

ORDINANCE NO. #08

SERIES OF 2024

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, AMENDING SECTION 23.48.070 OF THE MUNICIPAL CODE TO EXTEND THE EXPIRATION DATE OF THE AFFORDABLE HOUSING REAL ESTATE TRANSFER TAX FROM DECEMBER 31, 2040 TO DECEMBER 31, 2060; AMENDING SECTION 23.32.060 OF THE MUNICIPAL CODE TO EXTEND THE EXPIRATION DATE OF THE AFFORDABLE HOUSING AND DAYCARE 0.45% SALES TAX FROM DECEMBER 31, 2040 TO DECEMBER 31, 2060, AND ESTABLISHING AND SUBMITTING TO THE ELECTORATE OF THE CITY OF ASPEN CERTAIN QUESTIONS AT THE NOVEMBER 5, 2024 ELECTION.

WHEREAS, the City of Aspen, Colorado, (the “City”), is a home rule municipality, organized and existing under Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, the City Council is authorized pursuant to Section 5.7 of the Aspen City Charter, on its own motion, to submit questions to a vote of the electorate; and

WHEREAS, the election provision of Article X, Section 20(3) of the Colorado Constitution requires that certain financial ballot issues be decided only in a state general election, biennial local election or on the first Tuesday in November of odd numbered years.

WHEREAS, the affordable housing real estate transfer tax originally imposed by Ordinance 20 (Series 1979) is scheduled to expire on December 31, 2040; and

WHEREAS, the affordable housing and daycare 0.45% sales tax originally imposed by Ordinance 81 (series 1989) is scheduled to expire on December 31, 2040; and

WHEREAS, the City Council has determined to ask the electorate of the City of Aspen at the November 5, 2024 general election for authorization to extend the expiration dates of these two taxes from December 31, 2040 to December 31, 2060,

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

Section 1: The following question shall be submitted to the electorate at the November 5, 2024, general election:

CITY OF ASPEN
EXTENSION OF REAL ESTATE TRANSFER TAX

SHALL THE CITY OF ASPEN’S EXISTING 1.0% REAL ESTATE TRANSFER TAX, WHICH IS SCHEDULED TO EXPIRE ON DECEMBER 31, 2040, BE EXTENDED THROUGH DECEMBER 31, 2060; AND SHALL THE REVENUES FROM SUCH REAL ESTATE TRANSFER TAX AND THE EARNINGS ON SUCH REVENUES BE AS A VOTER-APPROVED REVENUE CHANGE THAT THE CITY MAY COLLECT, RETAIN AND EXPEND WITHOUT LIMITATION UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION (TABOR) OR ANY OTHER LAW?

YES _____
NO _____

Section 2: The following question shall be submitted to the electorate at the November 5, 2024, general election:

CITY OF ASPEN
EXTENSION OF EXISTING 0.45% SALES TAX AFFORDABLE HOUSING AND DAY CARE

SHALL THE CITY OF ASPEN’S EXISTING 0.45% SALES TAX FOR AFFORDABLE HOUSING AND DAY CARE, WHICH IS SCHEDULED TO EXPIRE ON DECEMBER 31, 2040, BE EXTENDED THROUGH DECEMBER 31, 2060; AND SHALL THE REVENUES FROM SUCH SALES TAXES AND THE EARNINGS THEREON BE COLLECTED, RETAINED AND SPENT AS A VOTER-APPROVED REVENUE CHANGE WITHOUT LIMITATION UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION (TABOR) OR ANY OTHER LAW?

YES _____
NO _____

Section 3: Contingent on a favorable yes vote from the electorate on November 5, 2024, for the extension of the existing sunset date on the 1.0% affordable housing real estate transfer tax to the revised sunset date of December 31, 2060, Section 23.48.070 of the Aspen Municipal Code is hereby amended with the following:

23.48.070 (f): Duration of tax. This Section shall continue effective insofar as the levy of the real estate transfer tax is concerned through December 31, 2060, and insofar as the collection of the tax levied in the aforesaid period and actions for proceedings for collecting any tax so levied, including interest and penalties thereon, and enforcing any of the provisions in this Section are concerned, this Section shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits or prosecutions for the collection of said tax and for the punishment of violations of this Chapter shall have been fully terminated.

Section 4: Contingent on a favorable yes vote from the electorate on November 5, 2024, for the extension of the existing sunset date on the 0.45% affordable housing and daycare sales tax to the revised sunset date of December 31, 2060, Section 23.32.060 of the Aspen Municipal Code is hereby amended with the following:

23.32.060 (c)(4): Sales tax receipts derived from the forty-five one hundredths of one percent (0.45%) additional sales tax levied pursuant to Ordinance No. 81, Series of 1989, shall be set aside in a separate fund designated as the "Affordable Housing Fund and the Day Care Fund". The City Council will allocate the forty-five one hundredths of one percent (0.45%) sales tax between the funds as it shall from time to time designate. The sales tax from the forty-five one hundredths of one percent (0.45%) sales tax shall be expended by the City Council for the purpose of creating public or private affordable housing and day care opportunities within the city and county, including but not by way of limitation, capital improvements and capital expenditures therefor, land acquisition, payment of indebtedness incurred in connection with any affordable housing or day care expenditures, reserves and for expenditures necessary to protect any such property acquired or capital improvements constructed or purchased from any and all threatened or actual damages, loss, destruction or impairment from any such cause or occurrences. This section 23.32.060(c)(4) shall continue effective insofar as the levy of the 0.45% sales tax is concerned through December 31, 2060.

Section 5: This ordinance shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior ordinances.


Section 6: If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

Section 7: A public hearing on this ordinance shall be held on the 27th day of August 2024, at a meeting of the Aspen City Council commencing at 5:00 p.m. in the City Council Chambers, Aspen City Hall, Aspen, Colorado.

Section 8. Subject to the adoption by the electorate at the Election on November 5, 2024, this ordinance shall be effective as of January 1, 2025.

INTRODUCED AND READ, as provided by law, by the City Council of the City of Aspen on the 27th day of August 2024.

ATTEST:



Nicole Henning, City Clerk



Torre, Mayor

FINALLY, adopted, passed and approved this 27th day of August 2024.

ATTEST:

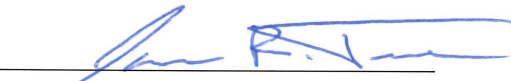


Nicole Henning, City Clerk



Torre, Mayor

APPROVED AS TO FORM:



James R. True, City Attorney