

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF  
SAN MIGUEL COUNTY, COLORADO**

**ESTABLISHING A COUNTY WIDE LODGING TAX FOR TOURISM PROMOTION AND MANAGEMENT WITHIN SAN MIGUEL COUNTY; SAID TAX TO APPLY WITHIN THE TOWN OF TELLURIDE ONLY ON REPEAL OF THE TELLURIDE LODGING TAX; AND, PROVIDING FOR THE SUBMISSION OF SAID TAX TO THE REGISTERED, QUALIFIED ELECTORS OF THE TOWNS OF NORWOOD, OPHIR, SAWPIT, AND TELLURIDE, AND OF THE UNINCORPORATED AREAS OF THE COUNTY AT THE NOVEMBER 2, 1993 SPECIAL ELECTION**

**RESOLUTION #1993-60**

WHEREAS, C.R.S. § 30-11-107.5 authorizes San Miguel County to impose a county-wide lodging tax of up to 2% on the price paid or charged to persons for rooms or accommodations, as defined in C.R.S. § 39-26-102(11), for the purpose of raising revenue for advertising and marketing local tourism; and

WHEREAS, the Colorado Constitution, Article X, Section 20 requires that ballot issues shall be decided in a state general election, in a biennial local district election, or on the first Tuesday in November of odd-numbered years; and

WHEREAS, C.R.S. § 30-11-107.5(3)(a) provides that a county wide lodging tax shall only be approved at a general election; because this provision conflicts with Colorado Constitution Article X, Section 20, the constitutional provision shall supersede the statute; and

WHEREAS, any lodging tax proposed by the County shall not apply within any municipality already levying a lodging tax; and

WHEREAS, the Town of Telluride currently imposes a lodging tax of 2%, codified at Chapter 3.20 of the Town of Telluride Municipal Code; and Section 3.20.390 thereof provides a Sunset Clause for the Town lodging tax and requires coordination with the County at such time as the County proposes to enact, in the determination of the Telluride Town Council, a substantially similar lodging tax which would apply within the Telluride region; and Section 3.20.390.B provides a mechanism by which the Town lodging tax may be repealed by the voters of the Town of Telluride, conditional upon the approval of the voters of the County of a substantially similar county-wide lodging tax, at an election to be held prior to or simultaneous with the election for the county-wide tax; and

WHEREAS, the county-wide lodging tax proposed herein is substantially similar to the Town of Telluride lodging tax codified at Chapter 3.20 of the Telluride Municipal Code; and

WHEREAS, the county-wide lodging tax proposed herein shall not be imposed unless approved by the majority of the registered electors of the municipalities of Norwood, Ophir, Sawpit, and

Telluride, and of the unincorporated areas of San Miguel County subject to the lodging tax voting thereon; and it shall not apply within the Town of Telluride unless the Town lodging tax is repealed by the Town of Telluride electors prior to or simultaneous with approval of the county-wide tax, and unless such electors also vote to approve the imposition of the County lodging tax within the Town of Telluride;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY AS FOLLOWS:

Section 1. Lodging Tax Imposed on Transaction of Furnishing Rooms or Accommodations.

Subject to the approval of the eligible registered electors of San Miguel County at the general election to be held on November 2, 1993, there is hereby imposed and levied and shall be collected a lodging tax of up to 2.0% on the purchase price paid or charged to persons for rooms or accommodations as included in the definition of "sale" in C.R.S. § 39-26-102(11). Thus, the lodging tax shall be imposed on the transaction of furnishing rooms or accommodations by any person, partnership, limited liability company, association, corporation, estate, receiver, trustee, assignee, lessee, or person acting in a representative capacity or any other combination of individuals by whatever name known to a person who for consideration uses, possesses, or has the right to use or possess any room in a hotel, apartment hotel, lodging house, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, or trailer court and park, under any concession, permit, right of access, license to use, or other agreement, or otherwise. The lodging tax shall apply to such transactions of thirty days or less.

Section 2. Point of Imposition.

For the purpose of the lodging tax imposed by this Resolution, all sales are consummated at the place where the actual rooms or accommodations, which are provided, are located.

Section 3. Administration.

The County lodging tax shall be collected, administered, and enforced, to the extent feasible, pursuant to C.R.S. § 29-2-106, as Amended.

Section 4. Persons Liable.

Any person or entity providing rooms or accommodations as defined in Section 1. of this Resolution, and at C.R.S. § 39-26-102(11), as Amended, shall be liable and responsible for the payment of an amount equal to 2.0%, or such other lower rate of

tax as shall be imposed pursuant to Section 7. of this Resolution and C.R.S. § 30-11-107.5(3)(b)(II), of all such sales made, and shall quarterly, unless otherwise provided by law, make a return to the Executive Director of the Department of Revenue for the preceding tax-reporting period and remit an amount equivalent up to the said 2.0%, or other rate, on such sales to said Executive Director.

