

ORDINANCE NO. 11-2016

AN EMERGENCY ORDINANCE INCREASING THE TOWN OF GRAND LAKE'S SALES AND USE TAX RATE FROM FOUR PERCENT TO FIVE PERCENT WITH THE REVENUES FROM SUCH INCREASE TO BE USED TO FUND IMPROVEMENTS TO STREETS, BOARDWALKS, SIDEWALKS, MULTI-USE PATHWAYS, STREETSCAPES, SIGNAGE, AND DRAINAGE; CREATING A CAPITAL IMPROVEMENT FUND IN CONNECTION THEREWITH; AND PROVIDING FOR THE SUBMISSION OF THE TAX RATE INCREASE AND A PROPOSED INCREASE IN TOWN DEBT TO A VOTE OF THE REGISTERED ELECTORS AT A SPECIAL ELECTION TO BE HELD NOVEMBER 8, 2016

WHEREAS, the Town of Grand Lake (the "Town"), is a Colorado statutory town duly organized and existing under laws of the State of Colorado; and

WHEREAS, the members of the Board of Trustees of the Town (the "Board of Trustees") have been duly elected and qualified; and

WHEREAS, Article X, Section 20 of the Colorado Constitution, also referred to as the Taxpayer's Bill of Rights ("TABOR") requires voter approval for any new tax, any increase in any tax rate, the creation of any debt, extension of an expiring tax, and the spending of certain funds above limits established by TABOR; and

WHEREAS, pursuant to applicable law, including but not limited to Article 2 of Title 29, Colorado Revised Statutes, the Town is authorized to adopt a municipal sales tax and has previously adopted upon voter approval a permanent municipal sales tax of four percent (4.0%); and

WHEREAS, pursuant to applicable law, including but not limited to Article 2 of Title 29, Colorado Revised Statutes, the Town is authorized to adopt a municipal use tax and has previously adopted upon voter approval a permanent municipal use tax of four percent (4.0%); and

WHEREAS, TABOR requires that the Town submit ballot issues, as defined in TABOR, to the Town's registered electors on specified election days before action can be taken on such ballot issues; and

WHEREAS, November 8, 2016, is one of the election dates at which TABOR ballot issues may be submitted to the registered electors of the Town pursuant to TABOR; and

WHEREAS, the Town Board of Trustees is of the opinion that it should refer to the voters at the November 8, 2016 election a TABOR ballot issue concerning the authorization of debt and the imposition of an additional municipal sales and use tax of one percent (1.0%) commencing January 1, 2017, for the purposes specified in this ordinance, which tax is proposed to be upon the Town's existing sales and use tax bases; and

WHEREAS, the Grand County Clerk and Recorder (the "Clerk") is conducting a coordinated election pursuant to the Uniform Election Code of 1992, being Articles 1 to 13 of Title 1, C.R.S. (the "Uniform Election Code") on November 8, 2016; and

WHEREAS, pursuant to §1-1-102 of the Uniform Election Code, § 31-10-102.7 of the Municipal Election Code, and this ordinance, the Board of Trustees may elect to utilize the provisions of the Uniform Election Code in order to participate in the coordinated election on November 8, 2016; and

WHEREAS, the Board of Trustees hereby determines that it is necessary to submit to the qualified and registered electors of the Town, at the coordinated election to be held on November 8, 2016, the question specified in Section 8 below; and

WHEREAS, it is necessary to set forth certain procedures concerning the conduct of the election.

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

Section 1. Section 4-3-6(A) of the Grand Lake Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

4-3-6 Amount of Tax and Schedule

(A) There is hereby imposed upon all sales of tangible personal property and the furnishing of certain services, as specified in Section 4 of this Article, a five ~~four~~ percent (5%) (~~4%~~) sales tax upon the sale at retail of tangible personal property and the furnishing of certain services as provided in "The Emergency Retail Sales Tax Act of 1935" set forth in (C.R.S. Title 39, Article 26, 1973, As Amended), and any amendment thereto enacted before or after the effective date of this Article, which provisions are incorporated herein by this reference.

Section 2. Section 4-3-10 of the Grand Lake Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

4-3-10 Amendments

The Board of Trustees by a majority vote, may amend, alter, or change this Article, except as to the five ~~four~~ percent (5%) (~~4%~~) rate of tax herein imposed, and such amendment, alteration or change need not be submitted to the electors of the Town for their approval.

Section 3. Section 4-3-32 of the Grand Lake Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

4-3-32 Building and Construction Use Tax Imposition – Amount

There is imposed on the privilege of storing, using or consuming any construction and building materials of every kind and form purchased outside this Town for use, storage or consumption within this Town a use tax of five ~~four~~ percent (5%) (~~4%~~) of the retail purchase price of the said building and construction materials.

