

CITY OF BRIGHTON, COLORADO

A RESOLUTION SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY AT THE REGULAR ELECTION TO BE HELD ON NOVEMBER 7, 2017 A BALLOT ISSUE AND TITLE CONCERNING AN INCREASE IN THE CITY'S USE TAX.

Resolution No.: 2017-97

WHEREAS, the City of Brighton, in the Counties of Adams and Weld and State of Colorado (the "City"), is a home rule municipal corporation duly organized and existing under laws of the State of Colorado and the City Charter (the "Charter"); and

WHEREAS, the members of the City Council of the City (the "Council") have been duly elected and qualified; and

WHEREAS, Article X, Section 20 of the Colorado Constitution, also referred to as the Taxpayer's Bill of Rights ("TABOR"), requires voter approval for any new tax, any increase in any tax rate, the creation of any multiple fiscal year financial obligation, and the spending of certain funds above limits established by TABOR; and

WHEREAS, the City currently imposes a use tax of 3.75% on the privilege of storing, using or consuming any construction and building materials of every kind and form purchased outside the City and on motor vehicles purchased outside the City by City residents for use, storage or consumption within the City; and

WHEREAS, the Council wishes to submit to the registered electors of the City a ballot issue authorizing an increase in City taxes by expanding the transactions to which the use tax applies; and

WHEREAS, TABOR requires that the City submit ballot issues, as defined in TABOR, to the City's registered electors on specified election days before action can be taken on such ballot issues; and

WHEREAS, Article III, Section 3.1 of the Charter provides that City elections shall be governed by the Colorado municipal election law; and

WHEREAS, Section 31-10-102.7, C.R.S., of the Colorado Municipal Election Code, provides that a municipality may provide by ordinance or resolution that it will utilize the requirements and procedures of the Uniform Election Code of 1992; and

WHEREAS, on November 7, 2017, the City will be conducting its regular municipal election as part of the coordinated election (the "Election") being conducted by the Adams County Clerk and Recorder and the Weld County Clerk and Recorder (collectively, the "County Clerks") pursuant to the Uniform Election Code of 1992 (the "Election Code"); and

WHEREAS, the Council wishes to submit the tax increase question set forth in this Resolution to the registered electors of the City on November 7, 2017 which is one of the election dates at which TABOR ballot issues may be submitted pursuant to TABOR.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AS FOLLOWS:

Section 1. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the City and the employees and officers thereof directed toward the Election and the objects and purposes herein stated, is ratified, approved and confirmed. Unless otherwise defined herein, all terms used herein shall have the meanings specified in the Election Code.

Section 2. The Election shall be conducted as a coordinated election by the County Clerks pursuant to TABOR and the Uniform Election Code of 1992, and all laws amendatory thereof and supplemental thereto. The Election shall also be conducted pursuant to the provisions of intergovernmental agreements (collectively, the “intergovernmental agreement”) between the City and the County Clerks. The City hereby determines that the Election shall be held on November 7, 2017, and that there shall be submitted to the eligible electors of the City the question set forth herein. Since the Election will be held as part of the coordinated election, the Council hereby determines that the County Clerks shall conduct the Election on behalf of the City pursuant to the Uniform Election Code of 1992 and the applicable intergovernmental agreement. The officers of the City are hereby authorized to enter into one or more intergovernmental agreements with the County Clerks pursuant to Section 1-7-116, C.R.S. Any such intergovernmental agreement heretofore entered into in connection with the Election is hereby ratified, approved and confirmed.

Section 3. Pursuant to Section 31-11-111, C.R.S., the title and submission clause which shall be submitted to the eligible electors of the City at the Election shall be in substantially the following form:

QUESTION 1-A: AUTHORIZATION TO EXPAND THE TRANSACTIONS TO WHICH THE CITY’S 3.75% USE TAX APPLIES TO PROVIDE SERVICES AND PUBLIC FACILITIES AND AMENITIES TO CITIZENS, INCLUDING WITHOUT LIMITATION, PUBLIC SAFETY, SUPPORT SERVICES, STREETS, AND PARK AND RECREATION.

