

**TOWN OF MEAD, COLORADO  
ORDINANCE NO. 1046**

**AN ORDINANCE OF THE TOWN OF MEAD, COLORADO, AMENDING  
SECTIONS 4-4-20, 4-4-40, 4-4-60, 4-4-70, 4-4-90, 4-4-100 OF THE MEAD  
MUNICIPAL CODE REGARDING THE COLLECTION, ADMINISTRATION,  
AND ENFORCEMENT OF THE TOWN USE TAX**

**WHEREAS**, the Board of Trustees (the “Board”) of the Town of Mead (the “Town”) has previously codified Article IV of Chapter 4 of the *Mead Municipal Code* titled “Sales and Use Tax” (said Article, the “Tax Code”); and

**WHEREAS**, Section 4-4-90 of the Tax Code states that a majority of the Board may amend the Tax Code; and

**WHEREAS**, according to Section 4-4-10 of the Tax Code, the Town use tax is imposed for the privilege of using or consuming in the Town any construction and building materials purchased at retail or for the privilege of storing, using or consuming in the Town any motor and other vehicle purchased at retail on which registration is required or both, all as provided in Section 29-2-101 *et seq.*, Colorado Revised Statutes (C.R.S.); and

**WHEREAS**, pursuant to Section 29-2-106(3)(a), C.R.S., the Town is responsible for collecting, administering, and enforcing its use tax on construction and building materials; and

**WHEREAS**, the Board desires to update the Tax Code with more detailed procedures for the Town’s collection, administration, and enforcement of the Town use tax on construction and building materials and clarify other provisions of the Tax Code; and

**WHEREAS**, the Board finds that the amendments to the Tax Code set forth in this ordinance are in the best interest of the health, safety, convenience and the general welfare of the community.

**NOW THEREFORE, BE IT ORDAINED** by the Board of Trustees of the Town of Mead, Weld County, Colorado, that:

**Section 1. Recitals Incorporated.** The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the Board of Trustees.

**Section 2.** Section 4-4-20 of the Tax Code, titled “Definitions,” is deleted in its entirety and replaced with the following:

**Sec. 4-4-20. Definitions.**

For purposes of this Article, the definitions of words contained herein shall be as defined in Sections 39-26-102 and 39-26-201, C.R.S., and such definitions are incorporated into this Article. In addition, unless the context requires otherwise:

*Construction and building materials* means tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed structure or project including public and private improvements. Construction and building materials include, but are not limited to, such things as: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wallpaper, weather stripping, wire netting and screen, water mains and meters, and wood preserver. The above materials, when used for forms, or other items which do not remain as an integral or devoted part of a completed structure or project, are not construction and building materials.

*Contractor* means any person who shall build, construct, reconstruct, demolish, alter, expand, modify, or improve any building, dwelling, structure, infrastructure, or other improvement to real property for another party pursuant to an agreement. For purposes of this definition, contractor also includes subcontractor.

**Section 3.** Subsection (c) of Section 4-4-40 of the Tax Code (regarding the allocation of a portion of sales tax and use tax revenues to the Town of Mead Street Improvement Fund) is deleted in its entirety. (Said deleted language is moved to Section 4-4-100 of the Tax Code as set forth in Section 7 of this ordinance.)

**Section 4.** Section 4-4-60 of the Tax Code, titled "Use tax collection, administration, enforcement," is deleted in its entirety and replaced with the following:

**Sec. 4-4-60. Use tax collection, administration, enforcement.**

- (a) The collection, administration and enforcement of the use tax imposed by this Article shall be performed by the Town Clerk, an authorized agent of the Department of Revenue or such other governmental or quasi-governmental body pursuant to an intergovernmental agreement as the Mayor, on behalf of the Town, may enter into when approved by the Board of Trustees. Such collection, administration and enforcement shall comply with any applicable state law.
- (b) *Use tax on construction and building materials.*
  - (1) *Method of calculation.* The use tax on the use or consumption of construction and building materials shall be paid by estimate in an amount equal to the rate set forth in Section 4-4-40(b) multiplied by fifty percent (50%) of the total estimated cost of the building, construction, reconstruction, alteration, expansion, modification, or improvement of the building, dwelling, or structure for which a building permit is issued or the improvement for which a right-of-way permit is issued as indicated on the application for the Town building permit or right-of-way permit (*i.e.*, the total estimated project cost).