Section 4. Section 4-3-33(A) of the Grand Lake Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

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 5% ~~4%~~ of 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.

Section 5. Section 4-3-34 of the Grand Lake Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

4-3-34 Motor Vehicle Use Tax Imposition – Amount

There is imposed on the privilege of storing, using or consuming any motor vehicle on which registration is required, purchased outside of this Town for use, storage or consumption within this Town, a use tax of five ~~four~~ percent (5%) (~~4%~~) of the retail purchase price of said motor vehicle.

Section 6. Section 4-3-41 of the Grand Lake Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

4-3-41 Effective Date of Use Tax –Amendments

Upon adoption of this Article by the Board of Trustees of the Town of Grand Lake it shall become effective January 1, 1983, and the tax imposed shall be collected on all taxable sales from and after that date. The Board of Trustees, by a majority vote, may amend, alter or change this Article, except as to the 5% ~~4%~~ rate of tax herein imposed, and such amendment, alteration or change need not be submitted to the electors of the Town for their approval.

Section 7. Section 4-3-30 of the Grand Lake Municipal Code (entitled “Sales tax limitation”) is hereby repealed in its entirety and reenacted to read as follows:

4-3-30 Revenues

- (A) Except as provided in paragraph B, all funds received pursuant to this Ordinance shall be deposited in to the Town's general fund.
- (B) Pursuant to C.R.S. § 29-2-111, there is established a special fund of the Town to be known as the "Capital Improvement Fund." Such Capital Improvement Fund shall be kept separate from the general and other funds of the Town. There shall be deposited into the Capital Improvement Fund such revenues derived from the Town sales and use tax as the Board of Trustees may determine necessary from year to year or in any ordinance approving bonds or other obligations payable from the Capital Improvement Fund. The Capital Improvement Fund shall be used to provide for capital improvements for the Town, for the payment of debt service on bonds and other obligations of the Town issued for the purpose of providing capital improvements, and for other purposes permitted by C.R.S. § 29-2-111.
- (C) Amounts deposited to the Capital Improvement Fund shall not be available to be pledged or expended for any general municipal purpose.
- (D) Revenues from the one percent sales tax approved by the registered electors of the Town at the November 8, 2016 election shall be used exclusively for the purposes set forth in the Ballot Issue for such tax approved by the registered electors at said election.

Section 8. The Board of Trustees hereby determines to call a special election to be conducted pursuant to the Uniform Election Code as part of the coordinated election being conducted by the Clerk on November 8, 2016. The Board of Trustees hereby determines that at the election, there shall be submitted to the qualified and registered electors of the Town the following ballot title, which title is hereby set and referred to the ballot at said election:

AUTHORIZING THE TOWN TO INCREASE THE SALES AND USE TAX RATE FROM 4% TO 5% AND TO INCUR DEBT FOR THE PURPOSE OF FINANCING IMPROVEMENTS TO STREETS, BOARDWALKS, SIDEWALKS, MULTI-USE PATHWAYS, STREETSCAPES, SIGNAGE, AND DRAINAGE.

SHALL TOWN OF GRAND LAKE TAXES BE INCREASED \$387 THOUSAND IN 2017 AND THEN ANNUALLY BY WHATEVER AMOUNTS ARE RAISED THEREAFTER BY THE IMPOSITION OF AN ADDITIONAL SALES AND USE TAX AT THE RATE OF 1.0 PERCENT; AND SHALL TOWN OF GRAND LAKE DEBT BE INCREASED \$4.3 MILLION, WITH A REPAYMENT COST OF \$7.625 MILLION (MAXIMUM PRINCIPAL AND INTEREST) SUBJECT TO THE FOLLOWING:

ALL OR ANY PORTION OF THE NET PROCEEDS OF THE TOWN SALES TAX, AS DETERMINED BY THE BOARD OF TRUSTEES, MAY BE DEPOSITED TO THE TOWN'S CAPITAL IMPROVEMENT FUND, WHICH IS HEREBY AUTHORIZED TO BE CREATED, TO BE COLLECTED, RETAINED AND SPENT TO FINANCE IMPROVEMENTS TO STREETS, BOARDWALKS, SIDEWALKS, MULTI-USE PATHWAYS, STREETSCAPES, SIGNAGE, AND DRAINAGE OR TO PAY DEBT

SERVICE ON DEBT ISSUED FOR SUCH PURPOSES OR TO PAY THE COSTS OF OPERATING OR MAINTAINING IMPROVEMENTS FINANCED FROM THE CAPITAL IMPROVEMENT FUND;

ANY SUCH DEBT SHALL BE PAYABLE FROM THAT PORTION OF THE TOWN SALES TAXES DEPOSITED TO THE TOWN'S CAPITAL IMPROVEMENT FUND;

