8,646

Referred
Ballot Issue No. 2C

SHALL THE CITY OF ENGLEWOOD DEBT BE INCREASED \$27 MILLION, WITH A REPAYMENT COST OF UP TO \$47.9 MILLION, AND SHALL THE CITY TAXES BE INCREASED BY UP TO \$2.2 MILLION ANNUALLY FOR THE PURPOSE OF PROTECTING CRIME VICTIMS, POLICE OFFICERS AND THE COMMUNITY BY FINANCING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF LAND, IF NECESSARY, AND RELATED CAPITAL IMPROVEMENTS FOR USE AS A NEW ENGLEWOOD POLICE DEPARTMENT HEADQUARTERS BUILDING INCLUDING:

- PROVIDING MODERN FACILITIES FOR OUR POLICE TO PRESERVE RECORDS AND DNA EVIDENCE FROM COLD CASE FILES TO MEET NATIONAL CERTIFICATION STANDARDS;
- PROVIDING SUFFICIENT SECURED AREAS SO VICTIMS WHO GIVE THEIR STATEMENTS ABOUT A CRIME ARE NOT IN CLOSE PROXIMITY TO THOSE ARRESTED FOR COMMITTING THE CRIME;
- REPLACING THE CURRENT POLICE STATION WITH A FACILITY THAT ALLOWS FOR MODERN INTERNET, MODERN COMPUTERS, LOCKER ROOMS AND TRAINING EQUIPMENT FOR UP-TO-DATE POLICING NEEDS; AND
- PROVIDING ENGLEWOOD POLICE ADDITIONAL TOOLS, SUCH AS MORE HOLDING CELLS THAT THEY NEED TO MORE SAFELY HANDLE THOSE ARRESTED FOR SUSPECTED CRIMINAL ACTIVITY AND PROTECT THE PUBLIC SAFETY, AND SECURED PARKING TO PROTECT OFFICERS AND THEIR FAMILIES;

AND TO THE EXTENT FUNDS ARE AVAILABLE ADDRESSING OTHER SAFETY SERVICES NEEDS, BY THE ISSUANCE AND PAYMENT OF GENERAL OBLIGATION BONDS WHICH SHALL BEAR INTEREST, MATURE, BE SUBJECT TO REDEMPTION, WITH OR WITHOUT PREMIUM, AND BE ISSUED AT SUCH TIME, AT SUCH PRICE (AT ABOVE OR BELOW PAR) AND IN SUCH MANNER AND CONTAINING SUCH TERMS, NOT INCONSISTENT WITH THIS BALLOT ISSUE, AS THE CITY COUNCIL MAY DETERMINE; SHALL AD VALOREM PROPERTY TAXES BE LEVIED WITHOUT LIMIT AS TO THE MILL RATE TO GENERATE AN AMOUNT SUFFICIENT IN EACH YEAR TO PAY THE PRINCIPAL OF, PREMIUM IF ANY, AND INTEREST ON SUCH DEBT AND SHALL ANY INVESTMENT EARNINGS FROM THE PROCEEDS OF SUCH BONDS CONSTITUTE A VOTER-APPROVED REVENUE CHANGE?

YES 9,267

NO 6,700

Initiated
Ballot Issue No. 300

SHALL THE CITY OF ENGLEWOOD IMPOSE AN ADDITIONAL SALES TAX OF 3.5% THAT MAY BE RAISED UP TO 15% ON THE SALE OF RETAIL MARIJUANA IN ENGLEWOOD; PROVIDED THE TAX SHALL NOT BE RAISED ABOVE 3.5% ON OR BEFORE JANUARY 1, 2018, AND CANNOT BE RAISED BY MORE THAN 1.5% PER YEAR, WITH THE TAX REVENUES BEING COLLECTED AND USED TO FUND LOCAL LAW ENFORCEMENT, EDUCATIONAL PROGRAMS DESIGNATED BY THE CITY AND OTHER GENERAL OPERATING EXPENSES OF THE CITY OF ENGLEWOOD?

YES 9,067

NO 7,047

Initiated
Ballot Question No. 301

A "yes" vote for this Initiative will prohibit the retail sale, commercial cultivation and manufacture of Recreational Marijuana within the City Limits of Englewood. A "no" vote indicates the voter does not want to prohibit the retail sale, commercial cultivation and manufacture of Recreational Marijuana within the City Limits of Englewood.