- (2) *Payment due date and responsible party.* The use tax shall be paid at the time of issuance of the building permit or right-of-way permit. The owner and lessee (if any) of the real property who contracts for the work authorized by such building permit or right-of-way permit and the contractor for such work shall be jointly and severally liable for payment of the use tax.
- (3) *Written document of payment.* Upon receipt of the use tax payment, the Town Clerk shall issue written documentation to the permit holder identifying the person who paid the use tax, the address of the property for which the purchase of construction and building materials is made, and the permit number. The written documentation issued by the Town Clerk to the permit holder shall be presented to each retailer or vendor of construction and building materials, who shall allow the permit holder an exemption as to any and all Town sales tax relating to that specific permit. It shall be the duty of every retailer or vendor of construction and building materials to maintain a record of each exempt sale under this section, which record shall include the permit number and a copy of the invoice for the exempt sale.
- (4) *Claims for refund.*
- a. Any owner, lessee, or contractor who has made a use tax payment to the Town under subsection (b) of this Section 4-4-60 shall have the right to submit to the Town Clerk in accordance with this subsection (b)(4) a claim for refund of any portion of the payment made in excess of the amount of use tax actually due and owing to the Town.
  - b. The right to a refund is not assignable, and the claim for a refund shall be made by the same person who paid the use tax as shown on the written documentation of payment described in subsection (b)(3).
  - c. The Town Board of Trustees shall, by resolution, set an application fee sufficient to cover the reasonable cost for Town staff to process claims for refund under this subsection 4-4-60(b)(4). In addition to the application fee, the taxpayer shall be responsible for the payment of all consultant costs and expenses related to reviewing the application on behalf of the Town. The Town Clerk may establish a deposit amount for such costs and expenses that the taxpayer shall pay to the Town upon submission of its claim for refund. The application fee and deposit amount shall be included in the Town's comprehensive fee schedule. Any deposit funds remaining after all consultant costs and expenses have been paid will be refunded to the taxpayer. All consultant costs and expenses incurred by the Town over and above the deposit amount may be deducted from any overpayment amount due

to the taxpayer or billed to the taxpayer; if billed, the amount owed to the Town shall become due immediately upon billing.

- d. A claim for refund shall be submitted on such form as the Town Clerk may require and shall include the application fee and deposit described in subsection (b)(4)c. and such records and reports as the Town Clerk deems necessary to show whether or not a refund for the overpayment of use tax is owed. The deadline for submitting such claim shall be no later than ninety (90) days following the issuance of a final certificate of occupancy or final inspection by the Town for the building, dwelling, or structure for which the building permit was issued, or the improvement for which the right-of-way permit was issued.
- e. The Town shall refund any overpayment of use tax without interest and less consultant costs and expenses per subsection (b)(4)c. upon presentation by the taxpayer of documentation demonstrating that either: (i) the total actual cost of the building, construction, reconstruction, alteration, expansion, modification or improvement of the building, dwelling or structure for which the subject building permit was issued or the improvement for which the subject right-of-way permit was issued (*i.e.*, the total actual project cost) was less than the total estimated project cost at the time of permit issuance; or (ii) the use tax payment made pursuant to subsection (b)(1) exceeds the product of the rate set forth in Section 4-4-40(b) multiplied by 100 percent of the total actual cost of the construction and building materials used in the building, construction, reconstruction, alteration, expansion, modification, or improvement of the building, dwelling, or structure for which the building permit is issued or the improvement for which the public improvement permit is issued.
- f. The Town Clerk shall provide their final decision on the claim for refund to the applicant in writing. This decision is appealable under Section 4-4-70 below.

(5) *Recordkeeping and authority to audit.*

- a. Every owner, lessee, or contractor who has made a use tax payment under this subsection (b) shall keep and preserve all invoices, receipts, and statements showing any or all construction and building material expenditures for a project permitted by a Town building permit or right-of-way permit for a period of three years following the issuance of a final certificate of occupancy or final inspection by the Town.
- b. The Town Clerk and Town Treasurer, or delegates or agents of the same, may, within said three-year period, conduct an

audit of or otherwise review the records of the owner, lessee, or contractor to determine the amount of the use tax due and owing to the Town pursuant to this Article. If any taxpayer refuses to voluntarily furnish their records when requested by the Town, the Town Clerk may issue a subpoena to require that the taxpayer or taxpayer's representative attend a hearing or produce such records for examination.