ANY SUCH DEBT MAY BE SOLD IN ONE SERIES OR MORE, ON TERMS AND CONDITIONS AS THE BOARD OF TRUSTEES MAY DETERMINE, INCLUDING PROVISIONS FOR THE REDEMPTION OF THE BONDS PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF A PREMIUM;

SUCH TAX INCREASE SHALL COMMENCE JANUARY 1, 2017 AND BE COLLECTED IN ADDITION TO THE TOWN'S SALES AND USE TAX OF 4.0 PERCENT UPON THE SAME TRANSACTIONS AS THE TOWN'S EXISTING SALES AND USE TAX AND SHALL THE TAX TERMINATE AS SOON AS PRACTICABLE AFTER THE DEBT IS PAID IN FULL ; AND

SHALL ORDINANCE NO. ____ PROVIDING FOR SUCH TAX INCREASE BE APPROVED; AND SHALL THE REVENUES GENERATED BY SUCH TAX INCREASE AND THE PROCEEDS OF SUCH DEBT AND ANY EARNINGS FROM THE INVESTMENT OF SUCH REVENUES AND PROCEEDS MAY BE COLLECTED AND SPENT BY THE TOWN AS A VOTER-APPROVED REVENUE CHANGE, WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Section 9. The Town Clerk is hereby appointed as the designated election official of the Town for purposes of performing acts required or permitted by law in connection with the election. The officers and employees of the Town are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance.

Section 10. If a majority of the votes cast on the question to authorize the issuance of bonds or other financial obligations and increasing the taxes submitted at the election shall be in favor of the issuance of bonds or other financial obligations and increasing the taxes as provided in such question, the Town, acting through the Board of Trustees, shall be authorized to proceed with the necessary action to the issue the bonds or other financial obligations and increase the taxes in accordance with such question. Any authority to issue the bonds or other financial obligations and increase the taxes, if conferred by the results of the election, shall be deemed and considered a continuing authority to the issue the bonds or other financial obligations and increasing the taxes so authorized at any one time, or from time to time, and neither the partial exercise of the authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the full authority so conferred.

Section 11. If a majority of the votes cast on the question authorize the issuance of bonds as described in the question set forth in Section 8 above, the Town intends to issue such bonds in the approximate aggregate principal amount of \$4,300,000 to pay the costs of the projects described in the election question (the "Projects"), including the reimbursement of certain costs incurred by the Town prior to the execution and delivery of such bonds, upon terms acceptable to

the Town, as authorized in an ordinance to be hereafter adopted and to take all further action which is necessary or desirable in connection therewith. The officers, employees and agents of the Town shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby and shall take all action necessary or desirable to finance the Projects and to otherwise carry out the transactions contemplated by the ordinance. The Town shall not use reimbursed moneys for purposes prohibited by Treasury Regulation §1.150-2(h). This ordinance is intended to be a declaration of "official intent" to reimburse expenditures within the meaning of Treasury Regulation §1.150-2.

Section 12. The provisions of Sections 1, 2, 3, 4, 5, 6, and 7 of this ordinance shall take effect, following passage and approval thereof as provided herein, on January 1, 2017. The balance of this ordinance shall take effect immediately.

Section 13. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Board of Trustees and the registered voters of the Town hereby declare that they would have passed and approved this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 14. The repeal or modification of any provision of the Municipal Code of the Town of Grand Lake by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 15. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 16. The Board of Trustees herewith finds, determines, and declares that this ordinance is necessary to the immediate preservation of public property, health, welfare, peace, or safety because there is an urgent need for the revenues from the tax proposed by this ordinance, the Board of Trustees desires to submit the foregoing TABOR ballot issues to the registered electors of the Town at the special election on November 8, 2016, and there are several immediate deadlines related to the conduct of said election that must be met. Therefore, pursuant to C.R.S. §31-16-105, the Board of Trustees herewith further finds, determines and declares that it is necessary for this ordinance to take effect immediately upon adoption.

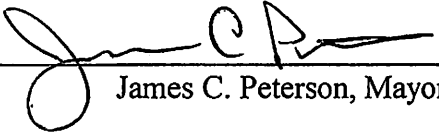
Section 17. This ordinance, as adopted by the Board, shall be numbered and recorded by the Town Clerk in the official records of the Town. The adoption and publication shall be authenticated by the signatures of the Mayor and Town Clerk, and by the certificate of publication.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED IN
FULL this 22nd day of August, 2016.


Votes Approving:	7
Votes Opposed:	0
Absent:	0
Abstained:	0



TOWN OF GRAND LAKE, COLORADO


James C. Peterson, Mayor

ATTEST:


Katie Nicholls, Town Clerk