

ORDINANCE NO. 2008 - 15

AN ORDINANCE OF THE CITY OF FRUITA IMPLEMENTING THE PROVISIONS OF THE CITY COMMUNITY CENTER BALLOT ISSUE APPROVED BY THE CITY'S ELECTORS AT THE CITY ELECTION HELD NOVEMBER 4, 2008 BY PROVIDING FOR A SALES AND USE TAX RATE INCREASE AND SETTING FORTH OTHER DETAILS SPECIFIED IN THE BALLOT ISSUE.

WHEREAS, the City of Fruita, Colorado (the "City"), is a municipal corporation duly organized and operating as a home rule city under the Fruita City Charter (the "City Charter") and the Constitution and laws of the State of Colorado; and

WHEREAS, Section 8.08 of the City Charter and Article X, Section 20 of the State Constitution provide that any increase in an existing tax must be approved by a majority of the voters in a special or regular City election; and

WHEREAS, at the special election held on November 4, 2008 as part of a Coordinated General Election, a majority of the voters of the City voting at the Coordinated General Election approved the following ballot issue (the "Ballot Issue"):

SHALL THE CITY OF FRUITA TAXES BE INCREASED \$1,760,400 (FIRST FULL FISCAL YEAR DOLLAR INCREASE) ANNUALLY AND SHALL THE CITY OF FRUITA DEBT BE INCREASED BY AN AMOUNT NOT TO EXCEED \$15,000,000, WITH A MAXIMUM REPAYMENT COST OF \$36,239,400; SUCH TAXES TO CONSIST OF ALL REVENUES GENERATED FROM A RATE INCREASE OF 1.0% IN THE CITY SALES AND USE TAX (WHICH REPRESENTS A ONE CENT INCREASE ON EACH DOLLAR) WHICH SHALL BE DEPOSITED INTO A CITY COMMUNITY CENTER FUND AND USED SOLELY FOR THE PURPOSE OF CONSTRUCTING, IMPROVING, EQUIPPING, OPERATING AND MAINTAINING A COMMUNITY CENTER AND PROVIDING FOR THE PAYMENT OF REVENUE BONDS ISSUED FOR SUCH PURPOSES; SUCH DEBT TO CONSIST OF REVENUE BONDS PAYABLE FROM THE CITY COMMUNITY CENTER FUND AND ISSUED FOR THE PURPOSE OF:

- CONSTRUCTING AND EQUIPPING A COMMUNITY CENTER, TO INCLUDE AMONG OTHER THINGS, AQUATICS FACILITIES, POOL PARTY ROOMS, A GYMNASIUM, A SENIOR MEETING ROOM, MULTI-USE MEETING ROOMS, A GROUP EXERCISE STUDIO, FITNESS / WELLNESS AREAS, CHILD CARE FACILITIES, LOCKER ROOMS, FAMILY CHANGING ROOMS, UPDATING OF THE EXISTING FRUITA OUTDOOR POOL, LOBBY SPACES, AND STAFF OFFICE SPACES

SUCH BONDS TO BE DATED AND SOLD AT SUCH TIME, AND AT SUCH PRICES (AT, ABOVE OR BELOW PAR) AND CONTAINING SUCH TERMS, NOT INCONSISTENT HERewith, AS THE CITY COUNCIL MAY DETERMINE; SUCH TAX RATE INCREASE TO COMMENCE JANUARY 1, 2009, AND BE REDUCED FROM A RATE OF 1.0% TO A RATE OF 0.4% ON JANUARY 1ST FOLLOWING THE DATE ON WHICH THE REVENUE

BONDS APPROVED HEREBY ARE PAID IN FULL (BUT IN NO EVENT SHALL SUCH REDUCTION OCCUR LATER THAN JANUARY 1, 2039) TO CONTINUE TO PROVIDE FOR THE IMPROVEMENT, EQUIPPING, OPERATION AND MAINTENANCE OF THE COMMUNITY CENTER; AND SHALL THE TAX REVENUES DEPOSITED IN THE CITY COMMUNITY CENTER FUND AND ALL EARNINGS THEREON (REGARDLESS OF AMOUNT) CONSTITUTE A VOTER-APPROVED REVENUE CHANGE, AND AN EXCEPTION TO THE REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

WHEREAS, the returns of the Coordinated General Election were duly canvassed and the results thereof duly declared; and

WHEREAS, the Fruita City Council (the “City Council”) desires to implement the provisions of the Ballot Issue through the adoption of this Ordinance amending the Fruita Municipal Code (the “Municipal Code”).

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

Section 1. Amendment of Municipal Code Sections 3.12.070(E), 3.12.075, 3.12.080(A), 3.12.090(B), 3.12.150 and 3.12.160(C). References to “2%” are hereby amended to refer to “3%” in Fruita Municipal Code Paragraph E of Section 3.12.070, Section 3.12.075, Paragraph A of Section 3.12.080, Section 3.12.150 and Paragraph C of Section 3.12.160.