Section 5. Relationship to Town of Telluride Lodging Tax.

At the time of this Resolution there exists a substantially similar lodging tax of 2% in the Town of Telluride. See Chapter 3.20 of the Town of Telluride Municipal Code. The county-wide lodging tax shall not apply within the Town of Telluride unless the Town tax is repealed by the electors of the Town of Telluride at the special election to be held on November 2, 1993. To that effect, the Board of County Commissioners of San Miguel County hereby submits this Resolution to the Town Council of the Town of Telluride so that it may refer the question of a repeal to the Town electors, in accordance with the Telluride Home Rule Charter and Municipal Code, Section 3.20.390.

The lodging tax ballot question shall be referred separately to the registered electors of (1) the Town of Telluride, where a lodging tax already exists, and where the Town of Telluride electors will simultaneously decide on a repeal of the Town lodging tax contingent upon the approval of this County-wide Lodging Tax; and (2) the Towns of Norwood, Ophir, and Sawpit, and the unincorporated area of the County.

The Town of Telluride electors shall vote on the repeal of the Town lodging tax, such repeal to be contingent upon their approval of the County-wide lodging tax, and shall also vote on approval of the County lodging tax. If the Town of Telluride electors do not approve a repeal of the Town lodging tax, their votes in favor or opposed to the County lodging tax shall not be counted and the County lodging tax shall not apply within the Town of Telluride. If the Town of Telluride electors approve the repeal of the Town lodging tax, their votes in favor of or opposed to the County lodging tax shall be counted and the County lodging tax shall apply within the Town of Telluride only if approved by a majority of the Town of Telluride electors. If the Town of Telluride electors approve the repeal of the Town lodging tax but do not approve the County lodging tax, then the County lodging tax shall not apply within the Town of Telluride, the repeal shall be ineffective because it is contingent upon approval of the County lodging tax, and the Town lodging tax shall remain in effect according to its terms.

If the Town of Telluride electors do not to repeal the Town lodging tax, the County lodging tax may still apply throughout

the remainder of the County.

Section 6. Limits on Expenditures.

No public monies from any source shall be expended directly or indirectly to urge electors to vote in favor of or against the imposition of the lodging tax. Nothing in this paragraph shall be construed as prohibiting an elected official from expressing his or her personal opinion concerning the imposition of the lodging tax.

Section 7. Limit on Tax.

If any additional lodging tax or statewide tax on lodging facilities is enacted or levied after January 1, 1987, which in combination with the lodging tax authorized and imposed by this Resolution, exceeds two percent, the tax under this Resolution shall be reduced by the amount that the total tax exceeds the two percent maximum. See C.R. S. § 30-11-107.5(3)(b)(II).

Therefore, the lodging tax authorized and imposed by this Resolution shall be at the rate of 2.0% because there are no other lodging taxes or statewide taxes on lodging currently in effect. At such time as such other tax is imposed, the County lodging tax authorized and imposed by this Resolution shall be reduced accordingly.

Section 8. Publication and Costs of Election.

Upon adoption of this Resolution, the San Miguel County Clerk and Recorder shall publish the text of this County lodging tax proposal four separate times, a week apart, in a newspaper of general circulation within the County. The cost of the election shall be initially paid out of the general fund of the County. If the County lodging tax is approved, the general fund of the County shall be reimbursed out of the County lodging tax tourism fund described in Section 9. of this Resolution, for the cost allocated by the County to the lodging tax election. All initial revenues which are deposited into the County Lodging Tax Tourism Fund shall first be applied to reimbursing the County for the costs of said election. The conduct of the election shall conform, so far as practicable, to the general election laws of the State of Colorado.

Section 9. County Lodging Tax Tourism Fund Created.

All revenue collected from such County lodging tax, except for the amounts retained by the State Department of Revenue for collection and enforcement, under the authority of C.R.S. § 29-2-106, as Amended, and the amounts retained pursuant to C.R.S. § 30-11-107.5(2)(b), which, in no event shall exceed 3.33% of the amount collected, shall be credited to a special fund designated

as the County Lodging Tax Tourism Fund, which is hereby created. The fund shall be used only to advertise and market tourism in accordance with Section 10. of this Resolution and to reimburse the general fund of the County for the cost of the election in accordance with Section 8. of this Resolution. No revenue collected from such County lodging tax shall be used for any capital expenditures, with the exception of tourist information centers.

Section 10. Lodging Panel.