SHALL CITY OF BRIGHTON TAXES BE INCREASED BY UP TO \$4,000,000 IN 2018 AND BY WHATEVER AMOUNTS ARE GENERATED ANNUALLY THEREAFTER, BY IMPOSING, BEGINNING JANUARY 1, 2018, A USE TAX OF 3.75% ON THE STORAGE OR ACQUISITION CHARGES OR COSTS FOR THE PRIVILEGE OF STORING, USING, OR CONSUMING IN THE CITY ANY ARTICLES OF TANGIBLE PERSONAL PROPERTY PURCHASED AT RETAIL (IN ADDITION TO THE TRANSACTIONS ALREADY SUBJECT TO THE USE TAX) PROVIDED THAT NO SUCH TAX WILL BE IMPOSED ON PURCHASES OF TANGIBLE PROPERTY ON WHICH THE CITY SALES TAX IS COLLECTED OR TRANSACTIONS WHICH ARE OTHERWISE EXEMPTED FROM THIS TAX BY FUTURE ACTION OF THE CITY COUNCIL, WITH THE REVENUES FROM SUCH TAX TO BE USED TO PROVIDE SERVICES AND PUBLIC FACILITIES AND AMENITIES TO CITIZENS, INCLUDING WITHOUT LIMITATION, PUBLIC SAFETY, SUPPORT SERVICES, STREETS, AND PARK AND RECREATION; AND SHALL THE CITY BE AUTHORIZED TO COLLECT, RETAIN AND SPEND ALL REVENUES IT RECEIVES FROM SUCH TAX AND INVESTMENT INCOME THEREON, AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

Section 4. The City Clerk is hereby appointed as the designated election official of the City for purposes of performing acts required or permitted by law in connection with the Election.

Section 5. Pursuant to Section 1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set.

Section 6. The officers and employees of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

Section 7. If any portion of this Resolution is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution. The Council hereby declares that it would have passed this Resolution and each part hereof irrespective of the fact that any one part be declared invalid.

Section 8. All other resolutions or portions thereof inconsistent or conflicting with this Resolution or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

ADOPTED this 5th day of September, 2017.

CITY OF BRIGHTON, COLORADO

Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

APPROVED AS TO FORM:

Margaret R. Brubaker, City Attorney

STATE OF COLORADO)
)
 ADAMS COUNTY) SS.
)
 CITY OF BRIGHTON)

I, Natalie Hoel, the City Clerk of the City of Brighton (the “City”), do hereby certify that:

a. The foregoing pages are a true and correct copy of a resolution (the “Resolution”) passed and adopted by the City Council of the City (the “Council”) at a regular meeting held on September 5, 2017.

b. The Resolution was duly moved and seconded and the Resolution was adopted at the meeting of September 5, 2017, by an affirmative vote of a majority of the members of the Council as follows:

Name	“Yes”	“No”	Absent
Richard N. McLean, Mayor			
Kirby Wallin			
Joan Kniss			
Rex Bell			
Mary Ellen Pollack			
Lynn Baca			
Ken Kreutzer			
J.W. Edwards			
Mark Humbert			

c. The members of the Council were present at such meetings and voted on the passage of such Resolution as set forth above.

d. The Resolution was approved and authenticated by the signature of the Mayor, sealed with the City seal, attested by the City Clerk and recorded in the minutes of the Council.

e. There are no bylaws, rules or regulations of the Council which might prohibit the adoption of said Resolution.

f. Notice of the meeting of September 5, 2017, in the form attached hereto as Exhibit A, was posted at Brighton City Hall, not less than twenty-four hours prior to the meeting in accordance with law.

WITNESS my hand and the seal of the City affixed September __, 2017.

(SEAL)

 City Clerk

EXHIBIT A

(Attach Notice of Meeting of September 5, 2017)

