

AN ORDINANCE OF THE GENERAL ASSEMBLY OF THE TOWN OF OPHIR, COLORADO, CALLING AN ELECTION ON NOVEMBER 8, 2011 TO AUTHORIZE A MILL LEVY INCREASE WITH ALL REVENUES TO BE ALLOCATED TO THE GENERAL FUND; SETTING THE BALLOT TITLE AND CONTENT FOR THE BALLOT ISSUE; AND PROVIDING OTHER MATTERS RELATING TO THE BALLOT ISSUE.

WHEREAS, the Town of Ophir (the "Town"), is a municipal corporation duly organized and existing as a home rule municipality under Article XX of the State Constitution and laws of the State of Colorado and its Home Rule Charter (the "Charter"); and

WHEREAS, the members of the General Assembly of the Town (the "General Assembly") have been duly qualified in accordance with State law and the Charter; and

WHEREAS, Article X, Section 20 of the Colorado Constitution ("TABOR") requires voter approval for the creation of any debt, the imposition of any new tax, the extension of an expiring tax, and for collecting, retaining and expending certain moneys above limits established by TABOR; and

WHEREAS, the interest of the Town and public interest and necessity demand and require that the General Fund obtain adequate revenues in order to administer the laws of the Town; and

WHEREAS, TABOR requires the Town to submit ballot issues (as defined in TABOR) to the Town's electors on limited election days before action can be taken on such ballot issues; and

WHEREAS, November 8, 2011, is one of the election dates at which ballot issues may be submitted to the eligible electors of the Town pursuant to TABOR; and

WHEREAS, the County Clerk and Recorder in San Miguel County (the "County Clerk") will conduct the election on November 8, 2011, as a coordinated election (the "election"); and

WHEREAS, Article II, Section 4 of the Charter states that elections of the Town shall be conducted to conform to the Colorado Municipal Election Law, being Title 31, Article 10, C.R.S, unless such Colorado Municipal Election Law is conflicted by a contrary or more specific provision of the Charter; and

WHEREAS, pursuant to Section 31-10-102.7, C.R.S. of the Colorado Municipal Election Law, the Town has determined to utilize the requirements of the Uniform Election Code of 1992, Articles 1 to 13 of Title 1, C.R.S. (the "Uniform Election Code"), and to coordinate a regular municipal election with San Miguel County; and

WHEREAS, the General Assembly hereby determines that it is necessary to submit to the electors of the Town, at the regular municipal election to be held on November 8, 2011, the question of increasing the Town mill levy mills to finance the General Fund and increasing ad valorem property taxes within the Town to pay for same as further described in Section 5 below.

WHEREAS, it is necessary to set forth certain procedures concerning the conduct of the regular municipal election.

NOW, THEREFORE, BE IT ORDAINED BY THE GENERAL ASSEMBLY OF TOWN OF OPHIR:

Section 1. All action heretofore taken (not inconsistent with the provisions of this ordinance) by the Town and the officers thereof, directed towards the election, and the objects and purposes herein stated is hereby ratified, approved and confirmed.

Section 2. Pursuant to Section 31-10-102.7, C.R.S., the General Assembly hereby determines that the Town shall utilize the requirements and procedures of the Uniform Election Code, in lieu of the Colorado Municipal Election Code of 1965, Article 10 of Title 31, C.R.S., (the "Municipal Election Code") with respect to the election.

Section 3. Unless otherwise defined herein, all terms used herein shall have the meanings defined in the Uniform Election Code of 1992, Title 1, Articles 1 through 13, C.R.S., as amended (the "Uniform Election Code").

Section 4. The General Assembly hereby determines to refer a ballot question to the electors of the Town at a regular municipal election to be conducted on November 8, 2011, pursuant to the Uniform Election Code. The General Assembly hereby determines that there shall be submitted to the eligible electors of the Town the question set forth in Section 5 hereof. Because this election will be held as part of the coordinated election, the General Assembly hereby determines that the County Clerk shall conduct the election on behalf of the Town and act as Coordinated Election Official. The officers of the Town are authorized to enter into an intergovernmental agreement with the County Clerk for the coordinated election 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 5. The General Assembly hereby authorizes and directs the designated election official, as determined in Section 6 below, to certify to the County Clerk, on or before September 7, 2011, the question in substantially the form hereinafter set forth. Such question shall be submitted to the eligible electors of the Town at the regular municipal election in substantially the following form:

OPHIR BALLOT ISSUE

SHALL THE TOWN OF OPHIR PROPERTY TAXES BE INCREASED \$60,000 ANNUALLY FOR THE PURPOSE OF INCREASING REVENUES FOR THE GENERAL FUND, PROVIDED THAT THE AMOUNT OF SAID INCREASE SHALL BE TEMPORARILY REDUCED EACH YEAR BY AN AMOUNT EQUAL TO THE TOTAL REAL ESTATE TRANSFER TAX REVENUE RECEIVED BY THE TOWN IN EXCESS OF \$57,889.00 COLLECTED DURING THE IMMEDIATE TWELVE MONTH PERIOD ENDING NOVEMBER 30 PRIOR TO THE ADOPTION OF THE BUDGET FOR THE NEXT FISCAL YEAR, AND SHALL THE TOWN BE AUTHORIZED TO COLLECT, RETAIN AND SPEND THE REVENUES AS A VOTER APPROVED REVENUE CHANGE NOTWITHSTANDING ANY MILL LEVY, REVENUE OR EXPENDITURE LIMITATION CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, C.R.S. SECTION 29-1-301, OR ANY OTHER LAW?

Section 6. The Town Clerk is hereby appointed as the designated election official of the Town for purposes of performing acts required or permitted by law in connection with the election.

Section 7. If a majority of the votes cast on the question to authorize the levy of taxes submitted at the election shall be in favor of the levy of taxes as provided in such question, the Town acting through the General Assembly shall be authorized to proceed with the necessary action to levy the taxes in accordance with such question. Any authority to levy the taxes, if conferred by the results of the election, shall be deemed and considered a continuing authority to levy the taxes so authorized at any one time, or from time to time, and neither the partial exercise of the authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the full authority so conferred.

Section 8. If a majority of the votes cast on the question authorize the levy of taxes as described in the question set forth in Section 5 above, the Town shall take all further action which is necessary or desirable in connection therewith. The officers, employees and agents of the Town shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby and shall take all action necessary or desirable to otherwise carry out the transactions contemplated by the Ordinance. 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 or within five days after the ballot order is set.

Section 9. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall in no manner affect any remaining provisions of this Ordinance.

Section 10. All ordinances, resolutions or parts of ordinances or resolutions inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution or part of any ordinance or resolution heretofore repealed.

Section 11. The effective date of this Ordinance shall be immediately upon adoption.

Introduced, Read and Approved on First Reading by the General Assembly on the 21st day of June, 2011.


Approved and Adopted on Second and Final Reading by the General Assembly of the Town of Ophir on the 16th day of August, 2011.

(S E A L)



Mayor

ATTEST:



Town Clerk

THIS ORDINANCE IS ON FILE IN THE TOWN CLERK'S OFFICE FOR PUBLIC INSPECTION.

APPROVED AS TO FORM:

Town Attorney

EXHIBIT A

(Attach Form of Notice of Meeting)