

ORDINANCE NO. 4912

AN EMERGENCY ORDINANCE TO AMEND THE GRAND JUNCTION MUNICIPAL CODE REGARDING LODGING, SALES AND USE TAX IN THE CITY OF GRAND JUNCTION, COLORADO

RECITALS:

On March 10, 2020, Governor Polis issued an Executive Order declaring a State of Emergency in response to the novel coronavirus of 2019 (COVID-19) pandemic

On March 13, 2020 President Trump declared a national emergency in response to the COVID-19 pandemic.

On March 23, 2020 the Grand Junction City Council declared a local emergency due to the health and economic impacts of the COVID-19 pandemic.

Pursuant to the local declaration of emergency and by and with this emergency ordinance, the City is authorized to assist persons and businesses impacted by complying with the Federal, State or local public health official's imposition or recommendation of social distancing, self-quarantine and other measures related to COVID-19 that have direct and indirect impacts on business and economic conditions.

The temporary assistance afforded by this ordinance includes granting extensions for filing returns and making payments, relief from interest and penalties, and filing a claim for a temporary refund of taxes paid to the City. With approval of this ordinance emergency tax relief will be available from the City for businesses that collect and remit City sales, use and lodging taxes that have been directly affected by and because of the declared COVID-19 emergency.

The City of Grand Junction has the authority pursuant to its Charter, ordinances and law to declare a state of emergency when it appears that the general health, safety and welfare of the inhabitants of the City are threatened. The threats of the COVID-19 virus emergency are not just related to people's health but instead, and possibly to a much greater extent, relate to their economic health and well-being.

Given the unprecedented economic impacts, some of which are known and some of which remain unknown, of the COVID-19 outbreak on the local, regional, State and national economy the City Council finds and determines that tax relief is necessary, proper and that adoption of this ordinance will further the general health, safety and welfare of the community.

The City Council further determines that the Sales and Use and Lodging Tax Codes ("Codes") shall be temporarily amended to provide for:

- (1) refunds as requested by businesses that collect and remit City sales, use and lodging taxes that have been directly affected by and because of the declared COVID-19 emergency.
- (2) temporary relief from payment of tax collected by the extension of tax return payment due dates, relief of penalty and interest.
- (3) all taxes imposed by the Codes shall continue to be levied and collected except as until specifically amended by this ordinance.
- (4) the taxes imposed by the Codes in this chapter shall be in addition to all other taxes imposed by law.

At the March 23, 2020 public hearing the City Council discussed this Ordinance and determined that amendment of the Codes is necessary given the current emergency ... and the City Council deems it necessary to immediately modify the some of the regulations found in the Codes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

Title 3, Chapters 08.060, 12.260 and 12.370 of the Grand Junction Municipal Code are amended as follows (deletions ~~struck through~~; additions underlined):

3.08.060 Collection and refund of disputed tax or emergency refund – Refund procedure. (in relevant part)

(a) Collection and Refund of Disputed Tax or Emergency Refund. Should a dispute arise between the purchaser and vendor as to whether or not the sale of lodging is exempt from taxation under this chapter, nevertheless, the vendor shall collect and the purchaser shall pay such tax, and the vendor shall thereupon issue to the purchaser a receipt or certificate, on forms prescribed by the Finance Director, showing the names of the purchaser and vendor, the date, price, amount of tax paid, and a brief statement of the claim of exemption. The purchaser thereafter may apply to the Finance Director for a refund of such taxes, and it shall be the duty of the Finance Director to determine the question of exemption, subject to review by the courts.

As provided by Emergency Ordinance # _____ a vendor licensed by the City may apply, within 30 days after the due date for filing a return and paying lodging taxes collected in the month of February 2020 and remitted to the City in March 2020, for a refund of lodging taxes collected in the month of February 2020 and remitted to the City in March 2020 in accordance with the Refund Procedure in this title. The application shall be made upon such forms as shall be prescribed and furnished by the Finance Director, which forms shall contain such information as the Finance Director shall prescribe.

(b) Refund Procedure.

(1) Generally. A refund shall be made, or credit allowed, for the tax paid under dispute by any purchaser who has an exemption as in this chapter set out or as an Emergency Refund as provided in Emergency Ordinance # _____. Such refund shall be made by the Finance Director after compliance with the conditions of this title section.

(2) Application. Applications for a refund of disputed tax must be made within 60 days after the purchase of the lodging on which the exemption is claimed and must be supported by the affidavit of the purchaser accompanied by the original paid invoice or sales receipt and a certificate issued by the vendor, and be made upon such forms as shall be prescribed and furnished by the Finance Director, which forms shall contain such information as the Finance Director shall prescribe.

Applications for an Emergency Refund as provided in Emergency Ordinance # _____ must be made within 30 days after the due date for filing a return and paying lodging taxes collected in the month of February 2020 and remitted to the City in March 2020 and be made upon such forms as shall be prescribed and furnished by the Finance Director, which forms shall contain such information as the Finance Director shall prescribe.

(3) Decisions. Upon receipt of an application for a refund of Disputed Tax or for an Emergency Refund, the Finance Director shall examine the same as soon as is practicable and shall give notice to the applicant by an order in writing of the decision thereon. The Finance Director is authorized to pay any Emergency Refund of lodging tax without further authorization by City Council.

