

**ORDINANCE NO. 2  
SERIES 2009**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON AMENDING THE PERCENTAGES OF THE EXISTING THREE PER CENT SALES AND USE TAX DEVOTED TO STREETS, CAPITAL IMPROVEMENTS, AND GENERAL GOVERNMENT EXPENSES; REFERRING THIS ORDINANCE TO THE QUALIFIED ELECTORS AT THE REGULAR MUNICIPAL ELECTION TO BE HELD MAY 12, 2009; SETTING THE BALLOT TITLE AND CONTENT OF THE BALLOT ISSUE; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.**

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

**WHEREAS**, pursuant to the Gunnison Municipal Code, the said City presently imposes a sales tax at the rate of 3.00 per cent pursuant to Section 3.10.060(A) of the Gunnison Municipal Code and a use tax at the rate of 3.00 per cent pursuant to Section 3.10.290(B) of the Gunnison Municipal Code; and

**WHEREAS**, the uses to which said sales and use taxes can be devoted are limited to 25 per cent to streets and related services, 33 per cent to other capital improvements, and 42 per cent to general government expense by the provisions of Section 3.10.380(A) of the Gunnison Municipal Code; and

**WHEREAS**, the City Council has determined that the efficiency of providing governmental services would be improved if greater flexibility in the use of the above sales and use taxes was allowed; and

**WHEREAS**, pursuant to Section 2.4 of the City Charter, the regular City election is to be held on May 12, 2009, and the City Council desires to submit a ballot issue to the qualified electors of the City at said election as set forth in this ordinance;

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

Section 1. Calling the Election. At the regular City election to be held on Tuesday, May 12, 2009, there shall be submitted to the qualified electors of the City a ballot issue which shall be in substantially the following form:

SHALL THE USE OF THE THREE PER CENT SALES AND USE TAX LEVIED BY THE CITY OF GUNNISON FOR PURPOSES OTHER THAN PARKS AND RECREATION, BE LIMITED AS FOLLOWS:

NO LESS THAN THIRTY PER CENT FOR STREETS AND RELATED SERVICES;

NO LESS THAN TEN PER CENT FOR OTHER CAPITAL IMPROVEMENTS;

THE REMAINDER FOR GENERAL GOVERNMENT EXPENSES?

Yes

No

Section 2. Setting Ballot Title and Content. For purposes of C.R.S. §1-11-203.5, this ordinance shall serve to set the title and content of the ballot issue set forth herein, and the ballot title for such ballot issue shall be the text of the ballot issue itself. Any petition to contest the form or content of the ballot title may be filed with the District Court and a copy served on the City Clerk within five days after the title of the ballot issue is set by City Council upon final passage and adoption of this ordinance.

Section 3. Conduct of Election. The officers and employees of the City are hereby authorized and directed to take all action necessary to effectuate the provisions of this ordinance and the holding of a mail ballot election on May 12, 2009.

Section 4. Amendment of Section 3.10.380(A). 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: No less than 30 per cent 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; no less than 10 per cent for other capital improvements, including, without limitation, the paying of 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 the remainder for general government expenses.

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. Severability. Should any one or more sections or provisions of this ordinance be judicially determined invalid or unenforceable, such determination shall not affect, impair, or invalidate the remaining provisions hereof, the intention being that the various provisions hereof are severable.

Section 7. Effective Date. With the exception of Section 4 hereof, this ordinance shall be in full force and effect upon its final passage and adoption. Section 4 of this ordinance shall take effect if and when the ballot question set forth in Section 2 hereof is approved by a majority of the qualified electors voting thereon at the regular election to be held on May 12, 2009.

**INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED** this 24th day of March, 2009, on first reading, and introduced, read, passed and adopted on second and final reading this 7th day of April, 2009.

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Mayor

(SEAL)

ATTEST:

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City Clerk

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