

**ORDINANCE NO. 7  
SERIES 2007**

**AN ORDINANCE OF THE CITY OF GUNNISON IMPLEMENTING BALLOT ISSUE 1A APPROVED BY A MAJORITY OF THE CITY'S ELECTORS AT AN ELECTION HELD ON MAY 8, 2007, BY AMENDING THE CITY CODE TO (I) INCREASE THE RATE OF THE CITY SALES AND USE TAX AND PROVIDE FOR A TERMINATION DATE FOR A PORTION OF SUCH TAXES AND (II) PROVIDE FOR THE DEPOSIT OF SUCH TAXES INTO A CITY PARK AND RECREATION FUND AND RESTRICT THE USE OF MONEYS IN SAID FUND FOR PARK AND RECREATION PURPOSES; AND SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, the City of Gunnison, Colorado (the "City"), is a municipal corporation duly organized and operating under a home rule charter (the "City Charter") the Constitution of the State of Colorado; and

**WHEREAS**, at the regular City election held on Tuesday, May 8, 2007 (the "Election"), there was submitted to the qualified electors of the City Ballot Issue 1A which reads as follows:

SHALL THE CITY OF GUNNISON TAXES BE INCREASED \$1,500,000 (FIRST FULL FISCAL YEAR DOLLAR INCREASE) ANNUALLY AND SHALL THE CITY OF GUNNISON DEBT BE INCREASED BY AN AMOUNT NOT TO EXCEED \$9,500,000, WITH A MAXIMUM REPAYMENT COST OF \$19,500,000; SUCH TAXES TO CONSIST OF A RATE INCREASE IN THE CITY SALES AND USE TAX OF 1.0% (WHICH REPRESENTS A ONE CENT INCREASE ON EACH DOLLAR) COMMENCING JULY 1, 2007, TO CONTINUE FOR A PERIOD OF TWENTY-FIVE YEARS, WITH A DECREASE IN THE TAX RATE FROM 1.0% TO 0.25% (WHICH REPRESENTS A ONE-QUARTER CENT INCREASE ON EACH DOLLAR) ON JULY 1, 2032; SUCH DEBT TO CONSIST OF REVENUE BONDS PAYABLE FROM THE AUTHORIZED SALES AND USE TAX AND ISSUED FOR THE PURPOSE OF:

- CONSTRUCTING AND EQUIPPING POOL FACILITIES TO INCLUDE A RECREATIONAL LAP POOL AND A WARM WATER THERAPY POOL;
- CONSTRUCTING AND EQUIPPING AN ENCLOSED REFRIGERATED ICE RINK FACILITY;
- CONSTRUCTING A NON-MOTORIZED TRAIL SYSTEM AROUND THE CITY AND ACQUIRING TRAIL EASEMENTS;

AND TO THE EXTENT FUNDS ARE AVAILABLE FOR THE PURPOSE OF CONSTRUCTING, ACQUIRING AND EQUIPPING OTHER PARK AND RECREATION IMPROVEMENTS, 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; SHALL THE INCREASE IN THE CITY SALES AND USE TAX BE DEPOSITED INTO A CITY PARK AND RECREATION FUND AND USED SOLELY FOR PARK AND RECREATION PURPOSES INCLUDING, BUT NOT LIMITED TO (I) CONSTRUCTING, ACQUIRING AND IMPROVING CAPITAL IMPROVEMENTS, (II) ACQUIRING AND IMPROVING REAL PROPERTY INTERESTS AND EQUIPMENT, (III) OPERATING AND MAINTAINING CAPITAL IMPROVEMENTS, REAL PROPERTY INTERESTS AND EQUIPMENT AND (IV) PROVIDING FOR THE PAYMENT OF REVENUE BONDS ISSUED FOR SUCH PURPOSES; AND SHALL THE TAX REVENUES DEPOSITED IN THE CITY PARK AND RECREATION 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 Election results were verified and certified by the City Election Commission on Friday, May 11, 2007 and Ballot Issue 1A was approved by a majority of the qualified electors voting at the election with the results reflecting 858 yes votes and 471 no votes;

**WHEREAS**, the tax increase approved at the Election is to be effective July 1, 2007, and it is necessary to amend the Gunnison Municipal Code to implement Ballot Issue 1A;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, ORDAINS THAT:**

Section 1. Amendment of Gunnison Municipal Code Section 3.10.050. Section 3.10.050 of the Gunnison Municipal Code is hereby amended to read as follows:

**3.10.050 Vendor liable for tax.** Every retailer, also herein called “vendor”, shall, irrespective of the provisions of GMC 3.10.130, be liable and responsible for the payment of an amount equivalent to the rate of tax provided in GMC 3.10.060 multiplied by all sales made by him of commodities or services as specified in GMC 3.10.040, and shall before the fifteenth day of each month make a return to the Director of Finance for the preceding calendar month and remit an amount equivalent to said tax on such sales to said Director, less five percent of the sum so remitted to cover the vendor’s expense in the collection and remittance of said tax. Such returns of the taxpayer or duly authorized agent shall contain such information and may be made in such manner and upon such forms as the Director of Finance may prescribe. The Director may extend the time of making returns and paying the taxes due under such reasonable rules and regulations as he may prescribe, but no such extension shall be for a greater period than is provided for in GMC 3.10.090. The burden of proving and paying the same to the Director of Finance, or for making such returns, shall be on the retailer or vendor under such reasonable requirements of proof as the Director may prescribe. In any event, the amount subject to tax imposed by this Chapter shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.

