

ORDINANCE NO. 2020 – 01

AN ORDINANCE OF THE CITY OF FRUITA SETTING THE TITLE OF A BALLOT ISSUE TO PROVIDE FOR AN ADDITIONAL LODGER'S TAX ON SHORT TERM RENTAL OF ANY HOTEL ROOM, MOTEL ROOM, LODGING ROOM MOTOR HOTEL ROOM, GUEST HOUSE ROOM, RECREATIONAL VEHICLE PARK SPACE OR SIMILAR ACCOMMODATION THROUGH A SALES TAX RATE INCREASE; SUBMITTING THE BALLOT ISSUE AT THE GENERAL MUNICIPAL ELECTION TO BE HELD APRIL 7, 2020; AND SETTING DETAILS IN RELATION THERETO.

WHEREAS, the City of Fruita, Colorado ("City") is a home rule municipality duly organized and existing under the laws of the State of Colorado and the Fruita City Charter; and

WHEREAS, the Fruita City Council ("City Council") is the governing body of the City and its members have been duly elected and qualified; and

WHEREAS, the City previously adopted three percent (3%) lodging tax for the purpose of financing marketing and promotion of the City and its environs to tourists, the traveling public and others; and

WHEREAS, the City Council has identified the need to establish a permanent source of financing for economic development and parks, trails and open space; and

WHEREAS, the City's Parks, Open Space, and Trails Plan provides a lodging tax should be considered as a source of revenue to finance certain parks, open space and trails projects; and

WHEREAS, Article X, Section 20 of the Colorado Constitution ("TABOR") limits the ability of the City to enact new taxes; and

WHEREAS, Section 8.08 of the City Charter provides that any increase in an existing tax must be approved by a majority of the voters in a City election and TABOR requires that the City have voter approval in advance for a tax rate increase and for the creation of any multiple-fiscal year direct or indirect debt or other financial obligation whatsoever; and

WHEREAS, April 7, 2020, is the biennial election of the City and is one of the election dates at which Ballot Issues may be submitted to the eligible electors of the City pursuant to the TABOR Amendment; and

WHEREAS, the City will conduct its general Municipal Election on April 7, 2020, pursuant to Title 31, Article 10, Part 1, C.R.S. (the "Municipal Election Code"); and

WHEREAS, the City Council finds and determines that it is necessary and desirable to submit to the electors of the City voting at the general Municipal Election to be held on April 7, 2020, the question of enacting an increase in the lodging tax on the short term rental of any hotel room, motel room, lodging room, motor hotel room, guest house room, recreational vehicle park space or similar accommodation located within the City.

WHEREAS, the City Council desires to submit a ballot issue to the eligible electors of the City on April 7, 2020, for the purposes referenced above;

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

Section 1. All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the City and the officers thereof, directed towards the election and the objects and purposes herein stated

is hereby ratified, approved and confirmed.

Section 2. Calling and Conduct of the Election. At a General Municipal Election held on April 7, 2020, there shall be submitted to the eligible electors of the City the ballot issue set forth in this Ordinance. The City Clerk and administrative staff of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance and the holding of a general municipal election on April 7, 2020.

Section 3. Ballot Issue. The ballot issue, shall appear on the ballot as and shall be in substantially the following form:

Lodger's Tax Increase:

SHALL THE CITY OF FRUITA LODGER'S TAX BE INCREASED BY ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) IN THE FIRST YEAR (2021), AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY THE ADOPTION OF AN ADDITIONAL THREE PERCENT (3%) TAX ON THE PRICE PAID FOR LODGING IN THE CITY, WITH THE ADDITIONAL THREE PERCENT (3%) TAX COLLECTED IN THE SAME MANNER AS THE CITY'S LODGER'S TAX; WITH ALL OR ANY PORTION OF THE NET PROCEEDS OF THE ADDITIONAL 3% LODGER'S TAX, AS DETERMINED BY THE CITY COUNCIL, BEING COLLECTED. RETAINED AND SPENT TO FUND:

- PARKS, TRAILS AND OPEN SPACE AND PUBLIC PLACES, SUCH REVENUE TO BE EXPENDED TO FINANCE THE ACQUISITION, CONSTRUCTION AND MAINTENANCE OF PARKS, OPEN SPACE AND TRAILS AND PUBLIC PLACES WITHIN AND OUTSIDE THE CITY;

- ECONOMIC DEVELOPMENT WITHIN THE CITY, INCLUDING, BUT NOT LIMITED TO BUSINESS INCENTIVES, MATCHING FUNDS FOR PUBLIC-PRIVATE PARTNERSHIPS AND ATTAINABLE HOUSING;

AND SHALL THE CITY BE PERMITTED TO COLLECT, RETAIN, AND EXPEND ALL REVENUES DERIVED FROM SUCH TAX AS A VOTER APPROVED REVENUE CHANGE AND AN EXCEPTION TO LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Section 4. Contests Concerning Title Setting. 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 the City Council upon adoption of this Ordinance.

