

**A RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
APPROVING A BALLOT ISSUE TO BE SUBMITTED TO THE VOTERS AT THE ARAPAHOE
COUNTY COORDINATED ELECTION TO BE HELD NOVEMBER 8, 2022 TO AMEND THE
CITY'S SALES TAX CODE TO REQUIRE PERSONS ENGAGED IN BUSINESS IN THE CITY
TO COLLECT CITY SALES TAX**

WHEREAS, the City of Cherry Hills Village ("City") will hold its regular municipal election and participate in the November 8, 2022 election as coordinated with Arapahoe County; and

WHEREAS, the City currently imposes a sales tax for the privilege of selling tangible personal property at retail only upon every vendor having a place of business within the City and who sells such property within the City, as set forth in Article IV, Division 2 of the Cherry Hills Village Municipal Code; and

WHEREAS, as a result of significant research and public outreach, City Council has determined that limiting the collection of sales tax to vendors having a place of business within the City creates market distortions inconsistent with the United States Constitution as articulated by the United States Supreme Court in *Wayfair v. South Dakota* and is outdated due to changes in how modern retail transactions occur; and

WHEREAS, City Council finds it is in the best interests of City residents and the business community to simplify and standardize the City's tax code in a manner consistent with other Colorado home rule jurisdictions; and

WHEREAS, Article X, Section 20 of the Colorado Constitution, known as the Taxpayer's Bill of Rights ("TABOR"), requires advance voter approval for a tax policy change directly causing a net tax revenue gain, any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, or extension of an expiring tax; and

WHEREAS, the City Council is authorized to refer ballot measures to the voters, and has determined it is in the best interest of the City to refer a ballot issue to the voters in the November 8, 2022 election that, if approved, would authorize changes to the Cherry Hills Village sales tax code to require persons engaged in business in the City, including persons making deliveries to City residents and remote sellers, to collect and remit sales tax consistent with marketplace realities and current law; and

WHEREAS, upon approval of the ballot issue by the majority of registered electors voting thereon at the November 8, 2022 election, the City Council shall be authorized to enact necessary revisions to the Cherry Hills Village Municipal Code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF CHERRY HILLS VILLAGE:

Section 1. The City Council hereby refers and approves the following ballot issue for submission to the City's registered electors and to appear on the November 8, 2022 ballot coordinated by Arapahoe County:

WITHOUT CHANGING THE CITY'S EXISTING 3.5% SALES TAX RATE, SHALL THE SALES TAX CODE OF THE CITY OF CHERRY HILLS VILLAGE BE AMENDED, AS A VOTER-APPROVED TAX POLICY CHANGE, TO REQUIRE PERSONS "ENGAGED IN BUSINESS IN THE CITY," WHICH MAY INCLUDE PERSONS MAKING DELIVERIES TO CITY RESIDENTS, INCLUDING REMOTE SELLERS, TO COLLECT TAX, AND FURTHER SHALL ANY INCREASE IN REVENUES RESULTING FROM THESE CHANGES TO THE CODE, REGARDLESS OF AMOUNT, CONSTITUTE A VOTER-APPROVED REVENUE CHANGE FOR THE CITY WITHIN THE MEANING OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

YES _____
NO _____

Section 2. This resolution shall serve to set the title and content for the ballot issue set forth herein and the ballot title for such issue shall be the text of the issue itself.

Section 3. The City Clerk is authorized to correct typographical errors and omissions and formatting requirements and to cause to be entered into any blanks of the ballot issue the appropriate ballot issue number or letter upon designation of the ballot number or letter by the appropriate election official.

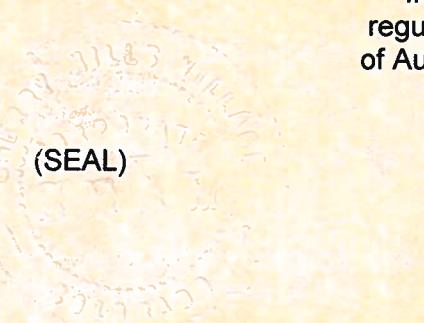
Section 5. The City Manager, City Attorney, and City Clerk are hereby authorized and directed to take all necessary and appropriate action to effectuate the provisions of this resolution including the taking of all reasonable and necessary action to cause such approved ballot issue to be printed and placed on the ballot for the election.

Section 6. If any section, paragraph, clause or provision of this resolution shall for any reason be held 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 resolution.

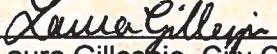
Section 7. This resolution shall be effective immediately upon adoption.

Introduced, passed and adopted at the regular meeting of City Council this 16th day of August, 2022, by a vote of 4 Yes and 0 No.

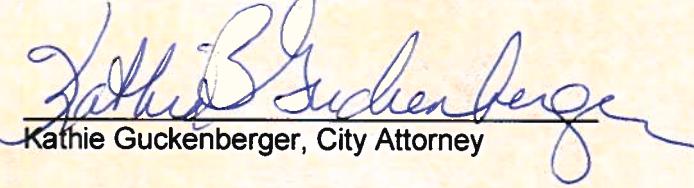
(SEAL)


Russell O. Stewart, Mayor

ATTEST:


Laura Gillespie, City Clerk

APPROVED AS TO FORM:


Kathie Guckenberger, City Attorney