



To: Mayor Kudron and the Board of Trustees
From: Heike Wilson, Town Treasurer
Re: Use Tax Ordinance 07-2022
Date: July 25, 2022

Background

During the July 11 Board of Trustees Workshop meeting a discussion was had on the current construction use tax code and policies. The Board of Trustees gave the staff direction to revise and update Municipal Code 4-3-33 and forms surrounding the construction use tax to be in line with Colorado Revised Statute 29-2-109 and Colorado Department of Revenue policies for the refund of sales tax.

The staff has revised Municipal Code 4-4-33 as follows in Exhibit A. Staff has also updated construction use tax form as follows in Exhibit B.

Recommended Motion

I Move to Adopt Ordinance 07-2022 to Amend Town Code 4-3-33

-Or-

I Move to Adopt Ordinance 07-2022 to Amend Town Code 4-3-33 with the Following Changes:

-Or-

I Move to Deny Ordinance 07-2022.

**TOWN OF GRAND LAKE
ORDINANCE NO. xx-2022**

**AN ORDINANCE AMENDING GRAND LAKE MUNICIPAL CODE CHAPTER \$,
ARTICLE 3, SECTION 33 - PAYMENT REQUIRED AND REFUNDING PROCEDURES
FOR BUILDING AND CONSTRUCTION USE TAX**

WHEREAS, the Town of Grand Lake Municipal Code 4-3-33 - Payment Required and Refunding Procedures for Building and Construction Use Tax does not follow the procedures as provided in Colorado Revised Statute 29-2-109 and by Colorado Department of Revenue policies for the refund of construction use tax; and,

WHEREAS, the Town of Grand Lake Board of Trustees discussed implementing revisions at its regular scheduled meeting on July 11, 2022; and,

WHEREAS, the Town of Grand Lake Board of Trustees has determined that it is in the best interests of the Town to update the construction use tax refund procedures to align with Colorado State Statute and Colorado Department of Revenue guidelines.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE, COLORADO, THAT:

1. Chapter 4, Article 3, Section 33 of the Municipal Code of the Town of Grand Lake is hereby amended as attached in Exhibit A.
2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part hereof irrespective of the fact that any one part or parts are declared unconstitutional or otherwise invalid.
3. Repeal. Existing ordinances or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance. Except as specifically amended by this ordinance, all other provisions of the Grand Lake Town Code shall remain in full force and effect.

INTRODUCED, APPROVED AND ADOPTED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE THIS 25th DAY OF JULY, 2022.

(SEAL)

Votes Approving:
Votes Opposing:
Votes Abstaining:
Absent:

ATTEST:

TOWN OF GRAND LAKE

Alayna Carroll, Town Clerk

Stephen Kudron, Mayor

4-3-33 - Payment Required and Refunding Procedures for Building and Construction Use Tax.

(A) The use tax imposed by Section 4-3-32 of this Article shall be paid by estimate through payment to the Town of any amount equal to five percent (5%) of fifty percent (50%) of the total cost of the project in which the taxable personal property is used as indicated on the building permit application, and shall be paid at the time of such building permit issuance.

1. Provided, however, the Town shall refund any overpayment of such tax without interest upon presentation of evidence of actual purchase made **if the total cost of the project was less than estimated as evidenced by a complete accounting of project costs. It is the duty of the payee to provide the necessary documentation demonstrating such error.**
2. **The Town may conduct an audit of the final project costs and impose additional use tax if it is determined that the original total cost estimate was incorrect.**

~~(B) The Town will advise the applicant of the building permit on the manner and method of refund at the time the use tax is paid.~~ **The Town will refund any overpayment of the Construction Use Tax due to an overestimation of the total cost of the project. Any refunds requested due to erroneous payment of sales tax must follow the procedures as provided by the Colorado Department of Revenue and Colorado State Statute.**

1. The applicant of the building permit will have thirty (30) days from the time the Town or its authorized representative has issued the Certificate of Occupancy or equivalent document signifying final inspection for the work done under the building permit in which to present to the Town the evidence of actual purchases made **if a refund is requested due to the cost of the project being less than estimated.**
2. At the end of said thirty (30) days, and without further notice to the applicant of the building permit, the Town shall cause any and all use tax monies not refunded to this applicant to be transferred to the General Fund of the Town.

(C) If the work for which the building permit has been issued does not start and the building permit is closed due to failure of the project starting within six (6) months of permit issuance, the Town shall refund the use tax paid by the applicant. No interest will be paid on the use tax which is being refunded.

1. Work is considered started when there is ground disturbance for foundation, footers, or posts, any physical change to the structure occurs, or any required inspection, except the pre-site inspection, by Town Staff or the Town's Building Department is conducted.

(D) Once a building permit is closed for any reason other than failure to start, all use tax monies not refunded to the applicant shall be transferred to the General Fund of the Town.



TO ALL BUILDING PERMIT APPLICANTS:

As a part of building permit issuance, you are required to pay a five percent (5%) use tax for the building materials you anticipate using in the course of your construction project.

The purpose and philosophy of use tax is to serve as an "in-lieu-of" sales tax to:

1. Make our local merchants more cost competitive because of lower sales tax rates charged elsewhere; and,
2. Capture tax revenues which might otherwise be lost to the Town due to purchase of construction materials outside of the Town but used in the Town.

Because two-thirds of general fund revenues are derived from sales tax, the Town has adopted a use tax to help pay for basic municipal services which you, as a property owner, deserve and expect from your Town.

DO NOT PURCHASE ANY MATERIALS BEFORE PAYING USE TAX OR HAVING YOUR BUILDING PERMIT ISSUED TO YOU. Please remember to show proof of payment for Grand Lake use tax to avoid being double taxed once you begin purchasing building materials for your project. When purchasing building materials, present your building permit (showing "use tax paid"). You should not be charged municipal (local) sales tax on these purchases by the vendor per Colorado Department of Revenue CRS 29-2-105(2).

In the event that you have purchased construction and building materials in which Sales Tax was paid to the retailer prior to issuance of a building permit by the Town, the Town is still obligated to collect applicable Town and County Use Tax in the manner previously described. If Sales Tax was erroneously paid to the retailer, it is the responsibility of the permit applicant to contact the retailer for their store policy relative to Sales Tax refunds. If they cannot get a refund from the retailer then the request for refund needs to be made through the State of Colorado Department of Revenue unless the sales tax is paid to a home rule, self-collecting jurisdiction, then they must contact them directly. [Sales Tax Refund | Department of Revenue - Taxation \(colorado.gov\)](http://colorado.gov).

Because the collection of Use Tax is based upon an estimate of the complete project valuation please be advised; the permit applicant is responsible for any additional Use Tax due in the event the actual cost and/or value of project building and construction materials exceeds the estimate. If the cost and/or value of building and construction materials is less than the original estimated valuation, you may be eligible for a refund of a portion of the Use Tax paid or owe more. The Town may conduct an audit of the final project costs and impose additional use tax if it is determined that the original total cost estimate was incorrect.

Failure to submit all documentation on the project at the request of the Town or under budget refund request need to be received by the Town withing 30 days of the Town of Grand Lake or the Grand County Building and Sanitation Department has closed this permit. A receipt should be obtained when a request for reimbursement is received by the Town. Mailed requests **must** be sent certified, return receipt requested.

Please feel free to ask any questions about use tax prior to signing the acknowledgment below

I, _____, who is requesting a Building Permit for construction at the
(Print Name)

following site: _____

(legal description or street address)

have read the above and by my signature, agree and acknowledge that I understand the use tax procedures of the Town of Grand Lake. I further understand, per Municipal Code 4-3-33.

Signature _____