(4) Partial Payments or Other Accommodation(s). The City Manager may accept any partial payment made and apply such payments towards the tax due. Acceptance of such payments shall not in any way limit the power to collect any total tax liability, neither will a refund, forbearance of collection for a time certain or on other condition(s) or other procedure including but not limited to temporary relief from payment of tax collected by the extension of tax return due dates, relief from imposition of penalty and/or interest on late payments or other implementation of Emergency Ordinance # _____ be cause or be legal basis for any vendor, taxpayer or other person to claim or assert that this Chapter is waived, lessened or unenforceable upon the expiration of the Emergency.

No tax overpayment shall be refunded or application for an Emergency Refund approved unless a claim for refund is signed and submitted to the City by the taxpayer.

3.12.260 Authority of City Manager. (in relevant part)

The power to administer this title chapter is hereby vested in the City Manager, who may delegate his/her authority to the Finance Director.

(a) Forms and Procedures. The City Manager shall prescribe forms and administrative procedures for the ascertainment, assessment, and collection and refund of the tax levied by this title chapter.

(g) Partial Payments or Other Accommodation(s). The City Manager may accept any partial payment made and apply such payments towards the tax due. Acceptance of such payments shall not in any way limit the power to collect any total tax liability, neither will a refund, forbearance of collection for a time certain or on other condition(s) or other procedure including but not limited to temporary relief from payment of tax collected by the extension of tax return due dates, relief from imposition of penalty and/or interest on late payments or other implementation of Emergency Ordinance # _____ be cause or be legal basis for any vendor, taxpayer or other person to claim or assert that this Chapter is waived, lessened or unenforceable upon the expiration of the Emergency.

3.12.370 Claim for Refund.

No tax overpayment shall be refunded or application for an Emergency Refund approved unless a claim for refund is signed and submitted to the City by the taxpayer.

(a) Application. An application for refund of tax shall:

(1) Be made on a claim for refund form furnished by the City; and,

(2) Be signed by the taxpayer; and

(3) Include adequate documentation of the claim, and if approved, execute documents required by the City. If an Emergency Refund is approved, enter into a payment agreement on terms acceptable to the City and the taxpayer. The Finance Director is authorized to pay any Emergency Refund without further authorization by City Council.

(b) Decision. The City Manager shall examine the claim for refund and give written notice to the taxpayer of the amount to be refunded or denied.

(c) Refunds Not Assignable. The right of any person to obtain a refund pursuant to this chapter shall not be assignable.

(d) False Claims. No person shall make any false statement in connection with a claim for refund.

(e) As provided by Emergency Ordinance # _____ a vendor licensed by the City may apply to the Finance Director for a refund of sales and use taxes collected in the month of February 2020 and remitted to the City in March 2020 in accordance with the Refund Procedure in this title.

(f) Applications for an Emergency Refund as provided in Emergency Ordinance # must be made within 30 days after the due date for filing a return and paying sales and use taxes collected in the month of February 2020 and remitted to the City in March 2020 and be made upon such forms as shall be prescribed and furnished by the Finance Director, which forms shall contain such information as the Finance Director shall prescribe.

Applicability, declaration of emergency and effective date.

City Council hereby declares that a special emergency exists and that this ordinance is necessary to ensure the preservation of the peace and the public health, safety and welfare by effectuating the Council's publicly articulated purposes as stated herein and in the Declaration of Emergency of even date herewith.

In declaring a special emergency, and by and with the adoption of this ordinance, the City Council is conscientiously stewarding the public's funds by infusing these funds back into the economy through the vendor (business).

This Ordinance, immediately on its final passage, shall be recorded in the City book of ordinances kept for that purpose, authenticated by the signatures of the Mayor and the City Clerk. The full text of the amending ordinance, in accordance with the Charter of the City of Grand Junction, is to be published in full.

This Ordinance shall apply to the City of Grand Junction. This Ordinance shall take effect immediately upon passage and with the unanimous approval of City Council.

Severability.

This Ordinance is necessary to protect the public health, safety and welfare of the residents of the City. If any provision of this Ordinance is found to be unconstitutional or illegal, such finding shall only invalidate that part or portion found to violate the law. All other provisions shall be deemed severed or severable and shall continue in full force and effect.

All other provisions of Title 3 of the Grand Junction Municipal Code shall remain in full force and effect.

Sunset.

Within sixty days of the adoption of this ordinance, the City Council shall consider the effectiveness of the ordinance at achieving its stated purposes and protecting the general health, safety and welfare of the residents of the City. Without further action by the City Council, the terms and provisions of this ordinance shall expire on the 73rd day (May 21, 2020) after the effective date hereof without subsequent action by the City Council.

Adopted and ordered published in pamphlet form this 23rd day of March, 2020



A handwritten signature in blue ink, appearing to read "Rick Taggart", is written over a horizontal line.

Rick Taggart
President of the Council

ATTEST:

A handwritten signature in blue ink, appearing to read "Wanda Winkelmann", is written over a horizontal line.

Wanda Winkelmann
City Clerk