CITY OF ENGLEWOOD

NOTICE OF APPROVAL
OF A BILL FOR AN ORDINANCE

On the 15th day of June 2020, the City Council of the City of Englewood, Colorado, approved on first reading the following Council Bill:

BY AUTHORITY
COUNCIL BILL NO. 23
INTRODUCED BY
COUNCIL MEMBER
ANDERSON

A BILL FOR AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF ENGLEWOOD AT THE NOVEMBER 3, 2020 GENERAL ELECTION A BALLOT ISSUE TO AUTHORIZE THE CITY OF ENGLEWOOD LODGING TAX TO BE INCREASED FROM 2% TO 5%, WITH THE RESULTING REVENUE TO BE USED TO FUND ANY LAWFUL GOVERNMENTAL PURPOSE DETERMINED BY THE CITY COUNCIL, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT NOTWITHSTANDING ANY LIMITATIONS PROVIDED BY LAW

Copies of the aforesaid council bill are available for public inspection in the office of the City Clerk, City of Englewood, Civic Center, 1000 Englewood Parkway, Englewood, Colorado 80110 or it can be found at http://www.englewoodco.gov, Government, Legal/Public Notices.

Published June 17, 2020
Official Website of the City of Englewood, Colorado
A BILL FOR

AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF ENGLEWOOD AT THE NOVEMBER 3, 2020 GENERAL ELECTION A BALLOT ISSUE TO AUTHORIZE THE CITY OF ENGLEWOOD LODGING TAX TO BE INCREASED FROM 2% TO 5%, WITH THE RESULTING REVENUE TO BE USED TO FUND ANY LAWFUL GOVERNMENTAL PURPOSE DETERMINED BY THE CITY COUNCIL, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT NOTWITHSTANDING ANY LIMITATIONS PROVIDED BY LAW

WHEREAS, this bill for an ordinance would submit to the registered voters of the City of Englewood a ballot question issue regarding increasing City taxes by imposing an additional 3% tax on the sale of lodging in the City, with the resulting tax revenue to be used to fund any lawful governmental purpose determined by the City Council, and with the resulting tax revenue being allowed to be collected and spent notwithstanding any limitations provided by law; and

WHEREAS, Article X, § 20 of the Colorado Constitution, commonly known as TABOR, requires that the City receive voter approval prior to the increase of any tax.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, THAT:

Section 1. The following ballot issue shall be submitted to the registered electors of the City of Englewood at the special election on November 3, 2020:

SHALL CITY OF ENGLEWOOD TAXES BE INCREASED BY $____ ANNUALLY IN THE FIRST FISCAL YEAR, AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER, BY AN INCREASE IN THE CITY'S LODGING TAX FROM 2% TO 5%, WITH SUCH TAX TO BE LEVIED ON THE COST OF THE RENTAL FEE, PRICE OR OTHER CONSIDERATION PAID OR RECEIVED FOR THE LODGING ON EACH FULL DOLLAR OF SAID RENTAL FEE, COST OR OTHER CONSIDERATION PAID, WITH THE TAX INCREASE COMMENCING ON JANUARY 1, 2021, WITH THE REVENUES FROM SUCH TAX TO BE USED FOR ANY LAWFUL GOVERNMENTAL PURPOSE DETERMINED BY THE CITY COUNCIL; AND SHALL THE REVENUES FROM SUCH TAX AND
ANY INVESTMENT EARNINGS THEREON BE COLLECTED AND SPENT BY THE CITY AS A VOTER-APPROVED REVENUE CHANGE, WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING OR OTHER LIMITATION CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

YES __    NO __

Section 2. 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 question shall be the text of the question itself.

Section 3. If any section, paragraph, clause, or other portion of this Ordinance is for any reason held to be invalid or unenforceable, the invalidity or unenforceability shall not affect any of the remaining portions of this Ordinance.

Introduced, read in full, and passed on first reading on the 15th day of June, 2020.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 18th day of June, 2020.

Published as a Bill for an Ordinance on the City's official website beginning on the 17th day of June, 2020 for thirty (30) days.

Linda Olson, Mayor

ATTEST:

Stephanie Carlile, City Clerk

I, Stephanie Carlile, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Bill for Ordinance introduced, read in full, and passed on first reading on the 15th day of June, 2020.

Stephanie Carlile, City Clerk
Colorado's Fair Campaign Practices Act Restricts Use of Public Funds

Ballots in statewide or local elections often include issues of profound importance to Colorado municipalities. As community leaders, municipal officials can and should become actively involved in the public discussion of these issues. However, the state Fair Campaign Practices Act (FCPA) places significant restrictions on the use of public funds for advocacy purposes or for dispensing information in connection with local or statewide ballot issues (C.R.S. § 1-45-117).

The FCPA restrictions on the use of public funds apply:
- once a statewide petition has been submitted for title setting,
- once a title has been set for a local initiative or referendum,
- upon final action of the governing body placing a referred measure on the ballot, and
- once the recall election of any officer has been certified to voters.

These guidelines are intended to provide municipal officials and employees with general guidance concerning what they may or may not do, consistent with the FCPA. However, your municipal attorney should be consulted before any action is taken that could be viewed as subject to the public-funds restrictions in the FCPA.

Permissible activities
It is permissible to do the following in campaigns in support of or in opposition to a proposed measure:

1. The local governing body may take a position of advocacy on the issue. The governing body may pass a resolution and take a public stand urging the electorate to vote for or against any matter. Local governments may report the passage of or distribute such resolutions “through established, customary means, other than paid advertising, by which information about other proceedings of [the governing body] is regularly provided to the public” (such as via a local government newsletter or cable television broadcast).

2. The Act provides that any public official who has “policy-making responsibilities” may spend up to $50 of public money on phone calls, letters, or other activities “incidental” to expressing his or her opinion on any issue. It is advisable to consult with your municipal attorney before expending public funds in reliance on this provision.

3. Elected officials may speak out on the issues presented on the ballot. There is no limitation in the FCPA on the right of public officials to address any matter before the electorate; the limitations in the Act are on the expenditure of public funds.

4. Public employees and paid elected officials may work on a campaign and speak out on the issues on their own time. Any public employee who becomes involved in the campaign should be prepared to document that such work was done on his or her own time. If the public employee is on a recorded-hour system, make sure the record reflects that the public employee took time off from public duties to engage in campaign activities.
5. Public employees may respond to unsolicited questions or requests for information about a ballot issue; however, the local government should carefully avoid producing information for distribution that is designed to influence the passage or defeat the issue.

6. The local governing body may use public funds to develop and distribute a factual summary on any issue that will appear on a ballot in the jurisdiction. The summary must include arguments for or against the proposal, but the summary itself may not contain a conclusion or opinion in favor of or against the proposal.

**Impermissible activities**

It is impermissible under the FCPA, except as indicated above, to do the following in campaigns in support of or in opposition to a proposed measure:

1. Use or expend public funds or supplies;
2. Allow employees or paid officers to work on a campaign during their working hours or use any public facility or equipment for the purposes of a campaign;
3. Provide transportation or advertising using public property or funds to influence, directly or indirectly, the passage or defeat of any issue; or
4. Grant an employee or officer leave from his job or office with the local government, with pay, to work on a campaign.

For more information, contact Laurel Witt, CML Staff Attorney, at lwitt@cml.org or 303-831-6411.