Town of Superior
Town Council
Special Meeting Agenda
December 20, 2024
1:00 P.M. (Via Zoom)

The Special Meeting will be held remotely, and members of the public wishing to attend may view the Meeting by visiting the Town's website: https://www.superiorcolorado.gov/home

The Council Meeting recording will be posted subsequently on the Town's website.

1. Call to Order the Special Meeting of the Town Council (1:00 p.m.)

2. Preliminary Matters (1:05 p.m.)

   a. Roll Call

   b. Approval of Agenda

3. Consideration of an Ordinance of the Town Council of the Town of Superior Repealing the Emergency Ordinance Levying Additional Sales and Use Tax Rate as Approved by the Town's Registered Electors at the November 5, 2024 Election, and Reenacting an Ordinance Levying Additional Sales and Use Tax as Approved by the Town's Registered Electors at the November 5, 2024 Election.

4. Adjournment (1:30 p.m.)

Public comment submitted via e-mail regarding general Town Council agenda items that are not the subject of public hearings should be submitted with sufficient time before the meeting to allow Council Members an opportunity to review.

ITEM NO. 3

INFORMATION FOR SPECIAL MEETING
OF THE SUPERIOR TOWN COUNCIL

AGENDA ITEM NAME:	**Consideration of an Ordinance of the Town Council of the Town of Superior Repealing the Emergency Ordinance Levying Additional Sales and Use Tax Rate as Approved by the Town's Registered Electors at the November 5, 2024 Election, and Reenacting an Ordinance Levying Additional Sales and Use Tax as Approved by the Town's Registered Electors at the November 5, 2024 Election**
MEETING DATE:	**December 20, 2024**
PRESENTED BY:	**Matt Magley, Town Manager** **Nicholas Hartman, Town Attorney**
PRESENTED FOR:	**Action**

BACKGROUND:
At the November 5, 2024 General Election voters approved a ballot measure to fund capital improvement projects. The approved ballot measure allows a debt issuance to raise up to $16 million to $20 million through the increase of the Town's sales and use tax rate by .315% (31.5 cents for every $100 spent) for the purpose of accelerating these projects. The sales and use tax increase has a twenty-five year sunset.

The additional sales and use tax revenue, and accompanying debt issuance, will fund and accelerate capital improvement projects including:

- Constructing, renovating, improving and upgrading town-owned swimming pools;
- Constructing, renovating, improving and upgrading parks and playgrounds;
- Constructing and improving streets and sidewalks; and
- Other capital improvement projects.

At their December 9, 2024, meeting, the Board of Trustees adopted Ordinance O-17, Series 2024, an emergency ordinance to increase the Town sales and use tax rate by three hundred fifteen one-thousandths percent (0.315%). The attached ordinance repeals this ordinance and replaces it.

RECOMMENDED ACTION:
I move to approve an ordinance of the Town Council of the Town of Superior repealing the emergency ordinance levying additional sales and use tax rate as approved by the Town's registered electors at the November 5, 2024 Election, and reenacting an Ordinance levying additional sales and use tax as approved by the Town's registered electors at the November 5, 2024 Election.

ATTACHMENT:

- Ordinance

TOWN OF SUPERIOR
ORDINANCE NO. O-18
SERIES 2024

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SUPERIOR REPEALING THE EMERGENCY ORDINANCE LEVYING ADDITIONAL SALES AND USE TAX RATE AS APPROVED BY THE TOWN'S REGISTERED ELECTORS AT THE NOVEMBER 5, 2024 ELECTION, AND REENACTING AN ORDINANCE LEVYING ADDITIONAL SALES AND USE TAX AS APPROVED BY THE TOWN'S REGISTERED ELECTORS AT THE NOVEMBER 5, 2024 ELECTION

WHEREAS, on November 5, 2024, the registered electors of the Town voted in favor of a ballot question authorizing the Board of Trustees to increase Town debt and increase the Town sales and use tax rate by three hundred fifteen one-thousandths percent (0.315%) to finance Town capital improvement projects;

WHEREAS, on December 9, 2024, the Board of Trustees adopted Ordinance O-17, Series 2024, an emergency ordinance to increase the Town sales and use tax rate by three hundred fifteen one-thousandths percent (0.315%), with such increase to pay for the debt increase and the construction, operation and maintenance of capital improvement projects of the Town as approved by the registered electors of the Town on November 5, 2024;

WHEREAS, on December 10, 2024, the registered electors of the Town voted in favor of adopting the Town of Superior Home Rule Charter (the "Charter");

WHEREAS, the Charter became effective on December 19, 2024, immediately upon certification of the election pursuant to Charter Section 14.01; and

WHEREAS, the Town Council now desires to repeal Ordinance O-17, Series 2024, and replace with substantially identical ordinance by the Town Council.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SUPERIOR, COLORADO:

Section 1. Ordinance O-17, Series 2024, adopted by the Board of Trustees on December 9, 2024, is hereby repealed in its entirety and replaced with this Ordinance.