Upon approval of the lodging tax by the electors pursuant to this Resolution, the County Commissioners shall select and appoint a panel of no less than three citizens of San Miguel County to administer the tourism fund. Members of the panel shall be appointed from the tourism industry for terms of no more than two years, but shall serve at the pleasure of the Board. At least one of the panel members shall be a resident of the R2 School District. Where there is an established and proven marketing entity within the County formed for the purpose of advertising and marketing tourism, the panel is encouraged to use that entity, and that entity shall provide an audited accounting to the panel and to the County Commissioners, on an annual basis. The panel shall administer the fund for the promotion and advertising of tourism in specific areas of the County, including, but not limited to, the Norwood or R2 School District region and the Telluride or R1 School District region, in proportion to the amount of tax collected in each such area. In so administering the fund, the panel may contract with or use a single, separate marketing entity as referred to above in each specific area. The panel may receive proposals from and contract with marketing entities as referred to above on an annual basis. The panel shall be subject to the general supervision of the San Miguel County Board of County Commissioners.

Section 11. Submission to Electors.

Upon approval of this Resolution by the Board of County Commissioners of San Miguel County, the lodging tax proposal contained herein is hereby referred to the registered electors of (1) the Town of Norwood, the Town of Ophir, and the Town of Sawpit, and of the unincorporated area of San Miguel County and (2) the Town of Telluride, at the special election to be held on November 2, 1993, and conducted by the San Miguel County Clerk and Recorder in accordance with the applicable provisions of Colorado Law.

The question to be submitted to the registered electors of the county at such election shall be as follows:

"SHALL SAN MIGUEL COUNTY, COLORADO, TAXES BE INCREASED UP TO \$676,287.00\* ANNUALLY by the imposition,

commencing January 1, 1994 and thereafter, of a lodging tax of up to 2.0%, and shall San Miguel County be entitled to collect and spend the full revenues from such tax increase regardless of whether the annual revenues from such tax increase in any year after the first full year in which it is in effect exceed the estimated dollar amount stated above and without any other limitation or condition, and without limiting the collection or spending of any other revenues or funds by San Miguel County, under Article X, Section 20 of the Colorado Constitution or any other law?

"This lodging tax shall be imposed on the price paid or charged to persons for rooms or accommodations, as defined in Colorado Revised Statutes, § 39-26-102(11), rented for a period of 30 days or less, for the purpose of raising revenue dedicated solely for tourism promotion and management throughout San Miguel County, which may include the operation of a tourist information center or centers."

"The proceeds of the tax will be administered for the promotion, marketing, and management of tourism in the Norwood Region and the Telluride Region, as defined by the R1 and R2 School Districts, respectively, in proportion to the amount of tax collected in each area."

"This county-wide lodging tax will, if approved, apply to lodging transactions within the Town of Telluride limits only if the electors of the Town of Telluride vote in this election to repeal the current Town of Telluride 2% lodging tax."

"\* This figure is based on projections of lodging sales and estimates of lodging tax revenue to be received in Telluride and San Miguel County in the year 1999. Actual revenue from this lodging tax is estimated to be much lower than this figure in the initial years of its imposition."

FOR APPROVAL OF COUNTY-WIDE LODGING TAX \_\_\_\_\_

AGAINST APPROVAL OF COUNTY-WIDE LODGING TAX \_\_\_\_\_

Section 12. Procedure After Approval of Tax.

If approved by a majority of the registered electors from the municipalities or unincorporated areas subject to the lodging tax voting thereon, the County lodging tax shall become effective

on January 1, 1994, as provided in C.R.S. § 29-2-106(2). Upon such approval, the San Miguel County Clerk and Recorder shall, at least 45 days prior to the effective date of the tax, submit notice of the adoption of the tax to the Executive Director of the Department of Revenue, together with a certified copy of this Resolution.

Section 13. Administration.

The Board of County Commissioners of San Miguel County may adopt such uniform rules and regulations as may be necessary for the administration and enforcement of this proposal and Resolution, and the Board of County Commissioners of San Miguel County or their authorized representatives are hereby empowered to enter and execute on behalf of San Miguel County any agreements necessary for the administration and enforcement of this proposal and Resolution.

Section 14. Severability.

If any provision of this proposal and Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end, the provisions of this Resolution are declared to be severable. Nothing herein shall prevent San Miguel County from conforming this lodging tax to the requirements of Colorado or United States law.

APPROVED by the San Miguel County Board of Commissioners on this 12<sup>th</sup> day of August, 1993.

SAN MIGUEL COUNTY  
BOARD OF COUNTY COMMISSIONERS

By: William Wenger  
William Wenger, Chair

ATTEST:

By: Charlene Freeman  
Deputy Clerk