In support of Amendment 64 (Section 5, "Regulation of Marijuana," Part 9F*) as passed by Colorado voters in 2012, should the citizens of the City of Englewood, Colorado exercise their right and prohibit the sale of Marijuana for recreational use as well prohibit Marijuana cultivation and manufacturing facilities within City Limits? This in no way affects the personal use of Marijuana according to said Amendment.

*Amendment 64, SECTION 5, Regulation of Marijuana, "Part 9F": "A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN RESOLUTION OR THROUGH AN INITIATED OR REFERRED MEASURE."

YES 5,996

NO 10,167

Initiated
Ballot Question No. 302

Shall the City of Englewood Municipal Code be amended to permit for the regulation and licensing of Retail Marijuana stores, subject to the conditions and limitations set forth in the Initiative Petition?

YES 9,965

NO 5,812

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2018

COUNCIL BILL NO. 52
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

**AN ORDINANCE ADOPTING TITLE 4, CHAPTER 4, SECTION 4-2B,
REGARDING ANNUAL SALES TAX INCREASE FOR RETAIL
MARIJUANA, ALL WITHIN THE CITY OF ENGLEWOOD, COLORADO.**

WHEREAS, the City of Englewood is a home rule City, established in accordance with Article XX of the Constitution of the State of Colorado;

WHEREAS, Section 46 of the Englewood Charter provides that if a majority of the electors voting upon the initiated ordinance shall vote in favor thereof, the same shall thereupon, without further publication, become an ordinance of the City immediately;

WHEREAS, on November 8, 2016, by Initiated Ordinance, Ballot Issue No. 300, 2016, the voters of the City of Englewood levied an additional sales tax upon the sale of retail marijuana of up to fifteen percent (15%);

WHEREAS, such initiated ordinance directed that the full tax levy be implemented incrementally by the City, beginning with a tax of 3.5%, followed by annual increases of up to 1.5%, until the maximum amount of the tax levy was imposed;

WHEREAS, the voters approved the tax levy of fifteen percent (15%) to be enacted incrementally, although they did not specify a method for notifying the public of the annual incremental increase; and

WHEREAS, establishing the tax rate for retail marijuana as part of the budgeting process provides an opportunity for the public to comment on the tax rate during the public hearing for the budget.

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

Section 1. Title 4, Chapter 4, Section 4-2B shall be adopted to read as follows:

4-4-4-2B. Annual Increase of Sales Tax upon the Sale of Retail Marijuana.

To implement Initiated Ballot Issue 300, 2016, staff is directed to include within the annual budget, a one and one-half percent (1.5%) annual increase in the additional sales tax imposed upon the sale of retail marijuana, up to a maximum of fifteen percent (15%). The City Council may modify the annual additional sales tax increase as part of the annual budgeting process. Approval of the annual budget will include approval of the sales tax rate for retail marijuana, all in conformance with the provisions of 4-4-4-2A above.

Section 2. Notice of general provisions and findings applicable to interpretation and application of this Ordinance:

Applicability of Title 1, Chapter 2, Saving Clause. The provisions of E.M.C. Title 1, Chapter 2, Saving Clause apply to interpretation and application of this Ordinance, unless otherwise set forth above, including, but not limited to, the provisions regarding severability, inconsistent ordinances or code provisions, effect of repeal or modification, and legislation not affected by repeal.

Enforcement. E.M.C. Title 1, Chapter 4, “General Penalty” provisions mandate that except as otherwise provided within specific Titles, Chapters, or Sections of the Englewood Municipal Code, the violation of any provisions of the Code, or of any secondary code adopted therein, shall be punished by a fine not exceeding two thousand six hundred and fifty dollars (\$2,650.00) or imprisonment for a term not exceeding three hundred sixty (360) days or by both such fine and imprisonment.

Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Introduced, read in full, and passed on first reading on the 17th day of December, 2018.

Published by Title as a Bill for an Ordinance in the City’s official newspaper on the 20th day of December, 2018.

Published as a Bill for an Ordinance on the City’s official website beginning on the 19th day of December, 2018 for thirty (30) days.

Linda Olson, Mayor

ATTEST:

Stephanie Carlile, City Clerk

I, Stephanie Carlile, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 17th day of December, 2018.

Stephanie Carlile