

CITY OF STEAMBOAT SPRINGS, COLORADO

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS OF THE CITY USE TAX REGARDING AUDITS, RECONCILIATIONS, AND ESTABLISHING CONSTRUCTION COSTS TO BE USED IN DETERMINING USE TAX DEPOSITS PAID AT TIME OF BUILDING PERMIT; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, since 1973 the City's Use Tax has been collected by requiring the contractor of a building project to pay a deposit at time of building permit, subject to final reconciliation at time of final inspection and request for a Certificate of Occupancy; and

WHEREAS, the deposit is based on a percentage (formerly 40% and changed to 50% in 2005) of the estimated per square foot cost of the overall construction of the improvements; and

WHEREAS, the estimated cost of overall construction of the improvements has been arrived at by a committee as designated in the City's Tax Code Regulations; and

WHEREAS, the City's Finance Department has begun reconciliations of Use Tax liability for projects with building permit issuance dates beginning in 2005, for which Certificates of Occupancy or Certificates of Approval have not yet been issued; and

WHEREAS, members of the construction community have questioned the fairness of requiring reconciliations for projects begun in 2005, when no reconciliations or audits have been conducted since the current Use Tax procedures were put in place approximately 35 years ago; and

WHEREAS, the City Council wishes to aggressively pursue the collection of the Use Tax, while recognizing the inequities of imposing audits and reconciliations for years past; and

WHEREAS, the City Council desires to amend certain provisions of the City's Use Tax to reflect the City Council's concern,

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

Section 1. The City's Tax Code is amended as set forth below. New language is double-underlined and deletions shall be shown by ~~strikethrough~~:

A. SECTION 22.159 UNPAID TAXES ON CONSTRUCTION IMPROVEMENTS

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B. Prerequisite for Final Inspection or Issuance of Certificate of Occupancy

No final inspection shall be made by the City Building Inspector, or, no Certificate of Occupancy shall be issued unless all taxes due as provided in the City Retail Sales and Use Tax Code, on all lumber, fixtures, and any other building materials and supplies used in or connected with the construction, reconstruction, alteration, expansion, modification or improvement of any building, dwelling or other structure or improvement to real property within the City have been paid or arrangements therefor made with the City Treasurer. Provided, however, for building permits issued prior to March 10, 2008, no final reconciliation of the Use Tax shall be required prior to final inspection or issuance of a Certificate of Occupancy. For building permits issued prior to March 10, 2008, the Use Tax deposit paid at time of obtaining the building permit shall be deemed the total Use Tax owed.

B. SECTION 22.170 TIME LIMIT FOR ACTION TO COLLECT

A. Except as provided in this section, the taxes for any period, together with the interest thereon and penalties with respect thereto, imposed by this article shall not be assessed, nor credit taken, nor shall any notice of lien be filed, or distraint warrant issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable; nor shall any lien continue after such period, except for taxes assessed before the expiration of such period, notice of lien with respect to which has been filed prior to the expiration of such period, in which case such lien shall continue only for one (1) year after the filing of notice thereof. In the case of a false or fraudulent return with intent to evade tax, the tax together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be begun at any time. Before the expiration of such period of limitation, the taxpayer and the City Treasurer may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing. In the case of failure to file a return, the sales tax or use tax may be assessed and collected at any time. Provided, however, for building permits issued prior to March 10, 2008, no audit or final reconciliation of the Use Tax shall be required prior to final inspection or issuance of a Certificate of Occupancy. For building permits issued prior to March 10, 2008, the Use Tax deposit paid at time of obtaining the building permit shall be deemed the total Use Tax owed and the City shall not take any action to collect any Use Tax over and above the deposit paid.

C. SECTION 22.197 TAXABLE TRANSACTIONS, COMMODITIES AND SERVICES

The tax imposed by this division is applicable as follows:

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B. Construction Materials

On the purchase price paid or charged on the sale or purchase of construction materials for use or consumption within the City limits of Steamboat Springs.

Every contractor who shall build, construct, alter, expand, modify, or improve any building, dwelling or other structure, or improvement to real property in this City and who shall purchase lumber, fixtures, or any other construction materials and supplies used, therefore, and every owner, or lessee of realty situate in the City and of improvements and structures located upon realty, situate in the City, upon which any article or articles of tangible personal property acquired from sources within (or without) the City, are attached or affixed shall pay the Steamboat Springs Construction Use Tax as the ultimate consumer.

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(4) Nothing here mentioned shall preclude the City from performing an audit of construction costs to ascertain the actual tax liability for construction materials. However, upon the issuance of a certificate of occupancy, the estimated use tax deposit assessed and paid with the issuance of a building permit plus any subsequent adjustments will be accepted as full payment for the extinguishment of all use tax liability associated with the materials and fixtures incorporated into the real property as allowed by the permit. Provided, however, for building permits issued prior to March 10, 2008, the

City shall not perform an audit or final reconciliation of the Use Tax prior to final inspection or issuance of a Certificate of Occupancy. For building permits issued prior to March 10, 2008, the Use Tax deposit paid at time of obtaining the building permit shall be deemed the total Use Tax owed.

D. REGULATION 22.SI-21

(c) Contractor Tax Liability and Method of Payment

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5. The residential and commercial base cost valuation range and the residential and commercial cost modifier shall be determined and published by ~~a committee consisting of a building official, a local contractor, a local appraiser, a local architect, a~~ the City Finance Department, representative and a Routt County Finance Department representative by November 1 of each calendar year to take effect sixty-one days later on January 1 of the following calendar year. The Director of the City Finance Department shall meet with staff members of the City Finance Department on a regular basis to review construction records and use tax audits and reconciliations to assist them in determining the appropriate residential and commercial base cost valuation range and the residential and commercial cost modifier. ~~committee shall meet at least once every three years to review the base cost valuation range and the cost modifier for reasonableness in relation to the then existing costs of construction in the Steamboat Springs and Routt County area.~~

Section 2. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

Section 3. If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent, be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

Section 4. The City Council hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation of the public peace, health and safety.

Section 5. This Ordinance shall take effect immediately upon the expiration of five (5) days from and after its publication following final passage, as provided in Section 7.6(h) of the Steamboat Springs Home Rule Charter.

INTRODUCED, READ AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the _____ day of _____, 2008.

Paul Antonucci, President
Steamboat Springs City Council

ATTEST:

Julie Jordan, MMC
City Clerk

FINALLY READ, PASSED AND APPROVED this _____ day of _____, 2008.

Paul Antonucci, President
Steamboat Springs City Council

ATTEST:

Julie Jordan, MMC
City Clerk