Section 2. Amendment of Gunnison Municipal Code Section 3.10.060. Section 3.10.060 of the Gunnison Municipal Code is hereby amended to read as follows:

**3.10.060 Schedule of sales tax and distribution of receipts.**

A. There is imposed hereby a tax in an amount equivalent to three percent of all sales of commodities and services specified in GMC 3.10.040. The receipts of the tax shall be deposited in the general fund of the City and shall be applied as specified in GMC 3.10.380.

B. Commencing July 1, 2007 through and including June 30, 2032, there is imposed hereby a tax, in addition to the tax set forth in subsection (A) of this section, in an amount equivalent to one percent of all sales of commodities and services specified in GMC 3.10.040. Commencing July 1, 2032, the tax specified in the preceding sentence shall be reduced to a tax, in addition to the tax set forth in subsection (A) of this section, in an amount equivalent to one-quarter of one percent of all sales of commodities and services specified in GMC 3.10.040. The receipts of the tax shall be deposited in the City Park and Recreation Fund and shall be applied as specified in GMC 3.10.380.

C. Retailers shall add to the sale price or charge the tax imposed in subsections (A) and (B) of this section, or the average equivalent thereof, insofar as such average equivalent is expressed in combined form with that of the tax imposed by operation of part 1 of article 26 of title 39, C.R.S., as amended, in accordance with schedules of said combined average equivalents duly adopted and promulgated by the Executive Director of the Colorado Department of

Revenue. The retailer shall show such tax as a separate and distinct item, and when added, such tax shall constitute a part of such price or charge and shall be a debt from the consumer or user to the retailer until paid and shall be recoverable at law in the same manner as other debts. The retailer shall be entitled as collecting agent of the City to apply and credit the amount of his collections against the rate to be paid by him under the provisions of GMC 3.10.050, remitting any excess of collections over said rate less the five percent collection expense allowance, to the Director of Finance in the retailer's next monthly sales tax return.

Section 3. Amendment of Gunnison Municipal Code Section 3.10.290. Section 3.10.290 of the Gunnison Municipal Code is hereby amended to read as follows:

**3.10.290 Authorization of Use Tax.**

A. There is levied hereby and there shall be collected from every person in the City a tax or excise for the privilege of storing, using or consuming in this City any articles of tangible personal property purchased at retail, except that no use tax shall be collected for the privilege of storing any construction or building materials. Said tax shall be added to such storage or acquisition charges or costs, or the average equivalent thereof, insofar as such average equivalent is expressed in combined form with that of the tax imposed by operation of part 1 of article 26 of title 39, C.R.S., in accordance with schedules of said combined average equivalents duly adopted and promulgated by the Executive Director of the Colorado Department of Revenue. Said tax shall be payable to and shall be collected by the Director of Finance.

B. There is imposed hereby a tax in an amount equivalent to three percent on such storage or acquisition charges or costs specified in subsection (A) of this section. The receipts of the tax shall be deposited in the general fund of the City and shall be applied as specified in GMC 3.10.380.

C. Commencing July 1, 2007 through and including June 30, 2032, there is imposed hereby a tax, in addition to the tax set forth in subsection (B) of this section, in an amount equivalent to one percent on such storage or acquisition charges or costs specified in subsection (A) of this section. Commencing July 1, 2032, the tax specified in the preceding sentence shall be reduced to a tax, in addition to the tax set forth in subsection (B) of this section, in an amount equivalent to one-quarter of one percent on such storage or acquisition charges or costs specified in subsection (A) of this section. The receipts of the tax shall be deposited in the City Park and Recreation Fund and shall be applied as specified in GMC 3.10.380.

Section 4. Amendment of Gunnison Municipal Code Section 3.10.380. Section 3.10.380 of the Gunnison Municipal Code is hereby amended to read as follows:

**3.10.380 Purpose of tax.**

A. The funds derived from the tax imposed in GMC 3.10.060(A) and 3.10.290(B), after deducting so much thereof as may be necessary for the administrative expenses in administering this chapter, shall be devoted to the following purposes: 25 percent for streets and related purposes including, without limitation, the paying of the principal of, premium, if any, and interest on any securities issued pursuant to Section 8.5 of the Charter of the City for the purpose of providing such improvements; 33 percent for other capital improvements including, without limitation, the paying of the principal of, premium, if any, and interest on any securities issued pursuant to Section 8.5 of the Charter of the City for the purpose of providing such improvements; and 42 percent for general government expenses.

B. There is hereby created a special fund of the City titled the "City Park and Recreation Fund". The funds derived from the taxes imposed in GMC 3.10.060(B) and 3.10.290(C), after deducting so much thereof as may be necessary for the administrative expenses in administering this chapter, shall be deposited to the City Park and Recreation Fund. Moneys on deposit in the City Park and Recreation Fund shall be used solely for park and recreation purposes including, but not limited to (i) constructing, acquiring and improving capital improvements, (ii) acquiring and improving real property interests and equipment, (iii) operating and maintaining capital improvements, real property interests and equipment and (iv) providing for the payment of revenue bonds issued for such purposes.

Section 5. Ratification of Gunnison Municipal Code. With the exception of the provisions of the Gunnison Municipal Code which are modified as provided herein, all remaining provisions of the Gunnison Municipal Code shall remain in full force and effect.

Section 6. Effective Date. This Ordinance shall take effect upon final passage in accordance with Section 6.3 of the City Charter.

**INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED** this 22nd day of May, 2007, on first reading, and introduced, read, and adopted on second and final reading this 12th day of June, 2007.

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Mayor

(SEAL)

ATTEST:

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City Clerk

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