

TOWN OF WINDSOR

ORDINANCE NO. 2018 - 1561

AN ORDINANCE AMENDING SECTIONS 4-3-350 AND 4-3-490 OF THE *WINDSOR MUNICIPAL CODE* TO ALIGN ITS TERMS WITH TAX MEASURES APPROVED BY THE VOTERS WITH RESPECT TO EXPANSION OF THE WINDSOR COMMUNITY RECREATION CENTER

WHEREAS, the Town of Windsor (“Town”) is a Colorado home rule municipality, with all powers and authority vested under Colorado law; and

WHEREAS, in November, 2014, the Town’s electors approved a sales tax and use tax measure for the purpose of expanding, equipping, operating and maintaining the Community Recreation Center (“CRC Expansion”); and

WHEREAS, as directed by the electors, the Town Board amended Chapter 4, Article III of the *Windsor Municipal Code* to implement the sales tax and use tax measures approved for the CRC Expansion; and

WHEREAS, during a recent review of Chapter 4, Article III, it was discovered that a small portion of Chapter 4, Article III was not modified to align with the language approved by the electors, thus creating an inconsistency in language; and

WHEREAS, the Town Attorney and Finance Director have recommended that this Ordinance be adopted to eliminate the inconsistencies and avoid ambiguity; and

WHEREAS, the Town Board has given due consideration to the matter, and has concluded that this Ordinance is necessary as a housekeeping matter; and

WHEREAS, the Town Board is prepared to adopt this Ordinance as recommended.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO, AS FOLLOWS:

Section 1. Section 4-3-350 of the *Windsor Municipal Code* is hereby repealed, amended and re-adopted to read as follows:

Sec. 4-3-350 – Contractors.

Every contractor, owner of realty or lessee of realty who shall build, construct, reconstruct, alter, expand, modify or improve any building, dwelling or other structure, or improvement to real property, not including work performed on federal, state, county, Town and exempt institution job sites in the Town, and who shall purchase lumber, fixtures or any other building materials, supplies and other tangible personal property used, consumed or stored therefor on realty, improvements and/or attached or affixed structures situated in the Town, from sources within or without the Town, shall pay the Town sales and use tax by paying the tax on the "Estimated Percentage Basis," based on a percentage of the total valuation of the construction contract and paid, either through the owner, lessee or general contractor, or separately, if he or she is a subcontractor electing to do so, at the time a building permit is issued. The minimum valuation of material is established at fifty percent (50%) of the job valuation. The use tax collected totals three and ninety-five-hundredths percent (3.95%), until such time as the costs of paying the debt service on revenue bonds or refunding bonds issued for construction of the Windsor Community Recreation Center Expansion or equipping the Windsor Community Recreation Center Expansion have been paid in full, at which time the use tax rate shall be reduced to three and four-tenths percent (3.4%). The contractor, property owner/lessor and property lessee are held liable for any tax due in this Article, and all applicable parties may be required to provide adequate records as requested to the Director for the Director to ascertain that taxes were paid in full. Contractors are considered to be the end users of building materials in the Town. Owners, lessors, contractors and their subcontractors must not pay municipal sales tax to a vendor in another jurisdiction for building materials to be used, consumed or stored at a location in the Town, as it is the intent of this code for all Town taxes to be paid at the time a building permit is issued. No refund of another municipality's tax will be paid if a contractor or subcontractor pays another municipality's tax. The Director may enter into a payment agreement for the tax referenced in this Subsection, to be paid in installments that include an interest rate of nine percent (9%) per annum.

Section 2. Section 4-3-490 of the *Windsor Municipal Code* is hereby repealed, amended and re-adopted to read as follows:

Sec. 4-3-490. - Excess collections.

If any vendor shall, during any reporting period, collect as a tax an amount in excess of the rates set forth in this Chapter, of his or her total taxable sales; he or she shall remit to the Director the full net amount of the tax herein imposed and also such excess. If records of Town and state tax collections are kept separately, the vendor will remit the excess of the Town tax collected over and above Town net taxable sales and service. If there is no separate record kept of Town and state tax collections and it is not possible to determine the excess to be remitted to each, the vendor shall remit forty-nine percent (49%) of such excess to the Town. The retention by the

vendor of any excess collections, or the intentional failure to remit punctually to the Director the full amount required to be remitted by the provisions of this Article, is hereby declared to be a violation of this Article.

Introduced, passed on first reading, and ordered published this 11th day of June, 2018.



TOWN OF WINDSOR, COLORADO

By Kristie Melendez
Kristie Melendez, Mayor

ATTEST:

Amanda Mehlenbacher
Amanda Mehlenbacher, Deputy Town Clerk

Introduced, passed on second reading, and ordered published this 25th day of June, 2018.

TOWN OF WINDSOR, COLORADO

By Kristie Melendez
Kristie Melendez, Mayor

ATTEST:

Amanda Mehlenbacher
Amanda Mehlenbacher, Deputy Town Clerk