Section 2. Beginning on January 1, 2025, the Town sales tax rate promulgated by Section 4-2-20 of the Superior Municipal

Code shall be increased by 0.315%, as authorized by the registered electors of the Town at the November 5, 2024, regular election.

Section 3. Beginning on January 1, 2025, the Town use tax rate promulgated by Section 4-3-20 of the Superior Municipal Code shall be increased by 0.315%, as authorized by the registered electors of the Town at the November 5, 2024, regular election.

Section 4. The Superior Municipal Code is hereby amended by the addition of a new Section 4-1-55, to read as follows:

Sec. 4-1-55. – 2025 Capital Improvement Projects Fund.

There is hereby established a special fund, to be known as the 2025 Capital Improvement Projects Fund, for the deposit of three hundred fifteen one-thousandths percent (0.315%) of the sales tax collected by the Town beginning on January 1, 2025, and ending on December 31, 2050. The fund shall be used for the payment of the debt increase and the construction, operation and maintenance of capital improvements of the Town as approved by the registered electors of the Town on November 5, 2024.

Section 5. Section 4-2-20(a) of the Superior Municipal Code is hereby amended as follows:

Sec. 4-2-20. – Tax imposed.

(a) There is hereby imposed on the sale of tangible personal property at retail or the furnishing of services as provided in Section 29-2-105(1)(d), C.R.S., a sales tax in the amount established by ordinance of the Town Council ~~equal to three and forty-six one-hundredths percent (3.46%) of the gross receipts~~ (the "sales tax"). The tangible personal property and services taxable under this Article shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., and subject to the same exemptions as those specified in Title 39, Article 26, Part 7, C.R.S.; provided that the exemption for sales of food pursuant to Section 39-26-707, C.R.S., the exemption for sales of electricity, coal, wood, gas, fuel oil or coke sold to occupants of residences pursuant to Section 39-26-715(1)(a)(II), C.R.S., and the exemption for sales of machinery or machine tools pursuant to Section 39-26-709, C.R.S., shall not apply to the Town's sales tax. The imposition of the sales tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue. If any vendor, during any reporting period, shall collect as the sales tax an amount in excess of the amount of the sales tax imposed by this Article, the vendor shall remit to the Executive Director the full amount of the sales tax and also such excess.

Section 6. Section 4-2-30 of the Superior Municipal Code is hereby amended as follows:

Sec. 4-2-30. – Deposit of funds.

Upon receipt of the sales tax by the Town, the following deposits shall be made:

* * *

(3) Beginning on January 1, 2025, and ending on December 31, 2050, three hundred fifteen one-thousandths of one percent (0.315%) of the tax collected shall be deposited into the 2025 Capital Improvement Projects Fund.

Section 7. Section 4-3-20 of the Superior Municipal Code is hereby amended as follows:

Sec. 4-3-20. – Tax imposed.

There is hereby imposed and there shall be paid and collected a use tax upon the privilege of using or consuming within the Town any construction and building materials purchased at retail and for the privilege of storing, using or consuming within the Town any motor and other vehicles, purchased at retail for which registration is required, such use tax to be in the amount established by ordinance of the Town Council ~~of three and three-tenths percent (3.3%) of the retail cost thereof~~ (the "use tax"). The use tax shall be collected in accordance with this Chapter. The amount subject to the use tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.

Section 8. Section 4-3-50(b) of the Superior Municipal Code is hereby amended as follows:

Sec. 4-3-50. – Construction materials use tax.

(b) Calculation. Use taxes are assessed on the cost of construction materials only. Prior to the issuance of any building permit, all use taxes shall be paid on construction materials. A receipt for the use taxes paid will be provided and should be presented upon purchase of construction materials so that the applicant will not be double-taxed for use taxes and sales taxes. Use taxes are normally established as an estimate equal to fifty percent (50%) of the total project value.~~, and are calculated as follows:~~

~~50% of total valuation = total cost of construction materials x 3.3% = use tax.~~

~~For example, the use tax on a $100,000 house would equal $1,650 (50% of total valuation = $50,000 x 3.3% = $1,650).~~

Section 9. Section 4-3-60 of the Superior Municipal Code is hereby amended as follows:

Sec. 4-3-60. – Deposit of funds.

(a) Upon receipt of the use tax by the Town, three-tenths percent (0.3%) thereof shall be deposited in the Open Space Fund.

(b) Beginning on January 1, 2025, and ending on December 31, 2050, three hundred fifteen one-thousandths of one percent (0.315%) of the tax collected shall be deposited in the 2025 Capital Improvement Projects Fund.

Section 10. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one or part or parts be declared unconstitutional or invalid.

Section 11. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 12. Effective Date. This Ordinance shall take effect 10 days after publication following adoption.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this 20th day of December, 2024.

____
Mark Lacis, Mayor

ATTEST:

____
Lydia Yecke, Town Clerk

TOWN OF SUPERIOR
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SERIES 2024

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Mark Lacis, Mayor

ATTEST:

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Lydia Yecke, Town Clerk