

ORDINANCE NO. #09

SERIES OF 2024

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, AMENDING SECTIONS OF THE MUNICIPAL CODE PERTAINING TO THE TAXATION OF MOTOR VEHICLE SALES, AND ESTABLISHING AND SUBMITTING TO THE ELECTORATE OF THE CITY OF ASPEN AT THE NOVEMBER 5, 2024 ELECTION A QUESTION TO AUTHORIZE THE APPLICATION OF A USE TAX ON AUTOMOTIVE VEHICLES SALES AND USE.

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 City of Aspen first established and imposed a local sales tax that was levied on upon all sales of tangible personal property in 1970 at the rate of 1.0% and has since been increased to a rate of 2.1% for City uses and an additional 0.3% for educational purposes providing support to the Aspen School District No. 1 (RE); and

WHEREAS, the City of Aspen currently includes motor vehicle sales as taxable under the City’s sales taxation allowances; and

WHEREAS, the City of Aspen is unique in its current application of a sales tax rather than a use tax on a motor vehicle sale and use wherein the vehicle is first registered to a resident or business address within the City after acquisition from a third-party; and

WHEREAS, it has been expressed by the Colorado Department of Revenue that it is supportive of consistency in the taxation policy across the State, pointing to legislative actions including but not limited to H.B. 19-1240, which further clarified the application parameters for both sales and use taxes within the State;

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
IMPOSITION OF A USE TAX ON MOTOR VEHICLES

WITHOUT IMPOSING ANY NEW TAX, SHALL CITY OF ASPEN AMEND ITS MUNICIPAL CODE TO RECATEGORIZE THE TAXES CURRENTLY IMPOSED ON AUTOMOTIVE VEHICLES SOLD, REGISTERED AND USED IN THE CITY, CURRENTLY 2.4% , TO BE A USE TAX ON THE SAME TRANSACTIONS, AND IMPOSED AT A LOWER RATE OF 2.1%;

AND MAY THE REVENUES OF SUCH USE TAX BE USED BY THE CITY FOR THE MAINTENANCE OF ROADS AND BRIDGES AND OTHER TRANSIT RELATED INFRASTRUCTURE;

PROVIDED THAT IF THIS BALLOT QUESTION IS NOT APPROVED BY THE VOTERS, THE CITY SHALL CONTINUE TO IMPOSE ITS EXISTING SALES TAX ON AUTOMOTIVE VEHICLES AT THE EXISTING SALES TAX RATE;

AND SHALL THE CITY BE AUTHORIZED TO COLLECT, KEEP AND SPEND THE REVENUES FROM SUCH TAX AND ANY INVESTMENT INCOME THEREFROM NOTWITHSTANDING THE LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

YES _____
NO _____

Section 2: Contingent on a favorable yes vote from the electorate on November 5, 2024 establishing authority to levy a use tax on the sale and use of motor vehicles when said vehicles are registered within the City of Aspen city limits, Subsection (7) of Section 23.32.090(7) – Transactions and items subject to tax, of the Aspen Municipal Code shall hereby be amended to read as follows:

(7) Automotive vehicles leased or rented in the City.

Section 3: Contingent on a favorable yes vote from the electorate on November 5, 2024, Section 23.52. of the Aspen Municipal Code shall hereby be retitled as follows:

23.52. - Use Tax on Construction Materials

Section 4: Contingent on a favorable yes vote from the electorate on November 5, 2024 establishing authority to levy a use tax on the sale and use of automotive vehicles when said vehicles are registered within the City of Aspen city limits, the following Chapter of the Aspen Municipal Code are hereby added:

23.53. – Use Tax on Automotive Vehicles

Sec. 23.53.010. - Legislative Intent.

H.B. 1007, enacted by the Fifty-fifth Colorado General Assembly and approved by the Governor on June 6, 1985, sets forth procedures for the collection of sales and use taxes by home rule cities. This Chapter contains provisions which are consistent with some of those set forth in H.B. 1007. The City Council finds that Article XX of the Colorado Constitution grants plenary power to home rule cities to levy and collect taxes within the City limits. The City Council does not endorse restrictions on the taxing power of home rule cities. Thus, it is the intent of the City Council in enacting provisions consistent with H.B. 1007 to assist the business community, but not in any way to prejudice the City's right to fully exercise its Constitutional authority to levy and collect taxes within its boundaries.

Sec. 23.53.020. - Words and Phrases Defined:

Unless the context clearly indicates otherwise, the following words and phrases as used in this Chapter shall have the following meaning:

Tax means the use tax due from a consumer or the sales tax due from a retailer or the sum of both due from a retailer who also consumes.

Use Tax means the tax paid or required to be paid by a consumer for using, storing, or otherwise consuming inside the corporate limits of the City of Aspen an automotive vehicle as defined in this Title that is acquired inside or outside of the corporate limits of the City of Aspen upon which a City of Aspen sales tax is not paid.

Sec. 23.53.030. - Rate; Imposition and Collection; Distribution; Effective date

(a) Use Tax Levy. There is hereby levied a tax or excise upon the privilege of purchasing, using, storing, or otherwise consuming in the City an automotive vehicle as defined in this Title from sources inside or outside the City, on which the City sales tax has not been paid. For sales, registration and use of an automotive vehicle on or after January 1, 2025, the rate levied shall be two and one tenth percent (2.1%).

(b) Imposition and Collection. The tax specified in this Section is imposed upon the owner of the motor vehicle, defined as the purchaser. The tax shall be collected and remit it to the City pursuant to Chapter 23.08 prior to registration of the vehicle.

(c) Application of funds. All funds received by the City pursuant to this Chapter (Use Tax on Automotive Vehicles) shall be subject to appropriation by City Council of the City, or its designee, only for the purposes to pay the cost of maintenance of roads and bridges and other transit related infrastructure; all in accordance with the purposes and limitations imposed by the ballot measure authorizing the collection of the use tax.

(d) Effective date. The provisions of the Chapter shall be effective upon the first day of 2025 (January 1, 2025) and shall continue to be levied and collected until amended or repealed by ordinance. The tax imposed in this Chapter shall be in addition to all other taxes imposed by law.

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.

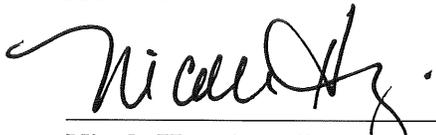
Section 6: If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining 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 13th 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