Section 5. Effective Date and Election Results. This Ordinance shall be effective in accordance with the City Charter. If a majority of the votes cast on the ballot issue set forth in Section 2 hereof shall be in favor of such ballot issue, the applicable provisions of the City Code shall thereafter be amended consistent with the terms of said ballot issue and as provided in Section 6 herein.

Section 6. Implementing Ordinance. Subject to voter approval and certification of the results with respect to the Ballot Question contained in Section 2 herein, the Fruita Municipal Code shall be amended as set forth below (~~Deleted text is in red with strikeout~~ and **NEW TEXT IS IN BOLD, CAPITAL LETTERS**):

a. Sections 3.18.030(B) and (C) shall be amended as follows:

B. The amount of the tax levied hereby is ~~three~~ **SIX** percent (~~36~~%) of the gross taxable sale paid or charged for purchasing said lodging.

C. Any person providing lodging within the City of Fruita shall collect a tax from all those to whom lodging is provided amounting to ~~three~~ **SIX** percent (~~36~~%) of the total rental revenue received by such vendor. Such tax shall be in addition to any other tax or levy for providing such service.

b. Section 3.18.070(A) shall be amended as follows:

A. Amount. Every vendor shall add the tax imposed by this chapter to the purchase price or charge of all lodging within the City; provided that the vendor shall be liable and responsible to the City for the payment on a monthly basis of an amount equal to ~~three~~ **SIX** percent (~~36~~%) of all his gross taxable sales, and any collection in excess of the percentage, less the vendors' collection fee. Vendors collecting and remitting the tax can, if such vendor is in compliance with the provisions of this chapter, deduct three and one-third percent (3 1/3%) of the amount remitted as a collection fee.

c. Section 3.18.230 shall be amended as follows:

Section 3.18.230. TOURISM PROMOTIONAL FUND. There is hereby created a fund to be known as the "Marketing and Promotional Fund". ~~AN~~ **ONE HALF (50%)** of the revenues derived from the lodger's tax imposed by this chapter shall be placed in such fund. All expenditures for such fund shall be for the purpose of marketing and promotion of the City and its environs to tourists, the traveling public and others, in addition to costs incurred by the City in the collection and enforcement of this chapter.

d. Section 3.18.050 shall be deleted in its entirety and shall be amended by the addition of the following Section 3.18.250

SECTION 3.18.250. ECONOMIC DEVELOPMENT FUND. THERE IS HEREBY CREATED A FUND TO BE KNOWN AS THE "ECONOMIC DEVELOPMENT FUND." CERTAIN REVENUES, AS DETERMINED BY COUNCIL, DERIVED FROM THE LODGER'S TAX IMPOSED BY THIS CHAPTER SHALL BE PLACED IN SUCH FUND. ALL EXPENDITURES FROM SUCH FUND SHALL BE FOR THE PURPOSE OF FINANCING BUSINESS INCENTIVES, MATCHING FUNDS FOR PUBLIC-PRIVATE PARTNERSHIPS AND ATTAINABLE HOUSING, AS WELL AS OTHER PURPOSES DEEMED APPROPRIATE BY COUNCIL.

e. Section 3.18.260 of the Fruita Municipal Code shall be amended by the addition of the following Section 3.18.260.

SECTION 3.18.260. PARKS, TRAILS, OPEN SPACE AND PUBLIC PLACES FUND. THERE IS HEREBY CREATED A FUND TO BE KNOWN AS THE "PARKS, TRAILS, OPEN SPACE AND PUBLIC PLACES FUND." CERTAIN REVENUES, AS DETERMINED BY COUNCIL, DERIVED FROM THE LODGER'S TAX IMPOSED BY THIS CHAPTER SHALL BE PLACED IN SUCH FUND AND SHALL BE USED TO FINANCE THE ACQUISITION, CONSTRUCTION AND MAINTENANCE OF OPEN SPACE, TRAILS AND PUBLIC PLACES WITHIN AND OUTSIDE THE CITY.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL THIS
7th DAY OF JANUARY, 2020.**

ATTEST:

CITY OF FRUITA, COLORADO

City Clerk, Margaret Sell

Mayor, Joel Kincaid