Section 2. Amendment of Municipal Code Section 3.12.090(A). Paragraph A of Section 3.12.090 of the Fruita Municipal Code is hereby amended to read as follows:

A. There is hereby imposed upon all of commodities and services specified in this chapter, a tax in accordance with the following:

<u>Amount of Sale</u>	<u>Tax</u>
\$.01 including .16	No tax
.17 including .49	\$.01
.50 including .83	.02
.84 including 1.00	.03

On sales in excess of one dollar, the tax shall be three cents on each full dollar of the sales price, plus the tax shown in the above schedule for the applicable fractional part of a dollar of each such sales price.

Section 3. Amendment of Municipal Code Section 3.15.030. Section 3.15.030 of the Fruita Municipal Code is hereby amended to read as follows:

3.15.030 GENERAL FUND REVENUES. All funds received pursuant to the ordinances codified in this chapter shall be deposited into the city’s general fund with the exception of the funds to be deposited into the Community Center Fund pursuant to Section 3.16.010 of the Fruita Municipal Code.

Section 4. Amendment of Municipal Code Sections 3.15.060, 3.15.065(B), (C) and (E), 3.15.070(A) and 3.15.090. References to “2%” are hereby amended to refer to “3%” in Fruita Municipal Code Section 3.15.060, Paragraphs B, C and E of Section 3.15.065, Paragraph A of Section 3.15.070 and Section 3.15.090.

Section 5. Amendment of Municipal Code through the addition of a new chapter. The Fruita Municipal Code is hereby amended through the addition of a new chapter 3.16 to read as follows:

Chapter 3.16

Community Center Fund

Sections:

- 3.16.010 Establishment of Fund**
- 3.16.020 Use of Fund**
- 3.16.030 Tax Rate Reduction**

3.16.010 ESTABLISHMENT OF FUND. There is hereby established the “Community Center Fund” in accordance with the ballot issue (the “Ballot Issue”) approved by a majority of the electors of the City voting at the election held on November 4, 2008. All funds received, net of the costs of collection, from the sales tax and use tax increase imposed and levied at the rate of 1% pursuant to the Ballot Issue and under chapters 3.12 and 3.15 of the Fruita Municipal Code shall be deposited into the Community Center Fund. The Ballot Issue also authorizes revenue bonds payable from the Community Center Fund.

3.16.020 USE OF FUND. Tax revenues deposited into the Community Center Fund, together with all earnings on such deposits, shall be used solely for the purpose of constructing, improving, equipping, operating and maintaining a community center and providing for the payment of revenue bonds issued for such purposes. Further, following the tax rate reduction provided in Section 3.16.030 of this chapter, tax revenues deposited in to the Community Center Fund, together with all earnings on such deposits, shall continue to provide for the improvement, equipping, operation and maintenance of the community center.

3.16.030 TAX RATE REDUCTION. The tax rate increase authorized pursuant to the Ballot Issue and commencing January 1, 2009, shall be reduced from a rate of 1.0% to a rate of 0.4% on January 1st following the date on which the revenue bonds approved pursuant to the Ballot Issue, including any refundings or refinancings thereof, are paid in full; provided however, in no event shall such reduction occur later than January 1, 2039.

Section 6. Ratification of Fruita Municipal Code. With the exception of the provisions of the Fruita Municipal Code modified as provided herein, all remaining provisions of the Fruita Municipal Code remain in full force and effect.

Section 7. Authorization to Take Action. The City Manager, Finance Director and City Clerk shall, and they are hereby authorized and directed to, take all actions necessary or appropriate to effectuate the provisions of the Ballot Issue including, but not limited to, notifying the State Department of Revenue of the tax increase to take effect January 1, 2009.

Section 8. Severability. It is hereby expressly declared that all provisions hereof and their application are intended to be and are severable. In order to implement such intent, if any provision hereof or the application thereof is determined by a court or administrative body to be invalid or unenforceable, in whole or in part, such determination shall not affect, impair or invalidate any other provision hereof or the application of the provision in question to any other situation; and if any provision hereof or the application thereof is determined by a court or administrative body to be valid or enforceable only if its application is limited, its application shall be limited as required to most fully implement its purpose.

Section 9. Effective Date. This Ordinance shall be effective January 1, 2009.

PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL

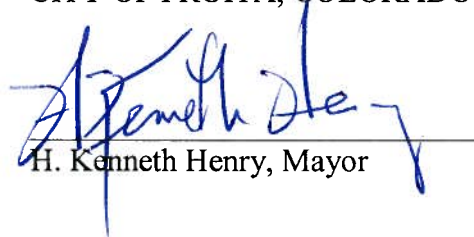
THIS 2nd DAY OF DECEMBER, 2008.

ATTEST:

CITY OF FRUITA, COLORADO



City Clerk



H. Kenneth Henry, Mayor