

**ORDINANCE #18**

**SERIES OF 2024**

**AN ORDINANCE OF THE CITY OF ASPEN, COLORADO, AMENDING CHAPTER 23, OF THE CITY OF ASPEN MUNICIPAL CODE TO PROVIDE FOR THE COLORADO DEPARTMENT OF REVENUE TO COLLECT CITY SALES TAX; REMOVE VENDOR'S FEES; AND TO UPDATE THE MUNICIPAL CODE CONCERNING TAXES THAT WILL CONTINUE TO BE COLLECTED, ADMINISTERED, AND ENFORCED BY THE CITY.**

**WHEREAS**, The City of Aspen, as a home rule municipality, collects its own sales and use taxes pursuant to Chapter 23 of the City of Aspen Municipal Code, and in particular, Chapter 23.32 of the Municipal Code; and

**WHEREAS**, C.R.S. § 29-2-106(4)(a)(I) requires the Colorado Department of Revenue to collect the sales tax of any home rule municipality upon request of the governing body, pursuant to certain conditions, including that the City's tax ordinance conform to state requirements; and

**WHEREAS**, pursuant to the above referenced statute, the City can provide that its sales tax be collected by the Colorado Department of Revenue on standard forms at the same time the Department of Revenue collects state sales tax on sales made in Aspen; and

**WHEREAS**, Aspen may continue to decide its own tax base, provided it cannot exempt from sales tax any items that the State of Colorado has not exempted, but may exempt fewer items than the State of Colorado exempts, pursuant to C.R.S. §29-2-106(4)(a)(1) and §29-2-105(1)(d)(I); and

**WHEREAS**, pursuant to the above noted statutes, to enable state collection of City of Aspen sales tax, the City must make certain changes to its Municipal Code to conform to the requirements set out in C.R.S. §29-2-105, which changes are reflected in this ordinance; and

**WHEREAS**, the dual system of separate collection of state and local sales taxes is generally regarded by local and multi-jurisdictional businesses as complex and burdensome, and may be simplified by collection of both state and local sales taxes by the Colorado Department of Revenue on one return; and

**WHEREAS**, the City otherwise desires to streamline the sales tax collection process through unifying the City's sales tax return with the state sales tax return, thereby simplifying the process for vendors and reducing collection costs for the City; and

**WHEREAS**, the adoption of this ordinance will not create any new tax or tax policy change directly causing a net tax revenue gain to the City, and therefore no election is required pursuant to Art. X, Sec. 20 (4)(a) of the Colorado Constitution, *see TABOR Foundation v. Regional Transportation District*, 416 P.3d 101 (Colo. 2018); and

**WHEREAS**, the City also desires to update Chapter 23 of the Municipal Code to reflect local cigarette tax collection and add Chapter 23.56 in accordance with previous voter approval obtained through the November 2017 ballot issue 2B and by approval of Resolution No. 122, Series of 2017,

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO**, that:

**Section 1:** Chapter 23.32 – Sales Tax of the Municipal Code is hereby repealed and replaced, to read in its entirety as set forth on the attached Exhibit A, which is incorporated by reference as though fully set forth herein.

**Section 2:** Chapter 23.56 – Tobacco and Nicotine Product Tax of the Municipal Code is hereby added to the Municipal Code to read in its entirety as set forth on the attached Exhibit B, which is incorporated by reference as though fully set forth herein.

**Section 3:** Chapter 23.58 – Food Tax Refunds of the Municipal Code is hereby added to the Municipal Code to read in its entirety as set forth on the attached Exhibit C, which is incorporated by reference as though fully set forth herein.

**Section 4:** Section 23.04.010 – General Provisions, Words and Phrases Defined of the Municipal Code is hereby repealed and replaced, to read in its entirety as set forth on the attached Exhibit D, which is incorporated by reference as though fully set forth herein.

**Section 5:** The following additions shall be incorporated into the Municipal Code:

- Section 23.04.050. This chapter shall not apply to Section 23.32 – Sales Tax.
- Section 23.08.060. This chapter shall not apply to Section 23.32 – Sales Tax.
- Section 23.12.050. This chapter shall not apply to Section 23.32 – Sales Tax.
- Section 23.16.050. This chapter shall not apply to Section 23.32 – Sales Tax.
- Section 23.20.080. This chapter shall not apply to Section 23.32 – Sales Tax.
- Section 23.24.040. This chapter shall not apply to Section 23.32 – Sales Tax.
- Section 23.28.100. This chapter shall not apply to Section 23.32 – Sales Tax.


**Section 6:** The following section for the Municipal Code shall be amended as follows: Section 23.04.030(b)(1) shall be repealed in its current state and Section 23.04.030(b)(2) shall be renumbered as 23.04.030(b)(1).

**Section 7:** After adoption by the City Council, the City Clerk shall provide a copy of this Ordinance to the executive director of the Colorado Department of Revenue at least 45 days prior to the commencement of state collection of City sales taxes. If any portion of this ordinance is declared to be void or ineffective by a court of competent jurisdiction, it shall be deemed severed from this ordinance, and the remaining portions shall remain valid and in full force and effect. The City's officials are authorized and directed to take all action necessary and appropriate to effectuate the provisions of this ordinance. All references to Colorado law are to the versions of those laws in effect at the time of this ordinance was adopted as well as any subsequent amendments thereto.

**Section 8:** The Municipal Code amendments set forth in this Ordinance shall apply to all sales transactions occurring on or after January 1, 2025.

**INTRODUCED AND READ**, as provided by law, by the City Council of the City of Aspen on the 8th day of October 2024.

**ATTEST:**

  
\_\_\_\_\_  
Nicole Henning, City Clerk

  
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Torre, Mayor

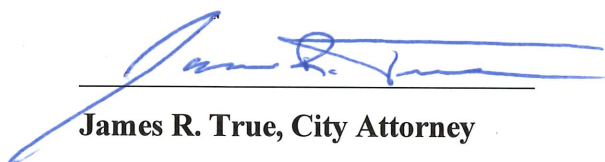
**FINALLY**, adopted, passed and approved this 22 day of OCTOBER 2024.

**ATTEST:**

  
\_\_\_\_\_  
Nicole Henning, City Clerk

  
\_\_\_\_\_  
Torre, Mayor

**APPROVED AS TO FORM:**

  
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James R. True, City Attorney