- c. Before the expiration of said three-year period, the taxpayer and the Town Clerk or Town Treasurer may agree in writing to an extension thereof, and the extended period so agreed on may be further extended by subsequent written agreements made before the expiration of the previously agreed time.

(6) *Deficiencies.*

- a. If a claim for refund or audit show that use taxes are due in an amount greater than the amount paid by a taxpayer, the deficiency notice and dispute resolution procedures set forth in Section 29-2-106.1, C.R.S. and the interest, addition, and penalty provisions set forth in Sections 39-26-115 and 39-26-118(2)(a), C.R.S. shall apply; provided, however, that required notices shall be provided by the Town Clerk and interest shall accrue as follows: (i) if any part of the deficiency is due to negligence, intentional disregard of the Code or Town rules and regulations with knowledge thereof, or fraud, interest shall accrue from the date of issuance of the subject building permit or right-of-way permit until paid; and (ii) in all other cases, interest shall accrue from the date of issuance of a final certificate of occupancy (for building permits) or final inspection (for right-of-way permits) by the Town. The Town Clerk is authorized to reduce or waive such interest, additions, and penalties for good cause shown.
- b. If an audit shows a tax deficiency, the Town may bill the taxpayer for all costs and expenses incurred by the Town to conduct the audit including without limitation consultant costs and expenses, document retrieval costs, lodging and travel expenses, and Town staff time; if billed, the amount owed to the Town shall become due immediately upon billing.

(c) *Use tax on motor vehicles.*

The use tax imposed for the privilege of storing, using, or consuming in the Town motor or other vehicles, purchased at retail on which registration is required shall be collected, administered, and enforced as provided in Section 39-26-208, C.R.S.

**Section 5.** The heading of Section 4-4-70 of the Tax Code is amended to read as follows, with additions underlined:

**Sec. 4-4-70. Appeal of deficiency notice or claim for refund-final decision.**

**Section 6.** The second sentence of Section 4-4-90, titled “Regulations, amendment procedure,” is amended to read as follows, with additions underlined and deletions shown in strikethrough:

Such ~~abatement~~amendment, alteration or change need not be submitted to the electors of the Town for their approval.

**Section 7.** Section 4-4-100 of the Tax Code, titled “Allocation,” is deleted in its entirety and replaced with the following:

**Sec. 4-4-100. Allocation.**

- (a) One hundred percent (100%) of the revenues generated by the additional one percent (1%) sales and use tax approved by voters at the November 2, 2021 special coordinated election shall be deposited into the Town of Mead Street Improvement Fund and shall be used exclusively to pay for street improvement projects.
- (b) Thirty-three and 33/100 percent (33.33%) of the revenues generated by the sales tax imposed pursuant to Section 4-4-40(a) above and thirty-three and 33/100 percent (33.33%) of the revenues generated by the use tax imposed pursuant to Section 4-4-40(b) above shall be deposited in the Town of Mead Street Improvement Fund as referenced in Section 4-3-50 of this Code and shall be used exclusively to pay for street improvements in the Town of Mead and shall never be transferred into the Town General Fund or used for any purpose other than street improvements.

**Section 8.** Pursuant to Sections 29-2-106(7) and 39-26-208(4), C.R.S., the Board directs the Town Clerk to file with the Executive Director of the State of Colorado Department of Revenue and the County Clerk and Recorder of Weld County a certified copy of Article IV of Chapter 4 of the Code (as amended by this ordinance) and a certified copy of this ordinance. The Town Clerk is directed to file said documents no later than ten (10) days after the effective date of this ordinance.

**Section 9. Effective Date.** This ordinance shall be published and become effective as provided by law.

**Section 10. Severability.** If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more part, section, subsection, sentence, clause or phrase is declared invalid.

**Section 11. Repealer.** All ordinances or resolutions, or parts thereof, in conflict with this ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

**Section 12. Certification.** The Town Clerk shall certify to the passage of this ordinance and make not less than one copy of the adopted Mead Municipal Code available for inspection by the public

during regular business hours.

**INTRODUCED, READ, PASSED, AND ADOPTED THIS 28<sup>TH</sup> DAY OF AUGUST, 2023.**

**ATTEST:**

By:   
Mary E. Strutt, MMC, Town Clerk



**TOWN OF MEAD:**

By:   
Colleen G. Whitlow, Mayor