

ORDINANCE NO. 8.28.3, Series of 2015

**TITLE: A BILL FOR AN ORDINANCE TO AMEND SECTIONS 4.03.100, 4.03.230, 4.03.250 AND 4.03.340 OF THE PARKER MUNICIPAL CODE CONCERNING SALES AND USE TAX**

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

**Section 1.** Section 4.03.100 of the Parker Municipal Code is deleted in its entirety.

**Section 2.** Section 4.03.230, Subsection (a)(1) of the Parker Municipal Code is amended to read as follows:

**4.03.230 Limitations.**

(a) General limitations

(1) Statute of limitations. Except as provided in this Section and in Section 4.03.340(h), the taxes for any period, together with the interest thereon and penalties with respect thereto, imposed by this Code shall not be assessed or credit taken, nor shall any notice of lien be filed, 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 the case of a failure to make a return or 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. The commencement of collection proceedings, including the mailing of a notice of audit, shall toll the running of the statute of limitations. For purposes of the application of the statute of limitation to use tax paid on a building permit, tax shall not be assessed or credit taken, nor shall any notice of lien be filed, distraint warrant issued, suit for collection be instituted or any other action to collect the same be commenced, more than three (3) years after the date of the certificate of occupancy.

**Section 3.** Section 4.03.250(a), (b) and (c) of the Parker Municipal Code is amended to read as follows:

**4.03.250 Construction materials.**

(a) 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 charitable organization job sites in the Town, and who shall purchase construction or building materials as defined in Section

4.03.030 of this Code, 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 tax by paying the tax based on: (1) fifty percent (50%) of the total valuation of the construction contract(s) provided by the taxpayer; or (2) the minimum valuation of material, which is established at fifty percent (50%) of the job valuation data chart, as described in Section "304.1 PERMIT FEES" of the Parker Administrative Code, which is adopted by reference and is made applicable hereto by Section 11.01.030 of this Code, if the building official determines that the taxpayer underestimated the total valuation under Subsection (a)(1) herein (Subsections (a)(1) and (a)(2) herein collectively referred to as the "Estimated Prepayment"), 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.

(b) Within sixty (60) days of the date of final inspection by the building official, if no certificate of occupancy will be issued or the date of issuance of a Certificate of Occupancy, when a certificate of occupancy, temporary or otherwise is issued, the taxpayer shall compute the use tax due on the actual cost of construction materials and either: (1) make a return of any tax due in excess of the Estimated Prepayment pursuant to Section 4.03.240 of this Code; or (2) request a refund as provided in Subsection (c) below, if the actual cost of materials is less than the estimated value of the materials. The taxpayer will be allowed one thirty- (30-) day extension of time, if the taxpayer requests the extension prior to the expiration of the sixty- (60-) day period of time described herein.

(c) The taxpayer shall submit a request for a refund to the Finance Director within sixty (60) days of the date of final inspection by the building official, if no certificate of occupancy will be issued, or the date of the issuance of the certificate of occupancy, when a certificate of occupancy, temporary or otherwise is issued, and shall further provide the Finance Director with the cost of materials as verified by the records required to be kept by Section 4.03.280 of this Code. The taxpayer will be allowed one thirty- (30-) day extension of time, if the taxpayer requests the extension prior to the expiration of the sixty- (60-) day period of time described herein. Failure to so notify the Finance Director and provide the required records to the Finance Director shall be grounds for denying a refund request. Upon receipt of the timely request for a refund, complete with all required records, the Finance Director shall determine whether, in his or her reasonable opinion, receipts for all of the materials used have been provided. Upon making the determination that all of the required documents have been provided, the Finance Director will review the refund request and make a determination of whether a refund of the excess use taxes paid may be given.

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**Section 4.** Section 4.03.340, Subsections (f) and (h) of the Parker Municipal Code are amended to read as follows:

**4.03.340 Refunds.**

\* \* \*

(f) Statute of limitations. With the exception of a written document that tolls the running of the statute of limitations, no refunds of sales taxes shall be allowed or vendors paid under any circumstances, including the circumstances set forth in subsection (b) above, more than three years after the Town's receipt of sales or use taxes in question.

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(h) Refunds of overpayment of use taxes paid by the Estimated Prepayment basis shall be administered as set forth in Subsection 4.03.250(b) of this Code. The statute of limitations for refunds of overpayment of use taxes is ninety (90) days from the date of the final inspection by the building official, if no certificate of occupancy will be issued, or ninety (90) days from the date of the issuance of the certificate of occupancy, when a certificate of occupancy, temporary or otherwise is issued.

**Section 5. Safety Clause.** The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

**Section 6. Severability.** If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

**Section 7.** This Ordinance shall become effective ten (10) days after final publication.


INTRODUCED AND PASSED ON FIRST READING this 16<sup>th</sup> day of November, 2015.

  
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Mike Waid, Mayor

ATTEST:

  
Carol Baumgartner, Town Clerk

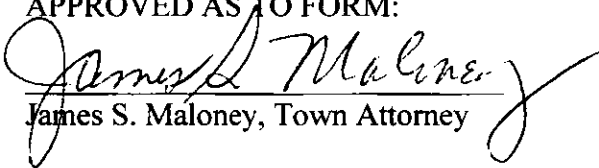
ADOPTED ON SECOND AND FINAL READING this 17<sup>th</sup> day of December,  
2015.

  
Mike Waid, Mayor

ATTEST:

  
Carol Baumgartner, Town Clerk

APPROVED AS TO FORM:

  
James S. Maloney, Town Attorney